

PURCHASING AUTHORITY PURCHASE ORDER

STD 65 (REV 7/2003)

CONTRACT REGISTRATION NUMBER	AGENCY ORDER NUMBER 1060000010824	AMENDMENT NO
SUPPLIER: The numbers identified above MUST be shown on Invoice & Packing Slip.	DATE 11/8/2016	PAGE OF PAGE 1 421

SHIP TO CALIFORNIA DEPT OF TECHNOLOGY ADMIN WAREHOUSE 10173 CROYDON WAY STE 4 SACRAMENTO CA 95827 ATTN: CIO STND NETWORK ASSET MGT	BILL TO CALIFORNIA DEPT OF TECHNOLOGY ADMIN DIVISION-ACCOUNTING OFFICE PO BOX 1810 RANCHO CORDOVA CA 95741	AGENCY BILLING CODE 33000
		PURCHASING AUTHORITY NUMBER CDT-7502
		LEVERAGED PROCUREMENT AGREEMENT NO

TO SUPPLIER ADDRESS
IRON KITE TECHNOLOGIES INC
2351 SUNSET BLVD STE 170-107
ROCKLIN CA 95765

(Type or
Print
Legibly)

INFORMATION TECHNOLOGY PROJECT IDENTIFICATION NUMBER	
AGENCY OR BUYER INFORMATION	AGENCY TRACKING/REQUISITION NUMBER (Optional) WO 16-2066514
AGENCY NAME Tech	CONTACT NAME Eligah Abdul-Rahman
CONTACT E-MAIL ADDRESS eligah.abdul-rahman@state.ca.gov	
CONTACT PHONE NUMBER 916/431-4692	CONTACT FAX NUMBER 916/463-9909

SUPPLIER CONTACT NAME DREW DONOGHUE	SUPPLIER PHONE NUMBER (916) 846-0409	SUPPLIER FAX NUMBER (916) 244-0906	SUPPLIER E-MAIL ADDRESS drew@ironkitetech.com
PAYMENT TERMS Net 45	CERTIFICATION NUMBER 1802744	<input checked="" type="checkbox"/> Certified Small Business <input type="checkbox"/> Certified Microbusiness	EXPIRATION DATE 5/31/2017
REQUIRED DELIVERY DATE 12/8/2016	SHIPPING INSTRUCTIONS <input checked="" type="checkbox"/> FOB Destination FRT PPD <input type="checkbox"/> FOB Destination FRT PPADO Freight not to exceed cost stated on P.O.	<input type="checkbox"/> FOB CAIN	CITY OF ORIGIN STATE ZIP CODE

ITEM NUMBER	QUANTITY	UNIT	COMMODITY CODE or PRODUCT CODE or SERVICES ID NUMBER	RECYCLED PRODUCT	PRODUCT OR SERVICES DESCRIPTION	UNIT PRICE	EXTENSION TOTAL
					CONTRACT TERM: 11/16/2016 To 11/15/2021		
1	4	EA			VDX6740 24P SFP+ AC NON PT SIDE EX	10,214.26	40,857.04
					AF, (See Attached Quote).		
2	4	EA			6510/6505/VDX6710 FIXED RM KIT, (See Attached Quote).	112.31	449.24
3	9	EA			10GBASE-SR SFP+ LC MMF 300M 8PK, (See Attached Quote).	3,295.39	29,658.51
4	4	EA			ESS NBD PARTS ONLY SUP VDX6740	2,623.75	10,495.00
					24PT 5 YEARS, (See Attached Quote).		
5	10	EA			1000BSX SFP MOD MM LC OM, (See Attached Quote).	335.81	3,358.10

