REQUEST FOR PROPOSALS

RFP NUMBER: 0A1089
DATE ISSUED: June 20, 2012

The State of Ohio, through the Ohio Department of Administrative Services, for the Ohio Department of Public Safety is requesting proposals for:

Ohio Emergency Medical Services EMS and Trauma Data System Project

INQUIRY PERIOD BEGINS:	**June 20, 2012**
INQUIRY PERIOD ENDS:	**July 18, 2012**
OPENING DATE:	**July 25, 2012**
OPENING TIME:	**1:00 P.M.**
OPENING LOCATION:	**Department of Administrative Services**
	I.T. Procurement Services
	Bid Room
	4200 Surface Road
	Columbus, Ohio 43228

PRE-PROPOSAL CONFERENCE DATE: Friday, July 13, 2012 at 1:00 p.m.

This RFP consists of five (5) parts and twelve (12) attachments, totaling 104 consecutively numbered pages. Supplements also are attached to this RFP with a beginning header page and an ending trailer page. Please verify that you have a complete copy.

Note: The cost for this project cannot exceed $600,000. This includes all components of the scope of work and the 36-month warranty. Proposals exceeding this amount will be rejected.

PART ONE: EXECUTIVE SUMMARY

Purpose. This is a Request for Competitive Sealed Proposals ("RFP") under Sections 125.071 and 125.18 of the Ohio Revised Code (the "Revised Code") and Section 123:5-1-8 of the Ohio Administrative Code (the "Administrative Code"). The Ohio Department of Public Safety (ODPS) has asked the Ohio Department of Administrative Services (DAS) to solicit competitive sealed proposals ("Proposals") for the Ohio Emergency Medical Services (EMS) Trauma Registry Project (the "Project"), and this RFP is the result of that request.

If a suitable offer is made in response to this RFP, the State of Ohio (the "State"), through the Ohio Department of Administrative Services, may enter into a contract (the "Contract") to have the selected offeror (the "Contractor") perform all or part of the Project. This RFP provides details on what is required to submit a Proposal for the Project, how the State will evaluate the Proposals, and what will be required of the Contractor in performing the work.

This RFP also gives the estimated dates for the various events in the submission process, selection process, and performance of the work. While these dates are subject to change, prospective offerors must be prepared to meet them as they currently stand.

Once awarded, the term of the Contract will be from the award date until June 30, 2013. The State may renew this Contract for up to two (2) biennia and one (1) additional year subject to and contingent on the discretionary decision of the Ohio General Assembly to appropriate funds for this Contract in each new biennium. Any such renewal of all or part of the Contract also is subject to the satisfactory performance of the Contractor and the needs of the ODPS.

The State may reject any Proposal if the offeror fails to meet a deadline in the submission or evaluation phases of the selection process or objects to the dates for performance of the Project or the terms and conditions in this RFP.

Background. The Ohio Revised Code §4765.06 (http://codes.ohio.gov/orc/4765.06) directs the Ohio State Board of Emergency Medical Services (the Board) to create two statewide databases: the EMS Incident Reporting System (EMSIRS) https://www.dps.state.oh.us/emsri/ (User ID: 99-RFPdemo; password: dictionary) and the Ohio Trauma Registry (OTR) for the purposes of monitoring various aspects of EMS and trauma care in the state.

The OTR has been operating and collecting data since 1999. It has had one (1) major upgrade to both the underlying technology and the data collected (data set) in 2003. The OTR collects approximately 35,000 records annually from 180 acute care hospitals in Ohio and currently contains over 400,000 records.

The need for new technology for OTR coincides with the development of a National Trauma Data Standard (NTDS) http://www.ntdsdictionary.org/. The NTDS is a national consensus-based standard which creates both uniform definitions of terms and a single data transfer scheme between hospital, state and national trauma registries. The NTDS allows for improved analysis of trauma procedures and patient care, comparison of data between hospitals and across state boundaries, and better evaluation of the role of trauma systems in healthcare. The Board has adopted the NTDS as the basis for the OTR data dictionary.

EMSIRS has been operating and collecting data since 2002. It has had one (1) major upgrade to both the underlying technology and the data collected (data set) in 2007. EMSIRS collects approximately 1 million (1,000,000) records annually from over nine hundred (900) EMS agencies in Ohio and currently contains nearly 9 million (9,000,000) records.

The need for new technology for EMSIRS coincides with the development of a National EMS Information System (NEMSIS) http://www.nemsis.org. NEMSIS is a national consensus-based standard which creates both uniform definitions of terms and a single data transfer scheme between Emergency Medical Services, state and national EMS data systems. NEMSIS allows for improved analysis of EMS procedures and patient care; comparison of data between EMS agencies and across state boundaries;

and better evaluation of the role of EMS in healthcare. The Board has adopted the NEMSIS as the basis for the EMSIRS data dictionary.

Overview of the Project's Scope of Work. The scope of work for the Project is provided in Attachment Two: Part One of this RFP. This section only gives a summary of that work. If there is any inconsistency between this summary and the attachment's description of the work, the attachment will govern.

The State is seeking proposals from qualified vendors to provide a web-based, modifiable off-the-shelf (Statewide) Trauma Registry and EMS Incident Reporting System (hereinafter known as the Ohio EMS and Trauma Data System) to supersede the current trauma registry EMS Incident systems and amalgamate the current data.

Hosting Services. The Contractor must offer this service in such a manner that the State of Ohio has no responsibility for the database or the technical infrastructure and associated processes and procedures. The database must be accessible through the Web and must be secure. The Contractor must prevent unauthorized access to the Ohio EMS and Trauma System. The Contractor must apply recognized industry standards to address system vulnerability to theft, mischief and efforts at tampering consistent with ITS-SEC-02, the system must be built to or meet the Moderate baseline of the NIST 800-53 special publication.   Such security measures must be in compliance with the State's security policy and procedures published at http://das.ohio.gov/Divisions/InformationTechnology/StateofOhioITPolicies.aspx which refers to document Compliance with NIST Standards and Guidelines found at
http://csrc.nist.gov/publications/nistpubs/800-53-Rev3/sp800-53-rev3-final_updated-errata_05-01-2010.pdf

The hosting services description must document that the Ohio EMS and Trauma Data System the offeror will provide is accessible through a web-enabled personal computer by accessing the offeror's computer system(s) via the Internet.

The hosted solution must support diverse protocols based upon open standards, not unduly tied to specific service components or objects, and is able to add value without unduly impacting existing deployments in agencies.

Calendar of Events. The schedule for the RFP process and Project is given below. The State may change this schedule at any time. If the State changes the schedule before the Proposal due date, it will do so through an announcement on the State Procurement Website's question and answer area for this RFP. The Website announcement will be followed by an amendment to this RFP, also available through the State Procurement Website. After the Proposal due date and before the award of the Contract, the State will make schedule changes through the RFP amendment process. Additionally, the State will make changes in the Project schedule after the Contract award through the change order provisions in the General Terms and Conditions Attachment to this RFP. It is each prospective offeror's responsibility to check the Website question and answer area for this RFP for current information regarding this RFP and its Calendar of Events through award of the Contract.

Dates:

Firm Dates
RFP Issued: June 20, 2012
Inquiry Period Begins: June 20, 2012
Pre-Proposal Conference Date: Friday, July 13, 2012 at 1:00 p.m.
Inquiry Period Ends: July 18, 2012 at 8:00 a.m.
Proposal Due Date: July 25, 2012 at 1:00 p.m.

Estimated Dates
Award Date: August 31, 2012

Estimated Project Dates
Project Work Begins: September 10, 2012

There are references in this RFP to the Proposal due date. Unless it is clearly provided to the contrary in this RFP, any such reference means the date and time (Columbus, Ohio local time) that the Proposals are due and not just the date.

PART TWO: STRUCTURE OF THIS RFP

Organization. This RFP is organized into five (5) parts and has twelve (12) attachments. The parts and attachments are listed below. There also is one (1) or more supplements to this RFP listed below.

Parts:

Part 1   Executive Summary
Part 2   Structure of this RFP
Part 3   General Instructions
Part 4   Evaluation of Proposals
Part 5   Award of the Contract

Attachments:

Attachment One   Evaluation Criteria
Attachment Two   Project Requirements and Special Provisions
Attachment Three   Requirements for Proposals
Attachment Four   General Terms and Conditions
Attachment Five   Sample Contract
Attachment Six   Sample Deliverable/Milestone Submittal Form
Attachment Seven   Offeror Certification Form
Attachment Eight   Offeror Profile Summary
Attachment Nine   Proposed System Solution
Attachment Ten   Master Contract for Software Licensing
Attachment Eleven   Standard Affirmation and Disclosure Form (EO 2011-12K)
Attachment Twelve   Cost Summary

Supplements:

Supplement One   Facility Access Request Form
Supplement Two   Glossary of Terms
Supplement Three   Trauma Registry System Database Diagram
Supplement Four   Trauma Registry File Layout/Conversion Data and Entity Relationship Diagrams
Supplement Five   Trauma Registry Web Site Diagram
Supplement Six   EMSIRS-2 Web Site Diagram
Supplement Seven   EMSIRS-2 File Layout/Conversation Data and Entity Relationship Diagrams
Supplement Eight   OTR TACR Data Dictionary
Supplement Nine   Service Level Agreement

PART THREE: GENERAL INSTRUCTIONS

The following sections provide details on how to get more information about how to respond to this RFP. All responses must be complete and in the prescribed format.

Contacts. The following person will represent the State during the RFP process:

Procurement Representative:

> Valerie Piccininni
> Acquisition Analyst
> Department of Administrative Services
> I.T. Procurement Services
> 4200 Surface Road
> Columbus, Ohio 43228

During the performance of the Project, a State representative (the "Project Representative") will represent the Ohio Department of Public Safety and be the primary contact for the Project. The State will designate the Project Representative in writing after the Contract award.

Inquiries. Offerors may make inquiries regarding this RFP anytime during the inquiry period listed in the Calendar of Events. To make an inquiry, offerors must use the following process:

- Access the State Procurement Website at http://procure.ohio.gov/;
- From the Navigation Bar on the left, select "Find It Fast";
- Select "Doc/Bid/Schedule #" as the Type;
- Enter the RFP number found on the first page of this RFP (the RFP number begins with zero followed by the letter "A");
- Click the "Find It Fast" button;
- On the document information page, click the "Submit Inquiry" button;
- On the document inquiry page, complete the required "Personal Information" section by providing:
  - First and last name of the prospective offeror's representative who is responsible for the inquiry,
  - Name of the prospective offeror,
  - Representative's business phone number, and
  - Representative's email address;
- Type the inquiry in the space provided including:
  - A reference to the relevant part of this RFP,
  - The heading for the provision under question, and
  - The page number of the RFP where the provision can be found; and
- Click the "Submit" button.

An offeror submitting an inquiry will receive an immediate acknowledgement that the State has received the inquiry as well as an email acknowledging receipt. The offeror will not receive a personalized response to the question nor notification when the State has answered the question.

Offerors may view inquiries and responses on the State's Procurement Website by using the "Find It Fast" feature described above and by clicking the "View Q & A" button on the document information page.

The State usually responds to all inquiries within three business days of receipt, excluding weekends and State holidays. However, the State will not respond to any inquiries received after 8:00 a.m. on the inquiry end date.

The State does not consider questions asked during the inquiry period through the inquiry process as exceptions to the terms and conditions of this RFP.

Pre-Proposal Conference. The State will hold a Pre-Proposal Conference on July 13, 2012 at 1:00 p.m., in room 134, Motorcycle Training Room, of the ODPS Headquarters, the Shipley Building, 1970 West Broad Street, Columbus, Ohio 43223.

The purpose of this conference is to discuss the RFP and the Project with prospective offerors and to allow them to ask questions arising from their initial review of this RFP.

Attendance at the Pre-Proposal Conference is not a prerequisite to submitting a Proposal.

Offerors intending to participate in the Pre-Proposal Conference must register via FAX (614-752-7043) or email (purchasinginquiries@dps.state.oh.us) through Christina Lochbaum. The fax or email must be sent to Christina Lochbaum's attention and include the attendees' names, company, phone number and e-mail address of principal contact. An offeror's participation in the Pre-Proposal Conference must be registered no later than July 9, 2012 at 5:00 p.m. The State may not issue visitation passes to visitors whose names do not appear on the Pre-Proposal Conference list and may not admit such visitors to the facility. Visitors must have a valid driver's license or other valid government-issued photo ID to enter the facility. The State will not allow alternate dates and times for the Pre-Proposal Conference.

Amendments to the RFP. If the State revises this RFP before the Proposals are due, it will announce any amendments on the State Procurement Website.

Offerors may view amendments by using the "Find It Fast" function of the State's Procurement Webpage (described in the Inquiries Section above) and then clicking on the amendment number to display the amendment.

When an amendment to this RFP is necessary, the State may extend the Proposal due date through an announcement on the State Procurement Website. The State may issue amendment announcements any time before 5:00 p.m. on the day before Proposals are due, and it is each prospective offeror's responsibility to check for announcements and other current information regarding this RFP.

After the Proposal due date, the State will distribute amendments only to those offerors whose Proposals are under active consideration. When the State amends the RFP after the due date for Proposals, the State will permit offerors to withdraw their Proposals within five business days after the amendment is issued. This withdrawal option will allow any offeror to remove its Proposal from active consideration should the offeror feel that the amendment changes the nature of the transaction so much that the offeror's Proposal is no longer in its interest. Alternatively, the State may allow offerors that have Proposals under active consideration to modify their Proposals in response to the amendment.

If the State allows offerors to modify their Proposals in response to an amendment, the State may limit the nature and scope of the modifications. Unless otherwise provided in the State's notice, offerors must make any modifications or withdrawals in writing and submit them to the State within five business days after the amendment is issued at the address and in the same manner required for the submission of the original Proposals. If this RFP provides for a negotiation phase, this submission procedure will not apply to changes negotiated during that phase. The State may reject any modification that is broader in scope than the State has authorized in the announcement of the amendment and treat it as a withdrawal of the offeror's Proposal.

Proposal Submittal. Each offeror must submit a technical section and a cost section as part of its total Proposal before the opening time on the Proposal due date. The offeror must submit the technical section as a separate package from the cost section of its Proposal, and each section must be submitted in its own separate, opaque package. The package with the technical section of the Proposal must be sealed and contain one originally signed technical section and eight (8) copies of the technical section, and the package with the cost section also must be sealed and contain two (2) complete copies of the cost section of the Proposal. Further, the offeror must mark the outside of each package with either **"Ohio EMS and Trauma Data System Project – Technical Proposal"** or **"Ohio EMS and Trauma Data System Project – Cost Summary,"** as appropriate.

Included in each sealed package, the offeror also must provide an electronic copy of everything contained within the package on CD-ROM in Microsoft Office and Adobe Acrobat format, as appropriate. If there is a discrepancy between the hard copy and the electronic copy of the Proposal, the hard copy will control, and the State will base its evaluation of the offeror's Proposal on the hard copy.

Proposals are due no later than 1:00 p.m. on the Proposal due date. Proposals submitted by email, fax or other electronic means are not acceptable, and the State may reject them. Offerors must submit their Proposals to:

Department of Administrative Services
I.T. Procurement Services
Bid Room
4200 Surface Road
Columbus, Ohio 43228

The State may reject any Proposals or unsolicited modifications that it receives after the deadline. An offeror that mails its Proposal must allow for adequate mailing time to ensure its timely receipt. Offerors also must allow for potential delays due to increased security. Offerors must allow sufficient time for this additional security process, since the State may reject late Proposals regardless of the cause for the delay.

Each offeror must carefully review the requirements of this RFP and the contents of its Proposal. Once opened, Proposals cannot be altered or withdrawn, except as allowed by this RFP.

By submitting a Proposal, the offeror acknowledges that it has read this RFP, understands it, and agrees to be bound by its requirements. The State is not responsible for the accuracy of any information regarding this RFP that was gathered through a source other than the inquiry process described in the RFP.

Revised Code Section 9.24 prohibits the State from awarding a contract to any entity against whom the Auditor of State has issued a finding for recovery (a "Finding"), if the Finding is unresolved at the time of the award. This also applies to renewals of contracts. By submitting a Proposal, the offeror warrants that it is not subject to an unresolved Finding under Section 9.24 at the time of its submission. The offeror also warrants that it will notify the Ohio Department of Administrative Services in writing immediately upon becoming subject to such an unresolved Finding after submitting its Proposal and before the award of a Contract under this RFP. Should the State select the offeror's Proposal for award of a Contract, this warranty of immediate written notice will apply during the term of the Contract, including any renewals or extensions. Further, the State may treat any unresolved Finding against the Contractor that prevents a renewal of the Contract as a breach, in accordance with the provisions of Attachment Four, General Terms and Conditions.

The State may reject any Proposal if the offeror takes exception to the terms and conditions of this RFP, includes unacceptable assumptions or conditions in its Proposal, fails to comply with the procedure for participating in the RFP process, or fails to meet any requirement of this RFP. The State also may reject any Proposal that it believes is not in its interest to accept and may decide not to award a contract to any or all of the offerors responding to this RFP.

Offerors may not prepare or modify their Proposals on State premises.

All Proposals and other material that offerors submit will become the property of the State and may be returned only at the State's option. Offerors should not include any confidential information in a Proposal or other material submitted as part of the evaluation process. All Proposals will be open to the public after the State has awarded the Contract.

The State will retain all Proposals, or a copy of them, as part of the Contract file for at least three years. After the three-year retention period, the State may return, destroy, or otherwise dispose of the Proposals and any copies of them.

Waiver of Defects. The State may waive any defects in any Proposal or in the submission process followed by an offeror, but the State will only do so if it believes that it is in the State's interest and will not cause any material unfairness to other offerors.

Multiple or Alternate Proposals. The State will not accept multiple Proposals from a single offeror or any alternative solutions or options to the requirements of this RFP.

Additionally, any offeror that disregards a requirement in this RFP simply by proposing an alternative to it will have submitted a defective Proposal that the State may reject. Further, any offeror that submits multiple Proposals may have all its Proposals rejected.

Changes to Proposals. The State will allow modifications or withdrawals of Proposals only if the State receives them before the Proposal due date.   No modifications or withdrawals will be permitted after the due date, except as authorized by this RFP.

Proposal Instructions. Each Proposal must be organized in an indexed binder ordered in the same manner as the response items are ordered in the applicable attachments to this RFP. The requirements for a Proposal's contents and formatting are contained in the attachments to this RFP. The State wants clear and concise Proposals, but offerors must answer questions completely and meet all the RFP's requirements.

The State is not liable for any costs an offeror incurs in responding to this RFP or from participating in the evaluation process, regardless of whether the State awards the Contract through this process, decides not to go forward with the Project, cancels this RFP for any reason, or contracts for the Project through some other process or through another RFP.

- Location of Data. Unless the State agrees otherwise in writing, the selected offeror and its subcontractors must do all work related to the Project and keep all State data at the location(s) disclosed in the offeror's Proposal. If Attachment Two contains any restrictions on where the work may be done or where any State data may be kept, the State may reject any Proposal that proposes to do any work or make State data available outside of those geographic restrictions.

PART FOUR: EVALUATION OF PROPOSALS

Disclosure of Proposal Contents. The State will seek to open the Proposals in a manner that avoids disclosing their contents. The State also will seek to keep the contents of all Proposals confidential until the Contract is awarded, but the State will prepare a registry of Proposals that contains the name of each offeror. The public may inspect that registry after the State opens the Proposals.

Rejection of Proposals. The State may reject any Proposal that is not in the required format, does not address all the requirements of this RFP, objects to the terms or conditions of this RFP, or that the State determines is excessive in price or otherwise not in the State's interest to accept. In addition, the State may cancel this RFP, reject all the Proposals, and seek to do the Project through a new RFP or other means.

Evaluation of Proposals Generally. The evaluation process may consist of up to six distinct phases:

1. Initial review;
2. Technical evaluation;
3. Product Demonstration;
4. Evaluation of costs;
5. Requests for more information;
6. Determination of responsibility; and
7. Contract Negotiations.

The State may decide whether phases four (4) and six (6) are necessary, and the State may rearrange the order in which it proceeds with the phases. The State also may add or remove sub-phases to any phase at any time, if the State believes doing so will improve the evaluation process.

Clarifications and Corrections. During the evaluation process, in the State's sole discretion, it may request clarifications from any offeror under active consideration and may give any offeror the opportunity to correct defects in its Proposal, if the State believes doing so would not result in an unfair advantage for the offeror, and it is in the State's interest. The State may reject any clarification that is non-responsive or broader in scope than what the State requested.

If the State does so, or if the offeror fails to respond to the request for clarification, the State then may request a corrected clarification, consider the offeror's Proposal without the clarification, or disqualify the offeror's Proposal.

Corrections and clarifications must be completed off State premises.

Initial Review.   The Procurement Representative will review all Proposals for their format and completeness. The State normally rejects incomplete or incorrectly formatted Proposals, though the State may waive any defects or allow an offeror to submit a correction, if the State believes doing so would not result in an unfair advantage for the offeror and it is in the State's interest. Further, if the Auditor of State does not certify a Proposal due to lateness, the State will not open it.
After the initial review, the State will forward all timely, complete, and properly formatted Proposals to an evaluation team, which the Procurement Representative will lead.

Technical Evaluation. The State will evaluate each Proposal that it has determined is timely, complete, and properly formatted. The evaluation will be scored according to the requirements identified in this RFP, including the requirements in Attachment One. Other attachments to this RFP may further refine these requirements, and the State has a right to break these requirements into components and weight any components of a requirement according to their perceived importance.

The State also may have the Proposals or portions of them reviewed and evaluated by independent third parties or various State personnel with experience that relates to the work or to a criterion in the evaluation process. Additionally, the State may seek reviews from end users of the Project or the advice or evaluations of various State personnel that have subject matter expertise or an interest in the Project.

The State may adopt or reject any recommendations it receives from such reviews and evaluations or give them such weight as the State believes is appropriate.

During the technical evaluation, the State will calculate a point total for each Proposal that it evaluates. At the sole discretion of the State, it may reject any Proposal receiving a significant number of zeros for sections in the technical portions of the evaluation. The State may select those offerors submitting the highest rated Proposals for the next phase. The number of Proposals that advance to the next phase will be within the State's discretion, but regardless of the number of Proposals selected, they always will be the highest rated Proposals from this phase.

At any time during this phase, in the State's sole discretion, it may ask an offeror to correct, revise, or clarify any portions of its Proposal.

The State will document all major decisions and make these a part of the Contract file, along with the evaluation results for each Proposal considered.

Demonstration. The offerors that rank the highest in the evaluation process may be invited to demonstrate its proposed Ohio EMS and Trauma Data System solution which will include data input, data extract, and reporting. The offeror will demonstrate how their solution meets mandatory requirements and scored criteria as outlined in Attachment One. If the evaluation is deemed necessary, the State of Ohio will provide specifications.

Requirements. Attachment One provides requirements the State will use to evaluate the Proposals, including any mandatory requirements. If the offeror's Proposal meets all the mandatory requirements, the offeror's Proposal may be included in the next phase of the evaluation, which will consider other requirements described in a table in Attachment One.

This RFP asks for responses and submissions from offerors, most of which represent components of the requirements in Attachment One. While each requirement represents only a part of the total basis for a decision to award the Contract to an offeror, a failure by an offeror to make a required submission or meet a mandatory requirement normally will result in a rejection of that offeror's Proposal.

The value assigned above to each requirement is only a value used to determine which Proposal is the most advantageous to the State in relation to the other Proposals that the State received. It is not a basis for determining the importance of meeting that requirement. If the State does not receive any Proposal that meets all the mandatory requirements, the State may cancel this RFP.

Alternatively, if the State believes it is in its interest, the State may continue to consider the highest-ranking Proposals despite their failure to meet all the mandatory requirements.

In doing this, the State may consider one or more of the highest-ranking Proposals. The State may not consider any lower-ranking Proposals unless all Proposals ranked above it are also considered, except as provided below.

In any case where no Proposal meets all the mandatory requirements, it may be that an upper ranking Proposal contains a failure to meet a mandatory requirement that the State believes is critical to the success of the RFP's objectives. When this is so, the State may reject that Proposal and consider lower ranking Proposals. Before doing so, the State may notify the offeror of the situation and allow the offeror an opportunity to cure its failure to meet that mandatory requirement.

If the offeror cures its failure to meet a mandatory requirement that the State has deemed critical to the success of the RFP's objectives, the State may continue to consider the offeror's Proposal. However, if the offeror is unwilling or unable to cure the failure, its Proposal may be rejected. The State then may continue to consider the other remaining Proposals, including, if the State so chooses, Proposals that ranked lower than the rejected Proposal.

Cost Evaluation. Once the technical merits of the Proposals are considered, the State may consider the costs of one or more of the highest-ranking Proposals. But it is within the State's discretion to wait until after any interviews, presentations, and demonstrations to evaluate costs. Also, before evaluating the technical merits of the Proposals, the State may do an initial review of costs to determine if any Proposals should be rejected because of excessive cost. Further, the State may reconsider the excessiveness of any Proposal's cost at any time in the evaluation process.

The State may select one or more of the Proposals for further consideration in the next phase of the evaluation process based on the price performance formula contained in Attachment One. The Proposal(s) selected for consideration in the next phase always will be the highest-ranking Proposal(s) based on this analysis. That is, the State may not move a lower-ranking Proposal to the next phase unless all Proposals that rank above it also are moved to the next phase, excluding any Proposals that the State disqualifies because of excessive cost or other irregularities.

If the State finds that it should give one or more of the highest-ranking Proposals further consideration, the State may move the selected Proposals to the next phase. The State alternatively may choose to bypass any or all subsequent phases and make an award based solely on its scoring of the preceding phases, subject only to its review of the highest-ranking offeror's responsibility, as described below.

Requests for More Information. The State may require some offerors to interview, make a presentation about their Proposals, or demonstrate their products or services. If the presentations or demonstrations are held as part of the technical evaluation phase, all offerors that have Proposals under evaluation may participate. Alternatively, if the presentations or demonstrations are held after the technical evaluation, the State normally will limit them to one or more of the highest ranking offerors. The State normally will limit such presentations or demonstrations to areas in which it seeks further information from the highest ranking offeror or offerors. Typically, these discussions provide an offeror with an opportunity to do one or more of the following:

- Clarify its Proposal and ensure a mutual understanding of the Proposal's content;
- Show the features and functions of its proposed hardware, software, or solution; and
- Demonstrates the offeror's professionalism, qualifications, skills, and work knowledge

The State will schedule the presentations or demonstrations at its convenience and discretion. The State will determine the scope and format of any presentations or demonstrations and may record them. If the State moves more than one offeror to this phase, the scope and format of these presentations or demonstrations may vary from one offeror to the next, depending on the particular issues or concerns the State may have with each offeror's Proposal.

The State normally will not rank presentations or demonstrations. Rather, if the State conducts the presentations or demonstrations as part of the technical evaluation, the State may use the information it gathers during this process in evaluating the technical merits of the Proposals.

If the State holds the presentations or demonstrations only for one or more of the top-ranking offerors after the evaluation phase, the State may decide to revise its existing Proposal evaluations based on the results of this process.

Determination of Responsibility. The State may review the background of one or more of the highest-ranking offerors and its or their key team members and subcontractors to ensure their responsibility. For purposes of this RFP, a key team member is a person that an offeror identifies by name in its Proposal as a member of its proposed team. The State will not award the Contract to an offeror that it determines is not responsible or subcontractors to work on the Project that are not responsible. The State's determination of an offeror's responsibility may include the following factors: experience of the offeror and its key team members and subcontractors, its and their past conduct on previous contracts, past performance on previous contracts, ability to execute this Contract properly, and management skill. The State may make this determination of responsibility based on the offeror's Proposal, reference evaluations, a review of the offeror's financial ability, and any other information the State requests or determines is relevant.

Some of the factors used in determining an offeror's responsibility, such as reference checks, may also be used in the technical evaluation of Proposals in phase two of the evaluation process. In evaluating those factors in phase two, the weight the State assigns to them, if any, for purposes of the technical evaluation will not preclude the State from rejecting a Proposal based on a determination that an offeror is not responsible. For example, if the offeror's financial ability is adequate, the value, if any, assigned to the offeror's relative financial ability in relation to other offerors in the technical evaluation phase may or may not be significant, depending on the nature of the Project. If the State believes the offeror's financial ability is inadequate, the State may reject the offeror's Proposal despite its other merits.

The State may make a responsibility determination at any time during the evaluation process, but it typically will do so only once it has evaluated the technical merits and costs of the Proposals. The State always will review the responsibility of an offeror selected for an award before making the award, if it has not already done so earlier in the evaluation process. If the State determines that the offeror selected for award is not responsible, the State then may go down the line of remaining offerors, according to rank, and determine responsibility with the next highest-ranking offeror.

Reference Checks. As part of the State's determination of an offeror's responsibility, the State may conduct reference checks to verify and validate the offeror. and subcontractors' past performance. Reference checks that indicate poor or failed performance by the offeror or subcontractor may be cause for rejection of the offeror's Proposal. Additionally, the State may reject an offeror's Proposal as non-responsive if the offeror fails to provide requested reference contact information.

The State may consider the quality of offerors' and subcontractors' references as part of the technical evaluation phase, as well as in the State's determination of the offeror's responsibility. The State also may consider the information it receives from the references in weighing any requirement contained in the technical evaluation phase, if that information is relevant to the requirement. In checking an offeror's or any of its proposed subcontractors' references, the State will seek information that relates to the offeror's previous contract performance.

This may include performance with other governmental entities, as well as any other information the State deems important for the successful operation and management of the Project and a positive working relationship between the State and the offeror. In doing this, the State may check references other than those provided in the offeror's Proposal. The State also may use information from other sources, such as third-party reporting agencies.

