

STATE OF UTAH



SOLICITATION NO. DR6917

WSCA Small Package Delivery Services

RESPONSES ARE DUE PRIOR TO:

Jun 21, 2006 3:00:00 PM MDT

RESPONSES MAY BE SUBMITTED ELECTRONICALLY TO:

www.rfpdepot.com

RESPONSES MAY BE MAILED OR DELIVERED TO:

State of Utah
Division of Purchasing
3150 State Office Building, Capitol Hill
Salt Lake City, Utah 84114-1061

Bid DR6917

WSCA Small Package Delivery Services

Bid Number DR6917
Bid Title WSCA Small Package Delivery Services

Bid Start Date May 30, 2006 11:58:27 AM MDT
Bid End Date Jun 21, 2006 3:00:00 PM MDT
Question & Answer End Date Jun 14, 2006 5:00:00 PM MDT

Bid Contact Daniel Reisner
Purchasing Manager
Division of Purchasing
801-538-3216
dreisner@utah.gov

Contract Duration 1 year
Contract Renewal 4 annual renewals
Prices Good for 30 days

Item Response Form

Item DR6917-1-01 - Small Package Delivery Services to WSCA States
Quantity 1 n/a
Prices are not requested for this item.
Delivery Location State of Utah
No Location Specified
Qty 0

Description
This RFP is for small package delivery services to participating WSCA states.



State of Utah Request for Proposal State Cooperative Contract

Company Name <input style="width: 90%;" type="text"/>		Federal Tax Identification Number <input style="width: 90%;" type="text"/>	
Ordering Address <input style="width: 90%;" type="text"/>		City <input style="width: 90%;" type="text"/>	State <input style="width: 90%;" type="text"/>
Zip Code <input style="width: 90%;" type="text"/>			
Remittance Address (if different from ordering address) <input style="width: 90%;" type="text"/>		City <input style="width: 90%;" type="text"/>	State <input style="width: 90%;" type="text"/>
Zip Code <input style="width: 90%;" type="text"/>			
Type <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government		Company Contact Person <input style="width: 90%;" type="text"/>	
Telephone Number (include area code) <input style="width: 90%;" type="text"/>	Fax Number (include area code) <input style="width: 90%;" type="text"/>	Email Address <input style="width: 90%;" type="text"/>	
Discount Terms (for bid purposes, bid discounts less than 30 days will not be considered) <input style="width: 90%;" type="text"/>		Days Required for Delivery After Receipt of Order (see attached for any required minimums) <input style="width: 90%;" type="text"/>	
Brand/Trade Name <input style="width: 90%;" type="text"/>		Price Guarantee Period (see attached specifications for any required minimums) <input style="width: 90%;" type="text"/>	
Minimum Order <input style="width: 90%;" type="text"/>		Company's Internet Web Address <input style="width: 90%;" type="text"/>	
The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes <input type="checkbox"/> No <input type="checkbox"/> . If no, enter where produced, etc. <input style="width: 90%;" type="text"/>			
Offeror's Authorized Representative's Signature <input style="width: 90%;" type="text"/>		Print or type name and title <input style="width: 90%;" type="text"/>	Date <input style="width: 90%;" type="text"/>
State of Utah Division of Purchasing Approval Douglas G. Richins, Director		Date <input style="width: 90%;" type="text"/>	Contract Number <input style="width: 90%;" type="text"/>

Note: When approved and signed by the State Director of Purchasing, this document becomes the contract.

**REQUEST FOR PROPOSAL - INSTRUCTIONS AND GENERAL PROVISIONS
STATE COOPERATIVE CONTRACT**

1. SUBMITTING THE PROPOSAL: (a) The Utah Division of Purchasing and General Services (DIVISION) prefers that proposals be submitted electronically. Electronic proposals may be submitted through a secure mailbox at RFP Depot, LLC (www.rfpdepot.com) until the date and time as indicated in this document. It is the sole responsibility of the supplier to ensure their proposal reaches RFP Depot, LLC before the closing date and time. There is no cost to the supplier to submit Utah's electronic proposals via RFP Depot, LLC. (b) If the supplier chooses to submit the proposal directly to the DIVISION in writing: The proposal must be signed in ink, sealed, and delivered to the Division of Purchasing, 3150 State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061 by the "Due Date and Time." The "Solicitation Number" and "Due Date" must appear on the outside of the envelope. All prices and notations must be in ink or typewritten. Each item must be priced separately. Unit price shall be shown and a total price shall be entered for each item offered. Errors may be crossed out and corrections printed in ink or typewritten adjacent and must be initialed in ink by person signing offer. Unit price will govern, if there is an error in the extension. Written offers will be considered only if it is submitted on the forms provided by the DIVISION. (c) Proposals, modifications, or corrections received after the closing time on the "Due Date" will be considered late and handled in accordance with the Utah Procurement Rules, section R33-3-209. (d) Facsimile transmission of proposals to DIVISION will not be considered.

2. PROPOSAL PREPARATION: (a) Delivery time of products and services is critical and must be adhered to as specified. (b) Wherever in this document an item is defined by using a trade name of a manufacturer and/or model number, it is intended that the words, "or equivalent" apply. "Or equivalent" means any other brand that is equal in use, quality, economy and performance to the brand listed as determined by the DIVISION. If the supplier lists a trade name and/or catalog number in the offer, the DIVISION will assume the item meets the specifications unless the offer clearly states it is an alternate, and describes specifically how it differs from the item specified. All offers must include complete manufacturer's descriptive literature if quoting an equivalent product. All products are to be of new, unused condition, unless otherwise requested in this solicitation. (c) Incomplete proposals may be rejected. (d) Where applicable, all proposals must include complete manufacturer's descriptive literature. (e) By submitting the proposal the offeror certifies that all of the information provided is accurate, that they are willing and able to furnish the item(s) specified, and that prices offered are correct. (f) This proposal may not be withdrawn for a period of 60 days from the due date.

3. FREIGHT COST: Suppliers are to provide line item pricing FOB Destination Freight Prepaid. Unless otherwise indicated on the contract/purchase order, shipping terms will be FOB Destination Freight Prepaid.

4. SOLICITATION AMENDMENTS: All changes to this solicitation will be made through written addendum only. Offerors are cautioned not to consider verbal modifications.

5. PROTECTED INFORMATION: Suppliers are required to mark any specific information contained in their offer which they are claiming as protected and not to be disclosed to the public or used for purposes other than the evaluation of the offer. Each request for non-disclosure must be made by completing the "Confidentiality Claim Form" located at: <http://www.purchasing.utah.gov/contractinfo/ConfidentialityClaimForm.doc> with a specific justification explaining why the information is to be protected. Pricing and service elements of any proposal will not be considered proprietary. All material becomes the property of the DIVISION and may be returned only at the DIVISION's option.

6. BEST AND FINAL OFFERS: Discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements. Prior to award, these offerors may be asked to submit best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by a competing offeror.