A <input checked="" type="checkbox"/> General Provisions are incorporated herein by reference to: <input type="checkbox"/> Form GSPD -401 Non-IT Commodities (revision date _____) OR <input checked="" type="checkbox"/> Form GSPD -401 IT (revision date 9/5/2014) <input type="checkbox"/> ATTACHED OR <input checked="" type="checkbox"/> Published at website: www.dgs.ca.gov/pd		TAXABLE SUBTOTAL	74,322.89
B <input type="checkbox"/> Agency Special Provisions are attached and titled C <input checked="" type="checkbox"/> Any other attachments, such as specifications, Statement of Work, or Information Technology Model Language Modules, are identified in the product or services description area or on continuation pages		TAX RATE 8.50 SALES TAX	6,317.45
PROCUREMENT METHOD <input type="checkbox"/> COMPETITIVE Solicitation Number (if appropriate) RFQ 16-2066514 <input type="checkbox"/> LEVERAGED <input checked="" type="checkbox"/> DVBE / SMALL BUSINESS (GC 14839.5(a)) <input type="checkbox"/> NON-COMPETITIVELY BID <input type="checkbox"/> EXEMPT		* INSTALLATION	0.00
PROGRAM / CATEGORY (Code and Title) CLEARING ACCOUNT FUND TITLE Tech Svcs Rev Fund VERIFIED NO STATE SURPLUS AVAILABLE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO PAID BY C.A. CARD <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		* SHIPPING/FREIGHT	
ITEM 7502-001-9730 CHAPTER 23 STATUTE 2016 FISCAL YEAR 16 / 17 OBJECT OF EXPENDITURE (CODE AND TITLE) 303.570035.225		* OTHER NON-TAXABLE	10,495.00
		GRAND TOTAL	91,135.34

* NOTE: If there are variable charges for Installation, Shipping or Freight, or Other Non-Taxable Services, detail per line item and enter total here.

CERTIFICATION AND APPROVAL OF EXECUTIVE OFFICER
I HEREBY CERTIFY, on personal knowledge, that this order for purchasing the items specified above is issued in accordance with the procedure prescribed by law governing the purchase of such items for the State of California; and that all such legal requirements have been fully complied with

AUTHORIZING NAME (Print or Type)

Jenniffer Herrera

TITLE

Purchasing Manager

AUTHORIZING SIGNATURE

UNENCUMBERED REMAINDER AFTER POSTING THIS ORDER TO ALLOTMENT EXPENDITURE LEDGER

ADJUSTMENT INCREASING ENCUMBRANCES

ADJUSTMENT DECREASING ENCUMBRANCES

CERTIFIED CORRECT (SIGNATURE)

Susan Serrano

DISTRIBUTION: Copy 1 - Supplier; Copy 2 - DGS Procurement; Copy 3 - Packing Slip; Copies 4-6 - Agency Procurement File

**PURCHASING AUTHORITY PURCHASE ORDER
CONTINUATION**

CONTRACT REGISTRATION NUMBER	AGENCY ORDER NUMBER 0000010824	AMENDMENT NO
SUPPLIER: The numbers identified above MUST be shown on invoice & Packing Slip.	DATE 11/08/2016	PAGE OF PAGE 2 42

PURCHASING AUTHORITY NUMBER
CDT-7502

LEVERAGED PROCUREMENT AGREEMENT NO.

[illegible]

**PURCHASING AUTHORITY PURCHASE ORDER
CONTINUATION**

CONTRACT REGISTRATION NUMBER	AGENCY ORDER NUMBER 0000010824	AMENDMENT NO
SUPPLIER: The numbers identified above MUST be shown on Invoice & Packing Slip.	DATE 11/08/2016	PAGE 3 OF PAGE 21

[illegible]

Exhibit A
Statement of Work

Brocade Switches

1. Contract Description:

Iron Kite Technologies Inc. (hereinafter referred to as the "Contractor") agrees to provide the California Department of Technology, (hereinafter referred to as the "State"), with the goods and/or services listed below in items four (4) through six (6).