Financial Ability. Part of State's determination of an offeror's responsibility may include the offeror's financial ability to perform the Contract.

This RFP may expressly require the submission of audited financial statements from all offerors in their Proposals, but if this RFP does not make this an express requirement, the State still may insist that an offeror submit audited financial statements for up to the past three years, if the State is concerned that an offeror may not have the financial ability to carry out the Contract. Also, the State may consider financial information other than the information that this RFP requires as part of the offeror's Proposal, such as credit reports from third-party reporting agencies.

Contract Negotiations. The final phase of the evaluation process may be contract negotiations. It is entirely within the discretion of the State whether to permit negotiations. An offeror must not submit a Proposal assuming that there will be an opportunity to negotiate any aspect of the Proposal, and any Proposal that is contingent on the State negotiating with the offeror may be rejected.

The State is free to limit negotiations to particular aspects of any Proposal or the RFP, to limit the offerors with whom the State negotiates, and to dispense with negotiations entirely. If negotiations are held, they will be scheduled at the convenience of the State, and the selected offeror or offerors must negotiate in good faith.

The State may limit negotiations to specific aspects of the RFP or the offeror's Proposal. Should the evaluation result in a top-ranked Proposal, the State may limit negotiations to only that offeror and not hold negotiations with any lower-ranking offeror. If negotiations are unsuccessful with the top-ranked offeror, the State then may go down the line of remaining offerors, according to rank, and negotiate with the next highest-ranking offeror. Lower-ranking offerors do not have a right to participate in negotiations conducted in such a manner.

If the State decides to negotiate simultaneously with more than one offeror, or decides that negotiations with the top-ranked offeror are not satisfactory and therefore negotiates with one or more of the lower-ranking offerors, the State then will determine if an adjustment in the ranking of the offerors with which it held negotiations is appropriate based on the negotiations. The Contract award, if any, then will be based on the final ranking of offerors, as adjusted.

Auction techniques that reveal one offeror's price to another or disclose any other material information derived from competing Proposals are prohibited. Any oral modification of a Proposal will be reduced to writing by the offeror as described below.

Following negotiations, the State may set a date and time for the offeror(s) with which the State conducted negotiations to submit a best and final Proposal. If negotiations were limited and all changes were reduced to signed writings during negotiations, the State need not require a best and final Proposal.

If best and final Proposals are required, they may be submitted only once, unless the State determines that it is in the State's interest to conduct additional negotiations. In such cases, the State may require another submission of best and final Proposals. Otherwise, discussion of or changes in the best and final Proposals will not be allowed. If an offeror does not submit a best and final Proposal, the State will treat that offeror's previous Proposal as its best and final Proposal.

The State usually will not rank negotiations and normally will hold them only to correct deficiencies in or enhance the value of the highest-ranked offeror's Proposal.

From the opening of the Proposals to the award of the Contract, everyone evaluating Proposals on behalf of the State will seek to limit access to information contained in the Proposals solely to those people with a need to know the information. The State also will seek to keep this information away from other offerors, and the State may not tell one offeror about the contents of another offeror's Proposal in order to gain a negotiating advantage.

Before the award of the Contract or cancellation of the RFP, any offeror that seeks to gain access to the contents of another offeror's Proposal may be disqualified from further consideration.

Negotiated changes will be reduced to writing and become a part of the Contract file, which will be available for public inspection after award of the Contract or cancellation of the RFP, provided the State does not plan to reissue the RFP. If the State plans to reissue the RFP, the Contract file will not be available until the subsequent RFP process is completed. Unless the State agrees otherwise in writing, the offeror must draft and sign the written changes and submit them to the State within five business days. If the State accepts the changes, the State will give the offeror written notice of the State's acceptance, and the negotiated changes to the successful offer will become a part of the Contract.

Failure to Negotiate. If an offeror fails to provide the necessary information for negotiations in a timely manner, or fails to negotiate in good faith, the State may terminate negotiations with that offeror, remove the offeror's Proposal from further consideration, and seek such other remedies as may be available in law or in equity. Further, if negotiations involve proposed changes to Attachment Eight for Key Commercial Software, the State may terminate negotiations with that offeror and remove the offeror's Proposal from further consideration, if the State and the offeror cannot agree on terms acceptable to the State.

PART FIVE: AWARD OF THE CONTRACT

Contract Award. The State plans to award the Contract based on the schedule in the RFP, if the State decides the Project is in its best interest and has not changed the award date.

Under Ohio's anti-terrorism legislation, effective April 14, 2006, the selected offeror must complete a Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization to certify that the offeror has not provided material assistance to any terrorist organization listed on the Terrorist Exclusion List. The form and the Terrorist Exclusion List are available on the Ohio Homeland Security Website. The form must be submitted with the offeror's Proposal. If an offeror answers yes or fails to answer any question on the form, the State may not award the Contract to that offeror. The offeror may request the Department of Public Safety to review such a denial of an award. More information concerning this law is available at: http://www.homelandsecurity.ohio.gov.

Included with this RFP, as Attachment Five, is a sample of the Contract for the RFP. The State will issue two originals of the Contract to the Contractor proposed for award. The offeror must sign and return the two originals to the Procurement Representative. The State also will issue two originals of any Master Contract(s) for Software Licensing (Master Contract(s)) to the Contractor. If the licensor under any such Master Contract is not the offeror, the offeror will be responsible for coordinating execution of the document by the licensor and returning it to the State with the two originally signed copies of the Contract. The Contract and any Master Contract will bind the State only when the State's duly authorized representative signs all copies and returns one to the Contractor with an award letter, the State issues a purchase order, and all other prerequisites identified in the Contract have occurred.

The Contractor must begin work within 15 business days after the State issues a purchase order under the Contract. If the State awards a Contract pursuant to this RFP, and the Contractor is unable or unwilling to begin the work within the time specified above, the State may cancel the Contract, effective immediately on notice to the Contractor. The State then may return to the evaluation process under this RFP and resume the process without giving further consideration to the originally selected Proposal. The State also may seek such other remedies as may be available to the State in law or in equity for the selected offeror's failure to perform under the Contract.

Contract. If this RFP results in a Contract award, the Contract will consist of this RFP, including all attachments, written amendments to this RFP, the Contractor's accepted Proposal, and written, authorized amendments to the Contractor's Proposal. It also will include any materials incorporated by reference in the above documents and any purchase orders and change orders issued under the Contract. The form of the Contract is included as a one-page attachment to this RFP, but it incorporates all the documents identified above. The general terms and conditions for the Contract are contained in Attachment Four to this RFP. If there are conflicting provisions between the documents that make up the Contract, the order of precedence for the documents is as follows:

1.   The one-page Contract (Attachment Five) in its final form;
2.   This RFP, as amended;
3.   The documents and materials incorporated by reference in the RFP;
4.   The Executive Order. EO 2011-12K incorporated by reference in the RFP;
5.   The Contractor's Proposal, as amended, clarified, and accepted by the State; and
6.   The documents and materials incorporated by reference in the Contractor's Proposal.

Notwithstanding the order listed above, change orders and amendments issued after the Contract is executed may expressly change the provisions of the Contract. If they do so expressly, then the most recent of them will take precedence over anything else that is part of the Contract.

To be binding on the State, a duly authorized representative of the Ohio Department of Administrative Services must sign any change order under or amendment to the Contract.

ATTACHMENT ONE: EVALUATION CRITERIA

Mandatory Requirements. The first table lists this RFP's mandatory requirements. If the offeror's Proposal meets all the mandatory requirements, the offeror's Proposal may be included in the next part of the technical evaluation phase described in the next table.

MANDATORY REQUIREMENTS	Reject	Accept
The offeror must demonstrate experience with providing a trauma registry system for a country, state or region for a minimum of 60 months.		
The offeror must demonstrate experience with providing an EMS Incident Reporting System for a country, state or region for a minimum of 36 months.		
The offeror must demonstrate having all applicable licenses and/or usage agreements for all proprietary code sets and scoring systems, including but not limited to the Abbreviated Injury Scale.		
The offeror must demonstrate at least one (1) project where it was necessary to convert and consolidate multiple enterprise level databases into a single integrated database. Databases must be functionally equivalent to SQL Server or Oracle.		
The offeror must have at least 36 months demonstrative experience providing hosting services for a system of similar size, complexity, and scope.		

Scored Criteria. In the technical evaluation phase, the State will rate the technical merits of the Proposals based on the following requirements:

Proposed System Solution TECHNICAL REQUIREMENTS				
SPECIFICATION	**Weight**	**Does Not Meet**	**Meets**	**Exceeds**
GENERAL				
GEN 1: The system allows manual on-line entry and updating of individual records.	**10**	0	5	7
GEN 2: The system allows submission of batch data files.	**10**	0	5	7
GEN 3: The system allows data upload from all data owners and third party submitters.	**10**	0	5	7
FOR INDIVIDUAL CASE DATA UPLOADS ONLY				
IND 1: Drop-down and/or pick-list selections exist for multi-choice fields. Provides auto-populate when applicable.	**4**	0	5	7
IND 2: Applicable fields are auto-populated logically (i.e. age in years given birth date, etc.).	**4**	0	5	7
IND 3: Applicable fields are negated ("grayed-out" or not shown) logically (i.e. no EMS transport data if patient refused, no trauma O.R. data if no operations performed, etc.) with appropriate default codes entered automatically into the record.	**10**	0	5	7
IND 4: Illogical records are rejected and error message is given immediately (i.e., future date of birth, pregnant male)	**10**	0	5	7
IND 5: Corrections to illogical data fields can be made immediately and the record resubmitted.	**7**	0	5	7
IND 6: Incomplete records are rejected and error message is given immediately for missed fields' data entry. Missing data fields can be completed immediately and the record resubmitted.	**7**	0	5	7

IND 7: Error messaging is given for duplicate record-entry and duplicate record is rejected immediately, OR user is warned and prompted to confirm before overwriting of previously accepted record.	**7**	0	5	7
IND 8: Message is given immediately of successful acceptance of (non-duplicative and complete) record.	**1**	0	5	7
IND 9: Individual records can be easily re-accessed and data can be updated.	**4**	0	5	7
IND 10: User is identified and tracked (by name, date, submitting entity, etc.) for each record submitted.	**10**	0	5	7
IND 11: User is identified and tracked (by name, date, submitting entity, etc.) for each revised record.	**10**	0	5	7
IND 12: Records may not be deleted by user once entered.	**10**	0	5	7
FOR BATCH FILE UPLOADS ONLY				
BAT 1: Illogical records are rejected & error message is given immediately (i.e. pregnant male, etc.)	**10**	0	5	7
BAT 2: Corrections to illogical data fields can be made immediately if possible and the file resubmitted.	**4**	0	5	7
BAT 3: Incomplete records are rejected and error message is given immediately indicating missed fields.	**4**	0	5	7
BAT 4: Error messaging is given for duplicate record-entry & duplicate records are rejected immediately, OR user is warned and prompted to confirm before overwriting of previously accepted record.	**4**	0	5	7
BAT 5: Only individual records with errors are rejected from a batch file - all error-free records are accepted.	**7**	0	5	7
BAT 6: Message is given immediately of successful file transfer with count of total records transferred, number of records accepted and number of records rejected for errors.	**1**	0	5	7
BAT 7: Individual records can be easily re-accessed and data can be updated.	**4**	0	5	7
BAT 8: User is identified and tracked (by name, date, submitting entity, etc.) for each record submitted.	**10**	0	5	7
BAT 9: User is identified and tracked (by name, date, submitting entity, etc.) for each revised record.	**10**	0	5	7
BAT 10: Records may not be deleted by user once submitted.	**10**	0	5	7
BAT 11: The system provides immediate notification to the data owner (if different from submitter) of rejected submittals.	**4**	0	5	7
DATA REPORTING				
REP 1: All data is available immediately upon acceptance and easily accessible to ODPS personnel for analysis at any and all times.	**10**	0	5	7
REP 2: Application contains a web-based graphical user interface analytical reporting tool.	**4**	0	5	7
REP 3: The system supports the development and sharing of reports and query solutions (allow local and regional exchange of report formats). Lockable templates of common reports that are developed are available on the database.	**1**	0	5	7
REP 4: The system provides data cubes to allow multi-dimensional analysis of current and historic data.	**4**	0	5	7
REP 5: The system facilitates the search for a previously submitted individual record.	**4**	0	5	7
REP 6: The system has the capability to run queries related to errors and warnings pertaining to submitted records.	**1**	0	5	7

REP 7: The system has the capability to run performance reports for individual EMS agencies/hospitals.	**4**	0	5	7
REP 8: The system allows data owners to run a report to check activities performed by others on their records or records submitted by individuals in their group.	**4**	0	5	7
REP 9: The system allows data owners to generate reports on aggregated data at various levels (e.g., local, regional, state, national) to allow comparisons of performance against other related groups and benchmarking elements.	**1**	0	5	7
REP 10: The system provides ad hoc reporting capabilities.	**1**	0	5	7
REP 11: The system allows data owners to download their own raw data for specific reporting and analysis purposes.	**10**	0	5	7
REP 12: Data can be searched ad hoc by any combination of data elements.	**1**	0	5	7
REP 13: Notification of failed reports shall be communicated immediately to the requestor.	**4**	0	5	7
REP 14: Reports shall be in open (non-proprietary) format & by program choice (Excel, Word, etc.)	**7**	0	5	7
REP 15: Data owner and submitter can obtain printouts of records submitted by whole record and by selected data element(s).	**4**	0	5	7
REP 16: Reports can be generated in selected report-ready graphics (i.e. pie charts, bar graphs, and tables).	**4**	0	5	7
REP 17: Report formats can be edited by user.	**1**	0	5	7
REP 18: Raw data can be exported formatted for other applications (i.e., Excel, SAS, and SPSS).	**10**	0	5	7
REP 19: Performs basic statistical analysis (i.e., mean, median, nth percentile, and standard deviation).	**4**	0	5	7
REP 20: Frequent queries can be stored and easily retrieved.	**1**	0	5	7
REP 21: Filters/populations/select criteria can be easily stored and retrieved.	**1**	0	5	7
REP 22: Ability to refresh stored queries to reflect current data.	**1**	0	5	7
REP 23: Records can be queried based on date record submitted and/or date record modified.	**4**	0	5	7
REP 24: Results of queries can be sorted on any field, with the ability to sort on multiple fields.	**4**	0	5	7
REP 25: Multiple data sources can be tied in to a single query.	**4**	0	5	7
REP 26: Results of queries can be conditionally formatted (i.e., use red font if results are a negative number).	**4**	0	5	7
NOTIFICATIONS				
NOT 1: The solution provides data quality service notification automatically due to submittal errors. Notification is provided to the submitter and include error type (e.g., empty or inaccurate data fields or duplicate) and specific definition.	**4**	0	5	7
NOT 2: The system automatically notifies the submitter electronically (email, text message, etc.) to confirm the acceptance or rejection of a record or a file.	**4**	0	5	7
NOT 3: The system sends file transfer notification and validation receipt electronically (email, text message, etc.). Receipt goes to the data submitter and the data owner as applicable. Receipt includes the specific record rejected, reason for rejection and specific error type and definition.	**4**	0	5	7
NOT 4: The system has the ability to broadcast messages to all entities on a front page, as well as separate electronic notification (e-mail, text message, etc.).	**4**	0	5	7

DATA MODEL / DATA STANDARDS				
DMS 1: The system facilitates import and export of data via XML.	**10**	0	5	7
DMS 2: The system supports submission and separate storage of rehabilitation data.	**7**	0	5	7
DMS 3: The system supports standards related to stroke, cardiac, traumatic brain injury, spinal cord injury and STEMI with expansion ability.	**7**	0	5	7
DMS 4: The system supports data definition differences between infants/pediatrics, adults and geriatrics, accounting for NTDS/NEMSIS standards and Ohio legal definitions.	**10**	0	5	7
DMS 5: The system is compliant with the most the current version of NEMSIS & NTDS standards.	**10**	0	5	7
DMS 6: The system automatically creates a unique identifier for each patient.	**7**	0	5	7
DMS7: Application upgrades to protect sensitive data (Open Web Application Security Project standards).	**7**	0	5	7
DMS 8: The system facilitates data warehouse functionality.	**7**	0	5	7
DMS 9: The system facilitates linking of corresponding EMS, acute care and rehabilitation registry records.	**7**	0	5	7
DMS 10: The system facilitates hospital to hospital linkage and is able to assimilate levels of multi-facility tracking of individual patients.	**7**	0	5	7
DMS 11: The system supports linkage to other data sources, such as vital statistics, crash statistics, census, and National Electronic Disease Surveillance System data.	**4**	0	5	7
INFRASTRUCTURE / TECHNOLOGY / ARCHITECTURE				
ITA 1: The system is web-based.	**10**	0	5	7
ITA 2: The system provides real-time monitoring and viewing of record processing status.	**1**	0	5	7
ITA 3: System has backup, recovery and restores capability in place at start up.	**10**	0	5	7
ITA 4: System has an archival strategy in place at startup.	**10**	0	5	7
ITA 5: System has redundant backup with at least one off-site backup.	**10**	0	5	7
ITA 6: System architecture supports a separate reporting database.	**4**	0	5	7
ITA 7: The system allows ODPS to add, inactivate and edit data owners and data submitters.	**10**	0	5	7
ITA 8: The system provides secure password reset functionality with strong passwords.	**10**	0	5	7
ITA 9: The system includes a separate test area that will allow test uploads through a test Web interface and will not impact production operations.	**4**	0	5	7
ITA 10: The solution is scalable to allow growth and potential expansion to add other registries.	**4**	0	5	7
ITA 11: The system uses Secure File Transfer Protocol.	**10**	0	5	7
ITA 12: Application architecture allows for configurable business rules including data validation. Changes to data validation can be made by ODPS "on the fly" (not requiring contractor intervention to complete/implement).	**7**	0	5	7
ITA 13: A public website is available to provide reports related to aggregated open records (would not include personal information). Website would support public awareness, injury awareness/prevention activities, and provide training	**7**	0	5	7

materials.				
ITA 14: All reports generated by the public website will return masked values if results violate a minimum cell size of ten (10) records.	**10**	0	5	7
SECURITY				
SEC 1: The system includes role-based user management.	**10**	0	5	7
SEC 2: Based on role, the system allows for management of user accounts.	**10**	0	5	7
SEC 3: Staff and role designation process is web-based. Designation includes assignment of new personnel or replacements.	**4**	0	5	7
SEC 4: Change tracking: History of record change or deletion, including who made the change, what was changed and when, is maintained with audit/report capability.	**10**	0	5	7
SEC 5: The system tracks user account activation and user activity for monitoring use and security purposes. User activity includes specific record access, additions, and changes made by each individual.	**7**	0	5	7
SEC 6: Each data owner has the ability to determine who can submit data on their behalf and who can receive subsequent information back.	**4**	0	5	7
SEC 7: The system allows automated desktop log-off based on non-activity. Timed log-offs provide a notification message of timeout.	**7**	0	5	7
SEC 8: The system provides for a sufficient number of administrative roles to accommodate all levels of system access and security.	**4**	0	5	7
SEC 9: Computer and network authentication is required for security.	**10**	0	5	7
SEC 10: The system meets current technology and industry security standards (e.g., Health Insurance Portability and Accountability Act (HIPAA)).	**7**	0	5	7
SEC 11: Data encryption is required to protect the data in the database at rest and during data transmission.	**10**	0	5	7
SEC 12: System security includes dual authentication and challenge questions for login.	**7**	0	5	7
SEC 13: ODPS has ultimate management control of users.	**10**	0	5	7
SEC 14: Accepted records can only be deleted by ODPS.	**10**	0	5	7

Price Performance Formula. The evaluation team will rate the Proposals that meet the Mandatory Requirements based on the following criteria and respective weights.

Criteria	Percentage
Technical Proposal	80%
Cost Summary	20%

To ensure the scoring ratio is maintained, the State will use the following formulas to adjust the points awarded to each offeror.

The offeror with the highest point total for the Technical Proposal will receive 800 points. The remaining offerors will receive a percentage of the maximum points available based upon the following formula:

Technical Proposal Points = (Offeror's Technical Proposal Points/Highest Number of Technical Proposal Points Obtained) x 800

The offeror with the lowest proposed Not-To-Exceed Fixed Price will receive 200 points. The remaining offerors will receive a percentage of the maximum cost points available based upon the following formula:

Cost Summary Points = (Lowest Not-To-Exceed Fixed Price/Offeror's Not-To-Exceed Fixed Price) x 200

Total Points Score: The total points score is calculated using the following formula:

Total Points = Technical Proposal Points + Cost Summary Points

ATTACHMENT TWO: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS

This attachment describes the Project and what the Contractor must do to get the job done. It also describes what the Contractor must deliver as part of the completed Project (the "Deliverables"). Additionally, it gives a detailed description of the Project's schedule.

Scope of Work. The State will provide oversight for the entire Project, but the Contractor must provide overall project management for the tasks under this Contract, including the day-to-day management of its staff. The Contractor also must assist the State with coordinating assignments for State staff working on the Project. And the Contractor must provide all administrative support for its staff and activities.

The State will provide staff, as it deems appropriate, to perform Project monitoring, and will participate in quality assurance and configuration management tasks, and will participate in Project reviews. The State's technical staff is expected to assume increasing support roles throughout the Project phases and will assume full maintenance responsibility of the completed Project following the warranty period and any optional maintenance periods.

PROJECT DESCRIPTION

The Ohio EMS and Trauma Data System will encompass the Ohio Trauma Registry and EMS Incident Reporting System. The solution will provide a Contractor hosted web-based application that utilizes the NTDB and NEMSIS standards. The solution will allow for Ohio specific modifications.

Data submissions will be initiated by hospitals and regional trauma registries for the OTR and EMS agencies and third-party billing companies. Submissions can be made by electronic submission of data files or direct data entry using the Contractor's website.

Validation checks of data will be automatic and notify the submitter of any records in need of correction immediately. Only individual records with errors are rejected from a submitted data file. All error-free records are accepted.

The Ohio EMS Data/Trauma System must allow for exporting both EMS Incident and Trauma data. The solution must be able to generate standard Statistical Reports as well as ad hoc reporting.

The Contractor must provide updates to code sets and national standards with coordination from the Division of EMS.

The solution must be secure, with access to data controlled by the Division of EMS designee. The Contractor will provide training and support to the Division of EMS personnel. The Contractor must comply with all the DAS web hosting security requirements as detailed in Part One; Executive Summary.

The legacy OTR and EMSIRS data will be migrated to the Contractor's solution. Exports of the legacy data will be extracted by ODPS for the Contractor to import.

The Contractor's system archival and back-up mechanisms must be in place at start-up.

Contractor Responsibilities and Deliverables. The Contractor must meet all RFP requirements and complete all Project milestones and Deliverables, as provided in the Project Plan.

TASK 1 – PROJECT MANAGEMENT ACTIVITIES

Kick Off Meeting. The Contractor and the ODPS will conduct a kick-off meeting within five (5) working days of project commencement.

Maintain Project Plan. The Contractor must update the Project Plan submitted with its Proposal (see Attachment Three) and submit a detailed Project Plan, in electronic and paper form, to the Project

Representative for approval within ten (10) business days after the State issues a purchase order under the Contract. Thereafter, the Contractor must:

- Formally update the Project Plan and provide the updated Project plan as part of its bi-weekly reporting requirements during the Project; and
- Ensure the Project Plan allows adequate time for the State to review, comment on, and approve all Deliverables.

The Project Plan must allow sufficient time for the State's staff to review all Deliverables. The State will determine the number of business days it needs for such reviews and provide that information to the Contractor after award and early in the development of the Project Plan. Should the State reject a Deliverable for any reason, the Contractor must correct all deficiencies and resubmit it for the State's review and approval until the State accepts the Deliverable.

Contractor Responsibilities

Meeting Attendance and Reporting Requirements. The Contractor's Project management approach must adhere to the following Project meeting and reporting requirements:

- Attend bi-weekly Status Meetings **-** The Project Manager and other Project team members must attend bi-weekly status meetings with the Project Representative and other members of the Project teams deemed necessary to discuss Project issues. These meetings must follow an agreed upon agenda and allow the Contractor and the State to discuss any issues that concern them.
- Provide Weekly Status Reports - The Contractor must provide written status reports to the Project Representative.
- At a minimum, weekly status reports must contain the items identified below:
  - Status of currently planned tasks, specifically identifying tasks not on schedule and a resolution plan to return to the planned schedule;
  - Issues encountered, proposed resolutions, and actual resolutions;
  - The results of any tests;
  - A Problem Tracking Report must be attached;
  - Anticipated tasks to be completed in the next week;
  - Task and Deliverable status, with percentage of completion and time ahead or behind schedule for tasks and milestones; and

  The Contractor's proposed format and level of detail for the status report is subject to the State's approval.

Contractor Deliverables

The Deliverables to be produced by the Contractor for the Project Management Section must include the following:

- Updated Project Schedule Plan;
- Test Plans; and
- Weekly Status Reports.

TASK 2 – DATABASE/PORTAL CREATION FOR OHIO

The Contractor will work closely with the Division of EMS Personnel to create the Ohio EMS and Trauma Data System that meets the requirements of the OTR and EMSIRS data dictionaries and NTDS and NEMSIS standards.

Contractor Deliverables

The Deliverables to be produced by the Contractor for the Database/Portal Creation Section must include the following:

- System Design Specification Document (SDSD);

TASK 3 – SYSTEM TESTING

The Division of EMS will perform initial system testing on the Contractor's Ohio EMS and Trauma Data System to ensure the requirements are met.

System testing will include, but not be limited to: entering data into the web site, maintaining the security credentials for logon into the secure site, maintaining the web site, making changes to the information within the site, extracting/downloading data from the site for distribution to researchers, performing data analysis, making changes to the format and design of the site, and incorporating/displaying new information.

The Contractor must perform the following activities during the test activities:

Test Plans. The Contractor must develop test plans (this includes Unit, Integration/System, Negative, Load/Stress, Regression, Parallel and UAT). The plans must show valid links from UAT all the way back to each functional requirement. The plans must:

- Identify the inputs to the test, the steps in the testing process, and the expected results;
- Identify any software tools used during testing;
- Identify all ODPS resources needed;
- Include proposed test metrics for progress reports that must be issued at intervals approved by the ODPS;
- Describe the defect identification, tracking and resolution processes to be executed during the tests;
- Include a description of every test scenario and expected test results;
- Include a description of how the testing effort will be managed, including strategies for dealing with delays in the testing effort, high volume of defects, back-up plan, back-up personnel, and related issues;
- Describe the approach for updating documentation based on test results;
- Describe procedures for notifying the ODPS of problems discovered in testing, testing progress, adherence to the test schedule; and
- Include an approach for organizing and presenting test results for the ODPS' review.

Execute Test Plans. The Contractor must take responsibility for the execution of the test plans to test all system functionality, including interfaces. Testing must occur in an established test environment that mirrors the Contractor's production environment. To complete the required testing, the Contractor must perform the following:

- Execute the required tests;
- Function as system users during testing and evaluate and validate all test outcomes;
- Provide system output and test outcomes to the ODPS as requested;
- Document and resolve any errors encountered during testing; if major defects are found during testing, the entire test script must be re-initiated and the test period must begin again (e.g., a major defect is anything that stops the system/application from functioning or fails to deliver required functionality); and
- Provide adequate staff dedicated to testing support and problem resolution while the test is in progress.

    Upon request, the Contractor must provide a defect and resolution log to the ODPS.

Contractor Deliverables

The Deliverables to be produced by the Contractor for the System Testing Section must include the following:

- Test Plans (this includes Unit, Integration/System, Negative, Load/Stress, Regression, Parallel and User Acceptance Testing (UAT));
- Test Results Document;
- UAT Plan;
- UAT Defect Tracking Report; and
- UAT Final Report.

TASK 4 – MIGRATION OF LEGACY DATA

The Contractor must accept pre-defined extract file from legacy data that will be mapped and imported into the Contractor's System.

- The Data Conversion Plan is a step-by-step plan for conducting the conversion from the data sources to the target database tables. It defines the scope and quantity of data to be converted, the history/age of the data, and the procedures for completing the conversion. This includes the order and sequence of the conversion activities. It also includes the steps to verify the conversion was successful and any error handling to be accommodated.

Contractor Deliverables

The Deliverables to be produced by the Contractor for the Migration of Legacy Data Section must include the following:

- Conversion Plan

TASK 5 - TRAINING.

The Contractor must provide training on the Ohio EMS and Trauma Data System to the Division of EMS. The training will be held at the ODPS for approximately ten (10) individuals of varying skill levels. At a minimum, training must include a training coordinator/facilitator and individuals who worked on this project.

User training addresses, but not limited to, system functionality, report generation, system administration, and other operations.

User training is provided through multiple delivery methods (e.g., on-site, on-line training, web-based tutorials, and Webinars).

The training must be conducted and concluded prior to the start of the Final User Acceptance Testing phase and will be scheduled by the ODPS staff, in coordination with the Contractor. The training date will be dependent upon the availability of the ODPS Training rooms and may be cancelled and rescheduled at no additional cost to the State, without notice, depending upon emergency situations.

The Contractor must train the designated Division of EMS personnel on all software used within the Ohio EMS and Trauma Data System. The training must include, but not be limited to: entering data into the web site, maintaining the security credentials for logon into the secure site, maintaining the web site, making changes to the information within the site, extracting/downloading data from the site for distribution to researchers, performing data analysis, making changes to the format and design of the site, and incorporating/displaying new information.

The Contractor must also prepare and provide ten (10) instruction manuals for the Ohio EMS and Trauma Data System with appropriate information including but not limited to: design, maintenance, use of the web

site, data entry, and running reports. The Contractor must provide all electronic source documents, graphics, used in the development and presentation of all aspects of training, including all final training documents in electronic format as approved by the State. All training requirements mentioned above must be completed prior to the commencement of the implementation phase of the project. All training materials must be reviewed and approved by the State prior to the start of the training.