7. SAMPLES: Samples of item(s) specified in this offer, brochures, etc., when required by the DIVISION, must be furnished free of expense to the DIVISION. Any item not destroyed by tests may, upon request made at the time the sample is furnished, be returned at the offeror's expense.

8. AWARD OF CONTRACT: (a) The contract will be awarded with reasonable promptness, by written notice, to the responsible offeror whose proposal is determined to be the most advantageous to the DIVISION, taking into consideration price and evaluation factors set forth in the RFP. No other factors or criteria will be used in the evaluation. The contract file shall contain the basis on which the award is made. Refer to Utah Code Annotated 65-56-408. (b) The DIVISION may accept any item or group of items, or overall best offer. The DIVISION can reject any and all proposals. And it can waive any informality, or technicality in any proposal received, if the DIVISION believes it would serve the best interests of the DIVISION. (c) Before, or after, the award of a contract the DIVISION has the right to inspect the offeror's premises and all business records to determine the offeror's ability to meet contract requirements. (d) The DIVISION will open proposals publicly, identifying only the names of the offerors. During the evaluation process, proposals will be seen only by authorized DIVISION staff and those selected by DIVISION to evaluate the proposals. Following the award decision, all proposals become public information except for protected information (see number 5 above). A register of proposals and contract awards are posted at www.purchasing.utah.gov/BidProcessing/BidTabulations.asp. (e) Estimated quantities are for bidding purposes only, and not to be interpreted as a guarantee to purchase any amount. (f) Utah has a reciprocal preference law which will be applied against offerors offering products or services produced in states which discriminate against Utah products. For details see Section 63-56-404 and 63-56-405, Utah Code Annotated. (g) Multiple contracts may be awarded if the DIVISION determines it would be in its best interest.

9. DIVISION APPROVAL: Contracts written with the State of Utah, as a result of this proposal, will not be legally binding without the written approval of the Director of the DIVISION.

10. DEBARMENT: The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the DIVISION.

11. ENERGY CONSERVATION AND RECYCLED PRODUCTS: The contractor is encouraged to offer Energy Star certified products or products that meet FEMP (Federal Energy Management Program) standards for energy consumption. The State of Utah also encourages contractors to offer products that are produced with recycled materials, where appropriate, unless otherwise requested in this solicitation.

12. GOVERNING LAWS AND REGULATIONS: All State purchases are subject to the Utah Procurement Code, Title 63, Chapter 56 Utah Code Annotated 1953, as amended, and the Procurement Rules as adopted by the Utah State Procurement Policy Board (Utah Administrative Code Section R33). These are available on the Internet at www.purchasing.utah.gov.

(Revision 2 February 2006 - RFP Instructions)

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WSCA SMALL PACKAGE DELIVERY SERVICES
SOLICITATION # DR6917**

PURPOSE OF REQUEST FOR PROPOSAL (RFP)

The State of Utah, Division of Purchasing on behalf of the Western States Contracting Alliance (WSCA), is requesting proposals from asset based Carriers for zone based door-to-door express small package air delivery, expedited ground parcel and pouch services. This RFP may result in a contract award to multiple Carriers for services to the contiguous 48 states, Alaska, Hawaii, Puerto Rico and international locations. Currently, the following states have indicated their intent to participate: Arizona, Alaska, California, Colorado, Hawaii, Idaho, Montana, Nevada, South Dakota and Utah. Pricing for services for all WSCA states will be required. However, proposals may be submitted for specified states, intrastate ground and pouch, when designated within the appropriate cost tables. The purpose of this RFP is to establish contracts on a competitive basis with qualified Carriers to provide these services whereby participating WSCA states can select services based on their established needs.

Please refer to attached additional Terms and Conditions from the states of California, Colorado and Montana for their requirements. The precedence of terms and conditions will be the WSCA Standard Contract Terms and Conditions, attached individual state Terms and Conditions, then carrier terms and conditions.

A key objective of this procurement is to obtain reduced rates by combining the volume of shipments from governmental entities within multiple states with administrative savings that will result from the maintenance of a single, comprehensive contract for each selected Carrier. For the purpose of this RFP and subsequent contract(s) the meaning of price agreement and contract are the same.

BACKGROUND

WSCA was formed in October 1993. The purposes of WSCA are to establish the means by which participating states may join together in cooperative multi-state contracting to ensure the commitment of each participating state and to provide regular and ongoing assistance to participating states in researching, developing and administering procurement and contractual specifications and requirements.

WSCA maintains a cooperative relationship with the National Association of State Purchasing Officials (NASPO). The mission of WSCA is to implement multi-state contracts to achieve cost-effective and efficient acquisition of quality products and services.

RELEVANT WEBSITES

The official website for WSCA, which includes general information about WSCA and current WSCA contracts is: www.aboutwsca.org This site will include information for the contracts that result from this RFP.

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The official website for NASPO is: www.naspo.org This site includes the names and information pertaining to each of the state directors of procurement and information about the organization.

ISSUING OFFICE AND WSCA CONTRACT ADMINISTRATOR

The State of Utah, Division of Purchasing has been designated by WSCA Lead State conducting this procurement and subsequent contract management. The reference number for this Solicitation is DR6917. The WSCA Contract Administrator designated by the State of Utah, Division of Purchasing is:

Dan Reisner, Freight Manager
State of Utah, Division of Purchasing
3150 State Office Building, Capitol Hill
Salt Lake City, UT 84114-1061

dreisner@utah.gov

voice: 801-538-3216

fax: 801-538-3882

SUBMITTING YOUR PROPOSAL

The State of Utah, Division of Purchasing prefers that proposals be submitted electronically. **Electronic proposals may be submitted through a secure mailbox at RFP Depot, LLC (www.rfpdepot.com) until the date no later than: 3:00 P.M. Mountain Time (MT) Wednesday, June 21, 2006.**

It is the sole responsibility of the Carrier to ensure their proposal reaches RFP Depot, LLC before the closing date and time. There is no cost to the Carrier to submit electronic proposals to the Division of Purchasing via RFP Depot, LLC.

If the Carrier chooses to submit a written proposal directly to the State Division of Purchasing **four copies** (1-Master and 3-copies) must be provided. Proposals submitted under improperly marked covers may be rejected. If discrepancies are found between two or more copies submitted, the copy marked Master will be used for resolving discrepancies. If one copy of the proposal is not clearly marked Master, the State may reject the proposal or, at its sole option, select one copy to be used as the Master immediately after bid opening.

The proposal must be sent to: State of Utah, Division of Purchasing, 3150 State Office Building, Capitol Hill, Salt Lake City UT 84114-1061. Proposals may be modified or withdrawn prior to the deadline set for opening of proposals.

All questions must be submitted through the electronic procurement system. **Questions concerning this RFP will be accepted through 5:00 P.M. (MT) on June 14, 2006.** Questions may be answered as they come in or may be compiled into one document and answered via an

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addendum. Carriers will be notified by email if the addendum has been posted. Carriers should periodically check the electronic procurement system for answered questions and addenda.