2. Equipment Delivery Site:

The equipment shall be delivered to the following location by the Vendor:

CALIFORNIA DEPT OF TECHNOLOGY
ADMIN WAREHOUSE
10173 CROYDON WAY STE 4
SACRAMENTO CA 95827
ATTN: CIO STND NETWORK ASSET MGT

Delivery Hours: Monday - Friday, 7:00 am - 11:00 am and 1:00 pm - 4:00 pm. Please call (916) 255-1975 to make arrangements to deliver outside of the normal delivery hours. Once the equipment is received, the California Department of Technology will deliver and install the equipment at the equipment site.

3. Notices:

All notices required by or relating to this Agreement shall be in writing and shall be sent to the parties of this Agreement at their address as set below unless changed from time to time, in which event each party shall notify the other in writing, and all such notices shall be deemed duly given if deposited, postage prepaid, in the United States mail and directed to the following addresses:

The technical representative during the term of this agreement will be:

State Department	Contractor
California Department of Technology, Office of Technology Services (OTech)	Iron Kite Technologies Inc.
Attn: Shirley Cournoyer	Attn: Drew Donoghue

Phone: (916) 431-5647	Phone: 916-846-0409
E-mail: ShirleyCournoyer@state.ca.gov	E-mail : drew@ironkitetech.com

Contract inquiries should be addressed to:

State Department	Contractor
California Department of Technology, Procurement & Contracting Services Branch	Iron Kite Technologies Inc.
Attn: Eligah Abdul-Rahman	Attn: Drew Donoghue
Address: PO Box 1810, Y18 Rancho Cordova, CA 95670	Address: 2351 Sunset Blvd Ste 170- 107 Rocklin, CA 95765
Phone: (916) 431-4692	Phone: 916-846-0409
Fax: (916) 733-7692	Fax: 916-244-0906
E-mail:Eligah.Abdul-Rahman@state.ca.gov	E-mail: drew@ironkitetech.com

4. **Warranty Description:**

Next-business-Day Parts (NDP). Provides next-business-day response for parts replacement from the time Brocade has determined a replacement is required and confirmed dispatch with the customer. NDP is subject to customer providing Brocade with accurate information regarding the description of the repair problem, the part number, the serial number, and the return address. Physical installation of the replacement part and defective product return shall be performed by the customer. NDP is available in most major metropolitan areas worldwide and is available on business days M-F 9-5 local time to customer site. Brocade support phone number is 1-800-752-8061. Their support email address is support@brocade.com.

5. **Term:**

The agreement resulting from this purchase will have a term of (60) months from date of acceptance of goods.

6. **Equipment/Good(s):**

Please see Exhibit B-1 Cost Worksheet

7. **Amendments:**

Consistent with the terms and conditions of the solicitation **16-2066514**, and upon mutual consent, the California Department of Technology and the Contractor may execute amendments to this Agreement. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, and agreed upon by both parties

State of California

Iron Kite
Technologies Inc.

California Department of Technology

PO 10824 WO 16-2066514

and approved, as required. No verbal understanding or agreement not incorporated into the Agreement is binding on any of the parties.

Exhibit B
Payment and Invoicing

1. Payment/Invoicing:

a. Payment will be made in advance upon receipt of a correct invoice, after delivery by the Contractor and acceptance by the State. **Invoices shall include the California Department of Technology Agreement/Agency Order Number, product name/description, part/item numbers (as applicable) and cost.**

b. Submit your invoice using only **one** of the following options:

1) Send via U.S. mail in **TRIPLICATE** to:

California Department of Technology
Administration Division – Accounting Office
P. O. Box 1810
Rancho Cordova, CA 95741

OR

2) Submit electronically at: APInvoices@state.ca.gov

2. Payment Schedule:

Payment(s) will be made in accordance with the California Prompt Payment Act, within the time specified in Government Code Chapter 4.5 commencing with Section 927.

EXHIBIT B-1 - COST WORKSHEET
Work Order 16-2065360

Bidders must submit a cost quote for each of the items in the following list and clearly state unit and extended cost for each item.

Approximate Delivery Date/ARO for Shipping: 5 Days Upon PO

Partial shipments are not allowed without prior authorization by the CDT.