Additional training may be required at the expense of the Contractor, if significant changes are made to the web portal as a result of the Testing and/or performance period. The Contractor will be responsible for providing the Division of EMS with a digital copy of the instruction manual with any corrections that result from the testing and/or performance period.

Contractor Deliverables for Training. Deliverables to be produced by the Contractor for the Training Section include:

- The Ohio EMS and Trauma Data System instruction manual that is approved by the Division of EMS prior to training being conducted;
- Ten (10) hard copies of the Instruction Manual for the Ohio EMS and Trauma Data System;
- A digital Microsoft Word version of the Instruction Manual; and
- Ohio EMS and Trauma Data System training course completed.

TASK 6 – FINAL USER ACCEPTANCE TESTING

The Division of EMS will perform final system testing on the Contractor's Ohio EMS and Trauma Data System to ensure the requirements are met and migrated legacy data is accurate and accessible.

The UAT will include, but not be limited to: entering data into the web site, maintaining the security credentials for logon into the secure site, maintaining the web site, making changes to the information within the site, extracting/downloading data from the site for distribution to researchers, performing data analysis, making changes to the format and design of the site, and incorporating/displaying new information.

The UAT Plan must include scenarios for above stated UAT criteria.

The UAT Final Report must include results of UAT stated above as well as options for remedy.

Contractor Deliverables for Final UAT. Deliverables to be produced by the Contractor for this task include:

- UAT Plan; and
- UAT Final Report

TASK 7 – SOFTWARE MAINTENANCE AND SUPPORT TASKS

Contractor Responsibilities

Maintenance and Support Plan. Before the initiation of this effort, the Contractor must provide a maintenance and support plan. The maintenance and support plan must contain at a minimum:
- Service level agreements consisting of key system metrics (e.g., system availability; system response times; and correction of application defects);
- Resource requirements from Contractor and the ODPS; and
- An approach to the correction of application defects and implementation of updates, patches and repairs which must be incorporated into the service level agreements and system metrics provided as part of the maintenance and support plan.

> **Execution of the Approved Maintenance and Support Plan.** The Contractor must execute the Approved Maintenance and Support Plan and provide the ODPS status reports and performance reports on a regular basis (i.e. weekly, monthly, and quarterly).

Documentation.   Project Lifecycle, Support (Helpdesk Manual), Training (Users), Data Dictionary, and Data Model Data Mapping.

Compliance.   Update and maintain compliance with the most current edition of the data dictionaries from NEMSIS, NTDS, EMSIRS, and the other OTR Data Dictionary (provided as supplemental information), the International Classification of Diseases (Including diagnosis, procedure, E and V codes), the Abbreviated Injury Score, RxNORM and SNOMED.

Frequently Asked Questions. Provide general help functions and access to Frequently Asked Questions (FAQ) documentation. Includes a dynamic library of FAQ.

Helpdesk. Provide a toll-free helpdesk for the duration of the contract with well-qualified staff (knowledgeable of EMS and trauma systems). Provides for performance reporting and tracking of problems, fixes, and FAQs.

The Contractor is responsible for maintaining and supporting the Ohio EMS and Trauma Data System application, which involves the following:

Updates, Patches and Repairs. The Contractor must update, patch, and repair the application software components in the development, test, and training environments, and developed software changes for promotion to production.   This includes updating various code sets such as ICD-9, ICD-10 to ensure the most current edition.

When installing new application updates, patches and repairs, the Contractor must evaluate the impact on current configurations. Any and all updates, patches, and repairs must be fully and successfully tested before migration to production.

For implementation of updates, patches, and repairs of the Ohio EMS and Trauma Data System the Contractor must have the Division of EMS' approval prior to the release of the updates, patches, and repairs with regularly scheduled maintenance releases.

Issue and Problem Resolution. The Contractor must take corrective action, subject to the EMS Research and Analysis approval, to resolve all issues and problems encountered during maintenance and support to ensure the application performs as required.

The Contractor must use the following definitions of resolution priority for issues and problems discovered during production:

* Urgent - issue/problem has caused, or has potential to cause, the entire system to go down or to become unavailable;
* High - issue/problem directly affects the public, or a large number of stakeholders are prevented from using the system. High-priority problems include those that render a site unable to function, make key functions of the system inoperable, significantly slow processing of data, severely impact multiple stakeholders, lead to federal penalties, or severely corrupt data;
* Medium - issue/problem includes those errors that render minor and non-critical functions of the system inoperable or unstable, and other problems that prevent stakeholders or administrators from performing some of their tasks; and
* Low - all other issues/problems that prevent a stakeholder from performing some tasks, but in situations where a workaround is available.

The Contractor must review and diagnose all urgent and high-priority issues and problems within two (2) hours of receipt of the problem notification. The Contractor must review and diagnose all medium-priority and low-priority problems within four (4) hours of receipt of the problem notification.

Issues and problems, which may include inquiries that cannot be resolved immediately upon receipt by the Division of EMS, will be classified into the following categories of complexity:

- Low - the problem is a known issue, or an immediate solution is available;
- Medium - the problem appears to be a bug or data problem; and
- High - the problem is hard to trace and is likely to need extensive troubleshooting.

The Contractor must submit a written report to the Division of EMS upon completion of the analysis and diagnosis that identifies the proposed resolution, if it can be identified at that time, and the anticipated completion date/time.

The Division of EMS will establish priorities and provide approval for the Contractor to begin working to implement or define a proper solution for all urgent and high-priority problems immediately and, if requested by the Division of EMS Staff, the Contractor must provide on-site assistance and dedicate all available resources to resolving the problem.

Once the resolution is defined, the Contractor must confer with the Division of EMS to confirm approval of resolution.

The Contractor must resolve all other Ohio EMS and Trauma Data System issues and problems within timeframes specified in the following table:

Issue Resolution Time Frames

Complexity	Resolution Priority		
	Low	Medium	High
Low	3 Business Days	1 Business Day	1 Business Day
Medium	7 Business Days	3 Business Days	1 Business Day
High	10 Business Days	4 Business Days	2 Business Days

- Whenever an operational problem or issue results in inaccuracy, data corruption, delay or interruption in online availability, delays in data submission or data processing, reports or other output, immediately notify the Division of EMS. The notification must include a distribution of the problem or issue, the expected impact on operational functions, a corrective action plan, and expected time of resolution.

- Upon correction of the problem or issue, notify the Division of EMS that the problem or issue is resolved. The following apply for Contractor correction of defects:

    - The Contractor must fix all application defects unless the Contractor is not authorized to fix the defect. All defect resolution must be approved by the Division of EMS.

    - For all systems, related problems and issues the Contractor must work with the Division of EMS to diagnose and develop a plan to resolve all such problems and issues.

- Resolutions may require the Contractor to monitor and tune the Ohio EMS and Trauma Data System to maintain system performance, and/or correct deficiencies and problems or issues with the functionality.
- Changes to the Ohio EMS and Trauma Data System to align with the National Standards must be reflected in documentation.

Contractor Deliverables

Deliverables to be produced by the Contractor for the maintenance and enhancement section include the following:

- Software Maintenance and Support Plan;
- Updates to EMS and Trauma Data Documentation, if applicable.

Performance Testing. Performance testing will be done in cooperation with the Contractor to ensure the Ohio EMS and Trauma Data System Project application meets the specified performance requirements listed elsewhere in this RFP. Attachment Three: Part Five describes the procedure and criteria for testing. The Ohio EMS and Trauma Data System must be designed and implemented to meet a system availability standard of 99.999%, 24 x 7.

Work Hours and Conditions. Testing activities, planning and status meetings that involve Division of EMS staff will occur during normal working hours on State property, Monday through Friday, 8:00 a.m. to 5:00 p.m. EST.

PART TWO: SPECIAL PROVISIONS

Software Licenses.   The Contractor must provide or arrange for perpetual software licenses for all Commercial Software necessary to meet the requirements of this RFP. For all Commercial Software, the State requires a license that provides adequate usage rights to meet the State's current need, as identified elsewhere in this RFP and as disclosed in the offeror's Cost Summary.

Submittal of Deliverables. The Contractor must perform its tasks in a timely and professional manner that produces Deliverables that fully meet the Contract's requirements. The Contractor must complete its work in steps that will result in Deliverables associated with those steps, and the Contractor must provide the required Deliverables no later than the due dates proposed in the RFP or included in the Contractor's Project Plan as approved by the State. At the time of delivery of a written Deliverable, the Contractor must submit an original and one copy of each Deliverable, plus an electronic copy.   The Contractor must provide the electronic copy in a file format acceptable to the State.

By submitting a Deliverable, the Contractor represents that, to the best of its knowledge, it has performed the associated tasks in a manner that meets the Contract's requirements.

The Contractor must provide all Deliverables to the Project Representative, who will review (or delegate review of) the materials or documents within a reasonable time after receipt, as specified in the Project Plan.

If the State determines that a Deliverable is not in compliance, the Project Representative will note the reason for non-compliance on the Deliverable Submittal Form and send the form to the Project Manager. At no expense to the State, the Contractor then must bring the Deliverable into conformance and re-submit it to the Project Representative within ten business days.
If the State agrees the Deliverable is compliant, the Project Representative will indicate that by signing the Deliverable Submittal Form and returning a copy of it to the Contractor.   In addition, if the Project Representative or designee determines that the State should make a payment associated with the Deliverable, the Project Representative will indicate that the payment should be made on the Deliverable Submittal Form.

The State form authorizing payment (Attachment Four) and the payment itself do not indicate that the State has accepted the Deliverables associated with the payment. The State's acceptance of the Deliverables that are part of developing the Project is conditioned on a successful performance test upon completion of the Project.

Status reports are not subject to a review and approval process.

Special Maintenance Standards. The Contractor must maintain networking, computer components, and staffing to support a twenty-four (24) hours per day, seven (7) days per week, three hundred sixty-five (365) days per year (24/7/365) web hosted application. The intent of the State is to have these services available to customers at all times with minimal wait times.

The Contractor's Fee Structure. The Contract award will be for a not-to-exceed fixed price, payable in accordance with the schedule below:

Deliverable	Payment
Database/Portal Creation for Ohio	20% of the total of Tasks 1-6 upon acceptance
System Testing	30% of the total of Tasks 1-6 upon acceptance
Migration of Legacy Trauma Data	10% of the total of Tasks 1-6 upon acceptance
Training	10% of the total of Tasks 1-6 upon acceptance
Acceptance/Live	30% of the total of Tasks 1-6 upon acceptance

SOFTWARE LICENSES	
Software Licenses	Upon delivery, installation and receipt of an appropriate invoice
HOSTING	
Hosting Services	Annual
MAINTENANCE	
Software Maintenance	Annual

If the State enters into a license agreement directly with a 3rd party licensor proposed by the Contractor, the State may make the license fee payment directly to the licensor.

Upon receipt of a signed Deliverable Submittal Form (Attachment Six) indicating the State agrees that the Deliverable is compliant or that the Contractor has met an applicable milestone and payment should be made, the Contractor may submit an invoice for that Deliverable or milestone, according to the payment schedule identified above.

Reimbursable Expenses. None.

Bill to Address.
Ohio Emergency Medical Services
P.O. Box 182073
Columbus, OH 43218-2073

Background Check
Upon Contract award, the Contractor and all staff involved in the Project must undergo a complete and thorough background check, at ODPS' expense (Supplement 1). This will include previous work addresses for the last ten (10) years excluding high school.

Criteria for personnel record checks. Background checks will be performed to determine if current or potential employees, of the Contractor, have any types of convictions in the following areas:

1. Any record of violence, domestic or otherwise;
2. Drug-related convictions;
3. Theft;
4. Other offenses deemed at risk to the facility or its population.

Those employees and potential employees of the Contractor and subcontractor(s) with felony convictions or other criminal records, unless specifically approved by the ODPS, will not be permitted to be employed on this Project.

Location of Data. Unless the Division of EMS agrees otherwise in writing, the selected Contractor and its subcontractors must keep all State documents and data within the continental United States.

Transition Requirements. If this Contract is not renewed at the end of a term, or is terminated prior to the completion of a term, for any reason, the Contractor must provide for a reasonable period of time for transition after the expiration or termination of this project or Contract. All reasonable transition assistance requested by the State of Ohio, to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State of Ohio. The Contractor must provide transition services to the State at the current Contract cost. The transition plan must minimally include conversion of data at the end of the Contract. Once data conversion is complete, the Contractor must delete all data on its system relating to the Ohio EMS and Trauma Data System within 10 days.

In the event that a subsequent contractor is unable to assume operations on the planned date for transfer, the Contractor must continue to perform the Ohio EMS and Trauma Data System Project operations on a month-to-month basis at the current cost for up to six (6) months beyond the planned transfer date. The State will provide the Contractor a thirty (30) day notice of an extension.

ATTACHMENT THREE: REQUIREMENTS FOR PROPOSALS

Proposal Format. Each Proposal must include sufficient data to allow the State to verify the total cost for the Project and all of the offeror's claims of meeting the RFP's requirements. Each Proposal must respond to every request for information in this attachment, whether the request requires a simple "yes" or "no" or requires a detailed explanation. Simply repeating the RFP's requirement and agreeing to comply may be an unacceptable response and may cause the Proposal to be rejected.

These instructions describe the required format for a responsive Proposal. The offeror may include any additional information it believes is relevant. An identifiable tab sheet must precede each section of a Proposal, and each Proposal must follow the format outlined below. All pages, except pre-printed technical inserts, must be sequentially numbered. Any material deviation from the format outlined below may result in a rejection of the non-conforming Proposal.

Each Proposal must contain the following:

> Vendor Information Form (OBM-5657)
> Offeror Certification Form
> Offeror Description
> Offeror Profile Summary Form
> Proposed System Solution
> Assumptions
> Project Plan
> Support Requirements
> System Requirements Affirmation
> Design
> Development and Testing
> Documentation and Training
> System Deployment and Post-Deployment
> Equipment and System Elements
> Pre-existing Materials
> Commercial Materials
> Proposed Changes to the Master Contract for Software Licensing
> Commercial Materials
> Conflict of Interest Statement
> Proof of Insurance
> Payment Address
> Legal Notice Address
> W-9 Form
> Declaration Regarding Terrorist Organizations
> Standard Affirmation and Disclosure Form (EO 2011-12K)
> Affirmative Action
> Cost Summary (must be separately sealed)

Vendor Information Form. The offeror must submit a signed and completed Vendor Information Form (OBM-5657) for itself and for each subcontractor the offeror plans to use under the Contract.
The form is available at http://obm.ohio.gov/forms/OAKS.asp.

Offeror Certification Form. The offeror must complete Attachment Seven, Offeror Certification Form.

Offeror Description. Each Proposal must include a description of the offeror's capability, capacity, and experience in the industry. The description should include the date the offeror was established, its leadership, number of employees, number of employees the offeror will engage in tasks directly related to the Project, and any other background information that will help the State gauge the ability of the offeror to fulfill the obligations of the Contract.

Offeror Profile Summary Form. This RFP includes an Offeror Profile Summary Form as an attachment. The offeror must use this form and fill it out completely to provide the required information.

The Offeror Profile Summary Form contained in this document has been customized for the applicable offeror requirements. (Refer to Attachment Seven.) Each page of the form may contain minor variations. If an offeror elects to duplicate the form electronically, the offeror must <u>carefully review</u> each page of the form to ensure that it has been copied accurately. Failure to duplicate the form exactly may lead to the rejection of the offeror's Proposal.

Each offeror must meet all the mandatory requirements in the RFP. If an offeror does not meet all the mandatory requirements, the State may reject the offeror's Proposal as non-responsive.

The various sections of the Offeror Profile Summary Forms are described below:

a) **Mandatory Experience and Qualifications.** The offeror must complete this section to demonstrate that it has the experience needed to meet the RFP's mandatory requirements. (Refer to Attachment Eight.) For each reference, the offeror must provide the following information:

- Contact Information. The offeror must provide a client contact name, title, phone number, email address, company name, and mailing address. The offeror also must include the same information for an alternate client contact, in case the State cannot reach the primary contact. Failure to provide this information or providing information that is inaccurate or out of date may result in the State not including the reference in the evaluation process or rejecting the offeror's Proposal. The contact information given must be for a person within the client's organization and not a co-worker or a contact within the offeror's organization, subsidiaries, partnerships, etc.
- Project Name. The offeror must provide the name of the project where it obtained the mandatory experience.
- Dates of Experience. The offeror must complete this area with a beginning month and year and an ending month and year to show the length of time the offeror performed the work, not just the length of time the offeror was engaged by the reference.
- Description of the Related Service Provided. The State will not assume that, since the experience requirement is provided at the top of the page, all descriptions on that page relate to that requirement. The offeror must reiterate the experience being described, including the capacity in which the work was performed and the role of the offeror on the Project. It is the offeror's responsibility to customize the description to clearly substantiate the qualification.
- Description of how the related service shows the offeror's experience, capability, and capacity to develop the Deliverables and to achieve this Project's milestones.

The offeror must list each project experience separately and completely every time it is referenced, regardless of whether it is on the same or different pages of the form.

b) **Required Experience and Qualifications.** The offeror must complete this section to demonstrate that it meets the requirements for experience. For each reference, the offeror must provide the information in the same manner as described above under item a, Mandatory Experience and Qualifications.

THE OFFEROR MAY NOT USE THE EXPERIENCE OR QUALIFICATIONS OF A SUBCONTRACTOR TO MEET ANY OF THE ABOVE MANDATORY QUALIFICATIONS OR EXPERIENCE. THESE MUST BE FULFILLED EXCLUSIVELY THROUGH THE QUALIFICATIONS AND EXPERIENCE OF THE OFFEROR. If the offeror seeks to meet any of the other qualifications and experience through a subcontractor, the offeror must identify the subcontractor by name in the appropriate part of the Offeror Profile Summary Form, in Attachment Eight to this RFP, for each reference.

Proposed System Solution. The offeror must describe in detail how its proposed solution meets the functional and technical requirements described in this Attachment Nine. The offeror may not simply state that the proposed solution will meet or exceed the specified requirements. Instead, the offeror must

provide a written narrative that shows that the offeror understands the functionality and the technical requirements of this RFP and how the offeror's proposed solution meets those requirements.

All the specifications given in this RFP for equipment and other system elements are minimum system requirements. The offeror may recommend features or other elements in excess of the minimum but must clearly identify them as such, provide the rationale behind the recommendations, and explain how they will benefit the State. The recommendations may not result in additional evaluation credit being given.

For each requirement documented in the RFP the offeror must provide a narrative description of its solution. The offeror must also provide a summary of any COTS products that will be used to meet the requirements. Offerors can attach extra sheets to describe how it meets or will meet the requirement. For each requirement identified, the offeror must indicate how the requirement (functional or technical) is delivered by checking one of the following boxes in Attachment Nine:

- Out of the Box;
- Configuration Required;
- Customization Required; or
- Not available.

The offeror can also provide screen shots or other graphics that illustrate how its solution meets a requirement. The illustration must be large enough so that all elements of the screen shot or graphic can be easily read.

Assumptions. The offeror must list all the assumptions the offeror made in preparing the Proposal. If any assumption is unacceptable to the State, the State may reject the Proposal. No assumptions may be included regarding negotiation, terms and conditions, or requirements.

Project Plan. The State encourages responses that demonstrate a thorough understanding of the nature of the Project and what the Contractor must do to get the Project done properly. To this end, the offeror must submit a Project Plan that the offeror will use to create a consistent and coherent management plan for the Project. The Project Plan must include detail sufficient to give the State an understanding of how the offeror's knowledge and approach will:

- Manage the Project;
- Guide Project execution;
- Document planning assumptions and decisions;
- Facilitate communication among stakeholders;
- Define key management review as to content, scope, and schedule; and
- Provide a baseline for progress measurement and Project control.

At a minimum, the offeror's Project Plan must include the following:

- Description of the Project management approach;
- Scope statement that includes the Project objectives and the Project Deliverables and milestones;

- Detailed Project schedule for all Project Deliverables and milestones. The schedule must clearly demonstrate how the Project will become fully operational by the delivery date. The offeror must give dates for when all Deliverables and milestones will be completed and start and finish dates for tasks. The offeror also must identify and describe all risk factors associated with the forecasted milestone schedule; Performance measurement baselines for technical scope and schedule;
- Major milestones and target date(s) for each milestone that are consistent with this RFP's dates;
- Definition of the review processes for each milestone and Deliverable (e.g. mandatory design review) and a description of how the parties will conduct communication and status review;

Support Requirements. The offeror must describe the support it wants from the State other than what the State has offered in this RFP. Specifically, the offeror must address the following:

- Nature and extent of State support required in terms of staff roles, percentage of time available, and so on;
- Assistance from State staff and the experience and qualification levels required; and
- Other support requirements.

The State may not be able or willing to provide the additional support the offeror lists in this part of its Proposal. The offeror therefore must indicate whether its request for additional support is a requirement for its performance. If any part of the list is a requirement, the State may reject the offeror's Proposal, if the State is unwilling or unable to meet the requirements.

System Requirements Affirmation. The offeror must fully describe how it will use systems analysis techniques to affirm the requirements identified for the Project.

Design. (Software Customization)The offeror must fully describe its proposed design for the Deliverables, including the design approach, methods, tools, and techniques for completing the technical design process. The offeror must depict the design in sufficient detail to allow the State to verify that the design meets all the requirements in this RFP.

The offeror must fully describe how the design will be represented, such as through written specifications, design diagrams, a system prototype, CASE tool software, etc.

At a minimum, the offeror's design approach must include the following design phase activities:

- High-Level
- Detail
- Documentation & Testing
- Approval

Development and Testing. The offeror's Proposal must describe the offeror's development approach, methods, tools, and techniques for completing the development process. Of particular importance are the offeror's testing strategies for unit, system, user acceptance, volume, and regression testing.

Documentation and Training. The offeror must describe its proposed approach, methods, tools, and techniques for user and systems documentation and training. In addition, the Proposal must include the activities the offeror will use to train the State Project staff on the offeror's system development methodology.

System Deployment and Post-Deployment. The offeror must describe its proposed approach, methods, tools, and techniques for deploying and installing the new system and maintaining its operation throughout the warranty period. The offeror also must describe its approach to installation and maintenance.

Equipment and System Elements. The offeror must identify all proposed equipment needed for the Project during the installation, customization (as applicable), implementation, and ongoing operations. The offeror's Proposal must include the proposed manufacturer's name and model for all equipment. Additionally, the offeror must identify any equipment that the State will require for the implementation and ongoing operation of the Project that is not otherwise specified in this RFP.

The equipment and other system specifications in this RFP are minimum Project requirements. The offeror may include features, equipment, or other elements in excess of the minimum but must clearly identify them as such.   All elements of the proposed solution must meet the mandatory technical requirements for the Project. If any element of the proposed solution does not meet the minimum requirements, the offeror's Proposal may be rejected as non-responsive.

Pre-existing Materials. The offeror must list any Pre-existing Materials it owns that will be included in a Deliverable if the offeror wants a proprietary notice on copies that the State distributes. For example, the offeror may have standard user interfaces or standard shells that it incorporates in what is otherwise custom software. (See the Ownership of Deliverables section of the General Terms and Conditions.)
The State may reject any Proposal that includes existing materials for a custom solution, if the State believes that such is not appropriate or desirable for the Project.

Commercial Materials. The offeror must list any commercial and proprietary materials that the offeror will deliver that are easily copied, such as Commercial Software, and in which the State will have less than full ownership ("Commercial Materials"). Generally, these will be from third parties and readily available in the open market. The offeror need not list patented parts of equipment, since they are not readily copied. If the offeror expects the State to sign a license for the Commercial Material, the offeror must include the license agreement as an attachment. But for Key Commercial Software, the offeror may not include a standard license agreement; rather, the offeror must comply with the next section's requirements regarding Attachment Eight. If the State finds any provisions of any proposed license agreement objectionable and cannot or does not negotiate an acceptable solution with the licensor, regardless of the reason and in the State's sole discretion, then the offeror's Proposal may be rejected. If the State is not going to sign a license, but there will be limits on the State's use of the Commercial Materials different from the standard license in the General Terms and Conditions, then the offeror must detail the unique scope of license here.   Any deviation from the standard license, warranty, and other terms in Attachment Three also may result in a rejection of the offeror's Proposal.

Proposed Changes to the Master Contract for Software Licensing. If the offeror seeks changes to Attachment Eight, the Master Contract, the offeror must identify those changes, with the precise alternative language the offeror seeks, and include the markup of the Master Contract as an attachment to its Proposal. Generalized objections to the Master Contract's terms and conditions are not acceptable. The State may reject any Proposal with extensive changes to the Master Contract or with changes that the State finds objectionable. Alternatively, the State may seek to negotiate over proposed changes to attempt to make them acceptable to the State. The State, in its sole and exclusive judgment, will determine whether any changes are acceptable and whether any negotiations make the proposed changes acceptable to the State.

Terms for Commercial Materials. If the offeror proposes a Deliverable that contains Commercial Software or other Commercial Materials with terms that differ from the terms in Attachment Three for Commercial Software and Materials, other than Key Commercial Software, which must be dealt with in accordance with the preceding section, then those terms must be detailed here, and any proposed separate agreement covering those items must be included in the offeror's Proposal. This is required even if the State will not be expected to sign the agreement. Any deviation from the standard terms in Attachment Three may result in a rejection of the offeror's Proposal.

Conflict of Interest Statement. Each Proposal must include a statement indicating whether the offeror or any people that may work on or benefit from the Project through the offeror have a possible conflict of interest (e.g., employed by the State of Ohio, etc.) and, if so, the nature of that conflict. The State may reject a Proposal in which an actual or apparent conflict is disclosed. The State also may terminate the Contract if it discovers any actual or apparent conflict of interest that the offeror did not disclose in its Proposal.

Proof of Insurance. The offeror must provide the certificate of insurance in the form that Attachment Three requires. The policy may be written on an occurrence or claims made basis.

Payment Address. The offeror must give the address to which the State should send payments under the Contract.

Legal Notice Address. The offeror must give the name, title, and address to which the State should send legal notices under the Contract.

W-9 Form. The offeror must complete the attached W-9 form in its entirety. The offeror must submit at least one originally signed W-9. All other copies of a Proposal may contain copies of the W-9. The offeror must indicate on the outside of the binder which Proposal contains the originally signed W-9.

Declaration Regarding Terrorist Organizations. The offeror must complete a Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization in its entirety. The offeror must submit at least one originally signed copy of this form, which should be included with the offeror's originally signed Proposal. All other copies of the offeror's Proposal may contain copies of this form. The form is available at: http://www.homelandsecurity.ohio.gov.

Standard Affirmation and Disclosure Form (EO 2011-12K). The offeror must complete and sign the Affirmation and Disclosure Form as part of its Proposal.

Affirmative Action. Before a contract can be awarded or renewed, an Affirmative Action Program Verification Form must be completed using:
http://das.ohio.gov/Divisions/EqualOpportunity/AffirmativeActionProgramVerification.aspx

Cost Summary. This RFP includes a Cost Summary Form provided as an attachment. Offerors may not reformat this form. Each offeror must complete the Cost Summary Form in the exact format provided, since the State may reject any Proposal with a reformatted Cost Summary Form or that is not separately sealed. (See: Part Three: General Instructions, Proposal Submittal.)

The Cost Summary Form must not include exceptions, additional terms and conditions, or assumptions.

The offeror's total cost for the entire Project must be represented as the not-to-exceed fixed price.

The State will not be liable for or pay any Project costs that the offeror does not identify in its Proposal.

ATTACHMENT FOUR: GENERAL TERMS AND CONDITIONS

PART ONE: PERFORMANCE AND PAYMENT

Statement of Work. The RFP and the Contractor's Proposal (collectively, the "RFP Documents") are a part of this Contract and describe the work (the "Project") the Contractor will do and any materials the Contractor will deliver (the "Deliverables") under this Contract. The Contractor must do the Project in a professional, timely, and efficient manner and will provide the Deliverables in a proper fashion. The Contractor also must furnish its own support staff necessary for the satisfactory performance of the Project.

The Contractor will consult with the appropriate State representatives and others necessary to ensure a thorough understanding of the Project and satisfactory performance. The State may give instructions to or make requests of the Contractor relating to the Project, and the Contractor will comply with those instructions and fulfill those requests in a timely and professional manner. Those instructions and requests will be for the sole purpose of ensuring satisfactory completion of the Project and will not amend or alter the scope of the Project.

Term. Unless this Contract is terminated or expires without renewal, it will remain in effect until the Project is completed to the satisfaction of the State, including all optional renewal periods for maintenance or continuing commitments, and the Contractor is paid. However, the current General Assembly cannot commit a future General Assembly to an expenditure. Therefore, this Contract will automatically expire at the end of each biennium, the first of which is June 30, 2013. The State may renew this Contract in the next biennium by issuing written notice to the Contractor of the decision to do so. This expiration and renewal procedure also will apply to the end of any subsequent biennium during which the Project continues, including any optional renewal periods. Termination or expiration of this Contract will not limit the Contractor's continuing obligations with respect to Deliverables that the State paid for before termination or limit the State's rights in such.

The State's funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. If the General Assembly fails to continue funding for the payments and other obligations due as part of this Contract, the State's obligations under this Contract will terminate as of the date that the funding expires without further obligation of the State.

The Project has a completion date that is identified in the RFP Documents. The RFP Documents also may have several dates for the delivery of Deliverables or reaching certain milestones in the Project. The Contractor must make those deliveries, meet those milestones, and complete the Project within the times the RFP Documents require.   If the Contractor does not meet those dates, the Contractor will be in default, and the State may terminate this Contract under the termination provision contained below.

