

STATE OF CALIFORNIA

Contract 1S-05-36-20
for COPIERS and
ASSOCIATED SERVICES

USER INSTRUCTIONS

Effective July 7, 2005,
through July 6, 2008



Department of General Services
Procurement Division
707 Third Street, Second Floor North
West Sacramento, CA 95695

Revised 06-09-06

TABLE OF CONTENTS

SECTION 1.	OVERVIEW	Page 1
SECTION 2.	SCOPE	Page 1
SECTION 3.	CONTRACT USAGE/RULES	Pages 1 - 2
SECTION 4.	ADMINISTRATIVE FEE/BILLING	Pages 2 - 3
SECTION 5.	CONTRACT MANAGEMENT	Page 4
SECTION 6.	ORDERING PROCEDURE	Pages 4 - 5
SECTION 7.	EXPEDITED ORDERS	Page 5
SECTION 8.	ORDER ACKNOWLEDGEMENT/CONFIRMATION	Page 5
SECTION 9.	ORDER NUMBER	Page 6
SECTION 10.	PRICING	Page 6
SECTION 11.	INVOICES	Page 6
SECTION 12.	TAXES ON MAINTENANCE AGREEMENTS	Page 6
SECTION 13.	PAYMENT	Page 7
SECTION 14.	FUND APPROPRIATION	Page 7
SECTION 15.	MINIMUM ORDER	Page 7
SECTION 16.	PROMOTIONS AND REBATES	Pages 7 - 8
SECTION 17.	PRODUCT RECALL PROCEDURES	Page 8
SECTION 18.	WARRANTY	Page 8
SECTION 19.	SERVICE AND PERFORMANCE	Pages 8 - 11
	a. Service and Maintenance	Pages 8 - 9
	b. Service Hours	Page 9
	c. "Off" Hour Service Hours	Page 9
	d. Service Rate	Pages 9 - 10
	e. Purchase of Service Agreement	Page 10
	f. Response Time for Unscheduled Service Call	Page 10
	g. Service Related Liquidated Damages	Pages 10 - 11
	h. Service Log	Page 11
	i. Labels	Page 11
	j. Loaner Equipment	Page 11
SECTION 20.	SPECIFICATIONS	Page 11 - 12
SECTION 21.	SMALL BUSINESS/DVBE SUBCONTRACTING/REPORTING	Page 12
SECTION 22.	CUSTOMER INQUIRIES	Pages 12 - 13
SECTION 23.	DELIVERY	Page 13
SECTION 24.	EQUIPMENT RELOCATION	Page 14
SECTION 25.	RESTOCKING POLICY	Page 14
SECTION 26.	TRAINING	Page 14
SECTION 27.	SURPLUS EQUIPMENT	Page 15
SPECIFICATION	Pages 16 - 20
PAYEE DATA RECORD	Pages 21 - 22
GENERAL PROVISIONS	Pages 23 - 29

Contract (Mandatory) 1S-05-36-20

COPIERS AND ASSOCIATED SERVICES **USER INSTRUCTIONS**

1. OVERVIEW

A statewide contract for digital copiers with an estimated value of more than \$36 million has been awarded to Sharp Electronics Corporation. This new contract, awarded under the California Strategic Sourcing Initiative, is expected to save the State more than \$25 million, or about 40 percent of what was previously paid for comparable equipment. It includes standards for timely service and copier performance, along with warranty and service/maintenance agreements designed to obtain the lowest total cost of ownership.

The pricing is structured for digital black and white copiers with multifunctional capabilities and an optional upgrade to a fully networked system. A digital printer/copier scans originals electronically and then prints them from an electronic file. There are no sorter bins and the digital printer/copier is finished with your original after just one scan, though it may continue printing your job for minutes or even hours. The advantages of digital copiers are many: They are able to combine the functions of copiers, network printers, scanners, and fax machines; they have fewer moving parts and less mechanical breakdowns, making them more reliable and easier to maintain; they operate quieter; they provide a higher quality output than analog technology. The contract calls for pricing to remain constant as existing copier models are replaced with newer versions, which allows the benefit of new technologies as they reach the market while continuing to enjoy the tremendous discounts the State has obtained.

2. SCOPE

These user instructions apply to this contract and to the three-year requirements of the State of California and participating local agencies for DIGITAL COPIERS AND ASSOCIATED SERVICES. The contract includes two optional one-year extensions. The State and contractor must agree on the terms of the extensions.

A local agency is a city, county, city and county, district, or other local governmental body or corporation, including the California State Universities (CSU) and University of California (UC) systems, K-12 schools and community colleges, empowered to expend public funds (Public Contract Code 10298).

3. CONTRACT USAGE/RULES

- a. Use of this contract is mandatory for all State departments, except when purchasing from a California-certified small business enterprise*, when purchasing from a California-certified disabled veteran business enterprise*, or in cases of emergency. Use of CMAS agreements is also restricted unless the department has an approved exemption pursuant to Management Memo 05-11. All purchases against this contract shall be exempt from the requirements of

Contract (Mandatory) 1S-05-36-20

Management Memo 03-10. Please refer to Management Memo 05-11 for additional information regarding this contract and an exemption process for purchasing outside the contract by clicking on the links below.

<http://www.documents.dgs.ca.gov/pd/poliproc/ManagementMemo05-11070105.doc>

<http://www.documents.dgs.ca.gov/pd/poliproc/StatewideContractExemptionRequestProcess-Form.doc>

*Be sure to see Section 21 for the current participation rate you may claim on your contract purchases.

- b. Prior to placing orders against this contract, State departments must have been granted purchasing authority by DGS/PD for the use of the State's statewide contracts. The department's current purchasing authority number must be entered in the appropriate location on each purchase document. Departments that have not been granted purchasing authority by DGS/PD for the use of the State's contracts may access the Purchasing Authority Application at <http://www.pd.dgs.ca.gov/deleg/pamanual.htm> (see Chapters 1 and 13) or may contact DGS/PD's Purchasing Authority Management Section by e-mail at pams@dgs.ca.gov.
- c. Ordering State departments must adhere to all applicable state laws, regulations, policies, best practices, and purchasing authority requirements, e.g. California Codes, Code of Regulations, State Administrative Manual, Management Memos, and Purchasing Authority Manual.
- d. Local governmental agency use of this contract is optional. While the State makes this contract available to local governmental agencies, each local governmental agency should determine whether this contract is consistent with its procurement policies and regulations. The above requirements and restrictions are not applicable to local government entities.

4. ADMINISTRATIVE FEE/BILLING

The Department of General Services (DGS) directly bills each State department and local agency an administrative fee for use of statewide contracts. (You may click on "DGS Price Book" at www.dgs.ca.gov/publications for current fees.) Additionally, State departments will be billed for a 10.5% fee due to DGS' consultant for savings realized with strategically sourced contracts (see below). The calculation for this fee will be 10.5% of the difference between the baseline and the contract price. The Department of General Services will invoice separately for this fee. Note that these fees also apply to the finance cost for financed transactions. These fees are not included in the purchase order, are not invoiced by the contractor, and are not to be remitted by the department or local agency before invoices are received. A copy of all State department and local agency purchase orders must be sent to:

DGS – Procurement Division
Attention: Data Entry
P. O. Box 989052
West Sacramento, CA 95798-9052

Contract (Mandatory) 1S-05-36-20

For inquiries regarding billing codes, local agencies should contact the State Contract Manager (see CONTRACT MANAGEMENT below).

It is very important for departments and local agencies to promptly forward copies of any purchase order amendments to the above address to allow for adjustments to the administrative and/or savings fees.

EQUIPMENT SAVINGS

CPM	MFC	Networked	Weighted Baseline	Contract Price	Savings	Savings Fee
15	x		\$3,744.26	\$1,450.00	\$2,294.26	\$240.90
		x	\$4,642.88	\$1,780.00	\$2,862.88	\$300.60
25	x		\$5,608.01	\$3,100.00	\$2,508.01	\$263.34
		x	\$6,953.93	\$3,650.00	\$3,303.93	\$346.91
35	x		\$6,269.27	\$4,410.00	\$1,859.27	\$195.22
		x	\$7,773.89	\$4,810.00	\$2,963.89	\$311.21
45	x		\$9,272.30	\$5,145.52	\$4,126.78	\$433.31
		x	\$11,497.65	\$5,545.52	\$5,952.13	\$624.97
55	x		\$12,656.94	\$8,950.00	\$3,706.94	\$389.23
		x	\$15,694.61	\$9,950.00	\$5,744.61	\$603.18

MAINTENANCE AGREEMENT SAVINGS
LOW VOLUME

CPM	Low Volume 60-Month Price	Low Volume Monthly Price	Low Volume Quantity	Contract Price	Savings	Savings Fee
15	\$ 3,560.57	\$ 32.00	5,000	\$ 1,920.00	\$ 1,640.57	\$ 172.26
25	\$ 5,682.02	\$ 67.00	10,000	\$ 4,020.00	\$ 1,662.02	\$ 174.51
35	\$ 7,823.20	\$ 77.00	15,000	\$ 4,620.00	\$ 3,203.20	\$ 336.34
45	\$11,201.75	\$ 100.00	20,000	\$ 6,000.00	\$ 5,201.75	\$ 546.18
55	\$14,326.96	\$ 137.00	30,000	\$ 8,220.00	\$ 6,106.96	\$ 641.23

HIGH VOLUME

CPM	Low Volume 60-Month Price	Low Volume Monthly Price	Low Volume Quantity	Contract Price	Savings	Savings Fee
15	\$ 6,110.40	\$ 58.00	15,000	\$ 3,480.00	\$ 2,630.40	\$ 276.19
25	\$ 6,913.93	\$ 87.00	25,000	\$ 5,220.00	\$ 1,693.93	\$ 177.86
35	\$11,892.50	\$ 102.00	35,000	\$ 6,120.00	\$ 5,772.50	\$ 606.11
45	\$16,851.49	\$ 132.00	45,000	\$ 7,920.00	\$ 8,931.49	\$ 937.81

Contract (Mandatory) 1S-05-36-20

55	\$23,829.13	\$ 202.00	60,000	\$12,120.00	\$11,709.13	\$1,229.46
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5. CONTRACT MANAGEMENT

Both the State and the contractor have assigned contract managers as the single points of contact for problem resolution and related contract issues.

