

CALIFORNIA MULTIPLE AWARD SCHEDULES (CMAS) SPECIAL PROVISIONS – INFORMATION TECHNOLOGY GOODS AND SERVICES

DEFINITIONS:

Unless otherwise specified in the Statement of Work or context requires otherwise, the following terms shall be given the meaning shown.

- a) **"Agreement"** means an Agreement issued by the CMAS unit, based on pricing, products and/or services assessed and awarded on a Federal General Services Administration schedule or bid, or awarded on another accepted multiple award contract.
- b) **"Attachment"** means a mechanical, electrical, or electronic interconnection to the Contractor-supplied Machine or System of Equipment, manufactured by other than the original Equipment manufacturer that is not connected by the Contractor.
- c) **"Equipment"** is an all-inclusive term which refers either to individual Machines or to a complete data processing system or subsystem, including its hardware and operating software (if any).
- d) **"Information Technology"** includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video, and data communications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.
- e) **"Machine"** means an individual unit of a data processing system or subsystem, separately identified by a type and/or model number, comprised of but not limited to mechanical, electro-mechanical, and electronic parts, microcode, and special features installed thereon and including any necessary software, e.g., central processing unit, memory module, tape unit, card reader.
- f) **"Operating Software"** means those routines, whether or not identified as Program Products, that reside in the Equipment and are required for the Equipment to perform its intended function(s), and which interface the operator, other Contractor-supplied programs, and user programs to the Equipment.
- g) **"Programming Aids"** means Contractor-supplied programs and routines executable on the Contractor's Equipment which assists a programmer in the development of applications including language processors, sorts, communications modules, data base management systems, and utility routines (tape-to-disk routines, disk-to-print routines, etc.).
- h) **"Program Product"** means programs, routines, subroutines, and related items which are proprietary to the Contractor and which are licensed to the State for its use, usually on the basis of separately stated charges and appropriate contractual provisions.

1. CMAS - ORDER OF PRECEDENCE:

In the event of any inconsistency between the articles, attachments, specifications, or provisions which constitute the CMAS Agreement, the following order of precedence shall apply:

- a) IT General Provisions
- b) Contract form, i.e., Purchase Order STD 65, FiSCal contract/order, and any amendments thereto;
- c) These CMAS Special Provisions – Information Technology
- d) Other Special Provisions;
- e) Federal GSA (or other multiple award contract) terms and conditions;

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- f) Statement of work, including any specifications incorporated by reference herein;
- g) Cost worksheets; and
- h) All other attachments incorporated in the Contract by reference.

2. CMAS - CONTRACTOR'S LICENSE REQUIREMENTS:

Contracts that include installation or the wording "Furnish and Install" require at the time of Contract award that Contractors possess a valid California State Contractor's License. If subcontractors are used, they must also possess a valid California State Contractor's License. All businesses which construct or alter any building, highway, road, parking facility, railroad, excavation, or other structure in California must be licensed by the Contractors State License Board (CSLB) if the total cost (labor and materials) of the project is \$500 or more. Failure to be licensed or to keep the license current and in good standing shall be grounds for Contract revocation.

3. CMAS - PUBLIC WORKS REQUIREMENTS (LABOR/INSTALLATION):

Prior to the commencement of performance, the Contractor must obtain and provide to the State, a payment bond, on Standard Form 807, when the Contract involves a public works expenditure (labor/installation costs) in excess of \$5,000. Such bond shall be in a sum not less than 100 percent of the Contract price.

4. CMAS - TERMINATION OF CMAS AGREEMENT

- a) The State may terminate a CMAS Agreement at any time upon 30 days prior written notice.
- b) Upon termination or other expiration of an Agreement, each party will assist the other party in orderly termination of the Agreement and the transfer of all assets, tangible and intangible, as may facilitate the orderly, nondisrupted business continuation of each party

This provision shall not relieve the Contractor of the obligation to perform under any purchase order or other similar ordering document executed prior to the termination becoming effective.

6. CMAS - DEBARMENT CERTIFICATION (FEDERALLY FUNDED CONTRACTS):

When federal funds are being expended, the prospective recipient of federal assistance funds is required to certify to the Buyer that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

7. CMAS - PURCHASE ORDERS FUNDED IN WHOLE OR PART BY THE FEDERAL GOVERNMENT:

All Contracts which are funded in whole or in part by the federal government may be canceled with 30 days' notice, and are subject to the following:

- a) It is mutually understood between the parties that this Contract f may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Contract f were executed after that determination was made.
- b) This Contract f is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal year during which the order was generated for

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the purposes of this program. In addition, this Contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress that may affect the provisions, terms or funding of this Contract f in any manner.

- c) It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Contract f shall be amended to reflect any reduction in funds. The department has the option to void the Contract f under the 30-day cancellation clause or to amend the Contract to reflect any reduction of funds.

8. CMAS - RENTAL AGREEMENTS:

The State does not agree to:

- Indemnify a Contractor;
- Assume responsibility for matters beyond its control;
- Agree to make payments in advance;
- Accept any other provision creating a contingent liability against the State; or
- Agree to obtain insurance to protect the Contractor.

The State's responsibility for repairs and liability for damage or loss is restricted to that made necessary by or resulting from the negligent act or omission of the State or its officers, employees, or agents.

If the Contractor maintains the equipment, the Contractor must keep the equipment in good working order and make all necessary repairs and adjustments without qualification. The State may terminate for default or cease paying rent should the Contractor fail to maintain the equipment properly.

Personal property taxes are not generally reimbursed when leasing equipment (SAM 8736).

9. CMAS - PROGRESS PAYMENTS & RISK ASSESSMENT:

In accordance with PCC 12112, agencies are required to withhold not less than 10 percent of the Contract price until final delivery and acceptance of the Goods or services, for any Contract that provides for progress payments in a Contract for IT Goods or services to be manufactured or performed by a Contractor especially for the State and not suitable for sale to others in the ordinary course of the Contractor's business.

Interim risk assessment guidelines and financial protection measures are detailed in PCC 12112 for agencies to use to determine their applicability to agency projects.

11. CMAS - CONTRACTOR EVALUATION:

In accordance with PCC 10367 and 10369, performance of the Contractor under orders issued against this Contract will be evaluated. The ordering agency shall complete a written evaluation, and if the Contractor did not satisfactorily perform the work specified, a copy of the evaluation will be sent to the DGS Procurement Division.