



State of West Virginia
 Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

Purchase Order

PURCHASE ORDER NO
ITECH06P

PAGE
1

BLANKET RELEASE
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CORRECT PURCHASE ORDER NUMBER
 MUST APPEAR ON ALL PACKAGES,
 INVOICES, AND SHIPPING PAPERS.
 QUESTIONS CONCERNING THIS PUR-
 CHASE ORDER SHOULD BE DIRECTED
 TO THE BUYER AS NOTED BELOW.

CHANGE ORDER

SEE REVERSE SIDE FOR
 TERMS AND CONDITIONS

INVOICE TO

ALL STATE AGENCIES
 AND POLITICAL SUBDIVISIONS
 VARIOUS LOCALES AS INDICATED
 BY ORDER

AGENCY COPY

VENDOR

*131122820 614-777-2082
 MAXIMATION LLC
 2257A WESTBROOKE DR
 BLDG H
 COLUMBUS OH 43228

SHIP TO

ALL STATE AGENCIES
 AND POLITICAL SUBDIVISIONS
 VARIOUS LOCALES AS INDICATED
 BY ORDER

DATE PRINTED		TERMS OF SALE		FEIN/SSN		FUND	
08/27/2006		NET 30		311580958			
SHIP VIA		F.O.B		FREIGHT TERMS		ACCOUNT NUMBER	
BEST WAY		DESTINATION		PREPAID		MUL-MUL	
LINE	QUANTITY	UOP	VENDOR ITEM NO	UNIT PRICE		AMOUNT	
	DELIVERY DATE	CAT.NO.	ITEM NUMBER				
STATEWIDE BLANKET OPEN-END CONTRACT							
THIS CONTRACT IS TO PROVIDE TEMPORARY STAFFING WITH COMPUTER TECHNICAL EXPERTISE AND TO PROVIDE TECHNOLOGY SERVICES FOR PROJECTS TO ALL WEST VIRGINIA STATE AGENCIES AND POLITICAL SUBDIVISIONS, PER THE ATTACHED.							
THIS AWARD IS PER THE FOLLOWING:							
1. REQUEST FOR PROPOSAL DATED FEBRUARY 2, 2006 AND ALL ADDENDA THERETO							
2. REQUEST FOR PROPOSAL SPECIFICATIONS, 32 PAGES							
3. ITECH06P CONTRACT ATTACHMENTS							
4. VENDOR'S PROPOSAL DATED MARCH 13, 2006							
RELEASE ORDERS FOR ALL WORK THROUGH THIS CONTRACT SHALL BE SECURED VIA A SECONDARY BIDDING PROCESS. THE REQUESTING AGENCY SHALL DESCRIBE WHO, WHAT, WHEN AND WHERE, ANTICIPATED START AND END DATES, DELIVERABLES, AND TIMELINES. THIS BIDDING PROCESS SHALL BE CONDUCTED THROUGH THE OFFICE OF TECHNOLOGY.							
THE EXACT PROCESS SHALL BE POSTED ON THE WEBSITE WITH THE CONTRACTS AWARDED FOR ITECH06.							
WV State Purchasing Division Administration Unit Certified Encumbered SEP 01 2006 <i>Jenkins</i>						OPEN END	
						TOTAL	