LENGTH OF CONTRACT

The contract resulting from this RFP will be a one year fixed price contract. The contract may be extended beyond the first year up to four (4) optional one-year renewals for a maximum of five years upon mutual agreement of the parties.

PRICE GUARANTEE PERIOD

Pricing shall be considered firm for the first year of the contract. Price adjustments may be allowed for subsequent years provided the adjustment is made owing to legitimate increases in the Carrier's operating expenses, e.g. fuel, taxes, labor, etc.. The percentage of discount from the published rates shall remain the same for all renewal terms of this contract. Base rate price adjustments will be on an annual basis in accordance with the U.S. Bureau of Labor Statistics "Table 1" Consumer Price Index for All Urban Consumers (CPI-U): U.S. City Average, expenditure category Transportation, www.bls.gov/news.release/cpi.t01.htm Carrier agrees to adjust pricing accordingly should legitimate decreases in operating expenses occur.

Written request for an increase with supporting documentation must be received by the Contract Administrator, State of Utah Division of Purchasing at least thirty (30) days prior to the effective date of the increase. Increases shall not be effective unless they are approved by the Director, State of Utah Division of Purchasing. The contiguous 48 states will have published zone based price lists. Alaska, Hawaii and Puerto Rico will have their own published rate listing.

The prices paid by the WSCA participant (Shipper) will be those prices listed in the schedule of rates and charges attached to the RFP response on file with the Utah Division of Purchasing. The Carrier will provide the Contract Administrator as electronic version, on CD-ROM, that includes both the schedule of rates and the discount used to compute the final cost.

DETAILED SCOPE OF WORK

The scope of this RFP includes US domestic and international door-to-door express small package air services covering interstate, intrastate and international service. Outbound shipments will move prepaid and inbound shipments will ship collect for each participating state. Domestic expedited ground parcel shipments will also ship outbound prepaid and inbound collect by each participating state. Domestic shipment service includes the contiguous 48 states, Alaska, Hawaii and Puerto Rico, for both commercial and residential shipments. Carriers desiring to offer intrastate ground and/or pouch services for a specific state must clearly designate each cost table and schedule of rates and charges accordingly.

Zone based pricing

Zone based pricing for services must include, but not be limited to, the following:

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Intrastate

- Ground (other than guaranteed next day)
- Pouch Service (specify by state)
- Next Day Ground AM
- Next Day Ground PM
- Next Day Air AM
- Next Day Air PM
- Multiweight/Hundredweight service

Interstate

- Ground (Guaranteed day definite delivery)
- Next Day Air AM
- Next Day Air PM
- Second Day Air AM
- Second Day Air PM
- Three day service
- Multiweight/Hundredweight service

International

- Inbound to US points and places
- Outbound from US points and places

The foregoing shipping services for both commercial and residential deliveries will be provided per Carrier's Service Guides in effect at award date of the contract. The Service Guide in effect at that time will remain in effect for the first year of the contract with no changes allowed that affect pricing or service without prior written approval of the WSCA Contract Administrator.

This contract is subject to Federal Regulations 39 CFR Part 310 and 39 CFR Part 320 Private Express Statutes (PES).

HISTORICAL USAGE DATA

The estimated annual shipping summary information is provided for proposal purposes only and is not to be construed as a guarantee of any specific shipping volume:

<u>State</u>	<u>Annual Spend</u>	<u>Express Air Pkgs.</u>	<u>Ground Parcel Pkgs.</u>
California	\$17,000,000	1,200,000	400,000
Colorado	\$ 3,000,000	290,000	10,000
Idaho	\$ 1,400,000	Data not available	Data not available
Utah	\$ 1,260,000	94,000	39,000
Nevada	\$ 754,600	44,700	15,321
Alaska	\$ 673,585	42,500	None

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PROPOSAL REQUIREMENTS AND COMPANY QUALIFICATIONS

A. QUALIFICATIONS OF CARRIERS

Responding Carrier must attach a true, correct and complete copy of its operating permit to their proposal. The Shipper and Carrier agree that each and every shipment tendered to the Carrier under the contract shall be deemed a tender to the Carrier. The Carrier represents and warrants that it is authorized pursuant to permits issued to transport shipments, as described in this contract in interstate and foreign commerce from, to, or between all points and places in the United States and international points and to lawfully furnish to the Shipper all related services provided for herein. Carrier agrees to immediately notify Shipper of any threatened or actual suspension or revocation of any such permit or operating authority during the course of any awarded contract. Carrier further represents and warrants that it has not, and during the term of this contract, will not request, pursuant to 49 U.S. C. Section 14501 (c) (B) (ii), to be subject to any law, regulation or provision that purports to create any right or obligation that is inconsistent with the provision of this contract.

B. INSURANCE

Prior to performing any transportation services under contract, Carrier shall furnish to Shipper certificates from insurance companies satisfactory to Shipper evidencing that Carrier is covered by insurance of the kinds and amounts set forth below. Each policy shall contain a provision that no cancellation or material change in coverage shall be made without at least thirty (30) days prior written notice to Shipper. Without limiting the generality of the foregoing, such insurance shall fully insure Carrier against carrier liability imposed by law and all liability assumed hereunder. Carrier shall require sub-haulers, if any, to obtain and maintain insurance of the types and amounts set forth below:

INSURANCE REQUIRED:

1. General Public Liability Insurance

Minimum Limits of Coverage:

Bodily Injury	\$1,000,000
Property Damage	500,000

2. Auto Liability Insurance

Minimum Limits of Coverage:

Bodily Injury	\$1,000,000
Property Damage	500,000

3. Cargo Insurance

Minimum Amount of Coverage \$100,000

4. Workman's Comp Coverage Statutory Limits per participating state

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All liability and cargo policies provided shall name the Shipper (Utah and each participating state) as both a certificate holder and as an additional insured. Current insurance certificate(s) shall be sent to the Contract Administrator for the term of the contract.

C. MANDATORY REQUIREMENTS

1. Provide firm rates for one year.
2. Carrier shall state whether or not a fuel surcharge will apply to the contract for air and/or ground services.
3. Carrier service guide in effect at time of contract award will be in effect for the first year of the contract with no changes in rates or charges during that time without the prior written approval of the WSCA contract administrator.
4. No pick-up charges or weekly service charges shall be assessed for air or ground shipments tendered to the Carrier due to aggregate WSCA volume anticipated.
5. Carrier must pick-up packages directly from requesting agencies/entities upon request.
6. Carrier must provide clearly marked zone based price sheets (schedules of rates and charges) for each service showing rates and charges by weight and zone for all contiguous 48 state domestic shipping. Separate rates in pages may be provided and clearly marked for Hawaii and Alaska and Puerto Rico services. Carriers offering pricing for intrastate ground services only must provide separate clearly marked zone based pricing for the designated state. Rates will be in dollars and cents per pound. The attached rate sheets must also be completed and submitted with the response.
7. Carrier must state in their response that any Carrier internet terms and conditions will not supercede any WSCA contract terms or conditions.
8. The responding Carrier must be able to demonstrate an established, successful track record of past performance in duties and responsibilities related to domestic and international transportation services specified herein. This can be established by providing a copy of the Carrier annual report, reports to the Surface Transportation Board (STB), or balance sheets and income and expense statements. Data documenting on time delivery performance for express small package air and small parcel ground services for the past twelve (12) months shall be included.
9. Carrier must have an aircraft and ground vehicle fleet capable of serving all WSCA participating states. A listing of aircraft and/or ground fleet equipment must be provided with the proposal response for Carriers offering pricing for specific states to demonstrate ability to provide services to the state as required.