State Contract Manager: Bonnie Bahnsen
DGS/Procurement Division
Telephone: (916) 375-4352
CAL-Net: 8-480-4352
Facsimile: (916) 375-4613
E-Mail: bonnie.bahnsen@dgs.ca.gov

Sharp Contract Manager: Robin Craft Ahmuty
Sharp Business Products
Telephone: (916) 395-1687
Facsimile: (916) 395-7364 (Communication Only)
E-Mail: crafr@sharpsec.com

6. ORDERING PROCEDURE

There are four ordering methods available on this contract. State departments must submit a Purchasing Authority Purchase Order (Form STD 65) directly to the contractor, except when ordering electronically through the contractor's website, in which case the STD 65 must be completed to document the purchasing file. Local agencies must submit their own standard purchase order form directly to the contractor, except when ordering electronically through the contractor's website. Orders must provide the specific delivery address and location where each copier is to be set up with the on-site agency contact and telephone number. Agencies must also indicate on their order the specific authorized dealer they have selected to provide delivery, service, and maintenance. A dealer listing is included in the Sharp Product Catalog. Agencies should indicate on their order which maintenance agreement they have selected (Option 1 or 2). Although purchase of a maintenance/ service agreement is not mandatory, it is highly recommended (see Section 19 for more information and for pricing). For services only, each department will determine if payment will be made on a monthly or a quarterly basis and specify such on their purchase order. Departments must also note on their purchase orders that payment for services will be made in arrears. Agencies are encouraged to provide a *copy* of their order to their local dealer.

a. Mail Ordering System: Orders may be mailed to the contractor at the address shown below.

Sharp Electronics Corporation
c/o Local Authorized Dealer
1 Sharp Plaza, Box B
Mahwah, NJ 07430

Contract (Mandatory) 1S-05-36-20

DO NOT MAIL PURCHASE ORDERS TO THE DEALER'S ADDRESS! If you have a preferred dealer, please insert the local authorized dealer's name on the second line of the address block. You may fax or mail a copy of the order to your dealer, but the original must be sent to the New Jersey address shown above.

If you plan to purchase a maintenance agreement, please note in the body of the order which service option you will be choosing. You do not have to include the maintenance in this order, but it helps Sharp with planning and reporting if they know as early as possible what your plans are.

Sample Language: Service Maintenance Agreement, Option 1, full service maintenance shall be provided for 60 months @ \$67.00 per month; includes 10,000 copies per month; 10,001 copies and over to be charged @ \$.0040 per copy; to be billed quarterly in arrears; for Sharp ARM277; Serial #56000000; installed 00/00/00; full service maintenance to begin upon expiration of 90-day warranty.

- b. Facsimile Ordering System: Orders may be faxed to the contractor at (800) 245-2815 between the hours of 8:00 a.m. to 5:00 p.m. (PST/PDT) Monday through Friday.
- c. E-Mail: Agencies may scan and e-mail their orders to snapstateofca@sharpsec.com.
- d. Contractor's Website: State departments and local agencies may place electronic orders through the contractor's website twenty-four hours a day, seven days a week. The contractor's State of California contract website is located at www.sharpbiznet.com/stofca and includes the following:
 - Current contract pricing for copiers, as well as option pricing;
 - Detailed product line item descriptions with pictures;
 - A listing of Sharp authorized dealers with small business status indicated;
 - Search engine capabilities (e.g., key word searches);
 - Additional links to the contractor's home page, product literature, copier certifications, support center, company history, etc;
 - "Shopping Cart" ordering capability.

7. EXPEDITED ORDERS

The contractor will deliver expedited orders within five business days in emergency situations, i.e. floods, fires, earthquakes, or other State or national disasters. Departments are required to pay an expedited fee of \$300 per unit, or five percent of the unit price, whichever is less, for emergency expedited orders. A notation of "Expedite" must appear on the purchase order.

8. ORDER ACKNOWLEDGEMENT/CONFIRMATION

Within 48 hours, the contractor will confirm receipt of purchase orders either via e-mail or facsimile, providing the user a receipt acknowledgement of the order. This receipt acknowledgement will include total cost and delivery date information.

Contract (Mandatory) 1S-05-36-20

9. ORDER NUMBER

Contractor shall issue unique order numbers to the users of this contract.

10. PRICING

The pricing is structured for digital copiers with multifunctional capabilities. An optional upgrade to a fully networked system is available. Agencies may contact their local dealer for pricing and other information. Please refer to the Sharp Product Catalog at the link below for pricing.

<http://www.documents.dgs.ca.gov/pd/strategic/SharpCatalog.pdf>

To place a service call or order supplies, please call the Sharp electronics 800 number that is on the sticker on your copier. The number is (800) 446-6139. Please have the serial number of your copier ready. Sharp will track toner usage and place calls to the authorized dealers and ask them to send toner. There should be no more than two toners ordered per machine at any one time. The supplier will question toner usage when it does not match the volume. Please keep in mind that toner is only to be ordered for copiers that were purchased on this contract.

11. INVOICES

Invoices shall be sent to the address set forth in each purchase order. Invoices shall be submitted in triplicate and shall include the contract number, purchase order number, item number, unit price, extended item price, and invoice total amount. State sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.

For services only, each department will determine if payment will be made on a monthly or a quarterly basis and specify such on their purchase order. Departments must also note on their purchase orders that payments for services will be made in arrears.

12. TAXES ON MAINTENANCE AGREEMENTS

The Board of Equalization has ruled that in accordance with Section 1655 of the Sales and Use Tax Regulations of the Business Taxes Law Guide, whenever maintenance agreements include both maintenance services and consumable supply items (i.e. toner, developer, and staples, for example), the provision of the consumable supplies is considered a taxable sale of tangible personal property. Therefore, departments purchasing maintenance agreements are responsible for paying the applicable sales tax on the consumable supplies and overage charges, if any, as utilized during the performance period of the maintenance agreement. The contractor will be required to itemize the consumables being taxed for accounting purposes. The contractor's Board of Equalization Permit No. is 11607572.

Contract (Mandatory) 1S-05-36-20

13. PAYMENT

Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et. seq. Unless expressly exempted by statute, the Act requires State departments to pay properly submitted, undisputed invoices not more than 45 days after the date of acceptance of goods or performance of services or receipt of an undisputed invoice, whichever is later. For services only, each user will determine if payment will be made on a monthly or a quarterly basis. In addition, all payments for services will be made in arrears. All payments shall be remitted to:

Sharp Electronics
Dept LA 21173
Pasadena, CA 91185-1173

A copy of the contractor's Payee Data Record is included as Pages 21 and 22 of this guide. The contractor's California Sales and Use Tax Seller's Permit Number is 11607572. State departments and local governmental agencies can verify that the permit is still valid at <http://www.boe.ca.gov/>.

14. FUND APPROPRIATION

The State's obligation to pay is solely from funds appropriated for the acquisition of the products on this contract. If the term of this contract extends into fiscal years subsequent to that in which it is approved, such continuation of the contract is contingent on the appropriation of funds for such purpose by the Legislature. If funds are not appropriated for future fiscal years, the contract dollar amount will be reduced accordingly. Receipt of a contract delegation order or purchase order under the contract is proof of availability of funds for that order.

15. MINIMUM ORDER

The minimum order shall be one copier per delivery. Agencies who do not enter into a maintenance agreement after the initial ninety-day warranty may order supplies from the Sharp Catalog at the minimums stated. Staples may also be ordered by all agencies at the minimums stated.

16. PROMOTIONS AND REBATES

a. Manufacturer Price Decline:

Contractor will submit pricing for models covered by the contract on a quarterly basis to the Contract Manager. A notification of price decreases will be released for all models affected if the list price declines five percent or more.

b. Sales Promotions:

Contract (Mandatory) 1S-05-36-20

State departments and local agencies will be notified of promotional pricing opportunities passed along from the manufacturer.

17. PRODUCT RECALL PROCEDURES

State departments and local agencies that have purchased items affected by a product recall will be notified.

18. WARRANTY

The contractor shall bear all material and labor costs for repair of equipment defects and failure accruing within a period of 90 days from the date of complete installation and acceptance by the State. Acceptance is considered to be testing and training and will generally occur within one to fourteen days after installation is completed. Service/maintenance during the warranty period shall be no less than service requirements under the maintenance agreement (see Section 19). Each ordering location must select an authorized dealer from the attached dealer listing at the time of purchase. The dealer must be authorized for the county in which the copier is located. All service and maintenance work must be performed by this dealer. *Service/maintenance performed by a dealer who is not authorized by Sharp Electronics Corporation and/or authorized for the specific county in which the copier is located will void all warranties.*

Please note that all labor, parts, cartridges, and supplies (with the exception of staples and paper) are included at no charge during the 90-day warranty period.