IF APPROVAL AS TO FORM IS REQUIRED BY ATTORNEY GENERAL, CHECK HERE *131122820*

APPROVED FOR
 ONE FISCAL YEAR
Dwayne Wayfield

BETTY FRANCISCO 304-558-0468

BY *[Signature]*
 PURCHASING DIVISION AUTHORIZED SIGNATURE

APPROVED AS TO FORM BY
 ASSISTANT ATTORNEY GENERAL

**GENERAL TERMS & CONDITIONS
PURCHASE ORDER/CONTRACT**

1. **ACCEPTANCE:** Seller shall be bound by this order and its terms and conditions upon receipt of acceptance of this order.
2. **APPLICABLE LAW:** The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
3. **NON-FUNDING:** All services performed or goods delivered under State Purchase Orders/Contracts are to be continued for the terms of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
4. **COMPLIANCE:** Seller shall comply with all Federal, State and local laws, regulations and ordinances including, but not limited to, the prevailing wage rates of the WV Division of Labor.
5. **MODIFICATIONS:** This writing is the parties final expression of intent. No modification of this order shall be binding unless agreed to in writing by the Buyer.
6. **ASSIGNMENT:** Neither this Order nor any monies due, or to become due hereunder may be assigned by the Seller without the Buyer's consent.
7. **WARRANTY:** The Seller expressly warrants that the goods and/or services covered by this Order will: [a] conform to the specifications, drawings, samples or other description furnished or specified by the Buyer; [b] be merchantable and fit for the purpose intended; and/or [c] be free from defect in material and workmanship.
8. **CANCELLATION:** The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the Seller.
9. **SHIPPING, BILLING & PRICES:** Prices are those stated in this order. No price increase will be accepted without written authority from the Buyer. All goods or services shall be shipped on or before the date specified in this Order.
10. **LATE PAYMENTS:** Payments may only be made after the delivery of goods or services. Interest may be paid on late payments in accordance with the *West Virginia Code*.
11. **TAXES:** The State of West Virginia is exempt from Federal and State taxes and will not pay or reimburse such taxes.
12. **RENEWAL:** Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
13. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, this Contract is automatically null and void, and is terminated without further order.
14. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, and available online at the Purchasing Division's web site (<http://www.state.wv.us/admin/purchase/vrc/hipaa.htm>) is hereby made part of the agreement. Provided that, the Agency meets the definition of a Covered Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.

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	DELIVERY DATE	CAT.NO.	ITEM NUMBER				
0001	08/31/2006	EA	964-30		0.00000		
TECHNICAL SUPPORT EXHIBIT 3 LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE ON SEPTEMBER 1, 2006 AND EXTENDS FOR A PERIOD OF ONE (1) YEAR OR UNTIL SUCH "REASONABLE TIME" THEREAFTER AS IS NECESSARY TO OBTAIN A NEW CONTRACT OR RENEW THE ORIGINAL CONTRACT. THE "REASONABLE TIME" PERIOD SHALL NOT EXCEED TWELVE (12) MONTHS. DURING THIS "REASONABLE TIME" THE VENDOR MAY TERMINATE THIS CONTRACT FOR ANY REASON UPON GIVING THE DIRECTOR OF PURCHASING 30 DAYS WRITTEN NOTICE. UNLESS SPECIFIC PROVISIONS ARE STIPULATED ELSEWHERE IN THIS CONTRACT DOCUMENT, THE TERMS, CONDITIONS AND PRICING SET HEREIN ARE FIRM FOR THE LIFE OF THE CONTRACT. RENEWAL: THIS CONTRACT MAY BE RENEWED UPON THE MUTUAL WRITTEN CONSENT OF THE SPENDING UNIT AND VENDOR, SUBMITTED TO THE DIRECTOR OF PURCHASING THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE. SUCH RENEWAL SHALL BE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND SHALL BE LIMITED TO TWO (2) ONE							
IF APPROVAL AS TO FORM IS REQUIRED BY ATTORNEY GENERAL, CHECK HERE <input type="checkbox"/>						TOTAL	

BETTY FRANCISCO 304-558-0468

BY _____
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	(1) YEAR PERIODS.						
	<p>CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICES SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM TO THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.</p> <p>OPEN MARKET CLAUSE: THE DIRECTOR OF PURCHASING MAY AUTHORIZE A SPENDING UNIT TO PURCHASE ON THE OPEN MARKET, WITHOUT THE FILING OF A REQUISITION OR COST ESTIMATE, ITEMS SPECIFIED ON THIS CONTRACT FOR IMMEDIATE DELIVERY IN EMERGENCIES DUE TO UNFORESEEN CAUSES (INCLUDING BUT NOT LIMITED TO DELAYS IN TRANSPORTATION OR AN UNANTICIPATED INCREASE IN THE VOLUME OF WORK.)</p> <p>QUANTITIES: QUANTITIES LISTED IN THE REQUISITION ARE APPROXIMATIONS ONLY, BASED ON ESTIMATES SUPPLIED BY THE STATE SPENDING UNIT. IT IS UNDERSTOOD AND AGREED THAT THE CONTRACT SHALL COVER THE QUANTITIES ACTUALLY ORDERED FOR DELIVERY DURING THE TERM OF THE CONTRACT, WHETHER MORE OR LESS THAN THE QUANTITIES SHOWN.</p>						
IF APPROVAL AS TO FORM IS REQUIRED BY ATTORNEY GENERAL, CHECK HERE <input type="checkbox"/>							
						TOTAL	

