



Department of General  
Services  
Procurement Division  
707 3<sup>RD</sup> Street  
West Sacramento, CA 95605

STATE OF CALIFORNIA  
**MULTIPLE AWARD  
CONTRACT**

<b>CONTRACT No's</b>	<b>DRPQ-02-70-0001, 0002 &amp; 0003</b>
<b>SERVICE:</b>	<b>DISASTER RECOVERY SERVICES</b>
<b>CONTRACTORS:</b> ACS contract #DRPQ-020-70-0001 IBM contract #DRPQ-02-70-0002 NORTHROP GRUMAN contract #DRPQ-02-70-0003	
<b>CONTRACT TERM:</b> April 1, 2002 through March 31, 2005	
<b>DISTRIBUTION CODE:</b>	<b>ALL EDP CONTACTS AND LOCAL AGENCIES MAILING LIST</b>

**DEPARTMENT OF GENERAL SERVICES CONTACT**

Scott Norton  
707 3<sup>rd</sup> Street  
West Sacramento, CA 95605  
Phone 916.375-4503  
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**Russ Guarna, ACQUISITIONS MANAGER**

**EFFECTIVE DATE April 1, 2002**

## PURPOSE/SERVICES OFFERED BY THE PREQUALIFIED POOL OF CONTRACTORS

This Multiple Award Contract (MAC) provides State and local agencies with a pool of prequalified contractors that specialize in providing Disaster Recovery services. The contractors on this contract submitted a compliant bid in response to the State's Administrative and Technical requirements.

A local agency is any city, county, district or other governmental body empowered to spend public funds per California Public Code 12110. While the State of California makes this MAC available to local governmental agencies, each local agency should make its own determination whether using the MAC is consistent with their procurement policies and regulations.

## PREQUALIFIED CONTRACTORS

Following is a listing of prequalified prime contractors. The State's contract is with the Prime Contractor, not the subcontractor. The agency should ask the Prime Contractor about the use of the subcontractor in the project. The agency may contact DGS-PD for additional assistance.

### ACS

Mr. Larry McCabe  
1400 South Grand Ave  
Santa Ana, Ca. 92705  
(714) 834-2230  
Contract number DRPQ-02-70-0001

### IBM

Mr. Steve Hamano  
2710-S Gateway Oaks Drive  
Sacramento, Ca 95833  
Voice (916) 920-6050  
Fax (916) 641-4030  
Contract number DRPQ-02-70-0002

### Northrop Grumman

Mr. Rob Rogers  
2150 River Park Drive Suite  
255  
Sacramento, Ca. 95833  
Voice (916) 567-9995  
Fax (916) 567-9997  
Contract number DRPQ-02-70-0003

## STATE OF CALIFORNIA CONTACT

Scott Norton  
Department of General Services  
Procurement Division  
707 3<sup>rd</sup> Street Second floor  
West Sacramento, CA 95605  
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ORDERING PROCEDURES  
SUPPLEMENT #1

FOR THE USE OF  
PREQUALIFIED  
DISASTER RECOVERY  
CONTRACTORS

MULTIPLE AWARD CONTRACT

April 1, 2002

**DISASTER RECOVERY  
ORDERING PROCEDURES**

***TABLE OF  
CONTENTS***

<b>INTRODUCTION</b>		
Purpose/Services Offered		1
Benefits		1
Restrictions		2
Order Placement		3
Order Initiation	3	
Prequalified Contractors by Category		4
State of California Contact		4
<b>CONTRACT GUIDELINES</b>		
New Orders/Suggested RFP Format		5
Distribution- Multiple Award Contract Order	7	
No Acceptable Contractors		8
Contractor Time Requirements	8	
Termination		8
Amendments		8
Agency Reporting Requirements		8
Other Conditions		8
<b>PREQUALIFIED CONTRACTORS AND THEIR CONTRACT NUMBER</b>		
		9
<b>ORDERING and PROJECT COMPLETION /ON-GOING PERFORMANCE FORMS</b>		
The Multiple Award Contract Order Form		11
Form GSOP-206		13
MAC Contracting Report Instructions	14	
MAC Contracting Report Form		15
Project Completion /On-Going Performance Report		16
<b>MODEL CONTRACT</b>		
		18

## DISASTER RECOVERY ORDERING PROCEDURES

### A. PURPOSE/SERVICES OFFERED BY THE PREQUALIFIED POOL OF CONTRACTORS

This Multiple Award Contract (MAC) provides State and local agencies with a pool of prequalified contractors that specialize in providing Disaster Recovery services. The contractors on this contract submitted a compliant bid in response to the State's Administrative and Technical requirements.