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10. Carrier shall have trained personnel that can research and maintain a quality assurance program through tracking and monitoring deliveries. Carrier should describe their ongoing quality control program.
11. Drop Boxes and supplies. Carrier must agree to place receptacles in convenient locations within participating states and describe other centralized collection procedures available. Carrier must provide upon request and at no cost to participating states standard express containers and preprinted air bills. Containers must be of sufficient size to contain 8 ½" x 11" sheets of paper, without folding, up to the weight limit for various categories. The Carrier will also be required to provide express pack boxes, express tubes and magnetic tape boxes to the participating states at no cost.
12. Carrier must provide their calendar year 2005 Operating Ratio (operating expenses divided by operating revenues divided by 100).
13. Carrier must provide their Shipment Claims Ratio for calendar year 2005. The ratio shall be the ratio of claims for shipment loss or damage to total shipments for both express small package air and expedited ground service shipments.
14. Carrier must provide the name of the person who will work with the WSCA Contract Administrator during the term of the contract. This person must be authorized to coordinate with other Carrier representatives in each participating state to ensure an efficient implementation of the contract. These representatives will be able to assign agency account numbers and insure the WSCA contract rates are attached accordingly. Carrier must describe the process required to obtain agency account numbers and Carrier personnel assigned must have full knowledge of the WSCA contract. Statements of qualifications and resumes of assigned carrier staff must be included in the proposal response.
15. Carrier shall describe their implementation plan for this RFP that would be used as a result of a contract award. It would be designed to assist Shipper entities in determining the optimal approach to maximize use of Carrier services.

Immediately upon contract award, the Carrier(s) shall begin a WSCA statewide implementation of the contract. Within thirty (30) calendar days Carrier will meet with a pool of participating states' representatives to discuss and finalize the Carriers implementation plan.

16. Describe carrier online ordering capabilities. Carrier will provide hard copy air bills and supplies upon request of participating state(s).
17. WSCA Fee. A fee of 1/10 of 1% of the total shipping expenditure will be provided to the WSCA Contract Administrator on a quarterly basis. The check must be made payable to WSCA and sent to: Dan Reisner, Contract Administrator. A statement attached to the check will be a summary of the quarterly report shipping expenditures by participating WSCA states. The submitted reports are to coincide with the quarters and date ranges as outlined below:

Quarter 1: January 1st through March 31st – due by April 30th

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Quarter 2: April 1st through June 30th - due by July 30th
 Quarter 3: July 1st through September 30th - due by October 30th
 Quarter 4: October 1st through December 31st - due by January 30th

Include a statement with your proposal that your company agrees to pay the WSCA fee.

18. Report Requirements: carrier must provide a quarterly report to the WSCA Contract Administrator listing for each state all shipping by agency/entity with a minimum of the following groups: 1) City/Town; 2) County; 3) Higher Education; 4) Public Education and 5) State Agency.

- account number, agency/entity name and address,
- shipping volume by type of service, i.e. ground, express air, etc.,
- pieces, weight and net charges,
- individual account and total dollar expenditure.

Carrier shall also provide participating state's shipping reports on a quarterly basis to that participating state administrator. The reports at a minimum shall contain the bulleted items stated above and/or as requested by participating states.

Include a statement with your proposal that your company agrees to meet the WSCA quarterly reporting requirements.

19. Carriers must provide specific references and/or supportive material to verify the Shipper's requirements on the attached "Technical Requirement Certification" form (TRC). Include as a minimum the names, telephone numbers, and addresses of three references of either state, local governments, companies or institutions for whom similar service have been performed within the past 24 months.

PROTECTED INFORMATION

The Government Records Access and Management Act (GRAMA), Utah Code Ann., Subsection 63-2-304, provides in part that:

the following records are protected if properly classified by a government entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63-2-308 (Business Confidentiality Claims);

(2) commercial information or non-individual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63-2-308;

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(6) records the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except that this Subsection (6) does not restrict the right of a person to see bids submitted to or by a governmental entity after bidding has closed;

GRAMA provides that trade secrets, commercial information or non-individual financial information may be protected by submitting a Claim of Business Confidentiality.

To protect information under a Claim of Business Confidentiality, the offeror must:

1. provide a written Claim of Business Confidentiality *at the time the information (proposal) is provided to the state*, and
2. include a concise statement of reasons supporting the claim of business confidentiality (Subsection 63-2-308(1)).
3. submit an electronic "redacted" (excluding protected information) copy of your proposal response. Copy must clearly be marked "Redacted Version."

A Claim of Business Confidentiality may be appropriate for information such as client lists and non-public financial statements. Pricing and service elements may not be protected. An entire proposal may not be protected under a Claim of Business Confidentiality. The claim of business confidentiality must be submitted with your proposal on the form which may be accessed at: <http://www.purchasing.utah.gov/contractinfo/ConfidentialityClaimForm.doc>

To ensure the information is protected, the Division of Purchasing asks the offeror to clearly identify in the Executive Summary and in the body of the proposal any specific information for which an offeror claims business confidentiality protection as "PROTECTED".

All materials submitted become the property of the state of Utah. Materials may be evaluated by anyone designated by the state as part of the proposal evaluation committee. Materials submitted may be returned only at the State's option.

PROPOSAL RESPONSE FORMAT

All proposals must be organized to include the following clearly marked sections:

1. **RFP Form.**
2. **Executive Summary.** This one or two page executive summary is to briefly describe the Carrier's proposal. The summary should highlight the major features of the proposal. It must include any requirements that cannot be met by the Carrier. The reader should be able to determine the essence of the proposal by reading the executive summary. Proprietary information requests should be identified in this section.
3. **Detailed Response.** This section should constitute the major portion of the proposal and must contain at least the following information:

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- A. A complete narrative of the offeror's assessment of the work to be performed, and the Carrier's ability, approach, and resources necessary to fulfill the requirements. The narrative should demonstrate the Carrier's understanding of the desired overall performance expectations. Clearly indicate any options, alternatives or creative approaches proposed.
- B. Restate requirements 1 through 19 and provide a specific point-by-point response, in the order listed, to each requirement in the RFP.
4. **Cost Proposal.** The required rate sheets by type of door-to-door service to the contiguous 48 states, Alaska, Hawaii and Puerto Rico, i.e., express air Next Day AM, Next Day PM, Ground, Pouch Service, Multiweight/Hundredweight, international inbound and outbound etc., must be completed and returned with the proposal. Rates for Alaska and Hawaii and Puerto Rico must be clearly marked. Carriers must also add a discount sheet that represents the savings for each category/service provided.