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<p>ORDERING PROCEDURE: SPENDING UNIT(S) SHALL ISSUE A REQUEST TO IS&C TO REQUEST EITHER TEMPORARY SERVICES OR AN IT PROJECT. IF IS&C APPROVES THE REQUEST, IT SHALL BE BID TO THE VENDORS AWARDED A CONTRACT TO DETERMINE WHICH OF THE CONTRACT HOLDERS ARE AWARDED THE WORK ON THAT REQUEST.</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THIS CONTRACT IS AUTOMATICALLY NULL AND VOID, AND IS TERMINATED WITHOUT FURTHER ORDER.</p> <p>THE TERMS AND CONDITIONS CONTAINED IN THIS CONTRACT SHALL SUPERSEDE ANY AND ALL SUBSEQUENT TERMS AND CONDITIONS WHICH MAY APPEAR ON ANY ATTACHED PRINTED DOCUMENTS SUCH AS PRICE LISTS, ORDER FORMS, SALES AGREEMENTS OR MAINTENANCE AGREEMENTS, INCLUDING ANY ELECTRONIC MEDIUM SUCH AS CD-ROM.</p> <p>PURCHASING CARD ACCEPTANCE: THE STATE OF WEST VIRGINIA CURRENTLY UTILIZES A VISA PURCHASING CARD PROGRAM WHICH IS ISSUED THROUGH A LOCAL BANK. THE SUCCESSFUL VENDOR</p>					
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	MUST ACCEPT THE STATE OF WEST VIRGINIA VISA PURCHASING CARD FOR PAYMENT OF ALL ORDERS PLACED BY ANY STATE AGENCY FOR ORDERS THAT ARE LESS THAN \$2,500 AS A CONDITION OF AWARD.				
IF APPROVAL AS TO FORM IS REQUIRED BY ATTORNEY GENERAL, CHECK HERE <input type="checkbox"/>					TOTAL

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I. **Contract Scope**

Potential users of this contract may include state agencies, community colleges, institutions, counties, municipalities, public schools, and other local government entities.

Two types of services will be provided under this contract, Supplemental Staffing and technology services.

A. Supplemental Staffing is intended to provide temporary replacements for in-house state employees, to augment current work overages, or to obtain specific technical expertise that the agency requires. Supplemental Staffing is to be used for contractors working 1,000 hours or less in any one 12-month period. The supplemental staffing service categories are described in Attachment 1 of this contract.

Supplemental Staffing categories covered by this contract:

- Web Programming
- PC Programming
- Mainframe Programming
- Computer Systems Analysis
- Computer Systems/Network Security
- Database Management
- Desktop Support
- GIS Services
- Help Desk Support
- IT Support Staff – Operations
- LAN/WAN Support
- Electronic Commerce/EDI
- Project Management Services
- Portal Architect

Staffing provided under the Supplemental Staffing portion of this contract must be eligible for State employment, e.g., be a US Citizen. This does not mean that the contractor will become a State employee, but if the agency and the contractor wish to consider this option, the contractor must be eligible and qualified to meet the requirements of the Division of Personnel for full-time employment, free from penalties and fees from the vendor.

B. Technology Services are intended to provide IT services for projects. A project is defined as having a pre-determined set of deliverables and expectations along with a set time period. For this proposal projects will

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be limited to no longer than 24 months with a cost of not more than \$2M. Projects of longer length will be bid under their own proposal through the State Purchasing division. The State has identified certain needs for technical specialty services. The technical specialty services as awarded are described in the Attachments to this contract.

Project-Based Technology Services covered by this contract

Electronic Commerce – Web-based Development

By awarding of this contract, the vendor is eligible to submit bids on the agencies' subsequent needs for the categories covered by this contract.

When an agency has a need for Technology Services, the Office of Technology will issue a Statement of Work to those vendors eligible in that category. The eligible vendors will submit responses and the agency and the Office of Technology will evaluate the responses based on a "Best Value" analysis, i.e., training, experience, soft skills, and cost. We expect the procurement process to be expedited to meet the requirements of the State agencies.

The State makes no commitment to acquire any services under this contract. The need for technical services is however, genuinely anticipated.

II. OPERATING ENVIRONMENT

A. Location: The Office of Technology is located at One Davis Square, Charleston, WV 25301. Vendor shall perform work at facilities statewide, under the oversight of this office.