The State also may have certain obligations to meet. Those obligations, if any, are also listed in the RFP Documents. If the State agrees that the Contractor's failure to meet the delivery, milestone, or completion dates in the RFP Documents is due to the State's failure to meet its own obligations in a timely fashion, then the Contractor will not be in default, and the delivery, milestone, and completion dates affected by the State's failure to perform will be extended by the same amount of time as the State's delay. The Contractor may not rely on this provision unless the Contractor has in good faith exerted reasonable management skill to avoid an extension and has given the State meaningful written notice of the State's failure to meet its obligations within five business days of the Contractor's realization that the State's delay may impact the Project. The Contractor must deliver any such notice to both the Project Representative and Procurement Representative and title the notice as a "Notice of State Delay." The notice must identify any delay in detail, as well as the impact the delay has or will have on the Project. Unless the State decides, in its sole and exclusive judgment, that an equitable adjustment in the Contractor's Fee is warranted in the case of an extended delay, an extension of the Contractor's time to perform will be the Contractor's exclusive remedy for the State's delay.   Should the State determine that an equitable adjustment in the Contractor's Fee is warranted, the equitable adjustment will be handled as a Change Order under the Changes Section of this Contract, and the extension of time and equitable adjustment will be the exclusive remedies of the Contractor for the State's delay.

The State seeks a complete Project, and the Contractor must provide any incidental items omitted in the RFP Documents as part of the Contractor's not-to-exceed fixed price. The Contractor also must fully identify, describe, and document all systems that are delivered as a part of the Project. Unless expressly excluded elsewhere in the RFP, all hardware, software, supplies, and other required components (such as documentation, conversion, training, and maintenance) necessary for the Project to be complete and useful to the State are included in the Project and the not-to-exceed fixed price.

Compensation. In consideration of the Contractor's promises and satisfactory performance, the State will pay the Contractor the amount(s) identified in the RFP Documents (the "Fee"), plus any other expenses identified as reimbursable in the RFP Documents. In no event, however, will payments under this Contract exceed the "not-to-exceed" amount in the RFP Documents without the prior written approval of the State and, when required, the Ohio Controlling Board and any other source of funding. The Contractor's right to the Fee is contingent on the complete and satisfactory performance of the Project or, in the case of milestone payments or periodic payments of an hourly, daily, weekly, monthly, or annual rate, all relevant parts of the Project tied to the applicable milestone or period. Payment of the Fee also is contingent on the Contractor delivering a proper invoice and any other documents the RFP Documents require. An invoice must comply with the State's then current policies regarding invoices and their submission. The State will notify the Contractor in writing within fifteen (15) business days after it receives a defective invoice of any defect and provide the information necessary to correct the defect.

The Contractor must send all invoices under this Contract to the "bill to" address in the RFP Documents or in the applicable purchase order.

The State will pay the Contractor interest on any late payment, as provided in Section 126.30 of the Ohio Revised Code (the "Revised Code"). If the State disputes a payment for anything covered by an invoice, within fifteen (15) business days after receipt of that invoice, the State will notify the Contractor, in writing, stating the grounds for the dispute. The State then may deduct the disputed amount from its payment as a nonexclusive remedy. If the Contractor has committed a material breach, in the sole opinion of the State, the State also may withhold payment otherwise due to the Contractor. Both parties will attempt to resolve any claims of material breach or payment disputes through discussions among the Project Manager, the Contractor's Project executive, the Project Representative, and the State Contract Management Administrator. The State will consult with the Contractor as early as reasonably possible about the nature of the claim or dispute and the amount of payment affected. When the Contractor has resolved the matter to the State's satisfaction, the State will pay the disputed amount within thirty (30) business days after the matter is resolved. The State has no obligation to make any disputed payments until the matter is resolved, and the Contractor must continue its performance under this Contract pending resolution of the dispute or claim.

If the State has already paid the Contractor on an invoice but later disputes the amount covered by the invoice, and if the Contractor fails to correct the problem within thirty (30) calendar days after written notice, the Contractor must reimburse the State for that amount at the end of the thirty 30)calendar days as a nonexclusive remedy for the State. On written request from the Contractor, the State will provide reasonable assistance in determining the nature of the problem by giving the Contractor reasonable access to the State's facilities and any information the State has regarding the problem.

If the RFP Documents provide for any retainage, the State will withhold from each invoice paid the percentage specified in the RFP Documents as retainage. The State will pay the retainage only after the State has accepted the Project, and then only in accordance with the payment schedule specified in the RFP Documents. The State will withhold all amounts under this section arising from claims or disputes in addition to any retainage specified in the RFP Documents.

The State may pay any part of the not-to-exceed fixed price identified in the RFP documents as being for a license in Commercial Material from a third party in accordance with the applicable license agreement, if the license agreement addresses payment. For all Key Commercial Software with a license agreement substantially in the form of Attachment Eight, payment of any license or support fees will be governed exclusively by that license agreement.

Reimbursable Expenses.   The State will pay all reimbursable expenses identified in the RFP Documents, if any, in accordance with the terms in the RFP Documents and, where applicable, Section 126.31 of the Revised Code. The Contractor must assume all expenses that it incurs in the performance of this Contract that are not identified as reimbursable in the RFP Documents.

In making any reimbursable expenditure, the Contractor always must comply with the more restrictive of its own, then current internal policies for making such expenditures or the State's then current policies. All reimbursable travel will require the advance written approval of the State's Project Representative. The Contractor must bill all reimbursable expenses monthly, and the State will reimburse the Contractor for them within thirty (30) business days of receiving the Contractor's invoice.

Right of Offset. The State may set off the amount of any Ohio tax liability or other obligation of the Contractor or its subsidiaries to the State, including any amounts the Contractor owes to the State under this or other contracts, against any payments due from the State to the Contractor under this or any other contracts with the State.

Certification of Funds. None of the rights, duties, or obligations in this Contract will be binding on the State, and the Contractor will not begin its performance until all the following conditions have been met:

    (a) All statutory provisions under the Revised Code, including Section 126.07, have been met;
    (b) All necessary funds are made available by the appropriate State entities;
    (c) If required, the Controlling Board of Ohio approves this Contract; and
    (d) If the State is relying on federal or third-party funds for this Contract, the State gives the Contractor written notice that such funds are available.

Employment Taxes. All people furnished by the Contractor (the "Contractor Personnel") are employees or subcontractors of the Contractor, and none are or will be deemed employees or contractors of the State. No Contractor Personnel will be entitled to participate in, claim benefits under, or become an "eligible employee" for purposes of any employee benefit plan of the State by reason of any work done under this Contract. The Contractor will pay all federal, state, local, and other applicable payroll taxes and make the required contributions, withholdings, and deductions imposed or assessed under any provision of any law and measured by wages, salaries, or other remuneration paid by or which may be due from the Contractor to the Contractor Personnel. The Contractor will indemnify, defend (with the consent and approval of the Ohio Attorney General), and hold the State harmless from and against all claims, losses, liability, demands, fines, and expense (including court costs, defense costs, and redeemable attorney fees) arising out of or relating to such taxes, withholdings, deductions, and contributions with respect to the Contractor Personnel. The Contractor's indemnity and defense obligations also apply to any claim or assertion of tax liability made by or on behalf of any Contractor Personnel or governmental agency on the basis that any Contractor Personnel are employees or contractors of the State, that the State is the "joint employer" or "co-employer" of any Contractor Personnel, or that any Contractor Personnel are entitled to any employee benefit offered only to eligible regular fulltime or regular part-time employees of the State.

Sales, Use, Excise, and Property Taxes. The State is exempt from any sales, use, excise, and property tax. To the extent sales, use, excise, or any similar tax is imposed on the Contractor in connection with the Project, such will be the sole and exclusive responsibility of the Contractor. Further, the Contractor will pay such taxes, together with any interest and penalties not disputed with the appropriate taxing authority, whether they are imposed at the time the services are rendered or a later time.

PART TWO: PROJECT AND CONTRACT ADMINISTRATION

Related Contracts. The Contractor warrants that the Contractor has not and will not enter into any contracts without written approval of the State to perform substantially identical services for the State, such that the Project duplicates the work done or to be done under the other contracts.

Other Contractors. The State may hold other contracts for additional or related work, including among others independent verification and validation (IV&V) work for this Project. The Contractor must fully cooperate with all other contractors and State employees and coordinate its work with such other contractors and State employees as may be required for the smooth and efficient operation of all related or additional work. The Contractor may not act in any way that may unreasonably interfere with the work of any other contractors or the State's employees. Further, the Contractor must fully cooperate with any IV&V contractor assigned to this Project. Such cooperation includes expeditiously providing the IV&V contractor with full and complete access to all Project work product, records, materials, personnel, meetings, and correspondence as the IV&V contractor may request. Additionally, the Contractor must include the obligations of this provision in all its contracts with its subcontractors that work on this Project.

Subcontracting. The Contractor may not enter into subcontracts related to the Project after award without written approval from the State. Nevertheless, the Contractor will not need the State's written approval to subcontract for the purchase of commercial goods that are required for satisfactory completion of the Project. All subcontracts will be at the sole expense of the Contractor unless expressly stated otherwise in the RFP Documents.

The State's approval of the use of subcontractors does not mean that the State will pay for them. The Contractor will be solely responsible for payment of its subcontractor and any claims of subcontractors for any failure of the Contractor or any of its other subcontractors to meet the performance schedule or performance specifications for the Project in a timely and professional manner. The Contractor will hold the State harmless for and will indemnify the State against any such claims.

The Contractor assumes responsibility for all Deliverables whether it, a subcontractor, or third-party manufacturer produces them in whole or in part. Further, the Contractor will be the sole point of contact with regard to contractual matters, including payment of all charges resulting from the Contract. Further, the Contractor will be fully responsible for any default by a subcontractor, just as if the Contractor itself had defaulted.

If the Contractor uses any subcontractors, each subcontractor must have a written agreement with the Contractor. That written agreement must incorporate this Contract by reference. The agreement also must pass through to the subcontractor all provisions of this Contract that would be fully effective only if they bind both the subcontractor and the Contractor. Among such provisions are the limitations on the Contractor's remedies, the insurance requirements, record keeping obligations, and audit rights. Some sections of this Contract may limit the need to pass through their requirements to subcontracts to avoid placing cumbersome obligations on minor subcontractors. This exception is applicable only to sections that expressly provide an exclusion for small-dollar subcontracts. Should the Contractor fail to pass through any provisions of this Contract to one of its subcontractors and the failure damages the State in any way, the Contractor must indemnify the State for the damage.

Record Keeping. The Contractor must keep all financial records in accordance with generally accepted accounting principles consistently applied. The Contractor also must file documentation to support each action under this Contract in a manner allowing the documentation to be readily located. Additionally, the Contractor must keep all Project-related records and documents at its principal place of business or at its office where the work was performed.

Audits. During the term of this Contract and for three years after the payment of the Contractor's Fee, on reasonable notice, and during customary business hours, the State may audit the Contractor's records and other materials that relate to the Project. This audit right also applies to the State's duly authorized representatives and any person or organization providing financial support for the Project.

Insurance. The Contractor must provide the following insurance coverage at its own expense throughout the term of this Contract:

(a) Workers' compensation insurance, as required by Ohio law, and, if some of the Project will be done outside Ohio, the laws of the appropriate state(s) where work on the Project will be done. The Contractor also must maintain employer's liability insurance with at least a $1,000,000.00 limit.

(b) Commercial General Liability insurance coverage for bodily injury, personal injury, wrongful death, and property damage. The defense cost must be outside of the policy limits. Such policy must designate the State of Ohio as an additional insured, as its interest may appear. The policy also must be endorsed to include a blanket waiver of subrogation. At a minimum, the limits of the insurance must be:

> $ 2,000,000 General Aggregate
> $ 2,000,000 Products/Completed Operations Aggregate
> $ 1,000,000 Per Occurrence Limit
> $ 1,000,000 Personal and Advertising Injury Limit
> $ 100,000 Fire Legal Liability
> $ 10,000 Medical Payments

The policy must be endorsed to provide the State with thirty (30)-days prior written notice of cancellation or material change to the policy. And the Contractor's Commercial General Liability must be primary over any other insurance coverage.

(c) Commercial Automobile Liability insurance with a combined single limit of $500,000.

(d) Professional Liability insurance covering all staff with a minimum limit of $1,000,000 per incident and $3,000,000 aggregate. If the Contractor's policy is written on a "claims made" basis, the Contractor must provide the State with proof of continuous coverage at the time the policy is renewed. If for any reason the policy expires, or coverage is terminated, the Contractor must purchase and maintain "tail" coverage through the applicable statute of limitations.

The certificate(s) must be in a form that is reasonably satisfactory to the State as to the contents of the policies and the quality of the insurance carriers. All carriers must have at least an "A-" rating by A.M. Best.

Replacement Personnel. If the RFP Documents contain the names of specific people who will work on the Project, then the quality and professional credentials of those people were material factors in the State's decision to enter into this Contract. Therefore, the Contractor must use all commercially reasonable efforts to ensure the continued availability of those people. Also, the Contractor may not remove those people from the Project without the prior written consent of the State, except as provided below.

The Contractor may remove a person listed in the RFP Documents from the Project, if doing so is necessary for legal or disciplinary reasons. However, the Contractor must make a reasonable effort to give the State thirty (30) calendar days' prior, written notice of the removal. If the Contractor removes a person listed in the RFP Documents from the Project for any reason other than those specified above, the State may assess liquidated damages in the amount of $1,500.00 for every day between the date on which the individual was removed and the date that this Contract is terminated or the individual's qualified replacement, selected in accordance with the process identified in this section, starts performing on the Project. The State also may provide the Contractor with written notice of its default under this section, which the Contractor must cure within thirty (30) days. Should the Contractor fail to cure its default within the thirty (30) day cure period, this Contract will terminate immediately for cause,

and the State will be entitled to damages in accordance with the Suspension and Termination Section of this Contract due to the termination. Should the State assess liquidated damages or otherwise be entitled to damages under this provision, it may offset these damages from any Fees due under this Contract.

The Contractor must have qualified replacement people available to replace any people listed in the RFP Documents by name or identified as a key individual on the Project.

When the removal of a listed person is permitted under this Section, or if a person becomes unavailable, the Contractor must submit the resumes for two replacement people to the State for each person removed or who otherwise becomes unavailable. The Contractor must submit the two resumes, along with such other information as the State may reasonably request, within five business days after the decision to remove a person is made or the unavailability of a listed person becomes known to the Contractor.

The State will select one of the two proposed replacements or will reject both of them within ten business days after the Contractor has submitted the proposed replacements to the State. The State may reject the proposed replacements for any legal reason. Should the State reject both replacement candidates due to their failure to meet the minimum qualifications identified in the RFP Documents, or should the Contractor fail to provide the notice required under this Section or fail to provide two qualified replacement candidates for each removed or unavailable person, the Contractor will be in default and the cure period for default specified elsewhere in this Contract will not apply. In any such case, the State will have the following options:

(a) The State may assess liquidated damages in the amount of $1,500.00 for every day between the date on which the Contractor failed to provide the applicable notice, failed to provide the two replacement candidates, or the date the State rejected all candidates for cause and the date on which the Contractor affects a cure or the Contract expires without renewal or is terminated.
(b) The State may terminate this Contract immediately for cause and without any cure period.

Should the State exercise its option under item (a) above, it nevertheless will be entitled anytime thereafter to exercise its option under item (b) above. Additionally, should the State terminate this Contract under this provision, it will be entitled to damages in accordance with the Suspension and Termination Section of this Contract due to the termination. Should the State assess liquidated damages or otherwise be entitled to damages under this provision, it may offset these damages from any Fees due under this Contract.

The State may determine that the proposed replacement candidates meet the minimum qualifications of this Contract and still substantially reduce the value the State perceived it would receive through the effort of the original individual(s) the Contractor proposed and on whose credentials the State decided to enter into this Contract. Therefore, the State will have the right to reject any candidate that the State determines may provide it with diminished value.

Should the State reject both proposed candidates for any legal reason other than their failure to meet the minimum qualifications identified in the RFP Documents, the State may terminate this Contract for its convenience.

The State has an interest in providing a healthy and safe environment for its employees and guests at its facilities. The State also has an interest in ensuring that its operations are carried out in an efficient, professional, legal, and secure manner. Therefore, the State will have the right to require the Contractor to remove any individual involved in the Project, if the State determines that any such individual has or may interfere with the State's interests identified above. In such a case, the request for removal will be treated as a case in which an individual providing services under this Contract has become unavailable, and the Contractor must follow the procedures identified above for replacing unavailable people. This provision also applies to people that the Contractor's subcontractors engage, if they are listed by name or as a key person in the RFP Documents.

Suspension and Termination. The State may terminate this Contract if the Contractor defaults in meeting its obligations under this Contract and fails to cure its default within the time allowed by this Contract, or if a petition in bankruptcy (or similar proceeding) has been filed by or against the Contractor.

The State also may terminate this Contract if the Contractor violates any law or regulation in doing the Project, or if it appears to the State that the Contractor's performance is substantially endangered through no fault of the State. In any such case, the termination will be for cause, and the State's rights and remedies will be those identified below for termination for cause.

On written notice, the Contractor will have thirty (30) calendar days to cure any breach of its obligations under this Contract, provided the breach is curable. If the Contractor fails to cure the breach within thirty (30) calendar days after written notice, or if the breach is not one that is curable, the State will have the right to terminate this Contract immediately on notice to the Contractor. The State also may terminate this Contract in the case of breaches that are cured within thirty (30) calendar days but are persistent. "Persistent" in this context means that the State has notified the Contractor in writing of the Contractor's failure to meet any of its obligations three times. After the third notice, the State may terminate this Contract on written notice to the Contractor without a cure period if the Contractor again fails to meet any obligation. The three notices do not have to relate to the same obligation or type of failure. Some provisions of this Contract may provide for a shorter cure period than thirty (30) calendar days or for no cure period at all, and those provisions will prevail over this one. If a particular section does not state what the cure period will be, this provision will govern.

The State also may terminate this Contract for its convenience and without cause or if the Ohio General Assembly fails to appropriate funds for any part of the Project. If a third party is providing funding for the Project, the State also may terminate this Contract should that third party fail to release any Project funds. The RFP Documents normally identify any third party source of funds for the Project, but an absence of such in the RFP Documents will not diminish the State's rights under this section.

The notice of termination, whether for cause or without cause, will be effective as soon as the Contractor receives it. Upon receipt of the notice of termination, the Contractor must immediately cease all work on the Project and take all steps necessary to minimize any costs the Contractor will incur related to this Contract. The Contractor also must immediately prepare a report and deliver it to the State. The report must be all-inclusive and must detail the work completed at the date of termination, the percentage of the Project's completion, any costs incurred in doing the Project to that date, and any Deliverables completed or partially completed but not delivered to the State at the time of termination. The Contractor also must deliver all the completed and partially completed Deliverables to the State with its report. However, if the State determines that delivery in that manner would not be in its interest, then the State will designate a suitable alternative form of delivery, which the Contractor must honor.

If the State terminates this Contract for cause, it will be entitled to cover for the Project by using another Contractor on such commercially reasonable terms as the State and the covering contractor may agree. The Contractor will be liable to the State for all costs related to covering for the Project to the extent that such costs, when combined with payments already made to the Contractor for the Project before termination, exceed the costs that the State would have incurred under this Contract. The Contractor also will be liable for any other direct damages resulting from its breach of this Contract or other action leading to termination for cause.

If the termination is for the convenience of the State, the Contractor will be entitled to compensation for any work on the Project that the Contractor has performed before the termination. Such compensation will be the Contractor's exclusive remedy in the case of termination for convenience and will be available to the Contractor only once the Contractor has submitted a proper invoice for such, with the invoice reflecting the amount that the State determines it owes to the Contractor. The State will make that determination based on the lesser of the percentage of the Project completed or the hours of work performed in relation to the estimated total hours required to perform the entire Project.

The State will have the option of suspending rather than terminating the Project, if the State believes that doing so would better serve its interests. In the event of a suspension for the convenience of the State, the Contractor will be entitled to receive payment for the work performed before the suspension. In the case of suspension of the Project rather than termination for cause, the Contractor will not be entitled to any compensation for any work performed.

If the State reinstates the Project after suspension for cause, rather than terminating this Contract after the suspension, the Contractor may be entitled to compensation for work performed before the suspension, less any damage to the State resulting from the Contractor's breach of this Contract or other fault. Any amount due for work before or after the suspension for cause will be offset by any damage to the State from the default or other event giving rise to the suspension.

In the case of a suspension for the State's convenience, the State will calculate the amount of compensation due to the Contractor for work performed before the suspension in the same manner as provided in this section for termination for the State's convenience. The Contractor will not be entitled to compensation for any other costs associated with a suspension for the State's convenience, and the State will make no payment under this provision to the Contractor until the Contractor submits a proper invoice. If the State decides to allow the work to continue rather than terminating this Contract after the suspension, the State will not be required to make any payment to the Contractor other than those payments specified in this Contract and in accordance with the payment schedule specified in this Contract for properly completed work.

Any notice of suspension, whether with or without cause, will be effective immediately on the Contractor's receipt of the notice. The Contractor will prepare a report concerning the Project just as is required by this Section in the case of termination. After suspension of the Project, the Contractor may not perform any work without the consent of the State and may resume work only on written notice from the State to do so. In any case of suspension, the State retains its right to terminate this Contract rather than to continue the suspension or resume the Project. If the suspension is for the convenience of the State, then termination of the Contract will be a termination for convenience. If the suspension is with cause, the termination will also be for cause.

The State may not suspend the Project for its convenience more than twice during the term of this Contract, and any suspension for the State's convenience may not continue for more than thirty (30) calendar days. If the Contractor does not receive notice to resume or terminate the Project within the thirty (30)-day suspension, then this Contract will terminate automatically for the State's convenience at the end of the thirty (30) calendar day period.

Any default by the Contractor or one of its subcontractors will be treated as a default by the Contractor and all of its subcontractors. The Contractor will be solely responsible for satisfying any claims of its subcontractors for any suspension or termination and must indemnify the State for any liability to them. Notwithstanding the foregoing, each subcontractor must hold the State harmless for any damage caused to them from a suspension or termination. They must look solely to the Contractor for any compensation to which they may be entitled.

Handling the State's Data. The Contractor must use due diligence to ensure computer and telecommunications systems and services involved in storing, using, or transmitting State data are secure and to protect that data from unauthorized disclosure, modification, or destruction. The State's minimum standard is the NIST 800-53 moderate baseline. To accomplish this, the Contractor must:

(1) Apply appropriate risk management techniques to ensure security for all sensitive data, including but not limited to any data identified as Confidential Information elsewhere in this Contract.

(2) Ensure that its internal security policies, plans, and procedures address the basic security elements of confidentiality, integrity, and availability.

(3) Maintain plans and policies that include methods to protect against security and integrity threats and vulnerabilities, as well as and detect and respond to those threats and vulnerabilities.

(4) Maintain appropriate identification and authentication process for information systems and services associated with State data.

(5) Maintain appropriate access control and authorization policies, plans, and procedures to protect system assets and other information resources associated with State data.

(6) Implement and manage security audit logging on information systems, including computers and network devices.

The Contractor must maintain a robust boundary security capacity that incorporates generally recognized system hardening techniques. This includes determining which ports and services are required to support access to systems that hold State data, limiting access to only these points, and disable all others. To do this, the Contractor must use assets and techniques such as properly configured firewalls, a demilitarized zone for handling public traffic, host-to-host management, Internet protocol specification for source and destination, strong authentication, encryption, packet filtering, activity logging, and implementation of system security fixes and patches as they become available. The Contractor must use two-factor authentication to limit access to systems that contain particularly sensitive State data, such as personally identifiable data.

Unless the State instructs the Contractor otherwise in writing, the Contractor must assume all State data is both confidential and critical for State operations, and the Contractor's security policies, plans, and procedure for the handling, storage, backup, access, and, if appropriate, destruction of that data must be commensurate to this level of sensitivity. As part of the Contractor's protection and control of access to and use of data, the Contractor must employ appropriate intrusion and attack prevention and detection capabilities. Those capabilities must track unauthorized access and attempts to access the State's data, as well as attacks on the Contractor's infrastructure associated with the State's data. Further, the Contractor must monitor and appropriately address information from its system tools used to prevent and detect unauthorized access to and attacks on the infrastructure associated with the State's data.

The Contractor must use appropriate measures to ensure that State's data is secure before transferring control of any systems or media on which State data is stored. The method of securing the data must be appropriate to the situation and may include erasure, destruction, or encryption of the data before transfer of control. The transfer of any such system or media must be reasonably necessary for the performance of the Contractor's obligations under this Contract.

The Contractor must have a business continuity plan in place. The Contractor must test and update the IT disaster recovery portion of its business continuity plan at least annually. The plan must address procedures for response to emergencies and other business interruptions. Part of the plan must address backing up and storing data at a location sufficiently remote from the facilities at which the Contractor maintains the State's data in case of loss of that data at the primary site. The plan also must address the rapid restoration, relocation, or replacement of resources associated with the State's data in the case of a disaster or other business interruption. The Contractor's business continuity plan must address short- and long-term restoration, relocation, or replacement of resources that will ensure the smooth continuation of operations related to the State's data. Such resources may include, among others, communications, supplies, transportation, space, power and environmental controls, documentation, people, data, software, and hardware. The Contractor also must provide for reviewing, testing, and adjusting the plan on an annual basis.

The Contractor may not allow the State's data to be loaded onto portable computing devices or portable storage components or media unless necessary to perform its obligations under this Contract properly and approved by the State's Chief Information Security Officer. Even then, the Contractor may permit such only if adequate security measures are in place to ensure the integrity and security of the data. Those measures must include a policy on physical security for such devices to minimize the risks of theft and unauthorized access that includes a prohibition against viewing sensitive or confidential data in public or common areas. At a minimum, portable computing devices must have anti-virus software, personal firewalls, and system password protection. In addition, the State's data must be encrypted when stored on any portable computing or storage device or media or when transmitted from them across any data network. The Contractor also must maintain an accurate inventory of all such devices and the individuals to whom they are assigned.

Any encryption requirement identified in this provision must meet the Ohio standard as defined in Ohio IT standard ITS-SEC-01, "Data Encryption and Cryptography".

The Contractor must have reporting requirements for lost or stolen portable computing devices authorized for use with State data and must report any loss or theft of such to the State in writing as quickly as reasonably possible. The Contractor also must maintain an incident response capability for all security breaches involving State data whether involving mobile devices or media or not. The Contractor must detail this capability in a written policy that defines procedures for how the Contractor will detect, evaluate, and respond to adverse events that may indicate a breach or attempt to attack or access State data or the infrastructure associated with State data.

In case of an actual security breach that may have compromised State data, including but not loss or theft of devices or media, the Contractor must notify the State in writing of the breach, or the suspicion of a breach, no more than within 24 hours of the Contractor becoming aware of the breach, and fully cooperate with the State to mitigate the consequences of such a breach. This includes any use or disclosure of the State data that is inconsistent with the terms of this Contract and of which the Contractor becomes aware, including but not limited to, any discovery of a use or disclosure that is not consistent with this Contract by an employee, agent, or subcontractor of the Contractor.

The Contractor must give the State full access to the details of the breach and assist the State in making any notifications to potentially affected people and organizations that the State deems are necessary or appropriate. The Contractor must document all such incidents, including its response to them, and make that documentation available to the State on request. In addition to any other liability under this Contract related to the Contractor's improper disclosure of State data, and regardless of any limitation on liability of any kind in this Contract, the Contractor will be responsible for acquiring one year's identity theft protection service on behalf of any individual or entity whose personally identifiable information is compromised while it is in the Contractor's possession. Such identity theft protection must be reasonably acceptable to the State.

All State Data will remain the property of the State. The Contractor must ensure that the State retains access and download capability for purposes of retrieving its data for research, investigation, transfer, or migration to others systems.

Return of State Data
The Contractor may use Confidential Information only as necessary for Contractor's performance under or pursuant to rights granted in this Agreement and for no other purpose. The Contractor's limited right to use Confidential Information expires upon expiration or termination of this Agreement for any reason. The Contractor's obligations of confidentiality and non-disclosure survive termination or expiration for any reason of this Agreement.

Confidentiality Agreements
When the Contractor performs services under this Contract that require the Contractor's and its subcontractors' personnel to access facilities, data, or systems that the State, in its sole discretion, deems sensitive, the State may require the Contractor's and its subcontractors' personnel with such access to sign an individual acknowledgement of data handling responsibilities, and have a background check performed before accessing those facilities, data, or systems. Each State agency, board, and commission may require a different confidentiality agreement or acknowledgement, and the Contractor's and its subcontractors' personnel may be required to sign a different confidentiality agreement or acknowledgement for each agency. The Contractor must immediately replace any of its or its subcontractors' personnel who refuse to sign a required confidentiality agreement or acknowledgment or have a background check performed.

Representatives. The State's representative under this Contract will be the person identified in the RFP Documents or in a subsequent notice to the Contractor as the "Project Representative." The Project Representative will review all reports the Contractor makes in the performance of the Project, will conduct all liaison with the Contractor, and will accept or reject the Deliverables and the completed Project. The Project Representative may delegate his responsibilities for individual aspects of the Project to one or more managers, who may act as the Project Representative for those individual portions of the Project.

The Contractor's Project Manager under this Contract will be the person identified on the RFP Documents as the "Project Manager." The Project Manager will be the Contractor's liaison with the State under this

Contract. The Project Manager also will conduct all Project meetings and prepare and submit to the Project Representative all reports, plans, and other materials that the RFP Documents require from the Contractor.