PROPOSAL EVALUATION CRITERIA

A committee will evaluate the proposals against the following weighted criteria. Each area of the evaluation criteria must be addressed in detail in the proposal.

An oral presentation or conference call may be required to supplement Carrier's written proposal. These presentations will be scheduled, if required, by the committee after proposals are received and prior to award of the contract.

I. PRICING

There will be two different types of price lists provided for evaluation purposes within the proposal response. The first is your published Price List along with the WSCA Cost Tables (See Cost Table(s) which will be used for evaluation purposes only.)

The first price list shall be the current published zone based list along with the Cost Tables that contains cost evaluation criteria such as; origin to destination address locations, size, weight, contents and delivery type. Carriers shall provide the offered price(s), discount(s) and actual delivered cost for each specified delivery listed within the tables. The locations and parcels listed in the Cost Tables are to be used for evaluation purposes. The discount stated in the Cost Tables shall be the discount that is offered to WSCA for the contract. Carriers are required to only use the actual costs offered in their current published price list plus their offered discount to determine the cost for each delivery category listed in the cost tables.

The second price list which shall be called the final published zone based list shall contain all discounted costs for all Intrastate, Interstate, International zones and all accessorial charges that will eventually be included into the contract and made available to all State and Local Government entities.

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The final published zone based price list may not contain alterations and/or revisions/additions by the offeror nor contain any statements as to the ability to make revisions to the list that would affect the proposal price after submittal of the proposal. The prices and information in the published Price List are not to be considered confidential nor contain terms contrary to what is stipulated in this RFP.

II. Demonstrated ability to meet scope of work

III. Qualifications, Expertise of Staff, and Technical Ability

IV. Performance references

<u>WEIGHT</u>	<u>EVALUATION CRITERIA</u>
40%	Pricing (Schedules of rates and charges attached)
30%	Demonstrated ability to meet scope of work
20%	Qualifications, expertise of staff, and technical ability
10%	Performance references

Criteria for award of contracts will be based on the following and the RFP Evaluation Scoresheet attached:

I. Pricing (40 points possible)

- A. Carrier agrees to provide firm rates for one year.
- B. Carrier agrees to hold service guide pricing for one year upon award of contract.
- C. Carrier provides all zone based rates and charges and international pricing.
- D. Carrier completes and returns all rate worksheets attached to RFP.

II. Demonstrated ability to meet scope of work (30 possible points)

- A. Carrier has a proven track record of on-time deliveries for all services.
- B. Carrier has the aircraft and ground fleet vehicles capable of serving Shipper.
- C. Carrier quality control program.
- D. Carrier drop boxes.
- E. Carrier 2005 operating ratio and claims ratio.
- F. Carrier implementation plan.

III. Qualifications, Expertise of Staff, and Technical Ability (20 possible points)

- A. Carrier appoints staff to work with WSCA Administrator and each participating state for implementation and control of services, pricing,

**REQUEST FOR PROPOSAL
WSCA SMALL PACKAGE DELIVERY SERVICES
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- and any operational problem resolution for term of contract.
- B. Carrier makes statement of qualifications and includes resumes of Staff appointed to work with Administrator and representatives of Participating states.
 - C. Carrier has online computer ordering capability and will provide hard copies of air bills upon request of participating state agencies.
 - D. Carrier complies with WSCA Contract Administrator contract quarterly reporting requirements and those of participating states.
 - E. Carrier agrees to pay WSCA fee for term of contract.
 - F. Carrier agrees to meet WSCA and individual state reporting requirements.

IV. Performance References (10 points possible)

Required reference TRC forms shall be completed and returned with RFP response.

**REQUEST FOR PROPOSAL
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SCHEDULE OF RATES AND CHARGES

Zone based pricing shall be attached for the following services:

Intrastate

- Ground (other than guaranteed next day)
- Pouch Service (specify by state)
- Next Day Ground AM
- Next Day Ground PM
- Next Day Air AM
- Next Day Air PM
- Multiweight/Hundredweight Service

Interstate

- Ground (Guaranteed day definite delivery)
- Next Day Air AM
- Next Day Air PM
- Second Day Air AM
- Second Day Air PM
- Three day service
- Multiweight/Hundredweight service

International

- Inbound to US points and places
- Outbound from US points and places

Attach copy of current carrier service directory or name applicable web site location. Evaluation tables are for proposal purposes only. All quoted Category percentage discount rates shall be applicable for all services, systems and equipment listed within the Carrier's published price list.

**Small Package Delivery Service
WSCA RFP DR6917
RFP EVALUATION SCORESHEET**

Carrier Name: _____

Evaluator: _____

Date: _____

Score will be assigned as follows:

- 0 = Failure, no response
- 1 = Poor, inadequate, fails to meet requirement
- 2 = Fair, only partially responsive
- 3 = Average, meets minimum requirement
- 4 = Above average, exceeds minimum requirement
- 5 = Superior

MANDATORY REQUIREMENTS				Possible Points	Score (0-5)	Weight	Points Awarded
Pricing (40 points possible)							
1.	Provision of firm rates for one year.			10		X 2	
3.	Service guide rates pricing firm for one year.			10		X 2	
6.	Provision of optimal zone based rates and charges.			15		X 3	
6.	Carrier completes and returns all rate worksheets.			5		X 1	
Demonstrated Ability to meet scope of work (30 points possible)							
8.	Proven track record of on-time deliveries for all services.			5		X 1	
9.	Carrier has aircraft and ground fleet vehicles capable of serving Shipper.			5		X 1	
10.	Carrier quality control program.			5		X 1	
11.	Carrier drop boxes.			5		X 1	
12. & 13.	Carrier Operating Ratio and Claims Ratio for calendar year 2005			5		X 1	
15.	Carrier Implementation plan.			5		X 1	
Qualifications, Expertise of Staff, and Technical Ability (20 points possible)							
14.	Carrier appoints adequate staff to work with WSCA Administrator and participating state contract managers.			10		X 2	
14.	Statement of qualifications and resumes submitted for carrier staff to work with WSCA Administrator and participating state contract managers.			5		X 1	
16.	Carrier has online ordering capability and will also provide hard copy air bills and supplies upon request of participating state(s).			5		X 1	
17.	Carrier agrees to pay WSCA fee.				Pass	Fail	
18.	Carrier agrees to meet WSCA quarterly reporting requirements.				Pass	Fail	
References (10 points possible)							
19.	Required TRC reference forms are completed and returned with RFP response.			10		X 1	
TOTAL EVALUATION POINTS				100			

**TECHNICAL REQUIREMENT CERTIFICATION FOR MANDATORY SCORED
CLIENT REFERENCE**

1. Carrier's Name:

Carrier services including pick-ups, deliveries, accuracy of billing and claim handling.		
	*	*
<u>MANDATORY FEATURE DESCRIPTION</u>	B.I	C.I.
Carrier must be able to certify that they have been able to meet required bid services.		
The Carrier shall have a proven and successful track record of satisfied customers that have received quality express air and small parcel ground services.		
<u>THE MINIMUM EXPERIENCE AND CAPACITY</u>		
Carrier must be able to certify their experience prior to submission of bid response.		