B. Background: Under the procurement process, vendors have become pre-qualified to provide supplemental staffing and project based IT services, and agencies will use a simplified process to select the best business solution from this list of pre-approved IT-service providers. A project is defined as having a pre-determined set of deliverables and expectations along with a set time period. For this proposal, projects will be limited to no longer than 24 months or no more than \$2M. Projects of longer length or more costly will be bid under their own proposal through the State Purchasing division.

When an agency has a business need, a Statement of Work (SOW) will be drafted showing a requisition number and a signature showing the approval authority. That SOW is then submitted to the pre-qualified vendors in the appropriate category. Vendor responses will be evaluated based on the factors provided in the SOW. The evaluation will consider the technical capabilities, i.e., training, experience, and possibly certifications; soft skills; and cost. The agency

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will evaluate using the vendor's proposal as well as interviews, either via telephone or in person.

The Chief Technology Officer reserves the right to review and approve/disapprove each Statement of Work, as well as a project prior to award.

Use of this contract is mandatory for all agencies under the Governor's jurisdiction requiring IT services above and beyond those available within state government, regardless of the dollar amount. The Chief Technology Officer may grant a waiver to this requirement. This contract will also be available for use by those agencies that are outside the jurisdiction of the Governor, i.e., higher education, elected officials, county and local governments.

The State reserves the right to contract for technical specialty services from other sources, if the skills required exceed those specified in this contract, or if the project definition incorporates specific skill requirements and time constraints that cannot be met by the vendors under this contract. It is anticipated that this option will be utilized only under extraordinary circumstances.

Contract holder shall provide a summary of the previous month's activities by the 10th working day of the following month by submitting a "Monthly Activity Report" document (Exhibit 1) to the Technical Services Contract Manager. Failure to submit the Monthly Activity Report for 2 consecutive months may lead to loss of eligibility status.

III. **SPECIFICATIONS - General Requirements:**

Statewide Contract

This contract provides state agencies with an opportunity to obtain IT Services from qualified vendors. Contracts are awarded to vendor(s), by technology category. All pre-qualified vendors will compete for individual projects requested by State agencies.

- A. **Description** – The vendor has been awarded this contract to provide directly, or through subcontractors, services categories described in Attachments to this contract.
- B. **Responsibility and Work Distribution** – Vendor agrees to take full responsibility for all assigned projects and relationships with subcontractors, if applicable.
- C. **Hardware/Software Sales** – Vendor shall not offer for sale any hardware or software under this contract.

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- D. **Work Products and Reports** – Ownership of all data systems, programs, materials, and documentation originated and prepared for the State pursuant to the work performed under this contract shall belong exclusively to the State. All associated reports shall become the property of the State of West Virginia.
- E. **Training** – Vendor shall ensure that its employees are fully trained to properly perform their duties.
- F. **Workspace** – The State may provide workspace and facilities for vendor personnel. Vendor's personnel must conform to the work procedures, safety and security policies applicable to these State facilities. An agency may request, as part of the Scope Statement, that the vendor provide workspace and facilities for its employees, agents and contractors.
- G. **Equipment** – The State may provide data processing equipment and computer resources to meet the project requirements. An agency may request, as part of the SOW, that the vendor provide equipment and computer resources for its employees, agents and contractors. As previously stated, no costs associated with the purchase of hardware or software shall be charged to the State, under the terms and conditions of this agreement.
- H. **Knowledge Transfer** – For some work efforts, the State will build teams composed of both vendor staff and agency staff so that, over the life of a project, the vendor's resources are augmented with internal State resources, working side-by-side, to bring together the knowledge of the application and the State's environment. By using existing and/or new State personnel throughout the development and implementation process, the State can begin the knowledge transfer process early in the project and develop the skills needed to sustain subsequent phases of the project after the vendor's supplemental staff has completed their task. Vendors shall ensure that this knowledge transfer process is available when requested by an agency.
- I. **Copyright of Data** – The Contractor may not publish or copyright any data related to or gained through the work described herein without prior approval. The State shall have the right to publish, duplicate, use and disclose all such data in any manner, and for any purpose whatsoever, and may authorize others to do so. "Data" shall mean all results, technical information and materials developed and/or obtained in the performance of the services hereunder, including but not limited to, all reports, surveys, plans, charts, recordings (video and/or sound), pictures, drawings,

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analyses, source and object code, graphic representations, computer programs and printouts, notes and memoranda, and documents whether finished or unfinished, which result from or are prepared in connection with the services performed hereunder. All "Data" becomes the property of the State of West Virginia.