Part Number	Description	Qty	Unit Price	Extended Price
BR-VDX6740-24-F	VDX6740 24P SFP+ AC NON PT SIDE EX AF	4	\$10,214.26	\$40,857.04
XBR-R000291	6510/6505/VDX6710 FIXED RM KIT	4	\$112.31	\$449.24
10G-SFP-SR-8	10GBASE-SR SFP+ LC MMF 300M 8PK	9	\$3,295.39	\$29,658.51
6740-24-SVL-NDP-5	ESS NBD PARTS ONLY SUP VDX6740 24PT 5 YEARS Warranty	4	\$2,623.75	\$10,495.00
EIMG-SX-OM	1000BSX SFP MOD MM LC OM	10	\$335.81	\$3,358.10

90F21

Subtotal: \$ 84,817.89

Tax (if applicable): \$6,317.45

Grand Total: \$ **\$91,135.34**

EXHIBIT C***GENERAL PROVISIONS FOR INFORMATION TECHNOLOGY***

Are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at: IT General Provisions (GSPD-401IT rev. 09/05/14) http://www.documents.dgs.ca.gov/pd/poliproc/GSPD401IT14_0905.pdf 89

EXHIBIT D**SPECIAL TERMS AND CONDITIONS TO SAFEGUARD FEDERAL TAX INFORMATION**

Federal statute, regulations and guidelines require that all contracts for services relating to the processing, storage, transmission, or reproduction of federal tax returns or return information, the programming, maintenance, repair, or testing of equipment or other property, or the providing of other services, for tax administration purposes include the provisions contained in this exhibit. (See 26 U.S.C. §6103(n); 26 C.F.R. §301.6103(n)-1(a)(2) and (d); Internal Revenue Service (IRS) Publication 1075, Tax Information Security Guidelines for Federal, State and Local Agencies (Rev. 8-2010), Section 5.5 and Exhibit 7.)

The contractor agrees to comply with 26 U.S.C. §6103(n); 26 C.F.R. §301.6103(n)-1; IRS Publication 1075 (Rev. 8-2010); and all applicable conditions and restrictions as may be prescribed by the IRS by regulation, published rules or procedures, or written communication to the contractor. (See 26 C.F.R. §301.6103(n)-1(d); IRS Publication 1075 (Rev. 8-2010).)

I. PERFORMANCE

In performance of this contract, the contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

- (1) All work will be done under the supervision of the contractor or the contractor's employees.
- (2) Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Disclosure to anyone other than an officer or employee of the contractor will be prohibited.
- (3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
- (4) The contractor certifies that the data processed during the performance of this contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the contractor at the time

the work is completed. If immediate purging of all data storage components is not possible, the contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.

- (5) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the agency or his or her designee. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the agency or his or her designee with a statement containing the date of destruction, description of material destroyed, and the method used.
- (6) All computer systems receiving, processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.
- (7) No work involving Federal tax information furnished under this contract will be subcontracted without prior written approval of the IRS.
- (8) The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.
- (9) The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

II. CRIMINAL/CIVIL SANCTIONS

- (1) Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution.

Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

- (2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution.

Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431.

- (3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is

prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

- (4) Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors should be advised of the provisions of IRC Sections 7431, 7213, and 7213A (see Exhibit 6, *IRC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Return Information* and Exhibit 5, *IRC Sec. 7213 Unauthorized Disclosure of Information*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor should sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.¹

III. INSPECTION

The IRS and the Agency shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this contract. On the basis of such inspection, specific measures may be required in cases where the contractor is found to be noncompliant with contract.

REFERENCES

26 U.S.C. §6103(n)

Pursuant to regulations prescribed by the Secretary, returns and return information may be disclosed to any person, including any person described in section 7513 (a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, the programming, maintenance, repair, testing, and procurement of

¹ A 30 minute disclosure awareness training video produced by the IRS can be found at

<http://www.irsvideos.gov/Governments/Safeguards/DisclosureAwarenessTrainingPub4711>

equipment, and the providing of other services, for purposes of tax administration.