Either party, upon written notice to the other party, may designate another representative. However, the Contractor may not replace the Project Manager without the approval of the State if that person is identified in the RFP Documents by name or as a key individual on the Project.

Work Responsibilities. The State will be responsible for providing only those things, if any, expressly identified in the RFP Documents. If the State has agreed to provide facilities or equipment, the Contractor, by signing this Contract, warrants that the Contractor has either inspected the facilities and equipment or has voluntarily waived an inspection and will work with the equipment and facilities on an "as is" basis.

The Contractor must assume the lead in the areas of management, design, and development of the Project. The Contractor must coordinate the successful execution of the Project and direct all Project activities on a day-to-day basis, with the advice and consent of the Project Representative. The Contractor will be responsible for all communications regarding the progress of the Project and will discuss with the Project Representative any issues, recommendations, and decisions related to the Project.

If any part of the Project requires installation on the State's property, the State will provide the Contractor with reasonable access to the installation site for the installation and any site preparation that is needed. After the installation is complete, the Contractor must complete an installation letter and secure the signature of the Project Representative certifying that installation is complete and the Project, or applicable portion of it, is operational. The letter must describe the nature, date, and location of the installation, as well as the date the Project Representative certified the installation as complete and operational.

Unless otherwise provided in the RFP Documents, the Contractor is solely responsible for obtaining all official permits, approvals, licenses, certifications, and similar authorizations required by any local, state, or federal agency for the Project and maintaining them throughout the duration of this Contract.

Changes. The State may make reasonable changes within the general scope of the Project. The State will do so by issuing a written order under this Contract describing the nature of the change ("Change Order"). Additionally, if the State provides directions or makes requests of the Contractor without a change order, and the Contractor reasonably believes the directions or requests are outside the specifications for the Project, the Contractor may request a Change Order from the State. The parties will handle such changes as follows: The Contractor will provide pricing to the State. The State will execute a Change Order once it and the Contractor have agreed on the description of and specifications for the change, as well as any equitable adjustments that need to be made in the Contractor's Fee or the performance schedule for the work. Then within five business days after receiving the Change Order, the Contractor must sign it to signify agreement with it.

If a change causes an increase in the cost of, or the time required for, the performance of the Project, the Contractor must notify the State in writing and request an equitable adjustment in its Fee, the delivery schedule, or both before the Contractor signs the Change Order. If the Contractor claims an adjustment under this section in connection with a change to the Project not described in a written Change Order, the Contractor must notify the State in writing of the claim within five business days after the Contractor is notified of the change and before work on the change begins. Otherwise, the Contractor will have waived the claim. In no event will the State be responsible for any increase in the Fee or revision in any delivery schedule unless the State expressly ordered the relevant change in writing and the Contractor has complied with the requirements of this section. Provided the State has complied with the procedure for Change Orders in this section, nothing in this clause will excuse the Contractor from proceeding with performance of the Project, as changed.

Where an equitable adjustment to the Contractor's Fee is appropriate, the State and the Contractor may agree upon such an adjustment. If the State and the Contractor are unable to agree, either party may submit the dispute to the senior management of the Contractor and the senior management of the Ohio Department of Administrative Services for resolution. If within thirty (30) calendar days following referral to senior management, the claim or dispute has not been resolved, the Contractor must submit its actual costs for materials needed for the change (or estimated amount if the precise amount of materials cannot be determined) and an estimate of the hours of labor required to do the work under the Change Order. The Contractor must break down the hours of labor by employee position, and provide the actual hourly pay rate for each employee involved in the change.

The total amount of the equitable adjustment for the Change Order then will be made based on the actual cost of materials (or estimated materials) and actual rate for each person doing the labor (based on the estimated hours of work required to do the change). Labor rates will be increased by 25% to cover benefits and taxes. The equitable adjustment for the Change Order then will be set based on this amount, plus 15% to cover overhead and profit. This amount will be the not-to-exceed amount of the Change Order. If the change involves removing a requirement from the Project or replacing one part of the Project with the change, the State will get a credit for the work no longer required under the original scope of the Project. The credit will be calculated in the same manner as the Contractor's Fee for the change, and the not-to-exceed amount will be reduced by this credit.

The Contractor is responsible for coordinating changes with its subcontractors and adjusting their compensation and performance schedule. The State will not pay any subcontractor for the Change Order. If a subcontractor will perform any work under a Change Order, that work must be included in the Contractor's not-to-exceed amount and calculated in the same manner as the Contractor's equitable adjustment for the portion of the work the Contractor will perform. The Contractor will not receive an overhead percentage for any work a subcontractor will do under a Change Order.

If the RFP Documents provide for the retainage of a portion of the Contractor's Fee, all equitable adjustments for Change Orders also will be subject to the same retainage, which the State will pay only on completion and acceptance of the Project, as provided in the RFP Documents.

Excusable Delay. Neither party will be liable for any delay in its performance that arises from causes beyond its control and without its negligence or fault. The delayed party must notify the other promptly of any material delay in performance and must specify in writing the proposed revised performance date as soon as practicable after notice of delay. In the event of any such excusable delay, the date of performance or of delivery will be extended for a period equal to the time lost by reason of the excusable delay. The delayed party also must describe the cause of the delay and what steps it is taking to remove the cause. The delayed party may not rely on a claim of excusable delay to avoid liability for a delay if the delayed party has not taken commercially reasonable steps to mitigate or avoid the delay. Things that are

controllable by the Contractor's subcontractors will be considered controllable by the Contractor, except for third-party manufacturers supplying commercial items and over whom the Contractor has no legal control.

Independent Status of the Contractor. The parties are independent of one another, and the Contractor's Personnel may act only in the capacity of representatives of the Contractor and not as representatives of the State. Further, the Contractor's Personnel will not be deemed for any purpose to be employees, representatives, or agents of the State. The Contractor assumes full responsibility for the actions of the Contractor's Personnel while they are performing under this Contract and will be solely responsible for paying the Contractor's Personnel (including withholding, and paying income taxes and social security, workers' compensation, disability benefits and the like). The Contractor may not commit, and is not authorized to commit, the State in any manner. The Contractor's subcontractors will be considered the agents of the Contractor for purposes of this Contract.

Publicity. The Contractor may not advertise or publicize that it is doing business with the State or use this Contract or the Contractor's relationship with the State as a marketing or sales tool, unless the State agrees otherwise in writing.

PART THREE: OWNERSHIP AND HANDLING OF INTELLECTUAL PROPERTY AND CONFIDENTIAL INFORMATION

Confidentiality. The State may disclose to the Contractor written material or oral or other information that the State treats as confidential ("Confidential Information"). Title to the Confidential Information and all related materials and documentation the State delivers to the Contractor will remain with the State. The Contractor must treat such Confidential Information as secret, if it is so marked, otherwise identified as such, or when, by its very nature, it deals with matters that, if generally known, would be damaging to the best interest of the public, other contractors, potential contractors with the State, or individuals or organizations about whom the State keeps information.
By way of example, information must be treated as confidential if it includes any proprietary documentation, materials, flow charts, codes, software, computer instructions, techniques, models, information, diagrams, know-how, trade secrets, data, business records, or marketing information. By way of further example, the Contractor also must treat as confidential materials such as police and investigative records, files containing personal information about individuals or employees of the State, such as personnel records, tax records, and so on, court and administrative records related to pending actions, any material to which an attorney-client, physician-patient, or similar privilege may apply, and any documents or records excluded by Ohio law from public records disclosure requirements.

The Contractor may not disclose any Confidential Information to third parties and must use it solely to do the Project. The Contractor must restrict circulation of Confidential Information within its organization and then only to people in the Contractor's organization that have a need to know the Confidential Information to do the Project. The Contractor will be liable for the disclosure of such information, whether the disclosure is intentional, negligent, or accidental, unless otherwise provided below.

The Contractor will not incorporate any portion of any Confidential Information into any work or product, other than a Deliverable, and will have no proprietary interest in any of the Confidential Information. Furthermore, the Contractor must cause all of its Personnel who have access to any Confidential Information to execute a confidentiality agreement incorporating the obligations in this section.

The Contractor's obligation to maintain the confidentiality of the Confidential Information will not apply where such: one (1) was already in the Contractor's possession before disclosure by the State, and such was received by the Contractor without obligation of confidence; two (2) is independently developed by the Contractor; three (3) except as provided in the next paragraph, is or becomes publicly available without breach of this Contract; four (4) is rightfully received by the Contractor from a third party without an obligation of confidence; five (5) is disclosed by the Contractor with the written consent of the State; or six (6) is released in accordance with a valid order of a court or governmental agency, provided that the Contractor (a) notifies the State of such order immediately upon receipt of the order and (b) makes a reasonable effort to obtain a protective order from the issuing court or agency limiting disclosure and use of the Confidential Information solely for the purposes intended to be served by the original order of production. The Contractor must return all originals of any Confidential Information and destroy any copies it has made on termination or expiration of this Contract.

Information that may be available publicly through other sources about people that is personal in nature, such as medical records, addresses, phone numbers, social security numbers, and similar things are nevertheless sensitive in nature and may not be disclosed or used in any manner except as expressly authorized in this Contract. Therefore, item three (3) in the preceding paragraph does not apply, and the Contractor must treat such information as Confidential Information whether it is available elsewhere or not.

The Contractor may disclose Confidential Information to its subcontractors on a need-to-know basis, but the Contractor first must obligate them to the requirements of this section.

System Security. The Contractor must prevent unauthorized access to the Ohio EMS and Trauma System. The Contractor must apply recognized industry standards to address system vulnerability to theft, mischief and efforts at tampering. Such security measures must be in compliance with the State's security policy and procedures published at
http://das.ohio.gov/Divisions/InformationTechnology/StateofOhioITPolicies.aspx as determined by the State to be appropriate.

Ownership of Deliverables. The State owns all Deliverables that the Contractor produces under this Contract, including any software enhancements, and documentation, with all rights, title, and interest in all intellectual property that come into existence through the Contractor's custom work being assigned to the State. Additionally, the Contractor waives any author rights and similar retained interests in custom-developed material. The Contractor must provide the State with all assistance reasonably needed to vest such rights of ownership in the State. The Contractor will retain ownership of all tools, methods, techniques, standards, and other development procedures, as well as generic and preexisting shells, subroutines, and similar material incorporated into any custom Deliverable ("Pre-existing Materials"), if the Contractor provides the non-exclusive license described in the next paragraph.

The Contractor may grant the State a worldwide, non-exclusive, royalty-free, perpetual license to use, modify, and distribute all Pre-existing Materials that are incorporated into any custom-developed Deliverable rather than grant the State ownership of the Pre-existing Materials. The State may distribute such Pre-existing materials to third parties only to the extent required by governmental funding mandates. The Contractor may not include in any custom Deliverable any intellectual property unless such has been created under this Contract or qualifies as Pre-existing Material. If the Contractor wants to incorporate any Pre-existing Materials into a custom Deliverable, the Contractor must first disclose that desire to the State in writing and seek the State's approval for doing so in advance. The State will not be obligated to provide that approval, unless the Contractor disclosed its intention to do so in the RFP Documents. On the Contractor's request, the State will incorporate into any copies of a custom Deliverable any proprietary notice that the Contractor included with the original copy, if that notice is reasonably necessary to protect the Contractor's interest in any Pre-existing Materials contained in the custom Deliverable.

Subject to the limitations and obligations of the State with respect to Pre-existing Materials, the State may make all custom Deliverables available to the general public without any proprietary notices of any kind.

For Deliverables that include custom materials such as software, scripts, or similar computer instructions developed for the State, the State is entitled to the source material. Scripts and similar functionality may not be locked or otherwise protected from access by the State, unless the State has any passwords or other tools necessary to access the material. Source material must include annotations or comments according to industry standards. Further, the State is entitled to any working papers the Contractor has developed during the performance of the Project that would reasonably assist the State in using the Deliverables that include source materials or that would help the State protect its interests in the Deliverable or update, modify, or otherwise maintain the Deliverable. This also includes all design and architectural materials, such as schemas.

License in Commercial Material. As used in this section, "Commercial Material" means anything that the Contractor or a third party has developed at private expense, is commercially available in the marketplace, subject to intellectual property rights, and readily copied through duplication on magnetic media, paper, or other media. Examples include written reports, books, pictures, videos, movies, computer programs, and computer source code and documentation. It does not include Key Commercial Software that will be governed by Attachment Eight, Master Contract, but does include other Commercial Software.

Any Commercial Material that the Contractor intends to deliver as a Deliverable must have the scope of the license granted in such material disclosed in the RFP Documents or as an attachment referenced in the RFP Documents, if that scope of license is different from the scope of license contained in this section for Commercial Materials.

Except for Commercial Material that is software ("Commercial Software"), if the Commercial Material is copyrighted and published material, then the State will have the rights permitted under the federal copyright laws for each copy of the Commercial Material delivered to it by the Contractor.

Except for Commercial Software, if the Commercial Material is patented, then the State will have the rights permitted under the federal patent laws for each copy of the Commercial Material delivered to it by the Contractor.

Except for Commercial Software, if the Commercial Material consists of trade secrets, then the State will treat the material as confidential. In this regard, the State will assume all obligations with respect to the Commercial Material that the Contractor assumes under the Confidentiality section of this Contract with respect to the State's Confidential Information. Otherwise, the State will have the same rights and duties permitted under the federal copyright laws for each copy of the Commercial Material delivered to it by the Contractor, whether or not the material is copyrighted when delivered to the State.

For Commercial Software, the State will have the rights in items one (1) through six (6) of this section with respect to the software. The State will not use any Commercial Software except as provided in the six items below or as expressly stated otherwise in this Contract. The Commercial Software may be:
1. Used or copied for use in or with the computer or computers for which it was acquired, including use at any State installation to which such computer or computers may be transferred;
2. Used or copied for use in or with a backup computer for disaster recovery and disaster recovery testing purposes or if any computer for which it was acquired is inoperative;
3. Reproduced for safekeeping (archives) or backup purposes;
4. Modified, adapted, or combined with other computer software, but the modified, combined, or adapted portions of the derivative software incorporating any of the Commercial Software will be subject to same restrictions set forth in this Contract;
5. Disclosed to and reproduced for use on behalf of the State by support service contractors or their subcontractors, subject to the same restrictions set forth in this Contract; and
6. Used or copied for use in or transferred to a replacement computer.

Commercial Software delivered under this Contract is licensed to the State without disclosure restrictions unless it is clearly marked as confidential or secret. The State will treat any Commercial Software that is marked as confidential or secret as Confidential Information to the extent that such is actually the case.

Key Commercial Software will be covered by a separate Master Contract for Software Licensing, in the form of Attachment Eight. When such a Master Contract is executed, it will be a separate agreement and not part of this Contract, though the Contractor remains responsible for ensuring that the completed Project, including any Key Commercial Software, meets the requirements of this Contract and performs according to the RFP Documents' requirements.

PART FOUR: REPRESENTATIONS, WARRANTIES, AND LIABILITIES

General Warranties. The Contractor warrants that the recommendations, guidance, and performance of the Contractor under this Contract will: one (1) be in accordance with sound professional standards and the requirements of this Contract and without any material defects; and two (2) unless otherwise provided in the RFP Documents, be the work solely of the Contractor. The Contractor also warrants that: one (1) no Deliverable will infringe on the intellectual property rights of any third party; and two (2) the Contractor's work and the Deliverables resulting from that work will be merchantable and fit for the particular purposes described in the RFP Documents.

Additionally, with respect to the Contractor's activities under this Contract, the Contractor warrants that: one (1) the Contractor has the right to enter into this Contract; two (2) the Contractor has not entered into any other contracts or employment relationships that restrict the Contractor's ability to perform the contemplated services; three (3) the Contractor will observe and abide by all applicable laws and regulations, including those of the State regarding conduct on any premises under the State's control and security for the State's data, systems, and networks; four (4) the Contractor has good and marketable title to any goods delivered under this Contract and in which title passes to the State; five (5) the Contractor has the right and ability to grant the license granted in any Deliverable in which title does not pass to the State; and six (6) the Contractor is not subject to any unresolved findings of the Auditor of State under Revised Code Section 9.24 and will not become subject to an unresolved finding that prevents the extension or renewal of this Contract.

The warranties regarding material defects, merchantability, and fitness are one-year warranties. All other warranties will be continuing warranties. If any portion of the Project fails to comply with these warranties, and the Contractor is so notified in writing, the Contractor must correct such failure with all due speed or

must refund the amount of the compensation paid for such portion of the Project. The Contractor also must indemnify the State for any direct damages and claims by third parties based on a breach of these warranties. This obligation of indemnification will not apply where the State has modified or misused the Deliverable and the claim is based on the modification or misuse. The State will give the Contractor notice of any such claim as soon as reasonably practicable.

If a successful claim of infringement is made, or if the Contractor reasonably believes that an infringement claim that is pending may actually succeed, the Contractor must do one of the following things: one (1) modify the Deliverable so that it is no longer infringing; two (2) replace the Deliverable with an equivalent or better item; three (3) acquire the right for the State to use the infringing Deliverable as it was intended for the State to use under this Contract; or four (4) remove the Deliverable and refund the amount the State paid for the Deliverable and the amount of any other Deliverable or item that requires the availability of the infringing Deliverable for it to be useful to the State.

Software Warranty. If this Contract involves software as a Deliverable, then, on acceptance and for twelve (12) months after the date of acceptance of any Deliverable that includes software, the Contractor warrants as to all software developed under this Contract that: (a) the software will operate on the computer(s) for which the software is intended in the manner described in the relevant software documentation, the Contractor's Proposal, and the RFP Documents; (b) the software will be free of any material defects; (c) the Contractor will deliver and maintain relevant and complete software documentation, commentary, and source code; and (d) the source code language used to code the software is readily available in the commercial market, widely used and accepted for the type of programming involved, and support programming in the language is reasonably available in the open market; and (e) the software and all maintenance will be provided in a professional, timely, and efficient manner.

For Commercial Software licensed from a third party that is incorporated into a Deliverable, and for which the State has not approved a separate license agreement governing that Commercial Software's warranties as part of the RFP process, the Contractor represents and warrants that it has done one of the following things: (a) obtained the right from the third-party licensor to commit to the warranties and maintenance obligations in this Section; (b) obtained a binding commitment from the licensor to make those warranties and maintenance obligations directly to the State; or (c) fully disclosed in the RFP Documents any discrepancies between the requirements of this section and the commitment the third-party licensor has made.

In addition, for Commercial Software that is incorporated into a Deliverable, the Contractor will: (a) maintain or cause the third-party licensor to maintain the Commercial Software so that it operates in the manner described in the RFP Documents (or any attachment referenced in the RFP Documents) and relevant Commercial Software documentation; (b) supply technical bulletins and updated user guides; (c) supply the State with updates, improvements, enhancements, and modifications to the Commercial Software and documentation and, if available, the commentary and the source code; (d) correct or replace the Commercial Software and/or remedy any material programming error that is attributable to the Contractor or the third-party licensee; (e) maintain or cause the third-party licensor to maintain the Commercial Software and documentation to reflect changes in the subject matter the Commercial Software deals with; (f) maintain or obtain a commitment from the third-party licensor to maintain the Commercial Software so that it will properly operate in conjunction with changes in the operating environment in which it is designed to operate.

For purposes of the warranties and the delivery requirements in this Contract, software documentation means well written, readily understood, clear, and concise instructions for the software's users as well as a system administrator. The software documentation will provide the users of the software with meaningful instructions on how to take full advantage of all of the capabilities designed for end users. It also means installation and system administration documentation for a system administrator to allow proper control, configuration, and management of the software. Source code means the uncompiled operating instructions for the software. However, the Contractor will not be obligated to provide source code for Commercial Software unless it is readily available from the licensor. The source code must be provided in the language in which it was written and will include commentary that will allow a competent programmer

proficient in the source language to readily interpret the source code and understand the purpose of all routines and subroutines contained within the source code.

Equipment Warranty. If any electrical equipment, mechanical device, computer hardware, telecommunications hardware, or other type of physical machinery ("Equipment") will be a part of any Deliverable, the following warranties apply.

The Contractor warrants that the Equipment fully complies with all government environmental and safety standards applicable to the Equipment. The Contractor also warrants for one year from the acceptance date of the Equipment that the Equipment will perform substantially in accordance with specifications described in the RFP Documents, the user manuals, technical materials, and related writings published by the manufacturer for the Equipment. The foregoing warranties will not apply to Equipment that is modified or damaged after title passes to the State.

The Contractor must notify the State in writing immediately upon the discovery of any breach of the warranties given above.

The Contractor must do the following if any Equipment does not meet the above warranties:

(a)   Cause the Equipment to perform as required, or, if that is not commercially practicable, then;

(b)   Grant the State a refund equal to the amount the State paid for the Equipment or, if such has not been individually priced, the manufacturer's suggested retail price for the Equipment.

Except where the Contractor's breach of a warranty makes it not possible for the State to do so, the State will return the affected Equipment to the Contractor in the case of a refund under the previous paragraph.

GENERAL EXCLUSION OF WARRANTIES. THE CONTRACTOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, OTHER THAN THOSE EXPRESS WARRANTIES CONTAINED IN THIS CONTRACT.

Indemnity for Property Damage and Bodily Injury. The Contractor must indemnify the State for all liability and expense resulting from bodily injury to any person (including injury resulting in death) and damage to tangible or real property arising out of the performance of this Contract, provided that such bodily injury or property damage is due to the negligence or other tortious conduct of the Contractor, its employees, agents, or subcontractors. The Contractor will not be responsible for any damages or liability to the extent caused by the negligence or willful misconduct of the State, its employees, other contractors, or agents.

Limitation of Liability. Neither party will be liable for any indirect, incidental, or consequential loss or damage of the other party, including but not limited to lost profits, even if the parties have been advised, knew, or should have known of the possibility of such damages. Additionally, neither party will be liable to the other for direct or other damages in excess of two (2) times the not-to-exceed fixed price of this Contract. The limitations in this paragraph do not apply to any obligation of the Contractor to indemnify the State against claims made against it or for damages to the State caused by the Contractor's negligence or other tortious conduct.

PART FIVE: ACCEPTANCE AND MAINTENANCE

Standards of Performance and Acceptance. There will be a period for performance testing of the completed Project. During the performance period, the State, with the assistance of the Contractor, will perform acceptance testing. The performance period will last up to ninety (90) calendar days, during which time the Project must meet the standard of performance required by the RFP Documents for thirty (30) consecutive calendar days. The performance criteria in the RFP Documents will be supplemented with the relevant user manuals, technical materials, and related writings, to the extent that the specifications in those writings supplement and refine rather than contradict the performance criteria in the RFP Documents. Acceptance of the Project depends on a successful completion of the performance

period defined in this section and the RFP Documents. This section applies to the Project, and any part of it, as well as replacements or substitutes for the Project after completion of a successful performance period.

If the Project does not meet the standard of performance during the initial performance period, the State will give the Contractor details about the problems in a timely manner and in a useful and relevant form. Until the Contractor demonstrably corrects all outstanding problems, the second performance period will not start, and the State will not accept the Project (or part thereof). The second performance test will continue on a day-by-day basis until the standard of performance is met for a total of thirty (30) consecutive calendar days or until the ninety (90)-day performance period has ended without meeting the standard of performance.

If the Project fails to meet the standard of performance after ninety (90) calendar days from the start of the second performance period, the Contractor will be in default and will not have a cure period. In addition to all other remedies the State may have under this Contract, the State may request a correction or replacement of the relevant portion of the Project.

The Project may have components that can be tested for acceptance individually. If that is so, there may be acceptance criteria listed on the RFP Documents for each part of the Project that will be independently tested and accepted. However, unless the RFP Documents expressly provide otherwise, the failure of any independently tested component to meet its acceptance criteria will give the State the right to reject the entire Project. Alternatively, if the State determines that it is in the State's interest to reject only the part of the Project that was independently and unsuccessfully tested, it may do so. If the State chooses this option, the State will be entitled to a refund or credit toward the Contractor's Fee equal to the cost of acquiring a replacement for the rejected component.

The acceptable level of performance for the Project will be 99.999%, unless otherwise specified in the RFP Documents. The performance level for the Project is computed by dividing the sum of the uptime by the number of working hours during the test time. "Uptime" means the total hours, rounded to the nearest quarter hour, during which all components of the Project are operational and all functions of the Project are available to its users. The number of "working hours" means the total number of working hours for the period during which the Project was scheduled to be available to its users. Uptime and downtime will be measured in hours and quarter hours.

The Project "downtime" is that period when any part of the Project is inoperable due to failure of the Project or a particular Deliverable to operate according to the specifications in the RFP Documents, the user documentation, or the published technical specifications. During a period of downtime, the State may use operable components of the Project when that will not interfere with repair of inoperable components of the Project. Downtime will start from the time the State notifies the Project Manager of the inoperable condition of the Project until the Project is returned in proper operating condition.

The Project will not be accepted until the performance period is complete.

Should it be necessary, the State may delay the start of the performance period, but the delay will not exceed thirty (30) consecutive calendar days after the scheduled date for implementation of the Project. Such a delay will not be considered a suspension of work under the Suspension and Termination section of this Contract.

Passage of Title. Title to any Deliverable will pass to the State only on acceptance of the Deliverable. All risk of loss, regardless of the cause, will remain with the Contractor until title to the Deliverable passes to the State.

Software Maintenance. If this Contract involves software as a Deliverable, then, during the warranty period, as well as any optional maintenance periods that the State exercises, the Contractor must correct any material programming errors that are attributable to the Contractor within a reasonable period of time. However, the State must notify the Contractor, either orally or in writing, of a problem with the software and provide sufficient information for the Contractor to identify the problem.

The Contractor's response to a programming error will depend upon the severity of the problem. For programming errors that slow the processing of data by a small degree, render minor and non-mandatory functions of the System inoperable or unstable, or require users or administrators to employ workarounds to fully use the software, Contractor will respond to the request for resolution within four business hours. Furthermore, the Contractor must begin working on a proper solution for the problem within one business day, dedicating the resources required to fix the problem.

For any defects with more significant consequences, including those that render key functions of the system inoperable or significantly slow processing of data, the Contractor will respond within two business hours of notice. The Contractor also must begin working on a proper solution for the problem immediately after responding and, if requested, provide on-site assistance and dedicate all available resources to resolving the problem.

For software classified as Commercial Software in the Ownership of Deliverables section and for which the State has not signed a separate license agreement, the Contractor must acquire for the State the right to maintenance for one year. That maintenance must be the third-party licensor's standard maintenance program, but at a minimum, that maintenance program must include all, updates, patches, and fixes to the software. It also must include a commitment to keep the software current with the operating environment in which it is designed to function (and, if applicable, the subject matter covered by the software) and to correct material defects in the software in a timely fashion. Additionally, the Contractor must obtain a commitment from the licensor to make maintenance available for the product for at least four (4) years after the first year of maintenance. The Contractor also must obtain a commitment from the licensor to limit increases in the annual Fee for maintenance to no more than 7% annually. If the licensor is unable to provide maintenance during that five-year period, then the licensor must be committed to doing one of the following two things: (a) give the State a *pro rata* refund of the license fee based on a five (5) year useful life; or (b) release the source code for the software (except third party software) to the State for use by the State solely for the purpose of maintaining the copy(ies) of the software for which the State has a proper license. For purposes of receiving the source code, the State agrees to treat it as confidential and to be obligated to the requirements under the Confidentiality section of this Contract with respect to the source code. That is, with respect to the source code that the State gets under this section, the State will do all the things that the Confidentiality section requires the Contractor to do in handling the State's Confidential Information.

Equipment Maintenance. If this Contract involves Equipment as a Deliverable, then, upon Equipment delivery and for twelve (12) months after acceptance, the Contractor must provide Equipment maintenance to keep the Equipment in or restore the Equipment to good working order. If the State exercises its right to any optional maintenance periods, the Contractor's obligations hereunder will extend to those periods as well. This maintenance must include preventative and remedial maintenance, installation of safety changes, and installation of engineering changes based upon the specific needs of the individual item of Equipment. This maintenance must include the repair, replacement, or exchange deemed necessary to keep the Equipment in good working condition. For purposes of this Contract, Equipment restored to good working condition means Equipment that performs in accordance with the manufacturer's published specifications and the RFP Documents.

The Contractor must exert its best efforts to perform all fault isolation and problem determination attributed to the Equipment covered under this Contract.

The following services are outside the scope of this Contract:

a.   Maintenance to bring the Equipment into compliance with any law, rule, or regulation if such law, rule, or regulation was not in effect on the acceptance date.

b.   Repair and replacement work or increase in maintenance time as a result of damage or loss resulting from casualty or the State's misuse of the Equipment, damage resulting from improper packing or failure to follow prescribed shipping instructions (if such is done by the State), failure of electrical power, air conditioning or humidity control, use of supplies not approved by the original manufacturer of the Equipment as described or

included in the Contractor's Proposal, or causes other than ordinary use of the Equipment.

    c.   Furnishing supplies or accessories, making specification changes, or adding or removing approved accessories, attachments, or other devices.

    d.   Maintenance or any increase in maintenance time resulting from any maintenance or inappropriate connection to other equipment (not done by the Contractor) that results in damage to the Equipment.

    e.   Activities required to restore the Equipment to good operating condition if the problem has resulted from someone other than Contractor's authorized service personnel repairing, modifying, or performing any maintenance service on the Equipment.

Equipment Maintenance Standards. This section applies if Equipment will be a Deliverable under this Contract.

The Contractor must complete all remedial Equipment maintenance within eight (8) business hours after notification by the State that maintenance is required. In the case of preventative maintenance, the Contractor must perform such in accordance with the manufacturer's published schedule and specifications. If maintenance is not completed or substitute equipment provided within eight (8) hours after notification by the State, the Contractor will be in default.