- J. **Project Definition** - A project is defined as having a pre-determined set of deliverables and expectations along with a set time period. For this contract, projects will be limited to no longer than 24 months and costing no more than \$2M. Projects of longer length will be bid under their own proposal through the State Purchasing division process.
- K. **Staffing Services** - Any staffing services provided under the Supplemental Staffing portion of this contract must be eligible for State employment, e.g., be a US Citizen. This does not mean that the contractor will become a State employee, but if the agency and the contractor wish to consider this option, the contractor must be eligible and qualified to meet the requirements of the Division of Personnel for full-time employment.
- L. **Responsibility for Work** - The vendor is responsible for checking the credentials, training, and experience of a contractor prior to assigning them to a State project. If a contractor is sent that does not meet the mandatory requirements of the Statement of Work, a Vendor Complaint will be filed and the vendor may be ineligible for future procurements.
- M. **Confidentiality Statement** - The contractor will be required to sign a confidentiality statement prior to beginning work. The vendor may be required to do specific background checks on contractors based on the requirements of the Statement of Work.

IV. Ordering Requirements and Procedures:

- A. **Statement of Work** - The agency will prepare a Statement of Work (SOW) describing the work that needs to be completed and the requirements.
- B. **Supplemental Staffing** (up to 1,000 hours in any 12-month period):

Approved vendors will compete for individual staffing needs based on criteria developed by the agency and submitted to the Office of Technology. The agency will complete a Statement of Work (SOW) explaining the basic training and skill sets required. This SOW will contain the purchase order number as well as an authorized signature. The SOW

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will be advertised on the Office of Technology Bulletin Board for 5 business days. Vendors that are pre-qualified to bid on the classifications requested will respond with a resume and an hourly rate. All vendor responses will be reviewed to determine if the bid meets the mandatory requirements of the SOW. The agency will then schedule an in-person interview with each of the viable candidates with the understanding that a telephone or video conference interview may be acceptable in certain circumstances. The agency will then evaluate the responses based on the criteria annotated in the SOW. After award, the agency will complete a Release Order (WV-39) and send it to the vendor with a copy to the Office of Technology.

Staffing provided under the Supplemental Staffing portion of this contract must be eligible for State employment, e.g., be a US Citizen. This does not mean that the contractor must be on a Division of Personnel register or must become a State employee, but if the agency and the contractor wish to consider this option, the contractor must be eligible and qualified to meet the requirements of the Division of Personnel for full-time employment.

C. Technical Services (Project-based with a start date and stop date, deliverables, with a duration under 24 months and not to exceed \$2M)

Approved vendors will compete for staffing needs for projects based on criteria developed by the agency and submitted to the Office of Technology. The agency will complete a Statement of Work (SOW) providing a description of the project, the start and stop dates, the deliverables expected, and the basic training and skill sets required. The SOW will contain the purchase order as well as an authorized signature. The SOW will be advertised on the Office of Technology Bulletin Board for 10 business days. Vendors that are pre-qualified to bid on the classifications requested will respond with a proposal, a resume and a not to exceed bid price. All vendor responses will be reviewed to determine if the bid meets the mandatory requirements of the SOW. The agency will then schedule a telephone interview with each of the viable people, with the understanding that the agency may request an in-person interview. The agency will then evaluate the responses based on the criteria annotated in the SOW. After the evaluation is complete, the agency will complete a Release Order (WV-39) and send it to the vendor with a copy to the Office of Technology.

Please note that individual Scope Statements posted on the website are only open to eligible pre-qualified vendors to whom a contract has been awarded through the RFP process.

D. Subcontractors, etc.

Vendor agrees that this language of certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this contract was made and entered into.

Vendor Relationship:

1. The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by the parties to this contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents.
2. Vendor shall be responsible for selecting, supervising and compensating any and all individuals employed pursuant to the terms of the RFP and this resulting contract. Neither the Vendor nor any employees or contractors of the vendor shall be deemed to be employees of the State for any purposes whatsoever.
3. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension or other deferred compensation plans, including but not limited to Workers' Compensation and Social Security obligations, and licensing fees, etc. and the filing of all necessary documents, forms and returns pertinent to all of the foregoing.
4. Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including but not limited to the foregoing payments, withholdings, contributions, taxes, social security taxes and employer income tax returns.
5. The Vendor shall not assign, convey, transfer or delegate any of its responsibilities and obligations under this contract to any person, corporation, partnership, association or entity without expressed written consent of the State or Agency.