19. SERVICE AND PERFORMANCE

a. Service and Maintenance:

Although purchase of a maintenance/service agreement is not mandatory, it is highly recommended. The contractor has made available for purchase a five-year maintenance/service agreement to ensure the equipment will be operated within manufacturer's specification. Maintenance includes labor, parts, cartridges, and all supplies, with the exception of staples and paper. Qualified, trained technicians will perform all maintenance. The maintenance/service agreement shall commence from the date of acceptance and completion of training. Each ordering location must select an authorized dealer from the dealer listing at the time of purchase. The dealer must be authorized for the county in which the copier is located. All service and maintenance work must be performed by this dealer. *Service/maintenance performed by a dealer who is not authorized by Sharp Electronics Corporation and/or authorized for the specific county in which the copier is located will void all warranties.*

The maintenance/service agreement shall meet the following requirements:

- All manufacturer product warranties, including on-site warranty coverage, shall be included.
- Contractor must continue to provide warranty service after contract termination until expiration of warranties for products that have been sold under the contract.

Contract (Mandatory) 1S-05-36-20

- If the manufacturer’s warranty extends beyond the term of the contract, contractor must agree to provide warranty services through the life of the warranty.
- If the copier does not perform to the specifications during this period, the contractor shall replace the unit with a new copier if within the 90-day warranty period, or after the 90-day warranty, replace with a copier that is comparable in use. It is important for the agency to document all service calls and to elevate the issue to the State Contract Manager if problems continue.

Two separate full-service agreement options are available for each copier, based on monthly usage volumes. Option 1 is based on lower monthly usage volumes and Option 2 is based on higher monthly usage volumes.

CPM	Option 1 – Full Service Monthly Volume	Option 1 – Monthly Service Cost	Option 1 – Overage Fee (Price per Impression)	Option 2 – Full Service Monthly Volume	Option 2 – Monthly Service Cost	Option 2 – Overage Fee (Price per Impression)
15	5,000	\$ 32.00	\$.0070	15,000	\$ 58.00	\$.0030
25	10,000	\$ 67.00	\$.0040	25,000	\$ 87.00	\$.0022
35	15,000	\$ 77.00	\$.0035	35,000	\$102.00	\$.0022
45	20,000	\$100.00	\$.0035	45,000	\$132.00	\$.0022
55	30,000	\$137.00	\$.0035	60,000	\$202.00	\$.0022

b. Service Hours:

The contractor will provide corrective and preventative service during normal working hours, 8:00 a.m. to 5:00 p.m. PST/PDT, Monday through Friday. Exceptions from these hours include State-observed holidays. If the copier is not on a maintenance agreement after the 90-day warranty, the agency will be charged \$120 per hour and will also be responsible for any parts necessary to repair the equipment. See “Service Rate” below for complete details.

c. “Off” Hour Service Hours:

The contractor shall also have services available during “off” hours. The “off” hour services rate is \$120 per hour. If the copier is not on a maintenance agreement after the 90-day warranty, the agency will also be responsible for any parts necessary to repair the equipment.

Important: Agencies who may require “off” hour services must contact Robin Craft Ahmuty (see Page 4) to arrange for procedures in advance of placing requests for these services.

d. Service Rate:

If a department elects to not enter into a maintenance agreement after the initial 90-day warranty, the department will be responsible for purchasing supplies. Sharp Electronics offers toner and developer by the case and the pricing is listed in the pricing catalog.

Contract (Mandatory) 1S-05-36-20

If the department wishes to enter into a maintenance/supply agreement one year or more after of the date of installation, a \$500 one-time update fee will be assessed to the agency in order for the equipment to be returned to factory specification, as required, with the consumable parts. *Note that the equipment must be operational at the time the department wishes to place the machine on an agreement.* The department is responsible for any parts necessary to make the machine operational and will be serviced at an hourly labor rate of \$120.00. *If service/maintenance was performed throughout the initial time period by a dealer who was not authorized by Sharp Electronics Corporation and/or authorized for the specific county in which the copier is located, the supplier has the right to accept or reject a department's request for a maintenance/supply agreement.*

e. Purchase of Service Agreement:

Departments may elect to purchase the service agreement at any time during the 90-day warranty period. Additionally, the contractor will allow departments to purchase the service agreement up to nine months after the 90-warranty period expires (one year after installation of the equipment) without incurring an update charge. After this period, there will be a one-time flat fee of \$500 to update the copier's standard performance levels.

It is strongly recommended that departments purchase the service agreement, which includes labor, parts, cartridges, and all supplies, with the exception of staples and paper. Qualified, trained technicians will perform all maintenance. Departments that elect not to purchase a service agreement will be responsible for purchasing their own parts and supplies (toner and developer are sold only by the case) and must pay the hourly service rate shown above.

f. Response Time for Unscheduled Service Call:

Unscheduled service does not include service for user-replaceable parts. Except for the counties listed below, the contractor will respond on-site to all unscheduled service calls for equipment failure within four working hours of notification. For the following counties, on-site response will be within six hours:

Alpine	Glenn	Lassen	Shasta
Butte	Humboldt	Mendocino	Siskiyou
Calaveras	Imperial	Modoc	Tehama
Colusa	Inyo	Mono	Trinity
Del Norte	Lake	Plumas	Tuolumne

g. Service Related Liquidated Damages:

The purpose of the liquidated damages provision is to ensure adherence to the requirements of the contract and to set an amount in advance of a breach to compensate the State for the damages that are impractical or extremely difficult to estimate but would be sustained by the State in the event the contractor fails to perform as agreed. The liquidated damages are

Contract (Mandatory) 1S-05-36-20

intended to be a reasonable estimate of the costs that the State would sustain as a result of a breach and are not intended to be punitive.

For each hour over the allotted response time and for each hour of downtime resulting from failure to service the equipment, liquidated damages will be incurred. The liquidated damages will be deducted from the service invoice at the rate of \$100.00 per hour until the equipment is either fixed or replaced or loaner equipment is provided.

h. Service Log:

A service log will be attached to each machine. The contractor will fill in the "cause of breakdown" column with concurrence from the user. Should the cause of a service call be determined to be due to operator error or misuse or abuse by the user, the repair time and the associated travel time shall not be a factor in determining satisfactory machine performance.

i. Labels:

Contractor will be required to affix a label or decal to the equipment at the time of installation, showing installation date, name, address, and telephone number of the local representative responsible for servicing the equipment.

j. Loaner Equipment:

If the equipment will take longer than two business days to become fully operational, the contractor will provide a loaner/replacement machine that meets or exceeds the specifications of the product covered by the agreement. This loaner equipment will be provided at no additional cost to the State.

20. SPECIFICATIONS

a. Technical Specifications:

All equipment must comply with the State's specification, Product Technical Specification #3610-51A-01. All equipment must meet or exceed every minimum requirement of the Product Technical Specifications. Copiers are available in the categories shown below. In addition, the copiers were tested and certified by Buyers Laboratory Inc. Bertl, Inc., and received ratings as shown below. A copy of the specification is included as Pages 16 through 20 of this guide.

- 15 Copies per Minute (cpm), Sharp AR-M162, Buyers Laboratory Inc. 2005 Pick of the Year for "Outstanding Segment 1 Multifunctional Imaging System"
- 25 Copies per Minute (cpm), Sharp AR-M277, Bertl's Best 2005 for "Best 20-29 Pages per Minute Monochrome Office MFP"
- 35 Copies per Minute (cpm), Sharp AR-M355U, Buyers Laboratory Inc. 2005 Pick of the Year for "Outstanding Segment 3" Multifunctional Imaging System

Contract (Mandatory) 1S-05-36-20

- 45 Copies per Minute (cpm), Sharp AR-M455U, Bertl 2005 Rating of Four Stars (Highly Recommended)
- 55 Copies per Minute (cpm), Sharp AR-M550U, Buyers Laboratory Inc. 2004 Pick of the Year for "Outstanding Segment 4 Multifunctional Imaging System (41-55 Pages per Minute)", and Bertl 2004 Rating of Four Stars (Highly Recommended)

b. Discontinued Model:

If any of the awarded models are discontinued during the contract term, the contractor may submit a replacement for approval by the Contract Manager provided it meets or exceeds the contract's specifications and is accepted in writing by the State.

21. SMALL BUSINESS/DVBE SUBCONTRACTING/REPORTING

Although Sharp Electronics Corporation is a non-small business, they have committed to subcontract at least 25% of this contract with multiple small businesses. Sharp has actually surpassed this requirement; therefore, State departments may count 41% of each order issued on this contract towards their small business participation goal, regardless of their local dealer's small business status.

Sharp did not commit to DVBE participation; however, they have attained DVBE participation. State departments may therefore count 1.27% of each order issued on this contract towards their DVBE participation goal, regardless of their local dealer's DVBE status.

22. CUSTOMER INQUIRIES

Contractor's customer service shall respond to user inquiries within one business day of receipt of initial contact. These inquiries can include product information, billing disputes, delivery disputes or problems, product returns, pricing information, adding or deleting account names, addresses and numbers, and training requests.

If the contractor fails to respond within one business day, the user may elevate this issue to the DGS-PD Contract Manager. The Contract Manager will then contact the customer service representative. If the problem is not resolved with the customer service representative, the Contract Manager will then contact the contractor's Contract Manager who shall have the authority to immediately resolve any inquiries that have not been resolved in a timely manner.