26 C.F.R. §301.6103(n)-1 Disclosure of returns and return information in connection with procurement of property and services for tax administration purposes.

(a) *General rule.* Pursuant to the provisions of section 6103(n) of the Internal Revenue Code and subject to the requirements of paragraphs (b), (c), and (d) of this section, officers or employees of the Treasury Department, a State tax agency, the Social Security Administration, or the Department of Justice, are authorized to disclose returns and return information (as defined in section 6103(b)) to any person (including, in the case of the Treasury Department, any person described in section 7513(a)), or to an officer or employee of such person, to the extent necessary in connection with contractual procurement of—

- (1) Equipment or other property, or
- (2) Services relating to the processing, storage, transmission, or reproduction of such returns or return information, the programming, maintenance, repair, or testing of equipment or other property, or the providing of other services, for purposes of tax administration (as defined in section 6103(b)(4)).

No person, or officer or employee of such person, to whom a return or return information is disclosed by an officer or employee of the Treasury Department, the State tax agency, the Social Security Administration, or the Department of Justice, under the authority of this paragraph shall in turn disclose such return or return information for any purpose other than as described in this paragraph, and no such further disclosure for any such described purpose shall be made by such person, officer, or employee to anyone, other than another officer or employee of such person whose duties or responsibilities require such disclosure for a purpose described in this paragraph, without written approval by the Internal Revenue Service.

(b) *Limitations.* For purposes of paragraph (a) of this section, disclosure of returns or return information in connection with contractual procurement of property or services described in such paragraph will be treated as necessary only if such procurement or the performance of such services cannot otherwise be reasonably, properly, or economically carried out or performed without such disclosure.

Thus, for example, disclosures of returns or return information to employees of a contractor for purposes of programming, maintaining, repairing, or testing computer equipment used by the Internal Revenue Service or a State tax agency should be made only if such services cannot be reasonably, properly, or economically performed by use of information or other data in a form which does not identify a particular taxpayer. If, however, disclosure of returns or return information is in fact necessary in order for such employees to reasonably, properly, or economically perform the computer related services, such disclosures should be restricted to returns or return information selected or appearing at random. Further, for purposes of paragraph (a), disclosure of returns or return information in connection with the contractual procurement of property or services described in such paragraph should be made only to the extent necessary to reasonably, properly, or economically conduct such procurement activity. Thus, for example, if an activity described in paragraph (a) can be reasonably, properly, and economically conducted by disclosure of only parts or portions of a return or if deletion of taxpayer identity information (as defined in section 6103(b)(6) of the Code) reflected on a return would not seriously impair the ability of the contractor or his officers or employees to conduct the activity, then only such parts or portions of the return, or only the return with taxpayer identity information deleted, should be disclosed.

(c) *Notification requirements.* Persons to whom returns or return information is or may be disclosed as authorized by paragraph (a) of this section shall provide written notice to their officers or employees—

- (1) That returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized by paragraph (a) of this section;
- (2) That further inspection of any returns or return information for a purpose or to an extent unauthorized by paragraph (a) of this section constitutes a misdemeanor, punishable upon conviction by a fine of as much as \$1,000, or imprisonment for as long as 1 year, or both, together with costs of prosecution;
- (3) That further disclosure of any returns or return information for a purpose or to an extent unauthorized by paragraph (a) of this section constitutes a felony, punishable upon conviction by a fine of as much as \$5,000, or imprisonment for as long as 5 years, or both, together with the costs of prosecution;
- (4) That any such unauthorized further inspection or disclosure of returns or return information

may also result in an award of civil damages against any person who is not an officer or employee of the United States in an amount not less than \$1,000 for each act of unauthorized inspection or disclosure or the sum of actual damages sustained by the plaintiff as a result of such unauthorized disclosure or inspection as well as an award of costs and reasonable attorneys fees; and

- (5) If such person is an officer or employee of the United States, a conviction for an offense referenced in paragraph (c)(2) or (c)(3) of this section shall result in dismissal from office or discharge from employment.