All maintenance also must meet any standards contained in the RFP Documents. Failure of the Contractor to meet or maintain these requirements will provide the State with the same rights and remedies specified elsewhere in the RFP Documents for default, except that the Contractor will only have eight hours to remedy the default.

The Contractor must provide adequate staff to provide the maintenance required by this Contract.

Equipment Maintenance Continuity. This section applies if Equipment will be a Deliverable under this Contract.

If the Contractor is unable to provide maintenance services to meet the State's ongoing performance requirements for Equipment delivered under this Contract, and if, in the State's sole opinion, the Contractor is unlikely to resume providing warranty services that meet the State's ongoing performance requirement, the Contractor will be in default. The State then will be entitled to the remedies in the default section of this Contract. However, the State will also be entitled to the following items from the Contractor: (a) all information necessary for the State to perform the maintenance, including logic diagrams, maintenance manuals and system and unit schematics, as modified by the Contractor; and (b) a listing of suppliers capable of supplying necessary spare parts.

Any information in items (a) and (b) above that is rightfully identified by the Contractor as confidential information will be maintained in confidence by the State, except where disclosure to a third party is necessary for the State to continue the maintenance. However, any third party to whom disclosure is made must agree to hold such proprietary information in confidence and to make no further disclosure of it. Further, any such confidential information will be used solely to perform the Contractor's maintenance obligations hereunder and will be returned to the Contractor upon completion of such use.

Principal Period of Maintenance (General). This section applies if software or Equipment will be a Deliverable under this Contract.

The Contractor must make maintenance available nine working hours per weekday, between 8:00 a.m. and 5:00 p.m. Travel time and expenses related to remedial and preventive maintenance will not be considered billable but will be included in the Contractor's firm, fixed Fee for the Project during the warranty period and a part of the annual maintenance Fee during later annual maintenance periods.

Maintenance Access (General). This section applies if software or Equipment will be a Deliverable under this Contract.

The Contractor must keep the Project in good operating condition during the warranty period and any annual maintenance period during which the State contracts for continued maintenance. The State will provide the Contractor with reasonable access to the Project to perform maintenance. All maintenance that requires the Project to be inoperable must be performed outside the State's customary working hours, except when the Project is already inoperable. Preventive or scheduled maintenance will be performed at mutually agreeable times, within the parameters of the manufacturer's published schedule.

Key Maintenance Personnel (General). This section applies if software or Equipment will be a Deliverable under this Contract.

The Contractor must identify all key people responsible for providing maintenance on the Project, furnish the State with a means of identifying these people, furnish the State with their credentials, and notify the State at least 30 calendar days in advance of any reductions in staffing levels of key people at the office serving the State.

PART SIX: CONSTRUCTION

Entire Document. This Contract is the entire agreement between the parties with respect to its subject matter and supersedes any previous agreements, whether oral or written.

Binding Effect. This Contract will be binding upon and inure to the benefit of the respective successors and assigns of the State and the Contractor.

Amendments – Waiver. No change to any provision of this Contract will be effective unless it is in writing and signed by both parties. The failure of either party at any time to demand strict performance by the other party of any of the terms of this Contract will not be a waiver of those terms. Waivers must be in writing to be effective, and either party may at any later time demand strict performance.

Severability. If any provision of this Contract is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Contract will remain in full force and effect to the extent that such does not create an absurdity.

Construction. This Contract will be construed in accordance with the plain meaning of its language and neither for nor against the drafting party.

Headings. The headings used herein are for the sole sake of convenience and may not be used to interpret any section.

Notices. For any notice under this Contract to be effective, it must be made in writing and sent to the address of the appropriate contact provided elsewhere in the Contract, unless such party has notified the other party, in accordance with the provisions of this section, of a new mailing address. This notice requirement will not apply to any notices that this Contract expressly authorized to be made orally.

Continuing Obligations. The terms of this Contract will survive the termination or expiration of the time for completion of Project and the time for meeting any final payment of compensation, except where such creates an absurdity.

Time. Unless otherwise expressly provided, any reference in this document to a number of days for an action or event to occur means calendar days, and any reference to a time of the day, such as 5:00 p.m., is a reference to the local time in Columbus, Ohio.

PART SEVEN: LAW AND COURTS

Compliance with Law. The Contractor must comply with all applicable federal, state, and local laws while performing under this Contract.

Drug-Free Workplace. The Contractor must comply with all applicable state and federal laws regarding keeping a drug-free workplace. The Contractor must make a good faith effort to ensure that all the Contractor's Personnel, while working on state property, will not have or be under the influence of illegal drugs or alcohol or abuse prescription drugs in any way.

Conflicts of Interest. None of the Contractor's Personnel may voluntarily acquire any personal interest that conflicts with their responsibilities under this Contract. Additionally, the Contractor may not knowingly permit any public official or public employee who has any responsibilities related to this Contract or the Project to acquire an interest in anything or any entity under the Contractor's control, if such an interest would conflict with that official's or employee's duties. The Contractor must disclose to the State knowledge of any such person who acquires an incompatible or conflicting personal interest related to this Contract. The Contractor also must take steps to ensure that such a person does not participate in any action affecting the work under this Contract. However, this will not apply when the State has determined, in light of the personal interest disclosed, that person's participation in any such action would not be contrary to the public interest.

Ohio Ethics Law and Limits on Political Contributions. The Contractor certifies that it is currently in compliance and will continue to adhere to the requirements of the Ohio ethics laws. The Contractor also certifies that all applicable parties listed in Ohio Revised Code Section 3517.13 are in full compliance with Ohio Revised Code Section 3517.13.

Governing the Expenditure of Public Funds on Offshore Services (EO 2011-12K). The Contractor affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract.

The Contractor agrees to complete the attached Executive Order 2011-12K Affirmation and Disclosure Form which is incorporated and becomes a part of this Agreement.

Unresolved Finding for Recovery. If the Contractor was subject to an unresolved finding of the Auditor of State under Revised Code Section 9.24 on the date the parties sign this Contract, the Contract is void. Further, if the Contractor is subject to an unresolved finding of the Auditor of State under Revised Code Section 9.24 on any date on which the parties renew or extend this Contract, the renewal or extension will be void.

Equal Employment Opportunity. During the Project, the Contractor must not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, age, or Vietnam-era veteran status ("Protected Status"). The Contractor must ensure that applicants for employment and employees are treated without regard to their Protected Status.

The Contractor must post notices with the provisions of this section in conspicuous places that are available to employees and applicants and must state in all solicitations and advertisements for employees that it is an equal opportunity employer.

Security & Safety Rules. When using or possessing State data or accessing State networks and systems, the Contractor must comply with all applicable State rules, policies, and regulations regarding data security and integrity. And when on any property owned or controlled by the State, the Contractor must comply with all security and safety rules, regulations, and policies applicable to people on those premises.

Declaration Regarding Terrorism. Pursuant to Ohio Revised Code Section 2909.33, unless Contractor has been pre-certified, the Contractor must complete a Declaration Regarding Material Assistance/non-assistance to Terrorist Organizations ("Declaration") in its entirety to enter into this Contract and to renew it. If the State discovers that the Contractor submitted a false Declaration to obtain this Contract or any renewal of it, this Contract will terminate for cause, and the State will be entitled to the damages specified in this Contract for such a termination. Should this Contract require renewal for completion of any services the Contractor performs under it or for the State to obtain maintenance for any Deliverable acquired during the term of this Contract, the Contractor must submit a new Declaration as part of that process. The Contractor's failure to submit an acceptable Declaration in such a situation will entitle the State to damages as in the case of a termination of this Contract for cause.

Injunctive Relief. Nothing in this Contract is intended to limit the State's right to injunctive relief, if such is necessary to protect its interests or to keep it whole.

Assignment. The Contractor may not assign this Contract or any of its rights or obligations under this Contract without the prior, written consent of the State. The State is not obligated to provide its consent to any proposed assignment.

Governing Law. This Contract will be governed by the laws of Ohio, and venue for any disputes will lie exclusively with the appropriate court in Franklin County, Ohio.

ATTACHMENT FIVE
SAMPLE **CONTRACT**

A CONTRACT BETWEEN
THE OHIO DEPARTMENT OF ADMINISTRATIVE SERVICES
ON BEHALF OF THE OHIO DEPARTMENT OF PUBLIC SAFETY
AND

_____
(CONTRACTOR)

THIS CONTRACT, which results from RFP 0A1089, entitled Ohio EMS Trauma Registry Project, is between the State of Ohio, through the Ohio Department of Administrative Services, on behalf of the Ohio Department of Public Safety, and _____ (the "Contractor").

This Contract consists of the referenced RFP, including all its attachments and supplements, written amendments to the RFP, the Contractor's Proposal, and written, authorized amendments to the Contractor's Proposal. It also includes any materials incorporated by reference in the above documents and any purchase orders and Change Orders issued under the Contract. The form of the Contract is this one page document, which incorporates by reference all the documents identified above. The General Terms and Conditions for the Contract are contained in an attachment to the RFP. If there are conflicting provisions among the documents that make up the Contract, the order of precedence for the documents is as follows:

1.   The one-page Contract (Attachment Five) in its final form;
2.   This RFP, as amended;
3.   The documents and materials incorporated by reference in the RFP;
4.   The Executive Order, EO 2011-12K incorporated by reference in the RFP;
5.   The Contractor's Proposal, as amended, clarified, and accepted by the State; and
6.   The documents and materials incorporated by reference in the Contractor's Proposal.

Notwithstanding the order listed above, Change Orders and amendments issued after the Contract is executed may expressly change the provisions of the Contract. If they do so expressly, then the most recent of them will take precedence over anything else that is part of the Contract.

This Contract has an effective date of the later of _____, 2012, or the occurrence of all conditions precedent specified in the General Terms and Conditions.

TO SHOW THEIR AGREEMENT, the parties have executed this Contract as of the dates below.

CONTRACTOR   STATE OF OHIO
                                              OHIO DEAPRTMENT OF ADMINISTRATIVE SERVICES

<u>SAMPLE – DO NOT FILL OUT</u>   _____

By: By: Robert Blair

Title: _____   Title: Director

Date: _____   Date: _____

ATTACHMENT SIX
SAMPLE DELIVERABLE/MILESTONE SUBMITTAL FORM

Client Name:	**[Insert Client Name]**
Project Name:	**[Insert Project Name]**
Contract Number:	**[Insert Contract Number]**
Deliverable To Be Reviewed or Milestone Attained:	**[Insert Deliverable/Milestone Name and Work Breakdown Structure Task #]**
Date Deliverable Submitted for Review or Milestone Achievement Date:	**[Insert Applicable Date]**

The **[insert Deliverable/milestone name]** Deliverable/milestone is complete. This Deliverable/milestone has been completed/attained by **[insert Corporate name]** in accordance with the requirements specified in the RFP and Project Plan. Please obtain signatures below indicating the compliance of **[insert Deliverable/milestone name]**. Please obtain all signatures within **XX** calendar days of the Submitted or Achievement Date, above, **[insert date XX calendar days from submitted date]**.

Please contact_____ at **XXX-XXX** with any questions.

Sincerely,

[Insert Company Name]
[Insert Project Name] Project Manager

_____
Printed Name
Contractor Project Manager
{Same as person signing above}

COMPLIANT: **Deliverable Payment Authorized:**   Yes _____ No _____ N/A _____   _____ **Signature of State Project Representative/Date**

NOT COMPLIANT: **Describe reason(s) for non-compliance:** **(Continue on back if necessary)**   _____ **Signature of State Project Representative/ Date   Payment <u>Not</u> Authorized**

ATTACHMENT SEVEN
OFFEROR CERTIFICATION FORM

1. The offeror is not currently subject to an "unresolved" finding for recovery under Revised Code Section 9.24, and the offeror will notify the Procurement Representative any time it becomes subject to such a finding before the award of a Contract arising out of this RFP.

2. The offeror certifies that it will not and will not allow others to perform work for the State of Ohio outside the geographic limitations contained in Attachment Two or take data that belongs to the State of Ohio outside the geographic limitations contained in Attachment Two without express written authorization from the State.

3. The offeror certifies that its responses to the following statements are true and accurate. The offeror's answers apply to the last seven (7) years. Please indicate yes or no in each column.

Yes/No	Description
	The offeror has had a contract terminated for default or cause.
	The offeror has been assessed any penalties in excess of $10,000.00, including liquidated damages, under any of its existing or past contracts with any organization (including any governmental entity).
	The offeror was the subject of any governmental action limiting the right of the offeror to do business with that entity or any other governmental entity.
	Trading in the stock of the company has ever been suspended with the date(s) and explanation(s).
	The offeror, any officer of the offeror, or any owner of a 20% interest or greater in the offeror has filed for bankruptcy, reorganization, a debt arrangement, moratorium, or any proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding.
	The offeror, any officer of the offeror, or any owner with a 20% interest or greater in the offeror has been convicted of a felony or is currently under indictment on any felony charge.

If the answer to any item above is affirmative, the offeror must provide complete details about the matter. While an affirmative answer to any of these items will not automatically disqualify an offeror from consideration, at the sole discretion of the State, such an answer and a review of the background details may result in a rejection of the Proposal. The State will make this decision based on its determination of the seriousness of the matter, the matter's possible impact on the offeror's performance under the Contract, and the best interest of the State.

4. The offeror certifies that neither it nor any of its people that may work on or benefit from the Contract through the offeror has a possible conflict of interest (e.g., employed by the State of Ohio, etc.) other than the conflicts identified immediately below:

Potential Conflicts (by person or entity affected)

(Attach an additional sheet if more space is need.)

The State may reject a Proposal in which an actual or apparent conflict is disclosed. And the State may cancel or terminate the Contract for cause if it discovers any actual or apparent conflict of interest that the offeror did not disclose in its Proposal.

5.   The offeror certifies that all its and its subcontractors' personnel provided for the Project will have a valid I-9 form on file with the offeror or subcontractor, as appropriate, and will have presented valid employment authorization documents, if they are not United States citizens.

6.   The offeror certifies that its regular, fulltime employees will perform at least 30% of the work on the Project.

7.   The following is a complete list of all subcontractors, if any, that the offeror will use on the Project, if the State selects the offeror to do the work:

_____   _____

_____   _____

_____   _____

_____   _____

_____   _____

The offeror certifies that it has obtained and submitted a subcontractor letter, as required by Attachment Three, for each subcontractor it plans to use on the project.

Please provide the following information for a contact person who has authority to answer questions regarding the offeror's Proposal:

Name:	
Title:	
Mailing Address:	
Office Phone Number:	
Cell Phone Number:	
Fax Number:	
Email Address:	

_____
Signature

_____
Name

_____
Title

_____
Company Name

_____
Company D-U-N-S Number

ATTACHMENT EIGHT
OFFEROR PROFILE SUMMARY

OFFEROR MANDATORY REQUIREMENTS

MANDATORY REQUIREMENT: The offeror must demonstrate experience with providing a trauma registry system for a country, state or region for a minimum of 60 months.

Company Name:	Contact Name: (Indicate Primary or Alternate) Contact Title:
Company Address:	Contact Phone Number: Contact Email Address:
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year**　　　　　　**Month/Year**
List Related Service Provided: **Describe how the Related Service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

Company Name:	Contact Name: (Indicate Primary or Alternate) Contact Title:
Company Address:	Contact Phone Number: Contact Email Address:
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year**　　　　　　**Month/Year**
List Related Service Provided: **Describe how the Related Service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

OFFEROR MANDATORY REQUIREMENTS
CONTINUED

MANDATORY REQUIREMENT: The offeror must demonstrate experience with providing a trauma registry system for a country, state or region for a minimum of 60 months.

Company Name:	**Contact Name:** (Indicate Primary or Alternate) **Contact Title:**
Company Address:	**Contact Phone Number:** **Contact Email Address:**
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year** **Month/Year**
List Related Service Provided: **Describe how the related service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

Company Name:	**Contact Name:** (Indicate Primary or Alternate) **Contact Title:**
Company Address:	**Contact Phone Number:** **Contact Email Address:**
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year** **Month/Year**
List Related Service Provided: **Describe how the related service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

ATTACHMENT EIGHT
OFFEROR PROFILE SUMMARY

OFFEROR MANDATORY REQUIREMENTS

MANDATORY REQUIREMENT: The offeror must demonstrate experience with providing an EMS Incident Reporting System for a country, state or region for a minimum of 36 months.

Company Name:	**Contact Name:** (Indicate Primary or Alternate) **Contact Title:**
Company Address:	**Contact Phone Number:** **Contact Email Address:**
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year** **Month/Year**
List Related Service Provided: **Describe how the Related Service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

Company Name:	**Contact Name:** (Indicate Primary or Alternate) **Contact Title:**
Company Address:	**Contact Phone Number:** **Contact Email Address:**
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year** **Month/Year**
List Related Service Provided: **Describe how the Related Service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

OFFEROR MANDATORY REQUIREMENTS
CONTINUED

MANDATORY REQUIREMENT: The offeror must demonstrate experience with providing an EMS Incident Reporting System for a country, state or region for a minimum of 36 months.

Company Name:	**Contact Name:** (Indicate Primary or Alternate) **Contact Title:**
Company Address:	**Contact Phone Number:** **Contact Email Address:**
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year** **Month/Year**
List Related Service Provided: **Describe how the related service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

Company Name:	**Contact Name:** (Indicate Primary or Alternate) **Contact Title:**
Company Address:	**Contact Phone Number:** **Contact Email Address:**
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year** **Month/Year**
List Related Service Provided: **Describe how the related service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

ATTACHMENT EIGHT
OFFEROR PROFILE SUMMARY

OFFEROR MANDATORY REQUIREMENTS

MANDATORY REQUIREMENT: The offeror must demonstrate having all applicable licenses and/or usage agreements for all proprietary code sets and scoring systems, including but not limited to the Abbreviated Injury Scale.

Company Name:	Contact Name: (Indicate Primary or Alternate) Contact Title:
Company Address:	Contact Phone Number: Contact Email Address:
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year** **Month/Year**
List Related Service Provided: **Describe how the Related Service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

Company Name:	Contact Name: (Indicate Primary or Alternate) Contact Title:
Company Address:	Contact Phone Number: Contact Email Address:
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year** **Month/Year**
List Related Service Provided: **Describe how the Related Service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

ATTACHMENT EIGHT
OFFEROR PROFILE SUMMARY

OFFEROR MANDATORY REQUIREMENTS
CONTINUED

MANDATORY REQUIREMENT: The offeror must demonstrate having all applicable licenses and/or usage agreements for all proprietary code sets and scoring systems, including but not limited to the Abbreviated Injury Scale.

Company Name:	Contact Name: (Indicate Primary or Alternate) Contact Title:
Company Address:	Contact Phone Number: Contact Email Address:
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year**　　　　　**Month/Year**
List Related Service Provided: **Describe how the related service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

Company Name:	Contact Name: (Indicate Primary or Alternate) Contact Title:
Company Address:	Contact Phone Number: Contact Email Address:
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year**　　　　　**Month/Year**
List Related Service Provided: **Describe how the related service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

ATTACHMENT EIGHT
OFFEROR PROFILE SUMMARY

OFFEROR MANDATORY REQUIREMENTS

MANDATORY REQUIREMENT: The offeror must demonstrate at least one (1) project where it was necessary to convert and consolidate multiple databases into a single integrated database. Databases must be functionally equivalent to SQL Server or Oracle.

Company Name:	Contact Name: (Indicate Primary or Alternate) Contact Title:
Company Address:	Contact Phone Number: Contact Email Address:
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year** **Month/Year**
List Related Service Provided: **Describe how the Related Service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

Company Name:	Contact Name: (Indicate Primary or Alternate) Contact Title:
Company Address:	Contact Phone Number: Contact Email Address:
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year** **Month/Year**
List Related Service Provided: **Describe how the Related Service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

ATTACHMENT EIGHT
OFFEROR PROFILE SUMMARY

OFFEROR MANDATORY REQUIREMENTS
CONTINUED

MANDATORY REQUIREMENT: The offeror must demonstrate at least one (1) project where it was necessary to convert and consolidate multiple databases into a single integrated database. Databases must be functionally equivalent to SQL Server or Oracle.

Company Name:	**Contact Name:** (Indicate Primary or Alternate) **Contact Title:**
Company Address:	**Contact Phone Number:** **Contact Email Address:**
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year** **Month/Year**
List Related Service Provided: **Describe how the related service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

Company Name:	**Contact Name:** (Indicate Primary or Alternate) **Contact Title:**
Company Address:	**Contact Phone Number:** **Contact Email Address:**
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year** **Month/Year**
List Related Service Provided: **Describe how the related service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

ATTACHMENT EIGHT
OFFEROR PROFILE SUMMARY

OFFEROR MANDATORY REQUIREMENTS

MANDATORY REQUIREMENT: The offeror must have at least 36 months experience providing hosting services for a system of similar size, complexity, and scope.

Company Name:	Contact Name: (Indicate Primary or Alternate) Contact Title:
Company Address:	Contact Phone Number: Contact Email Address:
Project Name:	Beginning Date of Expr: / Ending Date of Expr: Month/Year Month/Year
List Related Service Provided: **Describe how the Related Service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

Company Name:	Contact Name: (Indicate Primary or Alternate) Contact Title:
Company Address:	Contact Phone Number: Contact Email Address:
Project Name:	Beginning Date of Expr: / Ending Date of Expr: Month/Year Month/Year
List Related Service Provided: **Describe how the Related Service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

OFFEROR MANDATORY REQUIREMENTS
CONTINUED

MANDATORY REQUIREMENT: The offeror must have at least 36 months experience providing hosting services for a system of similar size, complexity, and scope.

Company Name:	Contact Name: (Indicate Primary or Alternate) Contact Title:
Company Address:	Contact Phone Number: Contact Email Address:
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year** **Month/Year**
List Related Service Provided: **Describe how the related service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

Company Name:	Contact Name: (Indicate Primary or Alternate) Contact Title:
Company Address:	Contact Phone Number: Contact Email Address:
Project Name:	Beginning Date of Expr: / Ending Date of Expr: **Month/Year** **Month/Year**
List Related Service Provided: **Describe how the related service shows the offeror's experience, capability, and capacity to develop the Deliverables or to achieve the milestones for this Project:**	

ATTACHMENT NINE
PROPOSED SYSTEM SOLUTION

This section describes the technical and functional requirements for the Ohio Emergency Medical Services (EMS) and Trauma Data System Project.

Offeror must complete the "Capability Assessment" column for each requirement. Add comments to further qualify the response. Simply checking a specific box for an answer is not considered sufficient enough to distinguish one offeror from another. Please be robust in your response to how your solution meets each requirement.

FUNCTIONAL & TECHNICAL REQUIREMENTS

Attachment Nine – Proposed System Solution is being provided as a Microsoft Word document through the State's Procurement Website as a convenience for responding to the RFP. **The Attachment format and content must not be modified.** If the requirements are modified, reformatted or omitted, the offeror's response may be disqualified.

For each requirement documented in the RFP the offeror must provide a narrative description of its solution. The offeror must also provide a summary of any COTS products that will be used to meet the requirements. For each requirement identified, the offeror must indicate how the requirement (functional or technical) is delivered by checking one of the following boxes in Attachment Nine:

Out of the Box: Requirement will be fully met with out-of-the-box functionality that can be presented for business use with minimal effort beyond tuning a feature "on" or "off" (e.g., built in processes, rules or reports).

Configuration Required: Requirement will be met with functionality that can be presented for business use after modifications utilizing the software configuration tools. This would include managing or creating new business rules or process flows via tools provided as part of the proposed COTS software.

Customization Required: Requirement will be met with functionality that can be presented for business use only after a new module or plug-in is developed. Modules or plug-ins would be created in a programming or scripting language and leverage low level application infrastructure such as API's, messaging, integration technologies, or services to exchange data or execute logic within the COTS solution. This would also include any updates the software vendor would make to the core code as part of a future release or service pack.

Not Available: Requirement will not be met as part of the offeror's proposed solution.

Offeror Comments / Narrative: The offeror should use this column for narrative and/or additional comments as applicable.

Priority: On a relative scale, this represents how critical the requirement is deemed to be in meeting key objectives of the Ohio Emergency Medical Services (EMS) and Trauma Data System Project by the Ohio DPS stakeholders.
- **"1" = Low**
- **"2" = Medium**
- **"3" = High**
- **"4" = Most Critical**

All the specifications given in this RFP are minimum system requirements. The offeror may recommend features or other elements in excess of the minimum but must clearly identify them as such, provide the rationale behind the recommendations, and explain how they will benefit the State. The recommendations may not result in additional evaluation credit being given.

Section 1: GENERAL

Req. No.	Requirement	Priority	Capability Assessment	Offeror Comments
1	The system allows manual on-line entry and updating of individual records.	4	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
2	The system allows submission of batch data files.	4	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
3	The system allows data upload from all data owners and third party submitters.	4	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	

Section 2: FOR INDIVIDUAL CASE DATA UPLOADS ONLY

Req. No.	Requirement	Priority	Capability Assessment	Offeror Comments
1	Drop-down and/or pick-list selections exist for multi-choice fields. Provides auto-populate when applicable.	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
2	Applicable fields are auto-populated logically (i.e. age in years given birth date, etc.)	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
3	Applicable fields are negated ("grayed-out" or not shown) logically (i.e. no EMS transport data if patient refused, no trauma O.R. data if no operations performed, etc.) with appropriate default codes entered automatically into the record.	4	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	

Req. No.	Requirement	Priority	Capability Assessment	Offeror Comments
4	Illogical records are rejected and error message is given immediately (i.e., future date of birth, pregnant male, etc.).	4	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
5	Corrections to illogical data fields can be made immediately and the record resubmitted.	3	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
6	Incomplete records are rejected and error message is given immediately for missed fields' data entry. Missing data fields can be completed immediately and the record resubmitted.	3	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
7	Error messaging is given for duplicate record-entry and duplicate record is rejected immediately, **OR** user is warned and prompted to confirm before overwriting of previously accepted record.	3	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
8	Message is given immediately of successful acceptance of (non-duplicative and complete) record.	1	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
9	Record can be easily re-accessed and data errors corrected.	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
10	User is identified and tracked (by name, date, submitting entity, etc.) for each record submitted.	4	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
11	User is identified and tracked (by name, date, submitting entity, etc.) for each revised record.	4	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
12	Records may not be deleted by user once entered.	4	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	

Section 3: FOR BATCH FILE UPLOADS ONLY

Req. No.	Requirement	Priority	Capability Assessment	Offeror Comments
1	Illogical records are rejected & error message is given immediately (i.e. pregnant male, etc.).	4	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
2	Corrections to illogical data fields can be made immediately if possible and the file resubmitted.	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
3	Incomplete records are rejected and error message is given immediately for missed fields' data entry.	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
4	Error messaging is given for duplicate record-entry & duplicate records are rejected immediately, **OR** user is warned and prompted to confirm before overwriting of previously accepted record.	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
5	Only individual records with errors are rejected from a batch file - all error-free records are accepted.	3	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
6	Message is given immediately of successful file transfer with count of total records transferred, number of records accepted and number of records rejected for errors.	1	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
7	Individual records can be easily re-accessed and data can be updated.	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
8	User is identified and tracked (by name, date, submitting entity, etc.) for each record submitted.	4	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	

Req. No.	Requirement	Priority	Capability Assessment	Offeror Comments
9	User is identified and tracked (by name, date, submitting entity, etc.) for each revised record.	4	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
10	Records may not be deleted by user once submitted.	4	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
11	The system provides immediate notification to the submitter (and owner, if different) of rejected submittals. .	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	

Section 4: DATA REPORTING

Req. No.	Requirement	Priority	Capability Assessment	Offeror Comments
1	All data is available immediately upon acceptance and easily accessible to ODPS personnel for analysis at any and all times.	4	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
2	Application contains a web-based graphical user interface analytical reporting tool.	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
3	The system supports the development, processing and sharing of reports and query solutions (allow local and regional exchange of report formats). Lockable templates of common reports that are developed are available on the database.	1	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
4	The system provides data cubes to allow multi-dimensional analysis of current and historic data.	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
5	The system facilitates the search for a previously submitted individual record.	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	

Req. No.	Requirement	Priority	Capability Assessment	Offeror Comments
6	The system has the capability to run queries related to errors and warnings pertaining to submitted records.	1	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
7	The system has the capability to run performance reports for individual EMS agencies/hospitals.	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
8	The system allows data owners to run a report to check activities performed by others on their records or records submitted by individuals in their group.	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
9	The system allows data owners to generate reports on aggregated data at various levels (e.g., local, regional, state, national) to allow comparisons of performance against other related groups and benchmarking elements.	1	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
10	The system provides ad hoc reporting capabilities.	1	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
11	The system allows hospitals to download their own raw data for specific reporting and analysis purposes.	4	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
12	Data can be searched ad hoc by any combination of data elements.	1	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
13	Notification of failed reports shall be communicated immediately to the requestor.	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
14	Reports shall be in open (non-proprietary) format & by program choice (Excel, Word, etc.)	3	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	

Req. No.	Requirement	Priority	Capability Assessment	Offeror Comments
15	Data owner and submitter can obtain printouts of records submitted by whole record and by selected data element(s).	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
16	Reports can be generated in selected report-ready graphics (i.e. pie charts, bar graphs, and tables).	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
17	Report formats can be edited by user.	1	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
18	Raw data can be exported in other applications (Excel, SAS, and SPSS).	4	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
19	Performs basic statistical analysis (i.e., mean, median, nth percentile, and standard deviation).	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
20	Frequent queries can be stored and easily retrieved.	1	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
21	Filters/populations/select criteria can be easily stored and retrieved.	1	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
22	Ability to refresh stored queries to reflect current data.	1	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
23	Records can be queried based on date record submitted and/or date record modified.	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
24	Results of queries can be sorted on any field, with the ability to sort on multiple fields.	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	

Req. No.	Requirement	Priority	Capability Assessment	Offeror Comments
25	Multiple data sources can be tied in to a single query.	2	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	
26	Results of queries can be conditionally formatted (i.e., use red font if results are a negative number).	1	☐ Out of the Box ☐ Configuration Required ☐ Customization Required ☐ Not Available	

ATTACHMENT TEN
MASTER CONTRACT FOR SOFTWARE LICENSING (MLA NUMBER [0000000])

THIS CONTRACT (the "Contract") is between the State of Ohio (the "State"), through the Ohio Department of Administrative Services with offices at 30 East Broad Street, Columbus, Ohio 43215, and *[Company name of the Contractor]* (the "Contractor"), with offices at *[street address, city, state and zip code for the Contractor]*, and whose Federal Tax ID Number is *[the Contractor's TIN]* and D-U-N-S Number is *[the Contractor's D-U-N-S]*.