Please note the following:

- After the contractor's Contract Manager has been notified and the contractor has not yet contacted the user within the required one day (now two days since first attempt to contact), the Contract Manager will make an attempt to contact the contractor's regional corporate office via telephone calls, e-mails, written notification or facsimile to advise of the contractor organization's non-responsiveness.
- A contractor's regional corporate office representative shall thereupon cause the customer service representative to respond within 24 hours to the user. In addition, the contractor shall, within

Contract (Mandatory) 1S-05-36-20

five working days of contact, advise the Contract Manager, in writing, of action taken to correct the non-responsive situation.

- If, in any three month period during the term of the contract, the Contract Manager contacts the contractor's regional corporate officer three or more times because of non-responsiveness as described above, the State may seek remedies under the General Provisions.

Contact either Cindy Jackman at (201) 529-8986 or Renee Shah at (201) 529-6359 for inquiries on shipping dates, delivery of equipment, and invoicing.

Contact Michelle Wertalik at (201) 529-8422 or Doreen Sullivan at (201) 529-8828 for inquiries on maintenance agreements or billing.

23. DELIVERY

Unless otherwise agreed, authorized purchasers shall receive delivery of goods within thirty calendar days after receipt of order when ordering four or less copiers and within forty-five calendar days after receipt of order when ordering five or more copiers. An order may be placed requesting scheduled deliveries for copiers, as long as the deliveries accommodate the above delivery lead times.

All copiers will be delivered and set up at no charge. Responsibility and liability for loss or damage shall remain with the contractor, as specified by the General Provisions. No additional charges shall be allowed.

User replacement supplies for servicing the equipment will be delivered by the third business day following the receipt of the purchase order, or by the requested delivery date.

a. Delivery Locations:

Deliveries must be made to the location specified on the order, which may include high-rise office buildings. The loss or damage of products shall remain the contractor's responsibility and liability until final inspection and acceptance by the user.

b. Secure Location Deliveries:

Contractor will be responsible for contacting the secure location (such as California Department of Corrections institutions) for security clearance (number of days required for clearance varies), hours of operation for deliveries and service, dress code, and other rules of delivery. Lack of familiarity with the locations will not relieve a contractor of their responsibilities to fulfill the contract requirements.

Although it is not a contract requirement, dealers are often able to provide loaner machines while agencies are waiting for new equipment to arrive. When available, these loaners will be provided for up to two weeks at no charge. *Loans that exceed two weeks are not covered by this contract and pricing for supplies must be negotiated by the agency.*

Contract (Mandatory) 1S-05-36-20

24. EQUIPMENT RELOCATION

On occasion, the State may require relocation of equipment. The contractor will prepare the copier for transport and set the copier up at the new location. The contractor will not charge a relocation fee. Departments must provide the contractor with a minimum five-day notice when this service is required. This service is available ONLY for copiers purchased on this contract and does not apply to other copiers the department may own. Please note that the contractor is not responsible for the actual transport of the copier. Although many dealers are willing and able to move a copier to a different location (space, floor, or building) at no charge, it is NOT a requirement that they do so.

25. RESTOCKING POLICY

Contractor may impose on the purchaser a restocking fee for items returned. The State agrees to pay a fee of \$500, or five percent of the price, whichever is less.

26. TRAINING

Initial training will occur upon delivery and installation of equipment at the point of delivery. Training will be prescheduled with agency-designated personnel for both typical and unique operational functions. Network connectivity installation, print driver installation, and training may be scheduled separately. Training is available on a continuing basis during the entire term that equipment is in service, whether it is needed for a refresher session, training new personnel, or to assist with new procedures.

In addition to "in person" training, Sharp offers an online website that addresses complete information on equipment to answer questions immediately. This feature is called "My Sharp" and customized websites can be set up for each requesting department at no cost. The website can be configured to include operator training video clips (virtual demonstrations), product operator guides, and the ability to e-mail or print specific step-by-step instructions for many common and advanced job functions.

Networked Product Installation/Training: To successfully install all network functions and ensure all digital printing and connectivity applications are working appropriately, initial network functionality training is provided and ongoing training is available to help the end user increase productivity through more effective use of network features. Both network administrators who will be supporting all connectivity applications and key operators who will be supporting the workgroups in the printing applications should attend this training.

Please note that networking of copiers is limited to ensuring that the equipment ordered is connected to the network and that printing and scanning is enabled at the time of install. For any networking of equipment that is after the initial install period or for equipment that is not part of the original order, the agency must negotiate pricing on an open market basis with the authorized dealer.

Contract (Mandatory) 1S-05-36-20

27. SURPLUS EQUIPMENT

Although many of Sharp's authorized dealers are willing to dispose of old copiers at no charge, agencies are reminded that there are requirements they must comply with first. Please follow the following procedures before asking dealers to dispose of your copiers.

All State agencies are required to extend the useful life of surplus property in their possession, following specific guidelines provided by the Office of Surplus Property and Reutilization (OSPR), which is responsible for reviewing and approving all State agency dispositions of State-owned surplus personal property prior to disposition.

When State-owned surplus personal property is no longer useable, the agency is responsible for arranging to have the property recycled or disposed of in an environmentally responsible manner, and the action must have the prior approval of the OSPR.

All State agencies are required to submit a completed Property Survey Report (Form STD. 152) or Property Transfer Report (Form STD. 158), as applicable, to the OSPR for review and online approval prior to making final disposition of State-owned surplus personal property. Agencies submit the completed forms via the California Surplus Property System (CSPS). Once logged on, the transferable property search feature allows State agencies to view State-owned surplus personal property that is available for transfer to other agencies. When required, the OSPR will provide guidance on how to use the CSPS site to view property that is available for transfer, and how to complete the applicable forms. To obtain OSPR review and approval of your agency's proposed disposition of State-owned personal property in your agency's possession, submit your request online by visiting <http://www.applications.csps.dgs.ca.gov/agencylogin.asp>.

Submit Property Survey Report (Form STD. 152) for the following:

- If you wish to donate the item(s) to a qualified recipient; or
- If you wish to sell the item(s) at a public sale; or
- If you wish to dispose of the irreparable, unusable item(s) through using the services of a State-approved recycler, or through sending the item(s) to a State-approved landfill;
- If you wish to ship the item to the OSPR for disposition.

Submit Property Transfer Report (Form STD. 158) for the following:

- If you wish to transfer the item(s) to another agency. (If you are transferring the item(s) to another unit within an agency, you do not need to send this form to OSPR but a copy should be retained for your record management.)

If you need assistance in making your online submittal or have questions concerning any aspect concerning the proper disposition of State-owned surplus personal property, please contact the following, as applicable:

Contract (Mandatory) 1S-05-36-20

Sacramento - (916) 928-5807 or Santa Ana - (916) 558-4341

STATE OF CALIFORNIA
Specification
Copier, Digital

3610-51A-01
April 12, 2005

1. **Scope**
This is the State Standard Specification for Black/White Digital Copiers.
2. **Applicable Specifications**
Latest version of Specifications and Standards referenced in this document in effect on the opening of the Invitation for Bid/Request for Proposal form a part of this specification where referenced.
3. **Requirements**
 - 3.1. **General**
 - 3.1.1. The digital copier shall be used to produce general office correspondence and reports.
 - 3.1.2. The digital copier shall be Multifunction Capable (MFC) and must be upgradeable with an option feature to expand its capabilities to become a network printer.
 - 3.1.3. The digital copier shall be tested by Buyers Laboratory Inc and/or Bertl, Inc. with a minimum of recommended and/or 3 Stars rating. The certificate shall be submitted with the bid/proposal.
 - 3.1.4. The digital copier and its associated electrical and mechanical components shall comply with the California Administrative Code; Title 8 (Industrial Safety Orders), Title 24 (State Building Standard Law), and Title 17 (Public Health). All electrical equipment furnished shall be grounded, with any exceptions only as approved in the referenced applicable titles.
 - 3.2. **Environmental**
 - 3.2.1. The digital copier shall use an organic photoreceptor (if not organic, must not contain arsenic, cadmium, or selenium).
 - 3.2.2. The digital copier shall be "Energy Star" compliant according to the current Energy Star specifications for the class of equipment. The Feature shall be enabled before products are shipped.
 - 3.2.3. The digital copier shall not use wet process technology.
 - 3.2.4. The digital copier shall not emit ozone at a concentration in excess of 0.02 mg/m³
 - 3.2.5. The digital copier shall not emit dust at a concentration in excess of 0.25 mg/m³.
 - 3.2.6. The digital copier shall not emit styrene at a concentration in excess of 0.11 mg/m³
 - 3.2.7. The digital copier shall contain no polybrominated biphenyls (PBB) or diphenyl ethers (PBDE).
 - 3.2.8. The digital copier shall use toner which is free of carcinogenic, mutagenic and teratogenic substances.