2. Client Name:	3. Contact Name:	
4. Address: Street:	State:	Zip:
5. Phone:	6. Dates of Service:	Through:
7. Dollar amount of carrier services in past year:	8. Type of services used (Circle all that apply)	
	Express small package air – interstate or intrastate	
	Small parcel ground -- interstate or intrastate	
	International	
9. Rating by Client:		
On a scale from one (1) to ten (10) with ten being the highest rating, how would you rate the referenced carrier's overall performance.		
1.	2.	3.
4.	5.	6.
7.	8.	9.
10.		
10. Client Certification		
I hereby certify that I have made a diligent effort to ascertain the facts with regard to the representations made herein and, to the best of my knowledge and belief all information is accurate.		
Contact Name Signature:		
Printed Title of Person Signing:		

* **B.I.** – Bidding Carrier's Initials **C.I.** – Client's Initials

Evaluations tables are for bid purposes only, all quoted Category percentage discount rates shall be applicable for all services, systems and equipment listed within the bidders published price list. Business to business rates.

CATEGORY 1 - INTRASTATE If the rates are for an individual state Carrier must designate: _____

GROUP 1 - Ground (other than guaranteed next day)

(Package is being shipped from Sacramento, CA 95605 to Long Beach, CA 90815)

Line Item	Package Quantity	Weight	Cost	Percentage Discount	Final Cost
1	1	3 lbs			
2	1	6 lbs			
3	1	15 lbs			
4	1	30 lbs			
5	1	50 lbs			

GROUP 2 - Next Day Ground AM

(Package is being shipped from Sacramento, CA 95605 to Long Beach, CA 90815)

Line Item	Package Quantity	Weight	Cost	Percentage Discount	Final Cost
1	1	3 lbs			
2	1	6 lbs			
3	1	15 lbs			
4	1	30 lbs			
5	1	50 lbs			

GROUP 3 - Next Day Ground PM

(Package is being shipped from Sacramento, CA 95605 to Long Beach, CA 90815)

Line Item	Package Quantity	Weight	Cost	Percentage Discount	Final Cost
1	1	3 lbs			
2	1	6 lbs			
3	1	15 lbs			
4	1	30 lbs			
5	1	50 lbs			

GROUP 4 - Next Day Air AM

(Package is being shipped from Sacramento, CA 95605 to Long Beach, CA 90815)

Line Item	Package Quantity	Weight	Cost	Percentage Discount	Final Cost
1	1	3 lbs			
2	1	6 lbs			
3	1	15 lbs			
4	1	30 lbs			
5	1	50 lbs			

GROUP 5 - Next Day Air PM

(Package is being shipped from Sacramento, CA 95605 to Long Beach, CA 90815)

Line Item	Package Quantity	Weight	Cost	Percentage Discount	Final Cost
1	1	3 lbs			
2	1	6 lbs			
3	1	15 lbs			
4	1	30 lbs			
5	1	50 lbs			

GROUP 6 - Multiweight/ Hundredweight Service

(Package is being shipped from Sacramento, CA 95605 to Long Beach, Ca 90815)

Line Item	Package Quantity	Weight	Cost	Percentage Discount	Final Cost
1	1	100 lbs			
2	1	150 lbs			
3	1	200 lbs			
4	1	250 lbs			
5	1	300 lbs			

GROUP 7 - OTHER CHARGES DISCOUNT OFF OF ACCESSORIAL CHARGES

Line Item				Percentage Discount	
1					

Evaluations tables are for bid purposes only, all quoted Category percentage discount rates shall be applicable for all services, systems and equipment listed within the bidders published price list. Business to business rates.

CATEGORY 2 - INTERSTATE

GROUP 1 - Ground (Guaranteed day definite delivery)

(Package is being shipped from Denver, CO 80202 to Sacramento, CA 95605)

Line Item	Package Quantity	Weight	Cost	Percentage Discount	Final Cost
1	1	3 lbs			
2	1	6 lbs			
3	1	15 lbs			
4	1	30 lbs			
5	1	50 lbs			

GROUP 2 - Next Day Air AM

(Package is being shipped from Denver, CO 80202 to Sacramento, CA 96505)

Line Item	Package Quantity	Weight	Cost	Percentage Discount	Final Cost
1	1	3 lbs			
2	1	6 lbs			
3	1	15 lbs			
4	1	30 lbs			
5	1	50 lbs			

GROUP 3 - Next Day Air PM

(Package is being shipped from Denver, CO 80202 to Sacramento, CA 96505)

Line Item	Package Quantity	Weight	Cost	Percentage Discount	Final Cost
1	1	3 lbs			
2	1	6 lbs			
3	1	15 lbs			
4	1	30 lbs			
5	1	50 lbs			

GROUP 4 - Second Day Air AM

(Package is being shipped from Denver, CO 80202 to Sacramento, CA 96505)

Line Item	Package Quantity	Weight	Cost	Percentage Discount	Final Cost
1	1	3 lbs			
2	1	6 lbs			
3	1	15 lbs			
4	1	30 lbs			
5	1	50 lbs			

GROUP 5 - Second Day Air PM

(Package is being shipped from Denver, CO 80202 to Sacramento, CA 96505)

Line Item	Package Quantity	Weight	Cost	Percentage Discount	Final Cost
1	1	3 lbs			
2	1	6 lbs			
3	1	15 lbs			
4	1	30 lbs			
5	1	50 lbs			

GROUP 6 - Three day service

(Package is being shipped from Denver, CO 80202 to Sacramento, CA 96505)

Line Item	Package Quantity	Weight	Cost	Percentage Discount	Final Cost
1	1	3 lbs			
2	1	6 lbs			
3	1	15 lbs			
4	1	30 lbs			
5	1	50 lbs			

GROUP 7 - Multiweight/ Hundredweight service

(Package is being shipped from Denver, CO to Sacramento, CA 96505)

Line Item	Package Quantity	Weight	Cost	Percentage Discount	Final Cost
1	1	100 lbs			
2	1	150 lbs			
3	1	200 lbs			
4	1	250 lbs			
5	1	300 lbs			

GROUP 8 - OTHER CHARGES DISCOUNT OFF OF ACCESSORIAL CHARGES

Line Item				Percentage Discount	
1					

Evaluations tables are for bid purposes only, all quoted Category percentage discount rates shall be applicable for all services, systems and equipment listed within the bidders published price list.
 Quote Air rates door-to-door minus customs. Commodity shipped: printed matter. Shipment value less than \$100 Non-hazardous shipments. Actual weight equals chargeable weight. DDU - Deliver duties unpaid.