BACKGROUND

The State and the Contractor have entered into this Contract to provide the terms and conditions under which the Contractor will grant one or more perpetual, nonexclusive licenses to the State to use certain software that the Contractor publishes or markets (the "Software"). Any such licenses will be described in one or more schedules to this Contract ("Schedules") and will include a license to use the Software's user and technical documentation (the "Documentation"). It also may include a license to use the Software's source code and related material ("Source Code"), if it is so indicated elsewhere in this Contract or on the applicable Schedule. Additionally, this Contract governs the Contractor's obligation to provide the State with assistance troubleshooting the Software and with updates, correction, enhancements, and new releases of the Software ("Support").

PART I: LICENSE AND USE

1. **Grant of License.** The Contractor grants to the State a nonexclusive, nontransferable, and perpetual license to use the executable code version of the Software identified in each Schedule under this Contract, along with the related Documentation, and if indicated in an applicable Schedule, the Source Code for the Software. The license begins on the date identified in the applicable Schedule as the start date for the license (the "Start Date"). Unless indicated otherwise in this Contract, such use will be limited to use solely for the exercise of any function of State government by any State agency or political subdivision of the State ("Affiliated Entities"). The applicable Schedule governing the license will describe the scope of each license granted to the State in further detail, and the State agrees to limit its use of the Software as described in the applicable Schedule. The State may not republish the Software or the Documentation or distribute it to any third party, unless and only to the extent that this Contract or the scope of license in the applicable Schedule expressly so permits. The State will have a right to use the Software at any of its locations worldwide, subject only to applicable restrictions on export of technology from the US, the scope of license in the applicable Schedule, and the restrictions in this Contract on using the Software in hazardous environments.

2. **Generated Files.** "Generated Files" are files that the State creates using the Software and in which the State's data or results from the State's instructions are stored. Examples of such files could include, among others, text files generated with a word processor, data tables created with a database engine, and image files created with a graphics application. Applications consisting of instruction sets created with a programming language that the Contractor licensed to the State also would be considered Generated Files. As between the State and the Contractor, the State will own all Generated Files that the State prepares by using the Software, excluding such portions of the Generated Files that consist of embedded portions of the Software. The Contractor or its licensors will retain ownership of any portions of the Software embedded into Generated Files. But the Contractor grants to the State a nonexclusive, royalty-free right to reproduce and distribute to third parties any portions of the Software embedded in any Generated Files that the State creates while using the Software in the manner in which the Software is designed to be used. In the State's distribution of the Generated Files, the State may not use the Contractor's name, logo, or trademarks, except to the extent that such are incorporated in such Generated Files by the design of the Software when used as intended.

3. **License Restrictions.** The State may not reverse engineer, de-compile, or disassemble any Software for which it is not licensed to use the Software's Source Code. Additionally, the State may not assign, transfer, or redistribute the Software to any party in whole or in part, except as expressly provided by this Contract or the applicable Schedule. It also may not rent, time share, or operate a service bureau with respect to the Software. And the State may not charge a fee to any third party for access to or use of the Software, unless this Contract or the applicable Schedule permits such. (One Affiliated Entity using the Software on behalf of another Affiliated Entity is not the operation of a service bureau for purposes of this Contract, even if the Affiliated Entity charges the other Affiliated Entity for the costs of the service.) Additionally, except as authorized in this Contract or the applicable Schedule, the State may not grant any sublicense to access or use the Software.

Notwithstanding the foregoing, and provided they have agreed in writing to honor the terms of this Contract, the State's Affiliated Entities may use the Software in the same manner as the State, subject to the applicable limits on the license and the obligations contained in this Contract. Further, for any Software designed for communications, such as e-commerce applications, or for Web presentations, the State may communicate with third parties using the Software and use the Software for presentations to third parties via the Internet. Additionally, the State engages various contractors to do work for it, and the State may provide such contractors with access to and use of the Software solely for use on behalf of the State, including in a facilities management, hosting, disaster recovery, or outsourcing arrangement. But the State may not provide access to the Software to any such contractors except for use solely on behalf of the State.

4. **Locking Devices.** Some Software may require the use of a key to prevent unauthorized installation and use of the Software, but the Software may not include expiration codes, "time bombs", or similar devices that can disable the software once a proper key is provided. Further, the software may not contain any routines, functions, or devices that can or are designed to transmit or transfer any data surreptitiously to the Contractor or any other party. Nor may the software contain any routines, functions, or similar devices designed to permit the Contractor or a third party to surreptitiously access data on the State's network or on any of the State's computers. Should the State need assistance with a key or similar device to use the Software within the State's scope of license, the Contractor will assist the State at any time and without charge or fee, regardless of whether such Software is then under Support.

5. **Copies.** In addition to the copies of the Software authorized by the license in the applicable Schedule, the State may make a reasonable number of copies of the Software for backup, archival, disaster recovery, testing, development, and image management purposes. And the State may use these copies for such purposes without paying any additional fee or charge, so long as any such additional copies are not used in a production environment while the production copy or copies of the Software are used for production. No other copies of the Software may be made by or for the State. With respect to the Documentation for any Software, the State may make as many copies of it in either paper-based or electronic form as the State may reasonably require for its own internal purposes. Additionally, the State may incorporate portions of the Documentation in other materials, such as training and reference manuals, provided that such materials are used solely for the internal purposes of the State and the use bears a reasonable nexus to the State's use of the Software. Each copy of the Software or Documentation that the State makes must bear the same copyright and other proprietary notices that appear on the original copy provided to the State. If the Contractor has granted the State a license to use the Source Code for the Software, the State may make a reasonable number of copies of the Source Code, modify it, compile it, and otherwise use it as reasonably necessary to support its licensed use of the Software.

6. **Hazardous Environments.** The State recognizes that some Software may not be designed or intended for use as or with online control equipment or systems in hazardous environments requiring fail-safe performance. This includes equipment or systems such as those used in the operation of nuclear facilities, aircraft navigation, air traffic control, direct life support machines, and munitions. It also includes any other equipment or systems in which the State reasonably can foresee that failure of the Software could lead to death, personal injury, or severe physical or environmental damage. For any Software designated as not intended for hazardous environments in the applicable Schedule, the State may not use or permit the use of the Software in conjunction with any such equipment or systems.

7. **Object Reassignment.** Any Software licensed by the number of items that it may be used on, by, or in conjunction with, such as nodes, computers, users, or sites ("Objects"), may be reassigned to other, similar Objects within the State at any time and without any additional fee or charge. For example, a computer-specific license may be transferred to another computer, a site license may be transferred to another site, and a named user license may be assigned to another user. But any such reassignment must be in conjunction with termination of use by or with the previous Object, if such termination is required to keep the total number of licensed Objects within the scope of the applicable license. Should the State require a special code, a unique key, or similar device to reassign the Software as contemplated by this section, the Contractor will provide such a code, key, or similar device to the State at any time and without a fee or charge, regardless of whether such Software is then under Support. A later section in this Contract governs assignment of the State's license in any Software to a successor in interest.

8. **Upgrades, Updates, and Corrections.** All portions of the Software, including any corrections, patches, service packs, updates, upgrades, and new versions and releases are the property of Contractor, are part of the Software, and are governed by the State's license in the Software. In no event will the Software or any modification of it be deemed a work made for hire, even if the Contractor has made the modification expressly for the State, unless the parties agree otherwise in writing.

PART II: FEES AND PAYMENT

1. **Fees**. The State will pay to the Contractor the fees for licensing the Software identified in each Schedule under this Contract ("License Fees"), as well as all applicable fees for Support of the Software ("Support Fees") that are identified in any Schedule under this Contract. The License Fee for each license is due and payable on the thirty (30)th day after the later of the date on which the applicable license starts (the "Start Date") or the date the State receives a proper invoice for the License Fee at the office designated in the applicable purchase order. A Support Fee will be due payable on the thirty (30)th day after the later of the date on which the applicable period of Support (the "Support Period") begins or the date the State receives a proper invoice for the Support Fee at the office designated in the applicable purchase order. The State will not be obligated to acquire or renew Support for any Software unless it issues a purchase order for such.

2. **Taxes**. The State is exempt from all sales, use, excise, property, and similar taxes ("Taxes"). To the extent any Taxes are imposed on the Contractor in connection with this Contract or the Software, the Contractor must pay such Taxes, together with any interest and penalties not properly disputed with the appropriate taxing authority.

3. **Invoices.** The Contractor must submit an original invoice with three copies to the office designated in the purchase order as the "bill to" address. To be a proper invoice, the invoice must include the following information:

    (1) Name and address of the Contractor, as designated in this Contract.
    (2) The Contractor's federal tax identification number, as designated in this Contract.
    (3) The Contractor's invoice remittance address, as designated in this Contract.
    (4) The purchase order number authorizing the delivery of the Software or Support.
    (5) A description of what the Contractor delivered, including, as applicable, the time period, serial number, unit price, quantity, and total price of the Software and Support. If the invoice is for Software with multiple installments of the License Fee, the Contractor also must include the payment number (e.g., 11 of 36).

    If an invoice does not meet this section's requirements, or if the Contractor fails to give proper notice of a price increase (see the Pricing section below), the State will send the Contractor written notice. The State will send the notice, along with the improper invoice, to the Contractor's address designated for receipt of purchase orders within 15 days. The notice will contain a description of the defect or impropriety and any additional information the Contractor needs to correct the invoice. If such notification has been sent, the payment due date will be 30 days after the State receives a corrected and proper invoice or the applicable Start Date in the Schedule, whichever is later.

    The date the State issues a warrant (the State's equivalent to a check) in payment of an invoice will be considered the date payment is made. Without diminishing the Contractor's right to timely payment, the payment will be overdue only if it is not received by the 30th day after the payment's due date. If the State has not issued payment by then, interest will begin to accrue under Ohio Revised Code ("Code") Section 126.30.

4. **Non-Appropriation of Funds.** The State's funds are contingent on the availability of lawful appropriations by the Ohio General Assembly. If the Ohio General Assembly fails to continue funding for the Fees due hereunder, as determined by the Director of the Ohio Department of Administrative Services, this Contract will terminate with respect to the Software or Support affected by the non-appropriation as of the date that the funding expires, and the State will have no further obligation to make any payments. This provision will not alter the rights of the State in any Software or to any Support for which the State already has made payment at the time of the non-appropriation.

5. **OBM Certification.** This Contract is subject to Code Section 126.07. All orders and Schedules under this Contract are void until the Director of the Office of Budget and Management for the State certifies that there is a balance in the appropriation available to pay for the order.

6. **Currency.** The State will make all payments under this Contract by warrant (the State's equivalent to a check) in US Dollars, regardless of the location where the Support is provided or the Software is located.

7. **Disputed Amounts.** The parties will resolve any amounts disputed under this Contract expeditiously and in good faith by having the representatives of the parties who signed this Contract enter into informal discussions. Once resolved through the dispute resolution process, the amount must be paid within 30 days of the resolution.

If the State disputes any amount under this Contract in good faith, the State may withhold its payment pending resolution notwithstanding anything to the contrary elsewhere in this Contract.

8. **Pricing.** Subject to the limitations in this section, the Contractor may modify its pricing for Software or Support at any time and without notice to the State. But no such change will apply to any Software or Support that the State orders or for which it receives an invoice before the effective date of the change. Nor will any price increase apply to any Software for which the State and the Contractor have entered in to a Price-hold Addendum; the pricing for such Software will be fixed for the term of the price-hold. Additionally, for seven years from the date of the State's first license of any Software, the State will be entitled to acquire additional licenses for the same Software at a discount that is equal to the discount extended to the State for the initial license of the Software, even though the list price for the Software may have increased. Such licenses will be granted under the terms contained in this Contract via the execution of a Schedule hereto. Thereafter, the State will not be obligated to pay more than the Contractor's then current, published License Fee for any such Software, less the discount described in the following sentence. For all additional licenses acquired more than seven years after the initial license in the same Software, the State still will be entitled to a discount of █% from the then current list price for the license. Support Fees under this Contract may not increase from one Support Period to the next by more than █ percent for any license in the Software. Further, in no event will the Support Fee the State pays be greater than the fee paid by any other customer of the Contractor for the same type license.

PART III: CONTRACT ADMINISTRATION

1. **Term.** Once entered into, the term of this Contract will be from the date the duly authorized representative of the State signed it through June 30, 20 █. Expiration of this Contract without renewal will not affect any licenses granted to the State before the expiration. It also will not affect the rights and the responsibilities of the parties with respect to such licenses.

2. **Renewal.** The State may renew this Contract for additional one-year terms, subject to and contingent on the discretionary decision of the Ohio General Assembly to appropriate funds for this Contract in each new biennium. Any such renewal of this Contract also is subject to the satisfactory performance of the Contractor and the needs of the State. The State's failure to renew this Contract will not affect any licenses granted to the State before the expiration. It also will not affect the rights and the responsibilities of the parties with respect to such licenses.

1. **Delivery.** The Contractor must deliver all Software licensed under this Contract to the State F.O.B. at the State's site specified in the applicable Schedule. If the Contractor and the State agree so in writing, the Contractor may deliver any Software licensed under this Contract via electronic transmission over the Internet, provided the Contractor maintains sufficient bandwidth to accommodate delivery in this fashion. Upon physical delivery or successful completion of an electronic transmission, title to any media on which the Software and Documentation are contained and risk of loss of the Software and Documentation will pass to the State.

2. **Schedules.** For all Software that the State licenses, the Contractor and the State will enter into a written Schedule to this Contract, signed by duly authorized representatives of both parties. The Schedule will describe the Software, the license granted in the Software, and the date the license starts ("Start Date"). It also will identify the License Fee for the license granted, the number of physical copies of the media on which the Software is shipped, and the operating system or systems for which the Software is designed. In addition, the Schedule will identify the Support Fee or the percentage of the License Fee used to calculate the Support Fee. All additional Software that the State seeks to license from the Contractor under this Contract, as well as all additional licenses that the State wishes to acquire in Software already licensed under this Contract, will be subject to the Contractor's prior, written approval in each such case. But the Contractor will consent for any Software that is covered by a Price-hold Addendum. The Contractor also must consent for any Software that is or designed to operate in conjunction with Software already acquired by the State under this Contract, if the Software at issue is generally available to other customers and the State is not in material breach of this Contract.

3. **Confidentiality.** Each party may disclose to the other written material or oral or other forms of information that it treats as confidential ("Confidential Information"). Title to any Confidential Information one party deliverers to the other will remain with the disclosing party or its licensors. Each party agrees to treat any Confidential Information it receives from the other party as secret, if it is so marked, otherwise identified as such, or when, by its very nature, it deals with matters that, if generally known, would be damaging to the best interest of the other party or its licensors.

The Contractor's Confidential Information may include the Software and Documentation, if the Software and Documentation are the trade secrets of Contractor and marked as such in a reasonable manner. Information of the State that the Contractor must presume to be Confidential Information, regardless of whether it is marked as such, includes any proprietary documentation, materials, flow charts, codes, software, computer instructions, techniques, models, information, diagrams, know-how, data, business records, and business plans. Such also includes files containing personal information about other contractors or employees of the State, such as personnel records, and any material to which an attorney-client, physician-patient, or similar privilege may apply. It also includes any State records that Ohio law excludes from public records disclosure requirements.

Each party agrees not to disclose any Confidential Information of the other to any third parties and to use it solely to meet its obligations under this Contract or as otherwise contemplated under this Contract. Additionally, each party will restrict circulation of Confidential Information within its organization and permit access to it only by people who have a need to know the Confidential Information for the purposes contemplated by this Contract. The receiving party will be liable to the disclosing party for any damages that result from its improper or unauthorized disclosure of any Confidential Information.

Except for Software, Source Code, or Documentation that represents Confidential Information, neither party may incorporate any portion of the other party's Confidential Information into any work or product. With respect to Software, Source Code, or Documentation that is Confidential Information, the foregoing will not apply to any portion of the Software incorporated into Generated Files by the design of the Software when used as intended. Nor will the foregoing apply to portions of the Documentation that the State incorporates into material such as training and reference manuals in accordance with this Contract's applicable provisions. And the foregoing will not apply to any Source Code properly licensed to the State that the State modifies for use within the scope if its license in the applicable Software. Furthermore, the receiving party must cause all of its personnel who have access to any Confidential Information of the other party to execute a confidentiality agreement incorporating the obligations of this section. Additionally, for any director, officer, employee, partner, agent, or subcontractor of the Contractor ("Contractor Personnel") that require access to the State's premises, the State may require an individual non-disclosure agreement incorporating the terms of this section to reinforce the importance of such obligations. The State may bar any Contractor Personnel who refuse to execute such a non-disclosure agreement from entering the State's facilities.

The receiving party's obligation to maintain the secrecy of the Confidential Information will not apply where it:

(a) Was already in the receiving party's possession before disclosure by the other party, and the receiving party obtained it without an obligation of confidence;
(b) Is independently developed by the receiving party;
(c) Except as provided in the next paragraph, is or becomes publicly available without breach of this Contract;
(d) Is rightfully obtained by the receiving party from a third party without an obligation of confidence;
(e) Is disclosed by the receiving party with the written consent of the other party; or
(f) Is released in accordance with a valid order of a court or governmental agency, provided that the receiving party:

(1) Notifies the other party of such order immediately upon receipt of the order; and
(2) Makes a reasonable effort to obtain a protective order from the issuing court or agency limiting disclosure and use of the Confidential Information solely for the purposes intended to be served by the original order of production.

Information that may be available publicly through other sources about people that is personal in nature, such as medical records, addresses, phone numbers, social security numbers, and similar things are nevertheless sensitive in nature and may not be disclosed or used in any manner except as expressly authorized in this Contract. Therefore, item (3) in the preceding paragraph does not apply, and the Contractor must treat such information as Confidential Information whether it is available elsewhere or not.

Except for properly licensed Software, Source Code, or Documentation that contains Confidential Information, the receiving party must return or destroy all copies of any Confidential Information when it is no longer needed for the receiving party to perform under this Contract, but in any case, no later than on termination of this Contract. For properly licensed Software, Source Code, and Documentation that represents Confidential Information, the State may retain it for so long as the State has a valid license in it.

The receiving party may disclose Confidential Information to its contractors on a need-to-know basis, but only after they have agreed in writing to be obligated to the requirements of this section.

4. **Escrow.** Except for Software that the Contractor delivers to the State with its Source Code, the Contractor must escrow the Source Code for all Software with Escrow Associates, LLC (the "Agent") under an existing escrow agreement between the State and the Agent. The Agent may release the Source Code to the State on the occurrence of any of the following:

   (a) The Contractor ceases business without a successor in interest that assumes all the Contractor's obligations under this Contract;
   (b) The Contractor files or has filed against it a petition in bankruptcy or similar proceeding that is not dismissed within sixty (60) days;
   (c) The Contractor stops supporting any Licensed Software;
   (d) The State terminates this Contract for cause; or
   (e) The Contractor materially or consistently fails to perform its Support obligations in a timely and professional manner.

The release will apply only to the Source Code for Software affected by the triggering event. The Source Code for the Software will be in the form customarily used by programmers to read and modify such Source Code. It also will include all supporting documentation and annotations reasonably required for productive use of the Source Code by a competent programmer skilled in the programming language in which the Source Code is written. The Contractor will deliver to the Agent the Source Code for each version or release of the Software that the State acquires. The State will be solely responsible for paying all escrow fees associated with the escrow agreement, and upon any release of Source Code from escrow, the State will treat the material as Confidential Information and use it solely to maintain the Software for its own internal purposes.

The escrow agreement with the Agent is a supplementary agreement to this Contract, within the meaning of Title 11, Section 365(n), of the United States Code, and neither the Contractor nor its trustee in bankruptcy may interfere with the State's license in the Software or right to access any Source Code by virtue of any bankruptcy proceedings.

From time to time, the State may change the company it uses as the Agent. The State will do so only on written notice to the Contractor and will use only a US-based, well-recognized escrow company.

5. **Insurance.** During any Support Period for which the State has paid the applicable Support Fee, the Contractor must purchase and maintain the following minimum insurance coverages at its sole expense:

   (A) Worker's compensation insurance covering all employees to comply with the laws of the state or states where operations are conducted and employer's liability insurance with a limit of not less than $1,000,000. If operations are conducted in a monopolistic state, the employer's liability insurance must be provided through a stop gap endorsement.
   (B) General liability insurance covering all operations under this Contract, with a combined single limit of not less than $1,000,000 each occurrence. The policy must include with its other coverages products and completed operations, broad form property damage, blanket contractual liability coverage, independent contractors (work sublet) and cross liability.
   (C) Automobile liability insurance covering all automotive equipment used in performing under this Contract (whether owned, non-owned, or hired) with a combined single limit of not less than $1,000,000 each accident.

The policies specified in (A) above must be with companies acceptable to the State and endorsed to waive rights of subrogation against the State. The policies specified in (B) and (C) above must be endorsed to include the State as an additional insured with respect to operations performed under this Contract. All the above policies must be primary to any policies the State purchases or maintains.

The Contractor must furnish the State with an insurance certificate as evidence of the above coverages and requirements. The certificate also must contain the following statement:

"Thirty days' prior written notice will be given to the State of Ohio in the event of cancellation or material change in coverage."

The coverages required represent the State's minimum requirements, and they may not be construed to void or limit the Contractor's indemnity obligations under this Contract.

6. **Excusable Delay.** Neither party will be liable for any delay in its performance under this Contract that arises from causes beyond its control and without its negligence or fault. The delayed party must notify the other promptly of any material delay in performance and must specify in writing the proposed revised performance date as soon as practicable after notice of delay. For any such excusable delay, the date of performance or delivery will be extended for a period equal to the time lost by reason of the excusable delay. The delayed party must also describe the cause of the delay and what steps it is taking or will take to remove the cause. The delayed party may not rely on a claim of excusable delay to avoid liability for a delay if the party has not taken commercially reasonable steps to mitigate or avoid the delay.

7. **Network Security.** The Contractor may not connect to the State's internal computer network without the prior, written consent of the State, which the State will reasonably provide if necessary or appropriate for the Contractor to provide Support. But as a condition of connecting to the State's computer network, the Contractor must secure its own connected systems in a manner consistent with the State's then-current security policies, which the State will provide to the Contractor on request. The State may audit the Contractor's security measures in effect on any such connected systems without notice. The State also may terminate the Contractor's network connections immediately should the State determine that the Contractor's security measures are not consistent with the State's policies or are otherwise inadequate given the nature of the connection or the data or systems to which the Contractor may have access.

8. **Termination**. This Contract will continue in full force and effect unless terminated according to the terms of this Contract. Either party may terminate this Contract at any time on thirty (30) days prior written notice to the other party or in the event of any default by the other party, which the defaulting party fails to cure within thirty (30) days after written notice. Either party also may terminated this Contract upon any sale of a majority interest in the other party to a third party or if a receiver, liquidator, trustee, or like official is appointed for the other party or any substantial portion of its property. Additionally, either party may terminate this Contract if the other party files or consents to any petition in bankruptcy or other insolvency proceedings or makes any assignment for the benefit of its creditors. Termination of this Contract will not extinguish any of the rights and obligations of a party under this Contract that, by the terms of that right or obligation, continue after the date of termination. And no termination will extinguish any of the rights or obligations that, by their very nature, must continue after termination to give full effect to the purpose of those rights and obligations. Termination of this Contract will not entitle the State to any refund of any License or Support Fee, nor will it extinguish any license or price-hold the State has acquired in any Software before the date of termination, except as provided in the next paragraph.

With or without terminating this Contract in accordance with the paragraph above, on thirty (30) days prior written notice to the State, the Contractor may terminate any license in any Software granted to the State under this Contract. But the Contractor may do so only if the State materially breaches any terms of this Contract with respect to the license or licenses the Contractor seeks to terminate. Such termination notice will be effective thirty (30) days after the State receives it, provided that the State does not cure its breach of this Contract within those thirty (30) days. All Software licenses not affected by the State's breach will remain in place and unaffected by the termination. Any such termination will be in addition to any other remedies the Contractor may have under this Contract for the State's breach.

PART IV: WARRANTIES, LIABILITIES, AND REMEDIES

1. **Warranties**. The Contractor warrants for one year from the Start Date that the Software will be free of material defects and will function in substantial conformance to its Documentation when used in the operating environment for which it is intended and in accordance with its Documentation. The Contractor also warrants that the Software will be merchantable and fit for the particular purpose for which the State acquired it. Moreover, the Contractor warrants that the Software will be free of viruses at the time of its delivery under this Contract. Additionally, the Contractor warrants that all media on which the Software is delivered to the State will be free from defects for one year after delivery to the State.

2. **Warranty Exclusions.** The Contractor's warranties with respect to the Software's performance in accordance with its Documentation, its fitness, and its merchantability do not cover any error caused by any change to the Software made by any party other than the Contractor and not at the Contractor's request or otherwise in accordance with this Contract or the Software's Documentation.

It also does not cover damage to the Software caused by accident, neglect, or misuse of the Software by any party other than the Contractor or anyone else acting on the Contractor's behalf. Further, the State's use of the Software in an operating environment or in conjunction with a hardware platform that does not meet the Contractor's minimum specifications, as set out in the applicable Schedule or Documentation, may result in errors or failures that are outside the scope of the Contractor's warranty. Additionally, use of the Software in combination with other software, hardware, firmware, data, or technology not licensed or approved by the Contractor in writing may cause failures that also are outside the scope of the Contractor's warranty, provided that the Software is not designed or intended for use with such items.

THE EXPRESS WARRANTIES IN THIS CONTRACT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED.

3. **Remedies.** The Contractor's entire liability and the State's sole remedy for any breach of the above media warranty is limited to requiring the Contractor to replace the defective media expeditiously and without charge to the State. Furthermore, the Contractor's entire liability and the State's sole remedy for any breach of the above warranties of fitness, merchantability, and against defects in the Software will be limited to the Contractor expeditiously correcting the defect or issue and providing the State with a patch containing the correction. If within the times given below, the Contractor does not provide a replacement copy for defective media or Software containing a virus or fails to deliver a fix for a defect in the Software or a correction solving a fitness or merchantability issue, the Contractor must refund all License Fees paid by the State for the affected the Software. In the case of defective media or Software containing a virus, the Contractor will have fifteen (15) days after written notice to provide a replacement. In the case of other defects, merchantability issues, or fitness issues, the Contractor will have thirty (30) days after written notice to deliver a correction that resolves the problem. Upon the Contractor's issuance of a refund, the State will return or destroy all copies of the Software and, upon the Contractor's request, certify in writing that it has done so.

THE FOREGOING REMEDIES ARE THE STATE'S EXCLUSIVE REMEDIES FOR THE WARRANTIES PROVIDED ABOVE.

4. **Indemnity.** The Contractor will indemnify the State for all direct damages to the State caused by the negligence or willful misconduct of the Contractor. The Contractor also agrees to indemnify, defend, and hold the State harmless from and against all claims, liabilities, demands, losses, expenses (including by way of example only, court costs and experts' and attorneys' fees), and causes of action of every kind and character in favor of any third party caused or arising out the activities or performance of the Contractor or the Contractor's Personnel. The foregoing obligations do not apply to the extent caused by the State's actual negligence or willful misconduct. Any defense of the State requires and is subject to the approval and consent of the Ohio Attorney General.

5. **Infringement.** The Contractor will release, protect, indemnify, defend, and hold the State harmless from and against any claims of infringement by any third parties based on the Software, Source Code, or Documentation licensed under this Contract. Any defense of the State requires and is subject to the approval and consent of the Ohio Attorney General and will be at the Contractor's sole cost and expense. Further, the Contractor will indemnify the State for any liability resulting from any such claims, demands, or suits, as well as hold the State harmless for the Contractor's liability, losses, and damages resulting from such. This obligation of defense and indemnification will not apply where the State has modified or misused the Software, Source Code, or Documentation, and the claim or the suit is based on the modification or misuse. The Contractor's obligation to hold the State harmless also will not apply if the claim, suit, liability, or damage arises out of the State's misuse of the Software, Source Code, or Documentation. The State agrees to give the Contractor notice of any such claim as soon as reasonably practicable and to allow the Contractor to control the defense of the any such claim, upon consultation with and the approval of the Office of the State's Attorney General.

If a successful claim of infringement is made, or if the Contractor reasonably believes that an infringement or similar claim that is pending actually may succeed, the Contractor will do one of the following four things as soon as reasonably possible to avoid or minimize any interruption of the State's business:

(a) Modify the offending Software, Source Code, or Documentation so that it is no longer infringing;
(b) Replace the offending Software, Source Code, or Documentation with an equivalent or better item;
(c) Acquire the right for the State to use the infringing Software, Source Code, or Documentation as it was intended for the State to use under this Contract; or

(d) Remove the infringing Software, Source Code, or Documentation and refund the amount the State paid for the Software and the amount of any other Software or item that requires the availability of the infringing Software, Source Code, or Documentation for it to be useful to the State.