A local agency is any city, county, district or other governmental body empowered to spend public funds per California Public Code 12110. While the State of California makes this MAC available to local governmental agencies, each local agency should make its own determination whether using the MAC is consistent with their procurement policies and regulations.

### B. BENEFITS

There are a number of benefits to be gained by using these prequalified contractors. The contractors listed in these Ordering Instructions have responded to a very detailed bid, were evaluated by the Department of General Services Procurement Division and were determined to be compliant to the bid requirement. These contractors have proven expertise and have staffing in-place that meets the State's experience requirements to provide data centers with disaster recovery services. The benefits of utilization of the MAC are:

1. **A greatly abbreviated bidding process.** Prenegotiated contract language with each of the prequalified contractors is already in place, so there is no need to negotiate contract language. Agencies may have unique supplemental contract language that may need to be added to the agency's Statement of Work (SOW). This supplemental contract language must not conflict with the prenegotiated contract language; if it conflicts, the prenegotiated language will have precedence.
2. **Only deal with prequalified contractors.** The agency will be working with only a limited number of prequalified contractors. This eliminates the time spent investigating unknown contractors, or dealing with numerous bidders, who may not be qualified to do the required work.
3. **Less time developing the agency administrative requirements.** Since most of the administrative requirements are already done, the agency can focus on only those administrative requirements that are unique to their project, thereby saving the agency time.
4. **A faster award process.** The agency will not have to deal with protests. The contractors on this MAC have waived their right to protest awards made under this MAC.

**DISASTER RECOVERY  
ORDERING PROCEDURES**

5. **The assistance of Department of General Services Procurement Division (DGS-PD)** DGS-PD wants the agency's project to be a success and will assist the agency in the use of this contract.

C. **RESTRICTIONS**

The prequalified pools of contractors included in this contract have been approved to provide Disaster Recovery services for data centers.

**MANAGEMENT MEMO 02-19, ISSUED ON AUGUST 20, 2002, INCLUDED NEW PROCEDURES RELATED TO THE USE OF MASTER AGREEMENTS. THESE NEW PROCEDURES SUPERSEDE PREVIOUSLY ISSUED ORDERING PROCEDURES. IF AMENDMENTS TO THIS MANAGEMENT MEMO ARE ISSUED, ANY CHANGES IN THOSE AMENDMENTS WILL APPLY ALSO. PLEASE REFER TO THE MANAGEMENT MEMO FOR SPECIFIC DETAILED INFORMATION. HOWEVER, THE FOLLOWING SUMMARY INFORMATION MUST NOW BE ADHERED TO.**

**For Orders in Excess of \$500,000**

1. Obtain approval of DGS to exceed the \$500,000 ordering limit; request must include how effective competition will be assured. Other areas that should be addressed when requesting approval would be details regarding the estimated dollar value of the project, how the needs of the state would be best served by not "formally" bidding the project to the entire open market of vendors, details regarding how the project will be managed, its timeline, and the qualifications of the staff who will run the competition for award. Additional measures may be required by DGS.
2. All qualified suppliers must be contacted. This will provide agencies an opportunity to review and evaluate various contractor proposals. After review and evaluation of proposals, the ordering agency should be able to determine which contractor offered the best value and award the contract.
3. All orders must be reported to DGS within five working days using the "Notice of Contract Award" form.

**For Orders less than \$500,000**

1. Solicit and obtain a minimum of three offers including one small business if applicable. This will provide agencies an opportunity to review and evaluate various contractor proposals. After review and evaluation of proposals, the ordering agency should be able to determine which contractor offered the best value and award the contract. If less than three offers are received, documentation of solicitation methods must be included with contract reporting to DGS. If only one source is known (competing offers cannot be obtained), the non-competitive bid contract process must be followed.
2. All orders exceeding \$250,000 must be reported to DGS within five working days using the "Notice of Contract Award" form.