- 3.3. Computer/Networking Interface and Operating Systems
 - 3.3.1. Interface shall be IEEE.802.3 (Ethernet and 10/100Base-TX) PCI LAN interface adapter with an RJ45 connector.
 - 3.3.2. Protocol shall be Printer Control Language (PCL) 5 or later.
 - 3.3.3. Windows® Operating environments. (Windows 95, 98, 2000, XP etc..)
- 3.4. Required features for all segment groups per Table below:

Segment 1 (11-20 cpm/ppm 8.5" x 11")	Segment 2 (21-30 cpm/ppm 8.5" x 11") Segment 3 (31-40 cpm/ppm 8.5" x 11") Segment 4 (41-69 cpm/ppm 8.5" x 11")	Segment 5 (70-90 cpm/ppm 8.5" x 11") Segment 6 (91+ cpm/ppm 8.5" x 11")
<ol style="list-style-type: none"> 1. First Copy time shall be ≤ 13 sec. 2. Warm up time (from a cold start) shall be ≤ 45 sec. 3. Paper Capacity shall be at least one (1) ≥250 sheets drawer, tray or cassette and one (1) bypass. 4. Paper weight shall be ≤18 lb to ≥24lb copier paper, any color, virgin and/or recycled materials (≥30% post consumer material). 5. Original Size can be placed or fed onto the platen shall be ≥8.5" x 14". 6. Copy paper size shall be ≤5.5" X 8.5" and maximum ≥8.5" x 14" respectively. 7. Copy Resolution shall be minimum 600dpi X 600dpi. 8. Standard Memory shall be ≥8 MB and 	<ol style="list-style-type: none"> 1. First Copy time shall be ≤ 10 sec. 2. Warm up time (from a cold start) shall be ≤ 5 minutes. 3. Paper Capacity shall be at least two (2) ≥500 sheets drawer, tray or cassette; one (1) bypass; in addition, one (1) ≥1,000 sheets large capacity drawer or tray for Segment 3, 4. 4. Paper weight shall be ≤18 lb to ≥24lb copier paper, any color, virgin and/or recycled materials (≥30% post consumer material). 5. Original Size can be placed or fed onto the platen shall be ≥11" x 17". 6. Copy paper size shall be ≤5.5" X 8.5" and maximum ≥11" x 17" respectively. 	<ol style="list-style-type: none"> 1. First Copy time shall be ≤ 10 sec. 2. Warm up time (from a cold start) shall be ≤ 6 minutes. 3. Paper Capacity shall be at least two (2) ≥500 sheets drawer, tray or cassette; one (1) bypass and one (1) ≥2,000 sheets large capacity drawer or tray. 4. Paper weight shall be ≤18 lb to ≥24lb copier paper, any color, virgin and/or recycled materials ≥30% post consumer material). 5. Original Size can be placed or fed onto the platen shall be ≥11" x 17". 6. Copy paper size shall be ≤5.5" X 8.5" and maximum ≥11" x 17" respectively. 7. Copy Resolution shall be minimum

<p>be upgradeable to ≥ 32MB minimum.</p> <p>9. Document Feeder shall be ≥ 30-Sheet Document Feeder</p> <p>10. Control panel shall be touch screen, keypad, and screen/display or any combination of them.</p> <p>11. Print Quantity shall be 1 to 99 user selectable.</p> <p>12. Exposure Control shall be equipped with Automatic Exposure Selection (AES) and Manual controls.</p> <p>13. Zoom capability shall be able to reduce or enlarge the copy to “50% - 200%” with 5% resolution increment user selectable.</p> <p>14. The copier shall be equipped with Interrupt Key to halt copying at any point during a copy run.</p> <p>15. The copier shall be equipped with a Reset function to allow the system to return to manufacturer’s default setting.</p> <p>16. Electrical Power Requirements: shall be 110V \pm 10%.</p> <p>17. The copier operating noise level shall be ≤ 70db.</p>	<p>7. Copy Resolution shall be minimum 600dpi X 600dpi.</p> <p>8. Standard Memory shall be ≥ 16 MB and upgradeable to ≥ 128MB minimum.</p> <p>9. Document Feeder shall be ≥ 30-Sheet Document Feeder.</p> <p>10. The copier shall be able to produce two-sided copies automatically.</p> <p>11. Control panel shall be touch screen, keypad, and screen/display or any combination of them.</p> <p>12. Print Quantity shall be 1 to ≥ 99 user selectable.</p> <p>13. The copier shall be able to sort or collate, and staple (minimum two (2) positions) the finished copies. Segment 2 copier shall be able to sort or collate only.</p> <p>14. The copier shall be able to automatically switch from a depleted paper source to another during a copy job.</p> <p>15. Exposure Control shall be equipped with Automatic Exposure Selection (AES) and Manual controls.</p> <p>16. Zoom capability shall be able to</p>	<p>600dpi X 600dpi.</p> <p>8. Standard Memory shall be ≥ 32 MB and upgradeable to ≥ 256MB minimum.</p> <p>9. Document Feeder shall be ≥ 30-Sheet Document Feeder.</p> <p>10. The copier shall be able to produce two-sided copies automatically.</p> <p>11. Control panel shall be touch screen, keypad, and screen/display or any combination of them.</p> <p>12. Print Quantity shall be 1 to ≥ 999 user selectable.</p> <p>13. The copier shall be able to sort or collate, and staple (minimum two (2) positions) the finished copies.</p> <p>14. The copier shall be able to automatically switch from a depleted paper source to another during a copy job.</p> <p>15. Exposure Control shall be equipped with Automatic Exposure Selection (AES) and Manual controls.</p> <p>16. Zoom capability shall be able to reduce or enlarge the copy to “50% - 200%” with 5% resolution increment user selectable.</p>
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	<p>reduce or enlarge the copy to “50% - 200%” with 5% resolution increment user selectable.</p> <p>17. The copier shall be equipped with a built-in sensor to detect the size of each original, and then select the proper paper size.</p> <p>18. The copier shall be equipped with automatic shut off after a preset standby period which can be manufacturer’s preset or user programmable.</p> <p>19. The copier shall be equipped with Interrupt Key to halt copying at any point during a copy run.</p> <p>20. The copier shall be equipped with a Reset function to allow the system to return to manufacturer’s default setting.</p> <p>21. Electrical Power Requirements shall be 110V ± 10%.</p> <p>22. The copier operating noise level shall be ≤ 70db.</p>	<p>17. The copier shall be equipped with a built-in sensor to detect the size of each original, and then select the proper paper size.</p> <p>18. The copier shall be equipped with automatic shut off after a preset standby period which can be manufacturer’s preset or user programmable.</p> <p>19. The copier shall be equipped with Interrupt Key to halt copying at any point during a copy run.</p> <p>20. The copier shall be equipped with a Reset function to allow the system to return to manufacturer’s default setting.</p> <p>21. The copier shall be programmable for a job by the user before it is warmed up. Once programming is complete, the user presses the print button and the machine automatically begins copying after warm-up temperature is attained.</p> <p>22. When the user desires help with programming, diagnosing problems</p>
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		<p>and /or operating the machine, he or she can access the help function by pressing this key. The machine then displays helpful information on the message display.</p> <p>23. Electrical Power Requirements shall be 110V ± 10%.</p> <p>24. The copier operating noise level shall be ≤ 70db.</p>
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4. **Standard commercial product**

- 4.1. The Copier offered shall be in accordance with the requirements of this specification. Features which are not specifically prohibited by this specification but which are a part of the manufacturer's standard commercial product, shall be included in the equipment being furnished. A standard commercial product is a product, which has been sold or is being currently offered for sale on the commercial market through advertisements or manufacturer's catalogs, or brochures, and represents the latest production model.
- 4.2. The Copier shall be new and latest model in current production. Used, shopworn, demonstrator, prototype, or discontinued models are not acceptable.

5. **Operation, maintenance manuals**

- 5.1. A detailed, complete, and up-to-date instrument manual for all parts of the Copier shall be provided with each Copier at the time of delivery.
- 5.2. All manuals and instructions shall be in the English language.

6. **Special Tools and Accessories for Operator Maintenance**

- 6.1. Any tools or accessories of a special nature, which are required to maintain the equipment, shall be furnished. Special tools shall be tagged and will be marked indicating their service and the piece of equipment for their intended use.

PAYEE DATA RECORD(Required when receiving payment from the State of California in lieu of IRS W-9)
STD. 204 (Rev. 6-2003)

1	INSTRUCTIONS: Complete all information on this form. Sign, date, and return to the State agency (department/office) address shown at the bottom of this page. Prompt return of this fully completed form will prevent delays when processing payments. Information provided in this form will be used by State agencies to prepare Information Returns (1099). See reverse side for more information and Privacy Statement. NOTE: Governmental entities, federal, state, and local (including school districts), are not required to submit this form.		
2	PAYEE'S LEGAL BUSINESS NAME (Type or Print) <i>Sharp Electronics Corporation</i>		
	SOLE PROPRIETOR - ENTER NAME AS SHOWN ON SSN (Last, First, M.I.)		E-MAIL ADDRESS <i>craft@sharpsec.com</i>
	MAILING ADDRESS <i>1 Sharp Plaza, Box B</i>		BUSINESS ADDRESS <i>1 Sharp Plaza, Box B</i>
	CITY, STATE, ZIP CODE <i>Mahwah, NJ 07430</i>		CITY, STATE, ZIP CODE <i>Mahwah, NJ 07430</i>
3	ENTER FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN): <i>113-11968872</i>		NOTE: Payment will not be processed without an accompanying taxpayer I.D. number.
PAYEE ENTITY TYPE <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> ESTATE OR TRUST <input type="checkbox"/> INDIVIDUAL OR SOLE PROPRIETOR		CORPORATION: <input type="checkbox"/> MEDICAL (e.g., dentistry, psychotherapy, chiropractic, etc.) <input type="checkbox"/> LEGAL (e.g., attorney services) <input type="checkbox"/> EXEMPT (nonprofit) <input checked="" type="checkbox"/> ALL OTHERS	
CHECK ONE BOX ONLY <input type="checkbox"/> INDIVIDUAL OR SOLE PROPRIETOR ENTER SOCIAL SECURITY NUMBER:		<input type="checkbox"/> <input type="checkbox"/> - <input type="checkbox"/> - <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
(SSN required by authority of California Revenue and Tax Code Section 18646)			
4	<input checked="" type="checkbox"/> California resident - Qualified to do business in California or maintains a permanent place of business in California. <input type="checkbox"/> California nonresident (see reverse side) - Payments to nonresidents for services may be subject to State income tax withholding. <input type="checkbox"/> No services performed in California. <input type="checkbox"/> Copy of Franchise Tax Board waiver of State withholding attached.		
5	I hereby certify under penalty of perjury that the information provided on this document is true and correct. Should my residency status change, I will promptly notify the State agency below.		
	AUTHORIZED PAYEE REPRESENTATIVE'S NAME (Type or Print) <i>Robin Craft Ahmady - Government Account Executive</i>		TITLE <i>Government Account Executive</i>
	SIGNATURE <i>Robin Craft Ahmady</i>	DATE <i>7/25/05</i>	TELEPHONE <i>916) 395-1687</i>
6	Please return completed form to: Department/Office: _____ Unit/Section: _____ Mailing Address: _____ City/State/Zip: _____ Telephone: (____) _____ Fax: (____) _____ E-mail Address: _____		