CATEGORY 3 - INTERNATIONAL

GROUP 1 Inbound to United States

Package is being shipped from Tokyo, Japan to Denver, CO

Line Item	Package Quantity	Weight	Cost	Percentage Discount	Final Cost
1	1	3 Kilos			
2	1	6 Kilos			
3	1	15 Kilos			
4	1	30 Kilos			
5	1	50 kilos			

GROUP 2 - Outbound from United States

Package is being shipped from Sacramento, CA to London, England.

Line Item	Package Quantity	Weight	Cost	Percentage Discount	Final Cost
1	1	3 Kilos			
2	1	6 Kilos			
3	1	15 Kilos			
4	1	30 Kilos			
5	1	50 Kilos			

GROUP 3 - Canada inbound to United States

Package is being shipped from Quebec, Canada to Sacramento, CA

Line Item	Package Quantity	Weight	Cost	Percentage Discount	Final Cost
1	1	3 lbs			
2	1	6 lbs			
3	1	15 lbs			
4	1	30 lbs			
5	1	50 lbs			

CATEGORY 4 RATES
Daily Courier Pouch Rates - Intrastate Only
Designate State:

Monthly Charge: \$ _____

Weight Allowance per direction, per day: _____

Excess weight charge over _____ pounds: \$ _____

Pick-up Window Time: _____

Delivery Window Time: _____

**Standard Contract Terms and Conditions
Western States Contracting Alliance
Request for Proposal**

PARTICIPANTS: The Western States Contracting Alliance (herein WSCA) is a cooperative group contracting consortium for state government departments, institutions, agencies and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington and Wyoming. Obligations under this contract are limited to those Participating States who have signed (and not revoked) an Intent to Contract at the time of award, or who have executed a Participating Addendum where contemplated by the solicitation. Financial obligations of Participating States are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating States incur no financial obligations on behalf of political subdivisions. Unless otherwise specified in the solicitation, the resulting award(s) will be permissive.

QUALITY ESTIMATES: WSCA does not guarantee to purchase any amount under the contract to be awarded. Estimated quantities are for the purposes of submitting proposals only and are not to be construed as a guarantee to purchase any amount.

SPECIFICATIONS: Any deviation from specifications must be clearly indicated by offeror, otherwise, it will be considered that the proposal is in strict compliance. When BRAND NAMES or manufacturers' numbers are stated in the specifications they are intended to establish a standard only and are not restrictive unless the RFP states "No substitute". Proposals will be considered on other makes, models or brands having comparable quality, style, workmanship and performance characteristics. Alternate proposals offering lower quality or inferior performance will not be considered.

ACCEPTANCE OR REJECTION OF PROPOSALS: WSCA reserves the right to accept or reject any or all proposals or parts of proposals, and to waive informalities therein.

TAXES: Proposal prices shall be exclusive of state sales and federal excise taxes. Where the state government entities are not exempt from sales taxes on sales within their state, the contractor shall add the sales taxes on the billing invoice as a separate entry.

MODIFICATION OR WITHDRAWAL OF PROPOSALS: Proposals may be modified or withdrawn prior to the time set for the opening of proposals. After the time set for the opening of proposals no proposal may be modified or withdrawn, unless done in response to a request for a "Best and Final Offer" from WSCA.

PATENTS, COPYRIGHTS, ETC.: The Contractor shall release, indemnify and hold the Buyer, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract.

AWARD: WSCA may award multiple contracts as the result of this solicitation. Awards shall be made to the responsible offeror(s) whose proposal is determined to be the most advantageous to WSCA, taking into consideration price and the other evaluation factors set forth in the RFP.

NON-COLLUSION: By signing the proposal the offeror certifies that the proposal submitted, has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the Request for Proposal, designed to limit independent bidding or competition.

CANCELLATION: Unless otherwise stated in the special terms and conditions, any contract entered into as a result of this bid may be canceled by either party upon 60 days notice, in writing, prior to the effective date of the cancellation. Further, any Participating State may cancel its participation upon 30 days written notice, unless otherwise limited or stated in the special terms and conditions of this solicitation. Cancellation may be in whole or in part. Any cancellation under this provision shall not effect the rights and obligations attending orders outstanding at the time of cancellation, including any right of and Purchasing Entity to indemnification by the Contractor, rights of payment for goods/services delivered and accepted, and rights attending any warranty or default in performance in association with any order. Cancellation of the contract due to Contractor default may be immediate.

DEFAULT AND REMEDIES: Any of the following events shall constitute cause for WSCA to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract WSCA shall issue a written notice of default providing a period in which Contractor shall have an opportunity to cure. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages. If the default remains, after Contractor has been provided the opportunity to cure, WSCA may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages; 4. Suspend contractor from receiving future proposal solicitations.

LAWS AND REGULATIONS: Any and all supplies, services and equipment offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

CONFLICT OF TERMS: In the event of any conflict between these standard terms and conditions and any special terms and conditions which follow; the special terms and conditions shall govern.

REPORTS: The contractor shall submit quarterly reports to the WSCA Contract Administrator showing the quantities and dollar volume of purchases by each agency.

HOLD HARMLESS: The contractor shall release, protect, indemnify and hold WSCA and the respective states and their officers, agencies, employees, harmless from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the contractor, his employees or subcontractors or volunteers.

GOVERNING LAW: This procurement and the resulting agreement shall be governed by and construed in accordance with the laws of the state sponsoring and administering the procurement. The construction and effect of any Participating Addendum or order against the contract(s) shall be governed by and construed in accordance with the laws of the Participating Entity's State. Venue for any claim, dispute or action concerning an order placed against the contract(s) or the effect of an Participating Addendum shall be in the Purchasing Entity 's State.

AMENDMENTS: The terms of this contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the WSCA Contract Administrator.

ASSIGNMENT/SUBCONTRACT: Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the WSCA Contract Administrator.

NONDISCRIMINATION: The offeror agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on basis of sex; 45 CFR 90 which prohibits

discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. The offeror further agrees to furnish information and reports to requesting State(s), upon request, for the purpose of determining compliance with these statutes. Offeror agrees to comply with each individual state's certification requirements, if any, as stated in the special terms and conditions. This contract may be canceled if the offeror fails to comply with the provisions of these laws and regulations. The offeror must include this provision in every subcontract relating to purchases by the States to insure that subcontractors and vendors are bound by this provision.

SEVERABILITY: If any provision of this contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular provision held to be invalid.

PAYMENT: Payment for completion of an contract is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance. Payments will be remitted by mail. Payments may be made via a State or political subdivision "Purchasing Card".

FORCE MAJEURE: Neither party to this contract shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. WSCA may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

HAZARDOUS CHEMICAL INFORMATION: The contractor will provide one set of the appropriate material safety data sheet(s) and container label(s) upon delivery of a hazardous material to the user agency. All safety data sheets and labels will be in accordance with each participating state's requirements.

FIRM PRICE: Unless otherwise stated in the special terms and conditions, for the purpose of award, offers made in accordance with this solicitation must be good and firm for a period of ninety (90) days from the date of proposal opening. Prices must remain firm for the full term of the contract.

EXTENSION OF PRICES: In the case of error in the extension of prices in the proposal, the unit prices will govern.