**DISASTER RECOVERY  
ORDERING PROCEDURES**

- 3 Variance of model contract terms is allowed only with DGS approval.

There shall only be one contractor per order. Copies of approved orders shall be sent to the Department of General Services, Procurement Division, Technology Acquisitions, If an ordering agency wishes to rehire a Contractor, a new order must be executed. Additionally, the Notice of Contractor Award (NCA) must be submitted for all orders issued in excess of \$250,000 (refer to Management Memo 02-19 for further information).

The ordering agency will be required to send either a copy of the appropriate “approval document” (i.e.: Department of Finance, etc.) or reference the approved project # on the MSA order form when sending copies of an order to DGS/PD/Technology Section for reporting and billing purposes.

It is still necessary for the agency to develop a Statement of Work (SOW) that must be bid. No specific rates have been negotiated by the Department of General Services when creating this pool, therefore, the agency will need to obtain the rates and pricing for the project as part of the bid.

D. ORDER PLACEMENT

The agency may place an order anytime during the effective periods of this contract. The current contract is effective from April 1, 2002 through March 31, 2005. The State of California - DGS has the option for two (2) one-year extensions to this contract. It is anticipated that additional contractors may be added to this prequalified contract. Therefore, it is suggested that the agency visit the DGS-PD’s website for updated listings for additional contractors who may have been added to the contract.

A State agency must use Form GSOP-206 to place an order against this MAC. Local agency may use the State’s form or their equivalent but there documentation must contain at a minimum the same information as listed on the State's GSOP-206. A sample of this form is included.

The DGS charges the ordering agencies of this MSA an administrative fee. The fee is a specified percentage of contracted services. The fee is not included in the contractor’s hourly rates for this MSA. The administrative fee for this MSA is currently **1.93% (as of July 1, 2002)** of the total order amount. The Technology Acquisitions Section Unit will bill the agency directly for the administrative fee.

E. ORDER INITIATION

The ordering agency must coordinate with the applicable units within and outside of their agency (i.e., Procurement, Business Services, Department of Information Technology, Department of Finance, Contracts, etc.). There may be other forms, approvals or documentation that needs to be completed or obtained. Once the agency has obtained the appropriate approvals, the contractors on the MAC may be solicited to provide

**DISASTER RECOVERY  
ORDERING PROCEDURES**

specific proposals for the agency's requirements. State agencies must complete a GSOP –206, filled out according the ordering procedures. Local agencies may use the State's GSOP-206 or may use their own ordering documentation but there documentation must contain at a minimum the same information as listed on the State's GSOP-206.

**F. PREQUALIFIED CONTRACTORS**

Following is a listing of prequalified prime contractors. The State's contract is with the Prime Contractor, not the subcontractor. The agency should ask the Prime Contractor about the use of the subcontractor in the project. The agency may contact DGS-PD for additional assistance.

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**G. STATE OF CALIFORNIA CONTACT**

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Procurement Division  
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(916) 375-4503  
[Scott.Norton@dgs.ca.gov](mailto:Scott.Norton@dgs.ca.gov)

## **DISASTER RECOVERY ORDERING PROCEDURES**

### **CONTRACT GUIDELINES**

#### **A. SUGGESTED RFP FORMAT**

To begin, the agency will need to develop a Statement of Work (SOW) specific for the project. The SOW may contain supplemental contractual terms and conditions beyond what has already been established. Make sure that supplemental terms and conditions do not conflict with the prenegotiated terms and conditions. Any questions or changes to the prenegotiated contract terms and conditions must be referred to and approved by the DGS-PD coordinator. Develop the agency's evaluation selection criteria, timelines, etc. and put the project out to bid. Once bids are received, the agency will need to go through a selection process and select the winning bidder. The agency will need to go through all the standard procedures the agency follows when conducting a bid.

The agency needs to develop their justification as to how the agency will make the award. The agency must explain in the RFP how the agency's selection process will be done so bidders understand the agency selection process and can bid accordingly. A summary of the selection process and a detailed selection report must be submitted to DGS-PD with the MAC Contracting Report. The agency may select their contractor based on best value to the agency and is not required to select the bid that is the least costly.