6. **LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS CONTRACT, NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OTHER THAN DIRECT DAMAGES. THIS EXCLUSION OF DAMAGES INCLUDES, BY WAY OF EXAMPLE ONLY, INDIRECT, INCIDENTAL, EXEMPLARY, AND CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, EVEN IF THE PARTY KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. ADDITIONALLY, NEITHER PARTY WILL BE LIABLE FOR DIRECT DAMAGES IN EXCESS OF TWO TIMES THE TOTAL LICENSE AND SUPPORT FEES PAID UNDER THIS CONTRACT OR $_____, WHICHEVER IS GREATER. BUT THIS LIMITATION OF LIABILITY WILL NOT LIMIT THE CONTRACTOR'S OBLIGATION TO INDEMNIFY THE STATE UNDER THE INDEMNITY AND INFRINGEMENT PROVISIONS OF THIS CONTRACT FOR DIRECT DAMAGES FROM THE CONTRACTOR'S NEGLIGENCE OR WILLFUL MISCONDUCT. THIS LIMITATION OF LIABILITY ALSO WILL NOT LIMIT THE CONTRACTOR'S OBLIGATIONS UNDER THE INDEMNITY AND INFRINGEMENT SECTIONS OF THIS CONTRACT FOR CLAIMS MADE AGAINST THE STATE FOR INFRINGEMENT OR FOR NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CONTRACTOR, REGARDLESS OF THE NATURE OF THE DAMAGES SOUGHT FOR ANY SUCH CLAIM. THIS LIMITATION OF LIABILITY WILL SURVIVE TERMINATION OF THIS CONTRACT.**

PART V: SOFTWARE SUPPORT

1. **Support.** Each Support Period will be one year in duration, with the first Support Period beginning on the [first anniversary of the] Start Date for the applicable license. Subsequent Support Periods will begin on each anniversary of the Start Date of the applicable license (the "Anniversary Date"). During each Support Period for which the State has paid the applicable Support Fee, the Contractor will provide the State with telephonic assistance and advice for using the Software. The Contractor also will provide remote troubleshooting and problem resolution by developing and providing fixes or patches for errors in the Software. As part of the annual Support that the Contractor provides in exchange for the applicable Support Fee, the Contractor also will deliver to the State all service packs for the Software, as well as all updates and new releases and versions of the Software. The annual Support Fee will be calculated as a percentage of the then current License Fee for the applicable Software license. The percentage used to calculate the Support Fee will be provided in the applicable Schedule governing the Software license. The manner in which the Contractor provides Support will be governed by the Contractor's policies and programs described in the applicable Software Documentation or other materials that the Contractor uses to notify its customers generally of such policies. But regardless of the Contractor's policies and programs, unless otherwise agreed in the applicable Schedule, in all cases such Support must comply with the requirements of this Contract. And the Contractor must provide the Support in a competent, professional, and timely manner.

2. **Minimum Availability.** Support for any Software licensed under this Contract must be available for a minimum of seven years from the Start Date of the license. Thereafter, for so long as the Contractor makes Support available to other customers, the State will be entitled to participate in that Support under the terms of this Contract and in exchange for the Support Fee identified in the applicable Schedule.

3. **Reductions.** The State may acquire licenses that are based on the number of users, nodes, computers, processors, instances of the Software or other counts of objects covered by a license ("Objects"). In any such cases, the State may request that the Support Fees for a Support Period be calculated based on fewer Objects than included in the previous Support Period, with an appropriate adjustment in the applicable Support Fee. But patches, services packs, updates, and new versions or releases of the Software made available to the State under this Contract for such Software may be applied only to the number of Objects included in the then current Support Period. Nevertheless, the State may continue using any version of the Software that is available at the time Support was reduced on or for the unsupported Objects, provided that such is physically possible based on the Software's configuration.
 In any case where supported and unsupported Objects cannot be treated separately (e.g., a single server license supporting multiple concurrent connection), the State must limit its use of the Software to the supported number of Objects to take advantage of its reduction rights under this section.

4. **Lapse and Reinstatement.** If the State opts to not renew Support for some or all of the Software licensed by the State under this Contract, the State may subsequently purchase Support for such Software.

But it may do so only if the Contractor continues to make it generally available to its customers when the State makes the decision to reacquire Support. Further, any such Support will require, in addition to the Support Fee for the then current Support Period, the payment of the immediately preceding year's Support Fees for that Software, or the applicable instances of it. Notwithstanding anything to the contrary in this Contract, no interest will be due on the Support Fees for the past Support Periods. In conjunction with the reinstatement of Support, the State will be entitled to any patches, service packs, upgrades, and new releases, and versions of the Software issued during the unsupported interval.

5. **Support Parameters.** The State may initiate Support requests for problems it encounters with the Software by telephone, email, Internet, or fax, and the Contractor must maintain lines of communication that support all four forms of communication. The Contractor must make Support available from at least 7:00 AM to 6:00 PM in each time zone where the Contractor maintains a Support center, and it must do so by staffing its Support function with an adequate number of qualified personnel to handle its traditional volume of calls. Further, the Contractor must maintain at least one Support center in North America with adequate English-speaking Support personnel. Support must be available during the business hours identified above from at least Monday through Friday throughout the Support Period, except for customary holidays. Further, subject to the State's obligation to pay the applicable Support Fees, the Contractor must support both the most recent major release of the Software as well as the immediately preceding major release of Software. The State's technical staff may contact any Support center that the Contractor maintains, and they may choose to do so based on convenience, proximity, service hours, languages spoken, or otherwise.

6. **Incident Classification.** The Contractor must classify and respond to Support calls by the underlying problem's effect on the State. In this regard, the Contractor may classify the underlying problem as critical, urgent, or routine. The guidelines for determining the severity of a problem and the appropriate classification of, and response to, it are described below.

The Contractor must designate a problem as "critical" if the Software is functionally inoperable, the problem prevents the Software from being used in production mode or there is significant potential for data integrity problems. This classification assumes there is no existing patch for the problem. The Contractor must classify a problem as "urgent" if the underlying problem significantly degrades the performance of the Software or materially restricts the State's use of the Software in a production mode. A problem also will be considered urgent if a commonly used feature often generates application errors, causes the Software to freeze, locks up the computer on which the Software is running, or otherwise routinely does not work as intended. Classification of a problem as urgent rather than critical assumes that the State still can conduct business with the Software. As with the critical classification, the urgent classification assumes there is no existing patch or acceptable workaround procedure for the problem. Finally, the Contractor may classify a Support call as "routine" if the underlying problem is a question on end use or configuration of the Software. It also may be classified as routine when the problem does not materially restrict the State's use of the Software in its production environment, such as when a feature or combination of features generates minor or rare errors. Also, if any problem that otherwise should be classified as critical or urgent can be solved either by a known workaround or an existing patch, the problem may be treated as routine.

The Contractor must apply the above classifications in good faith to each call for Support, and the Contractor must give due consideration to any request by the State to reclassify a problem, taking into account the State's unique business and technical environments and any special needs it may have.

7. **Incident Response.** The Contractor must respond to critical problems by ensuring that appropriate managerial personnel are made aware of the problem and that they actively track and expedite a resolution. The Contractor must assign Support or development personnel at the appropriate level to the problem, and those personnel must prepare a work plan for the problem's expeditious resolution. The work plan must assume that the Contractor's appropriate staff will work without material interruption until the problem is resolved properly. The Contractor's personnel must maintain daily contact with the State's technical staff to keep the State abreast of efforts being made to solve the problem. The Contractor also must provide the State's technical staff with direct access to the Contractor's Support personnel and product development personnel, if appropriate, who are assigned to the problem. If the resolution of the problem requires a patch, the Contractor will ship the patch electronically as soon as the patch is available.
The Contractor must respond to urgent problems by having its product development and Support personnel work in concert to develop a fix or a workaround. The Contractor's Support personnel must maintain regular contact with the State to keep its technical staff abreast of progress toward a resolution of the problem. The Contractor's Support staff must include the problem in regular status reports to the Contractor's management team. And the Contractor's Support staff must provide the Software patch or workaround procedure as soon as it is available.

The Contractor must respond to routine problems by providing the State with a patch or workaround on a priority basis if the problem is one for which an existing patch or workaround already exists. For newly identified problems falling into this classification, the Contractor's Support personnel must generate a problem report, and the appropriate development or Support personnel then must prioritize the problem in relation to other outstanding product issues. The assigned priority then will govern the problem solving or developmental work needed to address the problem and the schedule for delivering a solution. For routine calls that involve end usage and configuration issues rather than bugs or other technical problems, the Contractor's first or second level Support personnel must provide the State's technical staff with telephonic assistance on a non-priority basis.

8. **Response Times.** The maximum time that the Contractor takes to respond initially to a Support request may vary based upon the classification of the request. During normal hours of operation for the Contractor's Support function, the Contractor's response time for a critical Support request will be less than one hour. The Contractor's response time for an urgent request must be less than two hours during operating hours. And the Contractor's response time for a routine Support request must be less than four hours during normal operating hours.

9. **Escalation Process.** Any Support call that is not resolved must be escalated to the Contractor's management under the following parameters. Unresolved problems that are classified as critical must be escalated to the Contractor's Support manager within four hours and to the director level after one day. If a critical problem is not resolved within three days, it must escalate to the corporate officer level and then to the CEO level after five days. The Contractor's Support staff will escalate unresolved urgent problems to its Support manager within three days, to the director level after seven days, and to the corporate officer level after fourteen (14) days.

10. **State Obligations.** To facilitate the Contractor meeting its Support obligations, the State must provide the Contractor with the information reasonably necessary to determine the proper classification of the underlying problem. It also must assist the Contractor as reasonably necessary for the Contractor's Support personnel to isolate and diagnose the source of the problem. Additionally, to assist the Contractor's tracking of Support calls and the resolution of Support issues, the State must make a reasonable effort to use any ticket or incident number that the Contractor assigns to a particular incident in each communication with the Contractor. The State also must install and implement the most recently available Software updates, including service packs and patches, if the Contractor reasonably believes it to be necessary to achieve a satisfactory resolution of a problem.

11. **Limitations.** The Contractor is not responsible for the resolution of problems caused by the State's use of the Software on hardware that does not meet the minimum specifications set out in the Software's Documentation. The Contractor also is not responsible for resolving problems caused by third party software not approved by the Contractor for use with the Software. Additionally, the Contractor need not resolve problems caused by unauthorized modifications to the Software.

12. **Updates.** The Contractor must make all Software updates and service packs, as well as new releases and new versions of it, available to the State at no additional charge and as part of its Software Support. The Contractor will notify the State of the availability of any Software updates and new versions and releases on at least a quarterly basis. The Contractor may post patches and updates on the Internet rather than delivering them to the State on physical media. The Contractor must provide Support, including upgrades, service packs, new releases, and new versions, as appropriate, to keep current with changes in the operating systems and critical applications with which the Software is designed to run for a minimum of seven years from the date the Software is licensed to the State. For purposes of the last sentence, a "critical application" is any computer program that the Software is specifically designed to work in conjunction with. An example would be Software that requires an Oracle database engine to function. The Oracle database engine would be a critical application for that Software.

13. **Follow-on Software.** If the Contractor stops supporting or upgrading any Software but then offers or later releases another product that performs substantially similar functions, the State will be entitled to convert its license for the unsupported Software to a license in the new Software.
Any such conversion will be without charge to the State, provided only that the State has paid all applicable Support Fees for the unsupported Software since first acquiring it through the time when the Contractor terminated Support.

14. **Functionality Migration.** If the Contractor eliminates functionality material to the use or performance of any Software licensed under this Contract ("Original Software") and then includes the functionality in a new product ("New Software"), the Contractor must grant the State a license to use the migrated functionality of such New Software, but not to any other functionality in the New Software,

if (i) the State is a subscriber to Support for the Original Software at the time the New Software is available and is entitled to receive subsequent releases of the Original Software, and (ii) the New Software is available for the same operating system or technical environment as the Original Software. The license granted to the State for the New Software will be (i) pursuant to the terms and conditions of this Contract and the applicable Schedule governing the Original Software, (ii) subject to the use restrictions and other limitations for the Original Software in this Contract and applicable Schedule, (iii) granted without the payment of additional fees other than fees for Support which would otherwise be due for the Original Software.

15. **Support Location.** For each Schedule under this Contract, the Contractor must disclose the location(s) where it will perform all Support, the location(s) where any State data applicable to this Contract will be maintained or made available, and the principal place of business for the Contractor and all its subcontractors that may perform Support under this Contract. While performing under this Contract, the Contractor may not change the location(s) where Support is performed or change the location(s) where it maintains or makes the State's data available to a location outside the country of the original location(s) without prior, written approval of the State, which the State is not obligated to provide. Further, each of the Contractor's subcontractors that perform Support under this Contract must agree in writing to and be bound by this and all other provisions of this Contract that inure to the benefit of the State.

PART VI: CONSTRUCTION

1. **Entire Document.** This Contract will apply to all Software that the State acquires from the Contractor during the term of this Contract, unless the parties expressly agree otherwise in a written document signed by the duly authorized representatives of the parties. Furthermore, this Contract, along with the Schedules and Addenda entered into under it, is the entire agreement between the parties with respect to its subject matter, and it supersedes any previous statements or agreements, whether oral or written.

2. **Additional Documents.** All terms and conditions contained in any document not signed by both parties, such as a purchase order, invoice, or a click-wrap license, are excluded from this Contract and will have no legal effect.

3. **Binding Effect.** Subject to the limitations on assignment provided elsewhere in this Contract, this Contract will be binding upon and inure to the benefit of the respective successors and assigns of the State and the Contractor.

4. **Amendments.** No amendment or modification of any provision of this Contract will be effective unless it is in writing and signed by both parties.

5. **Waiver.** The failure of either party at any time to demand strict performance by the other party of any of the terms of this Contract will not be construed as a waiver or a relinquishment of any such term. Either party may at any later time demand strict and complete performance by the other party of such a term.

6. **Severability.** If any provision of this Contract is held by a court of competent jurisdiction to be contrary to applicable law, the remaining provisions of this Contract will remain in full force and effect to the extent that such does not create an absurdity or material injustice.

7. **Plain Meaning.** This Contract must be construed in accordance with the plain meaning of its language and neither for nor against the drafting party.

8. **Headings.** The headings used herein are for the sole sake of convenience and may not be used to interpret any section.

9. **Notices.** For any notice under this Contract to be effective, it must be made in writing and sent to the address of the appropriate party first appearing above, unless that party has notified the other party, in accordance with the provisions of this section, of a new mailing address for notices.

10. **Continuing Obligations.** To the extent necessary to carry out their purpose, the terms of this Contract will survive the termination of this Contract. Some such provisions that require survival to carry out their full intent include the indemnity, warranty, and limitation of liability provisions. Other examples include the confidentiality section, the escrow section, and the grant of Software licenses. Additional provisions include the Support obligations for existing licenses, and the Pricing section with respect to related Software licenses and caps on increases in Support for existing licenses.

11. **Counterparts.** This Contract may be executed simultaneously in two (2) or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

PART VII: LAW AND COURTS

1. **Compliance with Law.** The parties will comply with all applicable federal, state, and local laws in all endeavors under this Contract.

2. **Export Restrictions.** The State may not directly or indirectly export or transmit the Software or Documentation to any country in violation of any applicable US regulation, order, or statute.

3. **UCITA.** The Uniform Computer Information Transactions Act ("UCITA") will not apply to this Contract. To the extent that UCITA, or any version of it that is adopted by any jurisdiction in any form, is applicable, the parties agree to opt out of it pursuant to the opt-out provisions contained therein. Likewise, the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Contract.

4. **Injunctive Relief.** Nothing in this Contract is intended to limit either party's right to injunctive relief if such is necessary to protect its interests or to keep it whole.

5. **Governing Law.** The laws of Ohio will govern this Contract, excluding its laws dealing with conflict of law, and venue for any disputes will lie exclusively with the appropriate court in Franklin County, Ohio.

PART VIII: MISCELLANEOUS

1. **Conflict of Interest.** No Contractor Personnel may voluntarily acquire any personal interest that conflicts with their responsibilities under this Contract. Further, the Contractor will not knowingly permit any Ohio public official or public employee who has any responsibilities related to this Contract to acquire any interest in anything or any entity under the Contractor's control, if such an interest would conflict with that official's or employee's duties. The Contractor will disclose to the State knowledge of any such person who acquires an incompatible or conflicting personal interest related to this Contract. And the Contractor will take steps to ensure that such a person does not participate in any action affecting the work under this Contract. But this will not apply when the State has determined, in light of the personal interest disclosed, that the person's participation in any such action would not be contrary to the public interest.

2. **Assignment.** Neither party may assign this Contract without the prior, written consent of the other party, which the other party will not withhold unreasonably. Any such assignment, unless otherwise agreed in writing, is contingent on the assignee assuming all the assignor's rights and obligations under this Contract.

3. **Independent Status.** Each party is an independent contractor. Neither party will have any authority to bind the other unless expressly agreed in writing. Nothing in this Contract may be construed to create a partnership, agency, or employer-employee relationship between the Contractor and the State, and in no event will the Contractor and the State be deemed joint employers.

4. **Employees.** All Contractor Personnel are employees or contractors of the Contractor, and none are or will be deemed employees or contractors of the State. No Contractor Personnel will be entitled to participate in, claim benefits under, or become an "eligible employee" for purposes of any employee benefit plan of the State by reason of the subject matter of this Contract or work performed under this Contract. The Contractor must pay all federal, state, local, and other applicable payroll taxes and make the required contributions, withholdings, and deductions imposed or assessed under any provision of any law, rule, or regulation and measured by wages, salaries, or other remuneration paid by or which may be due from the Contractor to the Contractor Personnel.

The Contractor will indemnify, defend, and hold the State harmless from and against all claims, losses, liability, demands, fines, and expenses (including court costs, defense costs, and redeemable attorney fees) arising out of or relating to such taxes, withholdings, deductions, and contributions with respect to the Contractor Personnel.

The Contractor's indemnity and defense obligations also apply to any claim or assertion of tax liability made by or on behalf of any Contractor Personnel or governmental agency on the basis that any Contractor Personnel are employees or contractors of the State, that the State is the "joint employer" or "co-employer" of any Contractor Personnel,

or that any Contractor Personnel are entitled to any employee benefit offered only to eligible regular fulltime and regular part-time employees of the State. Notwithstanding the foregoing, any defense of the State requires and is subject to the approval and consent of the Ohio Attorney General.

5. **Publicity.** The Contractor will not advertise or publicize that it is doing business with the State or use this Contract as a marketing or sales tool, unless otherwise agreed to in writing by the State.

6. **Cancellation.** The State may cancel this Contract without cause and on thirty (30) days written notice or at any time if the General Assembly or any other funding source fails to continue funding. But in the case of any license of Software entered before the effective date of the cancellation, the State will have the right to continue such license after termination on the terms contained in this Contract.

7. **Deliveries.** All deliveries will be F.O.B. destination.

8. **EEO.** The Contractor must comply with all Ohio laws, rules, and Executive Orders of the Governor of Ohio regarding equal employment opportunity, including Ohio Revised Code Section 125.111.

9. **Drug Free Workplace.** The Contractor must comply with all applicable Ohio laws regarding maintaining a drug-free workplace. The Contractor will make a good faith effort to ensure that all its employees, while working on the State's property, do not possess and will not be under influence of illegal drugs or alcohol or abuse prescription drugs.

10. **Ohio Ethics Law and Limits on Political Contributions**. The Contractor certifies that it is currently in compliance and will continue to adhere to the requirements of the Ohio ethics laws. The Contractor also certifies that all applicable parties listed in Ohio Revised Code Section 3517.13 are in full compliance with Ohio Revised Code Section 3517.13.

11. **Travel Expenses.** Any travel or living expenses required by the Contractor to do its obligations under this Contract will be at the Contractor's expense. The State will pay for any additional travel that it requests only with prior, written approval. All additional travel and living expenses that the State requests in addition to what this Contract requires the Contractor to provide at the Contractor's expense will be paid in accordance with the Office of Budget and Management's Travel Rules in Section 126-1-02 of the Ohio Administrative Code.

12. **Order of Priority.** If there is any inconsistency or conflict between this Contract and any provision of anything incorporated by reference, this Contract will prevail.

13. **Record Keeping**. The Contractor must keep all financial records in accordance with generally accepted accounting principles consistently applied. The Contractor will file documentation to support each action under this Contract in a manner allowing it to be readily located. And the Contractor will keep all related records and documents at its principal place of business.

14. **Audits.** During the term of this Contract and for three years after the payment of any fee to the Contractor under this Contract, on reasonable notice and during customary business hours, the State may audit the Contractor's records and other materials that relate to this Contract. This audit right will also apply to the State's duly authorized representatives and any person or organization providing the State with financial support related to this Contract.

If any audit reveals any misrepresentation or any overcharge to the State, the State will be entitled to recover damages, as well as the cost of the audit.

16. **Ohio Revised Code Section 9.24.** Contractor warrants that it is not subject to an unresolved finding for recovery under Ohio Revised Code Section 9.24. If this warranty was false on the date the parties signed this State under Revised Code Section 9.24 on any date on which the parties renew or extend this Contract, the renewal or extension will be void.

17. **Declaration Regarding Terrorism.** Pursuant to Ohio Revised Code Section 2909.33, unless Contractor has been pre-certified, the Contractor must complete a Declaration Regarding Material Assistance/non-assistance to Terrorist Organizations ("Declaration") in its entirety to enter into this Contract and to renew it. If the State discovers that the Contractor submitted a false Declaration to obtain this Contract or any renewal of it, this Contract will terminate for cause, and the State will be entitled to the damages specified in this Contract for such a termination. Should this Contract require renewal for completion of any services the Contractor performs under it or for the State to obtain maintenance for any Deliverable acquired during the term of this Contract, the Contractor must submit a new Declaration as part of that process. The Contractor's failure to submit an acceptable Declaration in such a situation will entitle the State to damages as in the case of a termination of this Contract for cause.

18. **Security & Safety Rules.** When using or possessing State data or accessing State networks and systems, the Contractor must comply with all applicable State rules, policies, and regulations regarding data security and integrity. And when on any property owned or controlled by the State, the Contractor must comply with all security and safety rules, regulations, and policies applicable to people on those premises.

TO SHOW THEIR AGREEMENT, the parties have executed this Contract as of the dates appearing below. Further, if the Contractor is subject to an unresolved finding of the Auditor of State, the Contract is void.

FOR THE CONTRACTOR:

FOR STATE OF OHIO
OHIO DEPARTMENT OF ADMINISTRATIVE SERVICES

By: **By:**

Name: **Name:** Robert Blair

Title: **Title:**   Director

Date: **Date:**

PRICE HOLD ADDENDUM NUMBER [0000000.00]

This license addendum ("Addendum") is between the State of Ohio (the "State"), through the Ohio Department of Administrative Services, with offices at 30 East Broad Street, Columbus, Ohio 43215, and *[Company name of the Contractor]* (the "Contractor"), with offices at *[street address, city, state and zip code for the Contractor]*, and is entered into under that certain Master Contract for Software Licensing between the State and the Contractor that is dated *[Date of the Contract]* and numbered [0000000] (the "Contract").

This Addendum does not represent a license of Software. Instead, it provides a price-hold for the Software listed below and permits the State to acquire the Software in exchange for the License Fees and Support Fees listed below. The State is not obligated to license any of the Software listed below, but if it does at any time during the period starting on the date this Addendum is signed and _____ thereafter (Price-hold Period), the State will be entitled to acquire such Software for the Fees specified below. The State may acquire such Software by executing a standard Schedule in the form of that attached to the Contract. The State has the right to acquire some or all of the Software listed below and to acquire the Software in increments during the Price-hold Period using multiple Schedules. Nothing in the Addendum commits the State to any volume of licensing or total expenditure. The State may acquire some, all, or none of the Software in such volumes as it determines during the Price Hold Period.

Software	Copies Delivered	License Type	# of Licenses (E.g., Users)	List License Price	Discount	Actual License Fee*	Support Percentage†	Operating System(s)	Start Date

*The License Fee [ ] does [ ] does not include the Support Fee for the first Support Period for each Software license identified above.
† The Support percentage is based on [ ] list price [ ] discounted price. Any increase in annual maintenance must be equal to or less that the annual increase in the list price of the Software and is subject to the caps specified in the Contract.

License Descriptions

License Type	Description of License
[Insert License Type]	*[Insert License Description]*
[Insert License Type]	*[Insert License Description]*
[Insert License Type]	*[Insert License Description]*
[Insert License Type]	*[Insert License Description]*

LICENSE SCHEDULE NUMBER [0000000.00]

This license schedule ("Schedule") is between the State of Ohio (the "State"), through the Department of Administrative Services, with offices at 30 East Broad Street, Columbus, Ohio 43215 for the beneficial use of *[agency]*, and [*Company name of the Contractor]* (the "Contractor"), with offices at *[street address, city, state and zip code for the Contractor]*, and is entered into under that certain Master Contract for Software Licensing between the State and the Contractor that is dated *[Date of the Contract]* and numbered [0000000] (the "Contract").

Granted Licenses

Software	Copies Delivered	License Type	# of Licenses (E.g., Users)	List License Price	Discount	Actual License Fee*	Support Percentage†	Operating System(s)	Start Date

*The License Fee [   ] does [   ] does not include the Support Fee for the first Support Period for each Software license identified above.

† The Support percentage is based on [   ] list price [   ] discounted price. Any increase in annual maintenance must be equal to or less than the annual increase in the list price of the Software and is subject to the caps specified in the Contract.

License Descriptions

License Type	**Description of License**
[Insert License Type]	*[Insert License Description]*
[Insert License Type]	*[Insert License Description]*
[Insert License Type]	*[Insert License Description]*

Location Information

Service Types	**Locations**

Locations where the Contractor will provide Support:	*[Insert Locations]*
Locations where the Contractor will provide services or keep the State's data or from which the data may be accessed:	*[Insert Locations]*
Locations where any subcontractor will provide support or keep the State's data or from which the data may be accessed:	*[Insert Locations]*

ATTACHMENT ELEVEN
STANDARD AFFIRMATION AND DISCLOSURE FORM

EXECUTIVE ORDER 2011-12K

Governing the Expenditure of Public Funds on Offshore Services

All of the following provisions must be included in all invitations to bid, requests for proposals, state term schedules, multiple award contracts, requests for quotations, informal quotations, and statements of work. This information is to be submitted as part of the response to any of the procurement methods listed.

By the signature affixed hereto, the Contractor affirms, understands and will abide by the requirements of Executive Order 2011-12K. If awarded a contract, both the Contractor and any of its subcontractors shall perform no services requested under this Contract outside of the United States.

The Contractor shall provide all the name(s) and location(s) where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information may subject the Contractor to sanctions. If the Contractor will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal location of business of Contractor:

   _____   _____
   (Address)   (City, State, Zip)

   Name/Principal location of business of subcontractor(s):

   _____   _____
   (Name)   (Address, City, State, Zip)

   _____   _____
   (Name)   (Address, City, State, Zip)

2. Location where services will be performed by Contractor:

   _____   _____
   (Address)   (City, State, Zip)

   Name/Location where services will be performed by subcontractor(s):

   _____   _____
   (Name)   (Address, City, State, Zip)

   _____   _____
   (Name)   (Address, City, State, Zip)

3. Location where state data will be stored, accessed, tested, maintained or backed-up, by Contractor:

   _____   _____
   (Address)   (Address, City, State, Zip)

   Name/Location(s) where state data will be stored, accessed, tested, maintained or backed-up by subcontractor(s):

_____	_____
(Name)	(Address, City, State, Zip)
_____	_____
(Name)	(Address, City, State, Zip)
_____	_____
(Name)	(Address, City, State, Zip)
_____	_____
(Name)	(Address, City, State, Zip)
_____	_____
(Name)	(Address, City, State, Zip)

Contractor also affirms, understands and agrees that Contractor and its subcontractors are under a duty to disclose to the State any change or shift in location of services performed by Contractor or its subcontractors before, during and after execution of any Contract with the State. Contractor agrees it shall so notify the State immediately of any such change or shift in location of its services. The State has the right to immediately terminate the contract, unless a duly signed waiver from the State has been attained by the Contractor to perform the services outside the United States.

On behalf of the Contractor, I acknowledge that I am duly authorized to execute this Affirmation and Disclosure form and have read and understand that this form is a part of any Contract that Contractor may enter into with the State and is incorporated therein.

By: _____
      Contractor

Print Name: _____

Title: _____

Date: _____

ATTACHMENT TWELVE

COST SUMMARY

Commercial Software Product	
Commercial Software Product Name:	Total License Cost
Type License:	$
License Count/Structure:	
Tasks and Deliverables	**Cost**
Task 1 – Project Management Activities	$
Task 2 – Database/Portal Creation for Ohio	$
Task 3 – System Testing	$
Task 4 – Migration of Legacy Trauma Data	$
Task 5 – Training	$
Task 6 – User Acceptance Testing	$
Total Cost for Tasks 1-6	$

Task 7 - Annual Software Maintenance & Support for First Five Years				
1st Year	2nd Year	3rd Year	4th Year	5th Year
Warranty	Warranty	Warranty	$	$
Total Task 7 - Annual Software Maintenance & Support – Costs:				$
Total Cost for (Tasks 1 – 7):				$

System Hosting				
1st Year	2nd Year	3rd Year	4th Year	5th Year
$	$	$	$	$
Total Cost for System Hosting				$

EMS Trauma Registry Solution	
Total Not-to-Exceed Fixed Price (Total License Cost, Cost for Tasks 1-7, and Cost for System Hosting)	$

Note: The Total Not-to-Exceed Fixed Price for this project cannot exceed $600,000. This includes all components of the scope of work, the 36-month warranty and 5 years of System Hosting.