PAYEE DATA RECORD

STD. 204 (Rev. 6-2003) (REVERSE)

1	<p><u>Requirement to Complete Payee Data Record, STD. 204</u></p> <p>A completed Payee Data Record, STD. 204, is required for payments to all non-governmental entities and will be kept on file at each State agency. Since each State agency with which you do business must have a separate STD. 204 on file, it is possible for a payee to receive this form from various State agencies.</p> <p>Payees who do not wish to complete the STD. 204 may elect to not do business with the State. If the payee does not complete the STD. 204 and the required payee data is not otherwise provided, payment may be reduced for federal backup withholding and nonresident State income tax withholding. Amounts reported on Information Returns (1099) are in accordance with the Internal Revenue Code and the California Revenue and Taxation Code.</p>								
2	<p>Enter the payee's legal business name. Sole proprietorships must also include the owner's full name. An individual must list his/her full name. The mailing address should be the address at which the payee chooses to receive correspondence. Do not enter payment address or lock box information here.</p>								
3	<p>Check the box that corresponds to the payee business type. Check only one box. Corporations must check the box that identifies the type of corporation. The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN). The TIN is required by the California Revenue and Taxation Code Section 18646 to facilitate tax compliance enforcement activities and the preparation of Form 1099 and other information returns as required by the Internal Revenue Code Section 6109(a).</p> <p>The TIN for individuals and sole proprietorships is the Social Security Number (SSN). Only partnerships, estates, trusts, and corporations will enter their Federal Employer Identification Number (FEIN).</p>								
4	<p><u>Are you a California resident or nonresident?</u></p> <p>A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California.</p> <p>A partnership is considered a resident partnership if it has a permanent place of business in California. An estate is a resident if the decedent was a California resident at time of death. A trust is a resident if at least one trustee is a California resident.</p> <p>For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.</p> <p>Payments to all nonresidents may be subject to withholding. Nonresident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for State income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year.</p> <p>For information on Nonresident Withholding, contact the Franchise Tax Board at the numbers listed below:</p> <table border="0"> <tr> <td>Withholding Services and Compliance Section:</td> <td>1-888-792-4900</td> <td>E-mail address:</td> <td>wscs.gen@ftb.ca.gov</td> </tr> <tr> <td>For hearing impaired with TDD, call:</td> <td>1-800-822-6268</td> <td>Website:</td> <td>www.ftb.ca.gov</td> </tr> </table>	Withholding Services and Compliance Section:	1-888-792-4900	E-mail address:	wscs.gen@ftb.ca.gov	For hearing impaired with TDD, call:	1-800-822-6268	Website:	www.ftb.ca.gov
Withholding Services and Compliance Section:	1-888-792-4900	E-mail address:	wscs.gen@ftb.ca.gov						
For hearing impaired with TDD, call:	1-800-822-6268	Website:	www.ftb.ca.gov						
5	<p>Provide the name, title, signature, and telephone number of the individual completing this form. Provide the date the form was completed.</p>								
6	<p>This section must be completed by the State agency requesting the STD. 204.</p>								
	<p><u>Privacy Statement</u></p> <p>Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, State, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.</p> <p>It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and State law imposes noncompliance penalties of up to \$20,000.</p> <p>You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the State agency(ies) with which you transact that business.</p> <p>All questions should be referred to the requesting State agency listed on the bottom front of this form.</p>								

GENERAL PROVISIONS

1. **DEFINITIONS:** The following terms shall be given the meaning shown, unless context requires otherwise or a unique meaning is otherwise specified.
 - a) **"Business entity"** means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability corporation, limited liability partnership, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
 - b) **"Buyer"** means the State's authorized contracting official.
 - c) **"Contract"** means this Contract or agreement (including any purchase order), by whatever name known or in whatever format used.
 - d) **"Contractor"** means the Business Entity with whom the State enters into this contract. Contractor shall be synonymous with "supplier", "vendor" or other similar term.
 - e) **"Goods"** (commodities) means all types of tangible personal property, including but not limited to materials, supplies, and equipment (including computer equipment and telecommunications).
 - f) **"State"** means the government of the State of California, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the State of California
2. **CONTRACT FORMATION:**
 - a) If this contract results from a sealed bid offered in response to a solicitation conducted pursuant to Chapters 2 (commencing with Section 10290), 3 (commencing with Section 12100), and 3.6 (commencing with Section 12125) of Part 2 of Division 2 of the Public Contract Code (PCC), then contractor's bid is a firm offer to the State which is accepted by the issuance of this contract and no further action is required by either party.
 - b) If this contract results from a solicitation other than described in paragraph a), above, contractor's quotation or proposal is deemed a firm offer and this contract document is the State's acceptance of that offer.
 - c) If this contract resulted from a joint bid, it shall be deemed one indivisible contract. Each such joint contractor will be jointly and severally liable for the performance of the entire contract. The State assumes no responsibility or obligation for the division of orders or purchases among joint contractors.
3. **COMPLETE INTEGRATION:** This contract, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the contract.
4. **SEVERABILITY:** The contractor and the State agree that if any provision of this contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision.
5. **INDEPENDENT CONTRACTOR:** Contractor and the agents and employees of contractor, in the performance of this contract, shall act in an independent capacity and not as officers or employees or agents of the State.
6. **APPLICABLE LAW:** This contract shall be governed by and shall be interpreted in accordance with the laws of the State of California; venue of any action brought with regard to this contract shall be in Sacramento County, Sacramento, California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this contract.
7. **COMPLIANCE WITH STATUTES AND REGULATIONS:**
 - a) Contractor warrants and certifies that in the performance of this contract, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California and agrees to indemnify the State against any loss, cost, damage or liability by reason of contractor's violation of this provision.
 - b) If this contract is in excess of \$500,000, it is subject to the requirements of the World Trade Organization (WTO) Government Procurement Agreement (GPA).
8. **CONTRACTOR'S POWER AND AUTHORITY:** The contractor warrants that it has full power and authority to grant the rights herein granted and will hold the State harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, contractor avers that it will not enter into any arrangement with any third party which might abridge any rights of the State under this contract.
9. **ASSIGNMENT:** This contract shall not be assignable by the contractor in whole or in part without the written consent of the State. For the purpose of this paragraph, State will not unreasonably prohibit Contractor from freely assigning its right to payment, provided that Contractor remains responsible for its obligations hereunder.
10. **WAIVER OF RIGHTS:** Any action or inaction by the State or the failure of the State on any occasion, to enforce any right or provision of the contract, shall not be construed to be a waiver by the State of its rights hereunder and shall not prevent the State from enforcing such provision or right on any future occasion. The rights and remedies of the State herein are cumulative and are in addition to any other rights or remedies that the State may have at law or in equity.
11. **ORDER OF PRECEDENCE:** In the event of any inconsistency between the articles, attachments, specifications or provisions which constitute this Contract, the following order of precedence shall apply:
 - a) these General Provisions – Non-IT Commodities;
 - b) contract form, i.e., Purchase Order STD 65, etc., and any amendments thereto;
 - c) statement of work, including any specifications incorporated by reference herein;
 - d) special terms and conditions; and
 - e) all other attachments incorporated in the contract by reference.
12. **PACKING AND SHIPMENT:**
 - a) All goods are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified to:
 - i) show the number of the container and the total number of containers in the shipment; and
 - ii) the number of the container in which the packing sheet has been enclosed.
 - b) All shipments by contractor or its subcontractors must include packing sheets identifying: the State's contract number; item number; quantity and unit of measure; part number and description of the goods shipped; and appropriate evidence of inspection, if required. Goods for different contracts shall be listed on separate packing sheets.
 - c) Shipments must be made as specified in this contract, as it may be amended, or otherwise directed in writing by the State's Transportation Management Unit within the Department of General Services, Procurement Division.

GENERAL PROVISIONS

13. TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES: No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the State unless expressly included and itemized in the contract.

- a) Contractor must strictly follow contract requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. The State may permit use of an alternate carrier at no additional cost to the State with advance written authorization of the buyer.
- b) If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by the Transportation Management Unit within the Department of General Services Procurement Division and a waiver is granted.
- c) On "F.O.B. Shipping Point" transactions, should any shipments under the contract be received by the State in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the equipment and/or material, contractor, on request of the State, shall at contractor's own expense assist the State in establishing carrier liability by supplying evidence that the equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.