As a recommendation, the RFP should require the bidders to explain their approach to the agency's project. Ask the bidder what successes they have had in past projects. While they have already responded to a detailed RFP to be included in this contract, the agency may ask for whatever background information that is of interest to the agency. The agency can ask for references for projects similar to the agency's project. The agency may also ask for detailed resumes for key personnel, such as the project manager that they will be assigning to the project. Of course, the agency will want to ask for pricing and define the project timelines for the bidding process, as well as the due dates for the project. Finally, keep in mind that the agency can always review the detailed bid response that the contractor provided to DGS-PD. Reviewing their response will let the agency see exactly which specific technical capabilities the contractor possesses, as well as how their references rated them. It will also provide the agency additional insight to their past projects.

The following items are noted for the agency consideration and possible inclusion in the RFP.

**Limitation of Liability:** The agency will want to make sure the liability of the contractor to the State is at least the amount of the contract. In most cases, the agency will want these liabilities are greater than the contract amount but these liabilities are not unlimited.

**DISASTER RECOVERY  
ORDERING PROCEDURES**

**Performance Bonds:** The agency is free to require a bond as part of the specific project requirements. The contractors in the pool have agreed that they will provide a bond if required for a specific project.

**DVBE Requirements:** Because Contractors were not guaranteed any specific quantity of work from this contract, bidders were not required to make DVBE commitments as part of this procurement. The agency should include the appropriate DVBE language and forms in the Administrative Requirements.

**NOTE: The State encourages agencies to use small businesses and disabled veterans businesses in all State contracts.**

Be sure that the agency has received all appropriate departmental and agency approvals (including Department of Finance and Department of Information Technology) as the agency proceeds through the project.

Suggested format for the RFP

1. Cover Letter, due dates, contact people, how award will be made, number of copies of responses, etc.
2. Description of the agency's current situation and what the agency hopes to accomplish in the desired solution.
3. Any Additional Administrative Requirements
4. Technical Requirements (Statement of Work) IF APPLICABLE, IT IS HIGHLY RECOMMENDED THAT THE AGENCY CONSIDER A PHASED APPROACH TO THEIR PROJECT, TO REDUCE RISK. (It is suggested that the agency do not pay the contractor until each phase is accomplished to the agency's satisfaction.)
5. Pricing

Once the agency has created the RFP, the agency should take the following steps.

1. Send the RFP to the pool of contractors for them to respond to. The agency cannot use this MAC to award projects to contractors who are not listed. The RFP can be sent via e-mail if the agency chose. Contact the contractor to obtain their current e-mail address.
2. Evaluate each contractor's response. Insure that their Project Manager has the experience required. The agency is free to contact any references that have been provided, or require a demonstration if applicable.
3. Conduct any additional necessary interviews and check references to assure the agency of the contractor's capabilities to satisfy the agency's needs.
4. Make the selection of the contractor. The agency must be consistent with the selection criteria stated in the RFP. The agency should send a "Notice of Intent" to all responding bidders, identifying the agency's intended awardee.

**DISASTER RECOVERY  
ORDERING PROCEDURES**

***THE AGENCY DOES NOT NEED TO ALLOW AN OPPORTUNITY FOR BIDDERS TO PROTEST THE SELECTION OF A CONTRACTOR. THE CONTRACTORS HAVE WAIVED THAT RIGHT WHEN RESPONDING TO THE ORIGINAL MAC. HOWEVER, THE AGENCY SHOULD ALLOW A CHANCE TO PROTEST THE REQUIREMENTS OF THE BID.***

Complete a GSOP-206 form or local agency equivalent. Attach the contractor's bid response to it, as it will become the formal scope of work, and as such, part of the contract. Obtain all required final approvals prior to the contractor's commencement of work. These approvals are to be recorded in box numbers 15, 16 & 17 on GSOP-206 or local agency equivalent.