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6. The vendor, its employees and agents, are prohibited from copyrighting any papers, reports, forms or other materials, and from obtaining any patent on any invention or other discovery resulting solely from its performance under the terms and conditions of this contract.

7. All materials generated under an order resulting from this contract shall be considered work made for hire. The State shall have all rights, title and interest in or to all products, work plans, project reports, designs, programs, data and data bases and documentation developed or generated under this contract, including, without limitation; unlimited rights to use, duplicate, modify or disclose any part thereof, in any manner and for any purpose and the right to permit or prohibit any other person, including the Vendor, from doing so. To the extent the Vendor may be deemed at any time to have any of the foregoing rights, the Vendor agrees to irrevocably assign such rights to the State.

8. Vendor shall warrant that all documentation provided under this contract shall be of sufficient quality and detail to pass without objection in the trace, and to enable outside parties and agency staff to maintain or modify the materials generated hereunder. Such warranty shall extend beyond the date of final acceptance of materials generated hereunder for a period of one (1) year.

9. Vendor may be required to perform a background check on contractors at the request of the agency. Such requirement will be noted in the Statement of Work.

E. Indemnification:

The Vendor agrees to indemnify, defend and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person or firm performing or supplying services, materials or supplies in connection with the performance of the contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use or disposition of any data used under the contract in a manner not authorized by the contract, or by Federal or State statutes or regulations; (3) Any failure of the Vendor, its officers, employees or subcontractors to observe State and Federal laws,

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including, but not limited to, labor and wage laws.

F. Contract Provisions:

The order of precedence is the contract, the RFP and the Vendor's proposal in response to the RFP.

G. Governing Law:

This contract shall be governed by the laws of the State of West Virginia. The Vendor further agrees to comply with the Civil Rights Act of 1964 and all other applicable (Federal, State or Local Government) regulations.

H. Compliance with Laws and Regulations:

The vendor shall procure all necessary permits and licenses to comply with all applicable laws, Federal, State or municipal, along with all regulations, and ordinances of any regulating body.

The Vendor shall pay any applicable sales, use, or personal property taxes arising out of this contract and the transactions contemplated thereby. Any other taxes levied upon this contract, the transaction, or the equipment, or services delivered pursuant here to shall be borne by the contractor. It is clearly understood that the State of West Virginia is exempt from any taxes regarding performance of the scope of work of this contract.

I. Subcontracts/Joint Ventures:

The Vendor is solely responsible for all work performed under the contract and shall assume prime contractor responsibility for all services offered and products to be delivered under the terms of this contract. The State will consider the Vendor to be the sole point of contact with regard to all contractual matters. The Vendor may, with the prior written consent of the State, enter into written subcontracts for performance of work under this contract; however, the vendor is totally responsible for payment of all subcontractors.

J. Term of Contract & Renewals:

This contract will be effective September 1, 2006 and shall extend for the period of one (1) year, at which time the contract may, upon mutual consent, be renewed. Such renewals are for a period of up to one (1) year, with a maximum of two (2) one year renewals, or until such

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reasonable time thereafter as is necessary to obtain a new contract. The "reasonable time" period shall not exceed twelve (12) months. During the "reasonable time" period the vendor may terminate the contract for any reason upon giving the Agency ninety (90) days written notice. Notice by Vendor of intent to terminate will not relieve Vendor of the obligation to continue to provide services pursuant to the terms of the contract.

After the ITECH06 process is complete and contracts awarded, the State may issue a RFP for additional vendors to supply these services. Additional qualified vendors shall be issued contracts at that time. The vendors who are awarded contracts through the ITECH06 process shall not be affected. At this time, the State has not decided how or if this process will work.

Any change in Federal or State law, or court actions which constitute binding precedent in West Virginia, and which significantly alters the Vendor's required activities, or any change in the availability of funds, shall be viewed as binding and shall warrant good faith renegotiation of the compensation paid to the Vendor by the Agency and of such other provisions of the contract that are affected. If such renegotiation proves unsuccessful, the contract may be terminated by the State upon written notice to the Vendor at least thirty (30) days prior to termination of this contract.