14. TIME IS OF THE ESSENCE: Time is of the essence in this contract.

15. DELIVERY: Contractor shall strictly adhere to the delivery and completion schedules specified in this contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If contractor delivers in excess of the quantities specified herein, the State shall not be required to make any payment for the excess goods, and may return them to contractor at contractor's expense or utilize any other rights available to the State at law or in equity.

16. SUBSTITUTIONS: Substitution of goods may not be tendered without advance written consent of the buyer. Contractor shall not use any specification in lieu of those contained in the contract without written consent of the buyer.

17. INSPECTION, ACCEPTANCE AND REJECTION:

- a) Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to the State covering goods and services under this contract and will tender to the State only those goods that have been inspected and found to conform to this contract's requirements. Contractor will keep records evidencing inspections and their result, and will make these records available to the State during contract performance and for three years after final payment. Contractor shall permit the State to review procedures, practices, processes and related documents to determine the acceptability of Contractor's quality assurance system or other business practices related to performance of the contract.
- b) All goods may be subject to inspection and test by the State or its authorized representatives.
- c) Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to the State. Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
- d) All goods to be delivered hereunder may be subject to final inspection, test and acceptance by the State at destination, notwithstanding any payment or inspection at source.

- e) The State shall give notice of rejection of goods delivered or services performed hereunder within a reasonable time after receipt of such goods or performance of such services. Acceptance by the State shall not waive any rights that the State might otherwise have at law or by express reservation in this contract with respect to any nonconformity.

18. SAMPLES:

- a) Samples of items may be required by the State for inspection and specification testing and must be furnished free of expense to the State. The samples furnished must be identical in all respects to the products bid and/or specified in the contract.
- b) Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at contractor's expense.

19. WARRANTY: Unless otherwise specified, the warranties contained in this contract begin after acceptance has occurred.

- a) Contractor warrants that goods and services furnished hereunder will conform to the requirements of this contract (including all descriptions, specifications and drawings made a part hereof), and such goods will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by the State, free from defects in design. The State's approval of designs or specifications furnished by contractor shall not relieve the contractor of its obligations under this warranty.
- b) All warranties, including special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies and users of the goods or services.

20. SAFETY AND ACCIDENT PREVENTION: In performing work under this contract on State premises, contractor shall conform to any specific safety requirements contained in the contract or as required by law or regulation. Contractor shall take any additional precautions as the State may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this contract in accordance with the default provisions hereof.

21. INSURANCE: When performing work on property in the care, custody or control of the State, contractor shall maintain all commercial general liability insurance, workers' compensation insurance and any other insurance the State deems appropriate under the contract. Contractor shall furnish an insurance certificate evidencing required insurance coverage acceptable to the State. Upon request by the buyer, the contractor may be required to have the State shown as an "additional insured" on selected policies.

22. TERMINATION FOR NON-APPROPRIATION OF FUNDS:

- a) If the term of this contract extends into fiscal years subsequent to that in which it is approved, such continuation of the contract is contingent on the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not appropriated, contractor agrees to take back any affected goods furnished under this contract, terminate any services supplied to the State under this contract, and relieve the State of any further obligation therefor.
- b) STATE AGREES THAT IF PARAGRAPH (a) ABOVE IS INVOKED, GOODS SHALL BE RETURNED TO THE CONTRACTOR IN SUBSTANTIALLY THE SAME CONDITION IN WHICH DELIVERED TO THE STATE, SUBJECT TO NORMAL WEAR AND TEAR. STATE FURTHER AGREES TO PAY FOR PACKING, CRATING, TRANSPORTATION TO CONTRACTOR'S NEAREST

GENERAL PROVISIONS

FACILITY AND FOR REIMBURSEMENT TO THE CONTRACTOR FOR EXPENSES INCURRED FOR THEIR ASSISTANCE IN SUCH PACKING AND CRATING.

23. TERMINATION FOR THE CONVENIENCE OF THE STATE:

- a) The State may terminate performance of work under this contract for its convenience in whole or, from time to time, in part, if the Department of General Services, Deputy Director, Procurement Division, or designee, determines that a termination is in the State's interest. The Department of General Services, Deputy Director, Procurement Division, or designee, shall terminate by delivering to the contractor a Notice of Termination specifying the extent of termination and the effective date thereof. The parties agree that, as to the terminated portion of the contract, the contract shall be deemed to remain in effect until such time as the termination settlement, if any, is concluded and the contract shall not be void.
- b) After receipt of a Notice of Termination, and except as directed by the State, the contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. The Contractor shall:
 - i) Stop work as specified in the Notice of Termination.
 - ii) Place no further subcontracts for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
 - iii) Terminate all subcontracts to the extent they relate to the work terminated.
 - iv) Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification of which will be final for purposes of this clause.

24. TERMINATION FOR DEFAULT:

- a) The State may, subject to the Force Majeure paragraph contained herein, by written notice of default to the contractor, terminate this contract in whole or in part if the contractor fails to:
 - i) Deliver the goods or to perform the services within the time specified in the contract or any amendment thereto;
 - ii) Make progress, so as to endanger performance of this contract (but see subparagraph (b) below); or
 - iii) Perform any of the other provisions of this contract (but see subparagraph (b), below).
- b) The State's right to terminate this contract under subparagraphs (a)(ii) and (a)(iii) above, may be exercised if the contractor does not cure such failure within the time frame stated in the cure notice issued by the buyer.
- c) If the State terminates this contract in whole or in part, it may acquire, under the terms and in the manner the buyer considers appropriate, goods or services similar to those terminated, and the contractor will be liable to the State for any excess costs for those goods or services. However, the contractor shall continue the work not terminated.
- d) If the contract is terminated for default, the State may require the contractor to transfer title and deliver to the State, as directed by the buyer, any:
 - i) Completed goods, and
 - ii) Partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the buyer, the contractor shall also protect and preserve property in its possession in which the State has an interest.
- e) The State shall pay contract price for completed goods delivered and accepted. The contractor and buyer shall

agree on the amount of payment for manufacturing materials delivered and accepted for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the buyer determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

- f) If, after termination, it is determined that the contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the State.
- g) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this contract.

25. FORCE MAJEURE:

Except for defaults of subcontractors at any tier, the contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the contractor. Examples of such causes include, but are not limited to:

- a) Acts of God or of the public enemy, and
- b) Acts of the federal or state government in either its sovereign or contractual capacity.

If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the contractor and subcontractor, and without the fault or negligence of either, the contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted goods or services were obtainable from other sources in sufficient time for the contractor to meet the required delivery schedule.

26. RIGHTS AND REMEDIES OF STATE FOR DEFAULT:

- a) In the event any goods furnished or services provided by the contractor in the performance of the contract should fail to conform to the requirements herein, or to the sample submitted by the contractor, the State may reject the same, and it shall become the duty of the contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to the State, and immediately replace all such rejected items with others conforming to the contract.
- b) In addition to any other rights and remedies the State may have, the State may require contractor, at contractor's expense, to ship goods via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of the contractor.
- c) In the event of the termination of the contract, either in whole or in part, by reason of default or breach by the contractor, any loss or damage sustained by the State in procuring any items which the contractor agreed to supply shall be borne and paid for by the contractor.
- d) The State reserves the right to offset the reasonable cost of all damages caused to the State against any outstanding invoices or amounts owed to contractor or to make a claim against the contractor therefore.

27. 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 two times the Purchase Price. For purposes of this sub-section a), "Purchase Price" will mean the aggregate Contract price; except that, with respect to a Contract under which multiple purchase orders will be issued (e.g., a Master Agreement or Multiple Award Schedule contract), "Purchase Price" will mean the total price of the purchase order for the Deliverable(s) or service(s) that gave rise to the loss, such that Contractor will have a separate limitation of liability for each purchase order.