5. Complete the MAC Hiring Activity Report, and submit it along with a completed GSOP 206 or local agency equivalent.

**B DISTRIBUTION – MULTIPLE AWARD CONTRACT ORDER-FORM GSOP-206**

The agency will need to complete the GSOP 206 form or local agency equivalent and distribute it in the following manner:

1. A copy with original signatures of the MAC order, GSOP-206 or local agency equivalent and the MAC Hiring Activity Report must be sent to:

Department of General Services  
Procurement Division  
Major Acquisitions  
Attention: Disaster Recovery MAC coordinator  
707 3rd Street, second floor  
West Sacramento, CA 95605

2. State agencies must send a copy with original signatures of the GSOP-206 to:

State Controller's Office  
Claims Audit Unit  
3301 C Street, Room 1404  
Sacramento, CA 95816.

3. Send a GSOP-206 or local agency equivalent with original signatures to the contractor.

4. Keep a copy with original signatures on file for the agency records.

**DISASTER RECOVERY  
ORDERING PROCEDURES**

**C. NO ACCEPTABLE CONTRACTORS**

If the agency declines all proposals from the various contractors or is unable to find an appropriate contractor during the review process, the agency may utilize any other procurement process available to the agency. In this situation, the agency is under any obligation to make an award based on their bid.

**D. CONTRACTOR TIME REQUIREMENTS**

1. Contractor must provide the agency, in one single submission, the proposal or additional information requested within the time allowed by the agency. The contractors understand that response times could be very short.

2. Contractor personnel shall not commence work until authorization has been received from the authorized approval authority. (Signed off in Boxes 15, 16, 17).

**E. ORDER TERMINATION**

If an agency wishes to terminate a contract after the contract has been awarded, the agency must complete another GSOP-206 and check the termination block in box number 7 or local agency equivalent. This order should then be processed the same as a new order.

**F. AMENDMENTS**

An amendment to the contract and Statement of Work is required if cost increases.

Agencies may amend a contract by completing another GSOP-206 or local agency equivalent, noting the amendment number in box number 4, and checking the Amendment block in box number 7.

**H. AGENCY REPORTING REQUIREMENTS**

If a contractor is performing in an outstanding manner, or problems are encountered, agencies are encouraged to complete a Project Completion / On-going Performance Report and send it to the Department of General Services Procurement Division.

Agencies can request access to this information during the hiring and selection process.

**I. OTHER CONDITIONS**

**1. Contractor Requirements**

a. In recognition of the fact that contractor personnel providing services under this agreement may perform similar services from time to time for others, this agreement shall not prevent contractor from performing such similar services or restrict contractor from using the personnel provided under this agreement, providing that such use does not conflict with the performance of services under this agreement.

b. Contractors must report on a quarterly basis to the DGS contact all contracts being worked on as a result of this MAC. The format of the report shall include the following information: Agency Order Number, Agency Name,

**DISASTER RECOVERY  
ORDERING PROCEDURES**

date the project began, contractor hired, date the project ended (if done), the total cost for their services. It is highly recommended that copies of any bills that the contractor sends the agency be included as further backup documentation. Failure to report this information may result in the termination of the MAC.

c. When the project is completed, a final report must be sent to the DGS contact, stating that the project is completed, and include a summary of the work accomplished. The format of the report shall include the following information: Agency Order Number, Agency Name, date the project began, contractor hired, date the project ended, the total cost to the state or local agency.

2. Agency Requirements

a. The MAC order will specify the agency individual responsible for overseeing the contractor's performance and completion of the requested services and to whom all communications relative to those services should be addressed.

b. The Agency must submit to the State of California contact, a copy of all completed and approved GSOP 206 and the MAC Contracting Report forms or local agency equivalent, when the project begins. Included with this report must be the Contractor name, Agency Bill Code, and Agency Order Number.

**DISASTER RECOVERY  
ORDERING PROCEDURES  
PREQUALIFIED CONTRACTORS  
AND THEIR CONTRACT NUMBER**

The agency will need the following information when placing the order.

<b>Company</b>	<b>Contract number</b>
<b>ASC</b>	<b>DRPQ-02-70-0001</b>
<b>IBM</b>	<b>DRPQ-02-70-0002</b>
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**DISASTER RECOVERY  
ORDERING PROCEDURES**

**PROJECT COMPLETION FORMS**

A. THE MULTIPLE AWARD CONTRACT ORDER FORM

Make sure all sections are completed. A blank order form follows this narrative. A copy of the completed form will be sent to the selected contractor, along with DGS and other agencies as explained below.