K. Non-Appropriation of Funds:

If the Agency is not allotted funds in any succeeding fiscal year or the continued use of the service covered by this contract by the West Virginia Legislature, the Agency may terminate the contract at the end of the affected current fiscal period without further charge or penalty. The Agency shall give the vendor written notice of such non-allocation of funds as soon as possible after the Agency receives notice. No penalty shall accrue to the Agency in the event this provision is exercised.

L. Contract Termination:

The State may terminate this contract resulting immediately at any time the Vendor fails to carry out its responsibilities or to make substantial progress under the terms of the RFP and this resulting contract. The State shall provide the Vendor with advance notice of performance conditions which are endangering the contract's continuation. If after such notice the Vendor fails to remedy the conditions contained in the notice, within the time period contained in the notice, the State shall issue the Vendor an order to cease and desist any and all work immediately. The State shall be

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obligated only for services rendered and accepted prior to the date of the notice of termination.

The contract may also be terminated upon mutual agreement of the parties with thirty (30) days prior notice.

M. Changes:

If changes to the original contract become necessary, a formal contract change order will be negotiated by the State, the Agency and the Vendor, to address changes to the terms and conditions, costs of work included under the contract. An approved contract change order is defined as one approved by the Purchasing Division and approved as to form by the West Virginia Attorney General's Office, encumbered and placed in the U.S. Mail prior to the effective date of such amendment. An approved contract change order is required whenever the change affects the payment provision and/or the scope of the work. Such changes may be necessitated by new and amended Federal and State regulations and requirements.

As soon as possible after receipt of a written change request from the Agency, but in no event more than thirty (30) days thereafter, the Vendor shall determine if there is an impact on price with the change requested and provide the Agency a written statement to identifying any price impact on the contract or to state that there is no impact. In the event that price will be impacted by the change, the Vendor shall, provide a description of the price increase or decrease involved in implementing the requested change.

NO CHANGE SHALL BE IMPLEMENTED BY THE VENDOR UNTIL SUCH TIME AS THE VENDOR RECEIVES AN APPROVED WRITTEN CHANGE ORDER.

N. Invoices, Progress Payments, & Retainage:

Supplemental Staffing: The Vendor shall submit monthly invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To" pursuant to the terms of the contract.

Technology Services: Progress payments may be made at the option of the Agency on the basis of percentage of work completed if so defined in the Statement of Work. Any provision for progress payments must also include language for a minimum 10% retainage until the final deliverable is accepted.

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If progress payments are permitted, Vendor is required to identify points in the work plan at which compensation would be appropriate. Progress reports must be submitted to Agency with the invoice detailing progress completed or any deliverables identified. Payment will be made only upon approval of acceptable progress or deliverables as documented in the Vendor's report. Invoices may not be submitted more than once monthly and State law forbids payment of invoices prior to receipt of services.

O. Record Retention (Access & Confidentiality):

Vendor shall comply with all applicable Federal and State of West Virginia rules and regulations, and requirements governing the maintenance of documentation to verify any cost of services or commodities rendered under this contract by Vendor. The Vendor shall maintain such records a minimum of five (5) years and make available all records to Agency personnel at Vendor's location during normal business hours upon written request by Agency within 10 days after receipt of the request.

Vendor shall have access to private and confidential data maintained by Agency to the extent required for Vendor to carry out the duties and responsibilities defined in this contract. Vendor agrees to maintain confidentiality and security of the data made available and shall indemnify and hold harmless the State and Agency against any and all claims brought by any party attributed to actions of breach of confidentiality by the Vendor, subcontractors, or individuals permitted access by Vendor.