PROPOSAL PREPARATION COSTS: WSCA is not liable for any costs incurred by the offeror in proposal preparation.

CONFLICT OF INTEREST: The contractor certifies that it has not offered or given any gift or compensation prohibited by the state laws of any WSCA participants to any officer or employee of WSCA or participating states to secure favorable treatment with respect to being awarded this contract.

INDEPENDENT CONTRACTOR: The contractor shall be an independent contractor, and as such shall have no authorization, express or implied to bind WSCA or the respective states to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for WSCA or the states, except as expressly set forth herein.

POLITICAL SUBDIVISION PARTICIPATION: Participation under this contract by political subdivisions (i.e., colleges, school districts, counties, cities, etc.) of the WSCA participating states shall be voluntarily determined by the political subdivision. The contractor agrees to supply the political subdivisions based upon the same terms, conditions and prices.

DEBARMENT: The contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by WSCA.

RECORDS ADMINISTRATION: The contractor will maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the contractor for costs authorized by this contract. These records will be retained by the contractor for at least four years after the contract terminates, or until all audits initiated within the four years have been completed, whichever is later.

AUDIT OF RECORDS: The contractor agrees to allow WSCA, State and Federal auditors, and state agency staff access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.

Revision date: April 2006

STATE OF CALIFORNIA – GTC 306**GENERAL TERMS AND CONDITIONS**

1. **APPROVAL**: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. **AMENDMENT**: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. **ASSIGNMENT**: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. **AUDIT**: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. **INDEMNIFICATION**: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. **DISPUTES**: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. **TERMINATION FOR CAUSE**: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 1005 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a). The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. Potential bidders agree to abide by all California and federal laws with respect to the performance of the services under the contract.

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STATE OF CALIFORNIA – CCC 1005

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
 - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

 - b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.

 - c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,

or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts executed or amended after July 1, 2004, the contractor may elect to offer domestic partner benefits to the contractor's employees in accordance with Public Contract Code section 10295.3. However, the contractor cannot require an employee to cover the costs of providing any benefits which have otherwise been provided to all employees regardless of marital or domestic partner status.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

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**RFP ATTACHMENT
COLORADO UNIQUE TERMS AND CONDITIONS**

Colorado

Participating Addendum Execution

Orders may not be placed by Purchasing Entities in Colorado until execution of a Participating Addendum. In addition to terms that may be necessary to adopt this award to orders placed in Colorado, the following terms and conditions shall be included.

I. Controller's Approval. CRS 24-30-202 (1). This contract shall not be deemed valid until it has been approved by the Controller of the State of Colorado or such assistant as he may designate.

II. Vendor Offset. Pursuant to CRS 24-30-202.4 (as amended), the State Controller may withhold debts owed to State agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 21, Title 39, CRS; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) owed amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller.

III. Non-appropriation Clause. Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

IV. Insurance. To follow are the minimum insurance requirements. Any solicitation requirement(s) that may exceed the ones listed here will apply to the resulting contract.

A. Standard Insurance Requirements.

1. The contractor shall obtain, and maintain at all times during the term of this agreement, insurance in the following kinds and amounts:

(a) Workers' Compensation Insurance as required by state statute, and Employer's Liability Insurance covering all of contractor's employees acting within the course and scope of their employment.

(b) Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any one fire.

If any aggregate limit is reduced below \$1,000,000 because of claims made or paid, the contractor shall immediately obtain additional insurance to restore the full aggregate limit and furnish to the State a certificate or other document satisfactory to the State showing compliance with this provision.

(c) Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit as follows: \$1,000,000 each accident combined single limit.

(d) Professional liability insurance with minimum limits of liability of not less than \$ Ø. (To be specified in the solicitation.)

2. The State of Colorado shall be named as additional insured on the Commercial General Liability and Automobile Liability Insurance policies (leases and construction contracts will require the additional insured coverage for completed operations on endorsements CG 2010 11/85, CG 2037, or equivalent). Coverage required of the contract will be primary over any insurance or self-insurance program carried by the State of Colorado.

3. The Insurance shall include provisions preventing cancellation or non-renewal without at least 45 days prior notice to the State by certified mail.

4. The contractor will require all insurance policies in any way related to the contract and secured and maintained by the contractor to include clauses stating that each carrier will waive all rights of recovery, under subrogation or otherwise, against the State of Colorado, its agencies, institutions, organizations, officers, agents, employees and volunteers.

5. All policies evidencing the insurance coverages required hereunder shall be issued by insurance companies satisfactory to the State.

6. The contractor shall provide certificates showing insurance coverage required by this contract to the State within 7 business days of the effective date of the contract, but in no event later than the commencement of the services or delivery of the goods under the contract. No later than 15 days prior to the expiration date of any such coverage, the contractor shall deliver the State certificates of insurance evidencing renewals thereof. At any time during the term of this contract, the State may request in writing, and the contractor shall thereupon within 10 days supply to the State, evidence satisfactory to the State of compliance with the provisions of this section.

7. Notwithstanding subsection A of this section, if the contractor is a "public entity" within the meaning of the Colorado Governmental Immunity Act CRS 24-10-101, et seq., as amended ("Act"), the contractor shall at all times during the term of this contract maintain only such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act. Upon request by the State, the contractor shall show proof of such insurance satisfactory to the State.

V. Software Piracy Prohibition. Governor's Executive Order D 002 00

No State or other public funds payable under this contract shall be used for the acquisition, operation or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. The Contractor hereby certifies that, for the term of this Contract and any extensions, the Contractor has in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that the Contractor is in violation of this paragraph, the State may exercise any remedy available at law or equity or under this contract, including, without limitation, immediate termination of the contract and any remedy consistent with United States copyright laws or applicable licensing restrictions.

VI. Employee Financial Interest. CRS 24-18-201 & CRS 24-50-507

The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

Additional terms required by the State of Montana

Access and Retention of Records: Contractor agrees to provide the Department, the Legislative Auditor or their authorized agents access to any records necessary to determine contract compliance. Contractor agrees to create and retain all records supporting the products and services rendered for a period of three (3) years after either the completion date of this contract or the conclusion of any claim, litigation or exception relating to this contract taken by the State of Montana or a third party. Reference: 18-1-118, MCA.

The Participating Addendum shall be governed by the laws of the State of Montana. Venue for any action will be in the First District Court of the County of Lewis and Clark County, Helena, Montana. Parties to pay own legal fees and associated costs.

Hold Harmless/Indemnification

The Contractor agrees to protect, defend, and save the State of Montana, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

Purchasing Card. The State of Montana has a Purchasing Card Program in place that gives agencies the ability to charge purchases made from these contracts. The State of Montana prefers this method of payment.

Termination for Convenience. The State may terminate this Participating Addendum and/or any active projects in whole or in part. Contractor shall be entitled to sums due as compensation for accepted deliverables provided in conformance with the contract. In the event the contract is terminated for the convenience of the State the agency will pay for all accepted work performed and accepted deliverables completed in conformance with the contract up to the date of termination.