1. Service Requested By: Enter the agency name, address and person requesting services.
2. Mail and Bill To: Indicate the agency name, address and person that the agency wants to appear on the invoice.
3. Agency Billing Code Insert the agency billing code as assigned by the Department of General Services in this field. Use only one billing code on the form. Local Agencies without an Agency Billing Code can get a code by calling (916) 375-4441. Once a local agency is assigned a billing code, it can be use on all future orders.
4. Agency Master Agreement Order Number Place the agency order number in this field.
5. Contractor Name, Address, Number and Service Period Enter the contractor name and address, FEIN and date the contract will start. This field will be completed after selection of a contractor. (Section IV).
6. Date Enter the date the order is filled out.
7. Type of Order Check the New box if this is the first time this service has been requested. Check, the Amendment box if this order has changed from the original request for services. Check, the Termination box if the order has been terminated.
8. Agency User/Project Contact Enter the individual's name and telephone number. This is the agency contact person who has knowledge of the type of work that needs to be done and will be the person coordinating the project.

**DISASTER RECOVERY  
ORDERING PROCEDURES**

9. Services to be Performed. Explain what the contractor is being contracted to do. Be as specific as possible.
  
10. Budget Category List the Budget Category the project falls into.
11. Subcontractors and or DVBE Participation. List any subcontractors. If there is DVBE participation, state the DVBE commitment from the RFP response.
  
12. DVBE Address. Provide a complete mailing address for any DVBE firms.
  
13. Certification of Compliance with S.A.M. Section 4819.41 and 4832. If contracts will be more than \$10,000, a certification is required in most cases.
  
14. Total Cost This figure is to be the total of the contract amount. This is to be the total amount of compensation the contractor receives from this contract, and should reflect any changes to the amount made by amendments to the contract.
  
15. Department Approval Original signature of the agency officer authorizing expenditures of funds and date of approval is included in this section.
  
16. Signature of Personnel Officer Original signature of the Personnel Officer and date of approval is included in this section.
  
17. Signature of Accounting Officer Original signature of the Accounting Officer and date of approval is included in this section. This box is to be completed after the evaluations are done and the Agency decides to proceed with the contractor.
  
18. Appropriation of Funds The Accounting Office will include appropriate fiscal information indicating the appropriation, encumbrance of funds and budget information. When the Accounting Officer signs off, this field is to be completed. This box is to be completed after the evaluations are done and the Agency decides to proceed with the contractor.



**DISASTER RECOVERY  
ORDERING PROCEDURES**

**B. MAC CONTRACTING REPORT FORM INSTRUCTIONS**

This form is to be completed after award of a project under this MAC. It should be sent to DGS-PD along with a signed GSOP –206.

- |   |  |
|---|--|
| Agency Name:                                    | Enter the name of the agency.  |
| Agency Order Number:                            | Enter the same number as entered in block 3. of the MAC order.   |
| Contact Person:                                 | Enter the name of the individual who may be contacted should there be questions about the MAC order.   |
| Phone Number:                                   | Enter the phone number of the Contact Person.  |
| Budget Category:                                | Enter the Budget Category of this project.   |
| Name of the Selected Contractor:                | Enter the name of the Contractor that was selected for this MAC order.   |
| Subcontractor Names                             | Enter the names of any subcontractors that will be used on this project. Identify if any of them are DVBE firms. If there are DVBE firms, indicate the amount of money the DVBE will be receiving. |
| Summary of responding bidders                   | Identify the names of the firms who were not selected for this contract.   |
| Why was the Selected Contract chosen for award? | Provide a brief explanation of why this contractor was selected over the other contractors.  |

**DISASTER RECOVERY  
ORDERING PROCEDURES**

**MAC CONTRACTING REPORT FORM**

Agency Name: \_\_\_\_\_ Agency Order Number: \_\_\_\_\_

Agency Contact Person: \_\_\_\_\_

Agency Contact Person Phone Number: \_\_\_\_\_

Budget Category of Project: \_\_\_\_\_

Name of the Selected Contractor: \_\_\_\_\_

List any subcontractors that the Prime contractor will be utilizing:

\_\_\_\_\_  
\_\_\_\_\_

Identify and include below and continue on a separate sheet (if necessary), the names of the other firms, which submitted a response to the RFP.