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**Attachment 1
Supplemental Staffing Categories**

Staffing Category	Description
Web Computer Programming	Includes, but are not limited to; coding, testing, integration, debugging, modifying, compiling, documentation, change management, implementation training, enhancements and project management of programs and applications. Examples of experience include HTML, Javascript, Asynchronous Javascript with XML (AJAX), ColdFusion, Microsoft .Net
PC Programming	Includes, but is not limited to; coding, testing, integration, debugging, modifying, compiling, documentation, change management, implementation training, enhancements and project management of programs and applications. Examples of experience include Microsoft .Net, ColdFusion, PowerBuilder, Perl, PHP, Basic, XML
Mainframe Programming	Includes, but is not limited to; coding, testing, integration, debugging, modifying, compiling, documentation, change management, implementation training, enhancements and project management of programs and applications. Examples of experience include Cobol, Natural, DB2, PL1, CICS, IMS, JCL, TSO-CLIST, DLY280, AFP, Linux
Computer Systems Analysis	Includes, but is not limited to; requirements definition, data and process modeling, prototyping, conceptual design, detail design, integration design, documentation, initial implementation training, data base design, planning, systems conversion, systems migration, and project management.
Computer Systems/Network Security	Includes, but is not limited to; analysis, assessment, planning, firewalls, virtual private networks, design and review, virus, on all levels and all software platforms.
Database Management	Includes, but is not limited to; analysis, design, modeling, development, deployment, and management of databases on any platform. Conducts performance monitoring and measurement, stress testing, and quality control benchmarking. Examples of experience include DB2, Oracle, SQL
Desktop Support	Includes, but is not limited to; installation of commercial off-the-shelf products, optimizing, desktop problem resolution analysis, installation of PCs, printers, scanners and other PC peripherals.
GIS Services	Includes, but is not limited to; analysis, mapping, operation, digitizing, capacity planning, design, intranet, internet, documentation, programming, systems analysis, systems and database design, development, implementation, CAD, and initial training.

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Help Desk Support	Includes, but is not limited to; the development, design, implementation and operation of a help desk, LAN technical support and problem determination, problem solving, support and documentation.
IT Support Staff – Operations	Includes, but is not limited to; interim IT services which include Computer Operator, data Control Clerk, Console Operator, Documentation Specialist, Help Desk Specialist, Print Operator, Shift Supervisor, Systems Programmer, Tape Clerk, Tape Librarian, Tape Operator, and LAN Administrator.
LAN/WAN Support	Includes, but is not limited to; integration, planning, designing, building, upgrading, requirements definition, connectivity and interoperability, determination of logical relationships and physical specifications.
Electronic Commerce / EDI	Includes, but is not limited to; analysis, design, web design, building, testing, implementation, operation, monitoring, management and maintaining various forms of electronic government/commerce solutions and systems,
Project Management Services	Includes, but is not limited to; project initiation, efficiency review, life cycle management, configuration management, control management, resource management, risk management, status reporting, time and cost analysis.
Portal Architect	Includes, but is not limited to: successful deliveries of Internet initiatives; successful implementations of portals integrating existing Web applications and contents. Exceptional knowledge of Internet and portal technologies including HTTP, DHTML/JavaScript, portal software, Web Access Managers, LDAP, XML, WebDAV, J2EE; Strong knowledge of Web-based security (e.g., PKI, firewalls, SSL, cookies) across multiple sites; Experience in the deployment of highly scalable Web solutions leveraging Web server farms (IIS, NES or Apache); Knowledge of network/IP configuration and domain definitions expertise; Experience with Web application server technologies (i.e., IBM WebSphere); experience in Object-Oriented application development.

Attachment 2

Web-based Development

This specialty area addresses the skills and disciplines required for Web-based development. The focus is on web-enabling legacy systems and the development of new Web-based applications. Prospective vendors in this group need to demonstrate basic knowledge and experience in Web based application development. Specialty matter experts for Web-based development must demonstrate that they meet the following requirements:

1. Experience with Web-site architecture, design and development including style sheets and dynamic HTML.
2. Experience with standards-based design.
3. Experience with Web-enabling legacy applications.
4. Experience with Web-development tools and environments.
5. Experience with database integration and the accessing of data from Web front-ends, including web database middleware products and database connectivity software, e.g. BizTalk and iWay Adaptors.
6. Experience with enterprise-level RDBMS products, such as Oracle, DB2, etc.
7. Experience with languages and protocols used for Web development, e.g., JavaScript, XML, HTTP, and VBScript, ColdFusion, Jboss, WebSphere.
8. Experience with Web servers such as IIS, Netscape, Apache.
9. Experience with site management issues and tools.
10. Experience in the use of Internet applications in support of business, such as FTP, email, web, news, etc.

*All web-development applications developed under this attachment must comply with the guidelines developed by the WV Information Technology Council which can be found at <http://www.state.wv.us/itc/webGuidelines.asp>.