GENERAL PROVISIONS

- b) The foregoing limitation of liability shall not apply (i) to liability under the General Provisions, entitled "Patent, Copyright, and Trade Secret Protection" or to any other liability (including without limitation indemnification obligations) for infringement of third party intellectual property rights; (ii) to claims covered by any specific provision herein calling for liquidated damages; (iii) to claims arising under provisions herein calling for indemnification for third party claims against the State for bodily injury to persons or damage to real or tangible personal property caused by Contractor's negligence or willful misconduct; or (iv) to costs or attorney's fees that the State becomes entitled to recover as a prevailing party in any action.
- c) The State's liability for damages for any cause whatsoever, and regardless of the form of action, whether in Contract or in tort, shall be limited to the Purchase Price, as that term is defined in subsection a) above. Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law.
- d) In no event will either the Contractor or the State be liable for consequential, incidental, indirect, special, or punitive damages, even if notification has been given as to the possibility of such damages, except (i) to the extent that Contractor's liability for such damages is specifically set forth in the Statement of Work or (ii) to the extent that Contractor's liability for such damages arises out of sub-section b)(i), b)(ii), or b)(iv) above.
- e) Contractor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by the contractor, or for damage to alterations or attachments that may result from the normal operation and maintenance of the goods provided by the contractor during the contract.
- 28. 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 contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation which may be injured or damaged by contractor in the performance of this contract.
- 29. INVOICES:** Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the contract number; release order number (if applicable); item number; unit price, extended item price and invoice total amount. State sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.
- 30. REQUIRED PAYMENT DATE:** Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et. seq. Unless expressly exempted by statute, the Act requires state agencies to pay properly submitted, undisputed invoices not more than 45 days after (i) the date of acceptance of goods or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.
- 31. TAXES:** Unless otherwise required by law, the State of California is exempt from Federal excise taxes. The State will only pay for any State or local sales or use taxes on the services rendered or goods supplied to the State pursuant to this contract.
- 32. NEWLY MANUFACTURED GOODS:** All goods furnished under this contract shall be newly manufactured goods; used or reconditioned goods are prohibited, unless otherwise specified.
- 33. CONTRACT MODIFICATION:** No amendment or variation of the terms of this contract shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the contract is binding on any of the parties.
- 34. CONFIDENTIALITY OF DATA:** All financial, statistical, personal, technical and other data and information relating to the State's operation which are designated confidential by the State and made available to the contractor in order to carry out this contract, or which become available to the contractor in carrying out this contract, shall be protected by the contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the contractor. If the methods and procedures employed by the contractor for the protection of the contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The contractor shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the contractor's possession, is independently developed by the contractor outside the scope of this contract, or is rightfully obtained from third parties.
- 35. NEWS RELEASES:** Unless otherwise exempted, news releases pertaining to this contract shall not be made without prior written approval of the Department of General Services.
- 36. PATENT, COPYRIGHT and TRADE SECRET INDEMNITY:**
- a) Contractor shall hold the State of California, its officers, agents and employees, harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the contract.
 - b) Contractor may be required to furnish a bond to the State against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.
 - c) Contractor, at its own expense, shall defend any action brought against the State to the extent that such action is based upon a claim that the goods or software supplied by the contractor or the operation of such goods pursuant to a current version of contractor supplied operating software infringes a United States patent or copyright or violates a trade secret. The contractor shall pay those costs and damages finally awarded against the State in any such action. Such defense and payment shall be conditioned on the following:
 - i) That the contractor shall be notified within a reasonable time in writing by the State of any notice of such claim; and,
 - ii) That the contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when principles of government or public law are involved, the State shall have the option to participate in such action at its own expense.
 - d) Should the goods or software, or the operation thereof, become, or in the contractor's opinion are likely to become, the subject of a claim of infringement of a United States patent or copyright or a trade secret, the State shall permit the contractor at its option and expense either to procure for the State the right to continue using the goods or software, or to replace or modify the same so that they become

GENERAL PROVISIONS

non-infringing. If none of these options can reasonably be taken, or if the use of such goods or software by the State shall be prevented by injunction, the contractor agrees to take back such goods or software and make every reasonable effort to assist the State in procuring substitute goods or software. If, in the sole opinion of the State, the return of such infringing goods or software makes the retention of other goods or software acquired from the contractor under this contract impractical, the State shall then have the option of terminating such contracts, or applicable portions thereof, without penalty or termination charge. The contractor agrees to take back such goods or software and refund any sums the State has paid contractor less any reasonable amount for use or damage.

- e) The contractor shall have no liability to the State under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:
 - i) The combination or utilization of goods furnished hereunder with equipment or devices not made or furnished by the contractor; or,
 - ii) The operation of equipment furnished by the contractor under the control of any operating software other than, or in addition to, the current version of contractor-supplied operating software; or
 - iii) The modification by the State of the equipment furnished hereunder or of the software; or
 - iv) The combination or utilization of software furnished hereunder with non-contractor supplied software.
- f) Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.
- g) The foregoing states the entire liability of the contractor to the State with respect to infringement of patents, copyrights or trade secrets.

37. EXAMINATION AND AUDIT: Contractor agrees that the State, or its designated representative shall have the right to review and copy any records and supporting documentation pertaining to performance of this contract. 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 or others 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 contract.

38. DISPUTES:

- a) The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, contractor shall submit to the Department Director or designee a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to or involving this contract, unless the State, on its own initiative, has already rendered such a final decision. Contractor's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the contract, contractor shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the contract adjustment for which contractor believes the State is liable. If the contractor is not satisfied with the decision of the Department Director or designee, the contractor may appeal the decision to the Department of General Services, Deputy Director, Procurement Division. In the event that this contract is for information technology goods and/or services,

the decision may be appealed to an Executive Committee of State and contractor personnel.

- b) Pending the final resolution of any dispute arising under, related to or involving this contract, contractor agrees to diligently proceed with the performance of this contract, including the delivery of goods or providing of services in accordance with the State's instructions. Contractor's failure to diligently proceed in accordance with the State's instructions shall be considered a material breach of this contract.
- c) Any final decision of the State shall be expressly identified as such, shall be in writing, and shall be signed by the Department Director or designee or Deputy Director, Procurement Division if an appeal was made. If the State fails to render a final decision within 90 days after receipt of contractor's demand, it shall be deemed a final decision adverse to contractor's contentions. The State's final decision shall be conclusive and binding regarding the dispute unless contractor commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.

39. STOP WORK:

- a) The State may, at any time, by written Stop Work Order to the contractor, require the contractor to stop all, or any part, of the work called for by this contract for a period up to 90 days after the Stop Work Order is delivered to the contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, the contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of 90 days after a Stop Work Order is delivered to the contractor, or within any extension of that period to which the parties shall have agreed, the State shall either:
 - i) Cancel the Stop Work Order; or
 - ii) Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of this contract.
- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the contract price, or both, and the contract shall be modified, in writing, accordingly, if:
 - i) The Stop Work Order results in an increase in the time required for, or in the contractor's cost properly allocable to the performance of any part of this contract; and
 - ii) The contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this contract.
- c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for the Convenience of the State, the State shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- d) The State shall not be liable to the contractor for loss of profits because of a Stop Work Order issued under this clause.

GENERAL PROVISIONS

- 40. 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 PCC Section 10353.
- 41. COVENANT AGAINST GRATUITIES:** The contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the contractor, or any agent or representative of the contractor, to any officer or employee of the State with a view toward securing the contract or securing favorable treatment with respect to any determinations concerning the performance of the contract. For breach or violation of this warranty, the State shall have the right to terminate the contract, either in whole or in part, and any loss or damage sustained by the State in procuring on the open market any items which contractor agreed to supply shall be borne and paid for by the contractor. The rights and remedies of the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.
- 42. NONDISCRIMINATION CLAUSE:**
- a) During the performance of this contract, contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, 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 (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 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 contract 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.
 - b) The contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.
- 43. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the contractor within the immediately preceding two-year period because of the contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, PCC Section 10296.
- 44. ASSIGNMENT OF ANTITRUST ACTIONS:** Pursuant to Government Code Sections 4552, 4553, and 4554, the following provisions are incorporated herein:
- a) In submitting a bid to the State, the supplier offers and agrees that if the bid is accepted, it will assign to the State 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. 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, material, or services by the supplier for sale to the State pursuant to the solicitation. Such assignment shall be made and become effective at the time the State tenders final payment to the supplier.
 - b) If the State 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 State any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the State as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.
 - c) 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
 - i) the assignee has not been injured thereby, or
 - ii) the assignee declines to file a court action for the cause of action.
- 45. DRUG-FREE WORKPLACE CERTIFICATION:** The contractor certifies under penalty of perjury under the laws of the State of California that the contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) 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, as required by Government Code Section 8355(a).
 - b) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - i) the dangers of drug abuse in the workplace;
 - ii) the person's or organization's policy of maintaining a drug-free workplace;
 - iii) any available counseling, rehabilitation and employee assistance programs; and,
 - iv) penalties that may be imposed upon employees for drug abuse violations.
 - c) Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting contract:
 - i) will receive a copy of the company's drug-free policy statement; and,
 - ii) will agree to abide by the terms of the company's statement as a condition of employment on the contract.
- 46. FOUR-DIGIT DATE COMPLIANCE:** Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date Compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.
- 47. SWEATFREE CODE OF CONDUCT:**
- a) Contractor declares 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 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

GENERAL PROVISIONS

exploitation of children in sweatshop labor. 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) Contractor agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under paragraph (a).
- 48. RECYCLING:** Contractor hereby certifies under penalty of perjury that a percentage (0% to 100%) of the materials, goods, supplies offered, or products used in the performance of this contract meet or exceed the minimum percentage of recycled material as defined in PCC Sections 12161 and 12200.
- 49. CHILD SUPPORT COMPLIANCE ACT:** For any contract in excess of \$100,000, the contractor acknowledges in accordance with PCC Section 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.
- 50. AMERICANS WITH DISABILITIES ACT:** Contractor assures the State that Contractor complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq).
- 51. UNION ACTIVITIES:** For all contracts, , except fixed price contracts of \$50,000 or less, the Contractor acknowledges that: by signing this agreement, Contractor hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this agreement and agrees to the following:
- a) Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.
- b) No state funds received under this agreement will be used to assist, promote or deter union organizing.
- c) Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.
- d) If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and that Contractor shall provide those records to the Attorney General upon request.
- 52. ELECTRONIC WASTE RECYCLING ACT OF 2003:** The Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.
- 53. USE TAX COLLECTION:** In accordance with PCC Section 10295.1, Contractor certifies that it complies with the

requirements of Section 7101 of the Revenue and Taxation Code. Contractor further certifies that it will immediately advise State of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.

- 54. EXPATRIATE CORPORATIONS:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC Section 10286 and 10286.1, and is eligible to contract with the State.
- 55. DOMESTIC PARTNERS:** Commencing on July 1, 2004, Contractor certifies that it is in compliance with the applicable provisions of PCC Section 10295.3 with regard to benefits for domestic partners.