Use the following space to provide an explanation of how this contractor's proposal provides the most value effective services to the agency.

\_\_\_\_\_  
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\_\_\_\_\_

**DISASTER RECOVERY  
ORDERING PROCEDURES**

C. PROJECT COMPLETION / ON-GOING PERFORMANCE REPORT

The form on the following page is to be completed when the project is completed, or to report problems on an on-going project. Its contents may be made available to other agencies seeking information regarding the contractor. The form is to be forwarded to:

State of California  
Department of General Services  
Procurement Division  
Major Acquisitions  
MAC Coordinator for Disaster Recovery Services  
707 3<sup>rd</sup> Street second floor  
West Sacramento, CA 95605

**DISASTER RECOVERY  
ORDERING PROCEDURES**

**PROJECT COMPLETION/ ON-GOING PERFORMANCE REPORT**

PROJECT IS COMPLETED \_\_\_\_\_ PROJECT IS STILL ONGOING \_\_\_\_\_

**1. GENERAL INFORMATION**

Date Project Began \_\_\_\_\_ Date Project completed (if completed) \_\_\_\_\_  
Agency Name: \_\_\_\_\_ Contractor Name: \_\_\_\_\_  
Contact Person: \_\_\_\_\_ Order Number: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Date this report is submitted. \_\_\_\_\_

**2. OVERVIEW OF PERFORMANCE**

General Description of project: (i.e.: What was the contractor hired to do/)

Problems encountered: (Please be specific and detailed.)

**3. SUMMARY:**

Overall, was the agency satisfied with the contractor? Yes \_\_\_\_\_ No \_\_\_\_\_

Would the agency use this contractor again? Yes \_\_\_\_\_ No \_\_\_\_\_

Would the agency recommend this contractor to another agency? Yes \_\_\_\_\_ No \_\_\_\_\_

If no, on either of the above, please explain:

**4. DOES DGS- PD NEED TO ASSIST THE AGENCY WITH PROBLEM RESOLUTION?**

**DISASTER RECOVERY  
ORDERING PROCEDURES**

**CONTRACT**

**SPECIAL PROVISION TO IT GENERAL TERMS AND CONDITIONS**

Item # 3 Limitation of Liability in the IT General Terms and Conditions is hereby changed to:

**3 Limitation of Liability**

- a. Contractor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, shall be limited to the greater of \$200,000 or the amount specified in the resulting Statement of Work and that are the subject matter of or are directly related to the cause of action. In those instances where Contractor has failed to perform as called for by the contract, the Limitation of Liability provided above shall not limit any right to recover the 'Cost to Cover.' 'Cost to Cover' means the cost of procuring a machine or machines of equivalent (not greater) capability, function, services and performance, less the Contractor's bid price.
- b. The foregoing limitation of liability shall not apply to the payment of costs and damage awards referred to in the Paragraph of the General Provisions, entitled "Patent, Copyright, and Trade Secret Protection", to claims covered by other specific provisions calling for liquidated damages or specifying a different limit of liability, or to claims for injury to persons or damage to property caused by Contractor's negligence. This limitation of liability does not apply to the receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on this contract.
- c. State's liability for damages for any cause whatsoever, and regardless of the form of action whether in contract or in tort, excluding negligence, shall be limited to the greater of \$200,000 or the amount specified in the resulting Statement of Work (SOW) and that are the subject matter of or are directly related to the cause of action.
- d. In no event will either the Contractor or the State be liable for consequential damages even if notification has been given as to the possibility of such damages

Except for the change listed above, all other contract language consist of the following State Model Contracts:

- General Provision GSPD-401 dated 01/01/2001
- State Model Information Technology General Terms and Conditions
- State Model Information Technology Purchase Special Provision
- State Model Information Technology Personal Services Special Provision
- State Model Information Technology Maintenance Special Provisions
- State Model Information Technology Software License Special Provisions

These Model Contracts may be downloaded form the following website  
<http://www.pd.dgs.ca.gov/modellang/ITModules.htm>

**DISASTER RECOVERY  
ORDERING PROCEDURES**

Contractor requesting changes to these contracts must use the process outlined above to request changes to the model contracts.