- (d) **Safeguards.** Any person to whom a return or return information is disclosed as authorized by paragraph (a) of this section shall comply with all applicable conditions and requirements which may be prescribed by the Internal Revenue Service for the purposes of protecting the confidentiality of returns and return information and preventing disclosures of returns or return information in a manner unauthorized by paragraph (a). The terms of any contract between the Treasury Department, a State tax agency, the Social Security Administration, or the Department of Justice, and a person pursuant to which a return or return information is or may be disclosed for a purpose described in paragraph (a) shall provide, or shall be amended to provide, that such person, and officers and employees of the person, shall comply with all such applicable conditions and restrictions as may be prescribed by the Service by regulation, published rules or procedures, or written communication to such person. If the Service determines that any person, or an officer or employee of any such person, to whom returns or return information has been disclosed as provided in paragraph (a) has failed to, or does not, satisfy such prescribed conditions or requirements, the Service may take such actions as are deemed necessary to ensure that such conditions or requirements are or will be satisfied, including—

- (1) Suspension or termination of any duty or obligation arising under a contract with the Treasury Department referred to in this paragraph or suspension of disclosures by the Treasury Department otherwise authorized by paragraph (a) of this section, or
- (2) Suspension of further disclosures of returns or return information by the Service to the State tax agency, or to the Department of Justice, until the Service determines that such conditions and requirements have been or will be satisfied.

(e) **Definitions.** For purposes of this section—

- (1) The term *Treasury Department* includes the Internal Revenue Service and the Office of the Chief Counsel for the Internal Revenue Service;
- (2) The term *State tax agency* means an agency, body, or commission described in section 6103(d) of the Code; and
- (3) The term *Department of Justice* includes offices of the United States Attorneys.

IRS Publication 1075 (Rev. 8-2010) Section 5.5 Control over Processing

Processing of FTI, in an electronic media format, including removable media, microfilms, photo impressions, or other formats (including tape reformatting or reproduction or conversion to punch cards, digital images or hard copy printout) will be performed pursuant to one of the following procedures:

5.5.1 Agency Owned and Operated Facility

Processing under this method will take place in a manner that will protect the confidentiality of the information on the electronic media. All safeguards outlined in this publication also must be followed and will be subject to IRS safeguard reviews.

5.5.2 Contractor or Agency Shared Facility – Consolidated Data Centers

Recipients of FTI are allowed to use a shared facility but only in a manner that does not allow access to FTI by employees, agents, representatives or contractors of other agencies using the shared facility.

Note: For purposes of applying sections 6103(l), (m) and (n), the term “agent” includes contractors. Access restrictions pursuant to the IRC authority by which the FTI is received continue to apply. For example, since human services agencies administering benefit eligibility programs may not allow contractor access to any FTI received, their data within the consolidated data center may not be accessed by any contractor of the data center.

The requirements in Exhibit 7, Contract Language for General Services, must be

included in the contract in accordance with IRC Section 6103(n).

The contractor or agency-shared computer facility is also subject to IRS safeguard reviews.

Note: The above rules also apply to releasing electronic media to a private contractor or other agency office even if the purpose is merely to erase the old media for reuse.

Agencies utilizing consolidated data centers must implement appropriate controls to ensure the protection of FTI, including a service level agreement (SLA) between the agency authorized to receive FTI and the consolidated data center. The SLA should cover the following:

1. The consolidated data center is considered to be a "contractor" of the agency receiving FTI. The agency receiving FTI – whether it is a state revenue, workforce, child support enforcement or human services agency – is responsible for ensuring the protection of all FTI received. However, as the "contractor" for the agency receiving FTI, the consolidated data center shares responsibility for safeguarding FTI as well.
2. Provide written notification to the consolidated data center management that they are bound by the provisions of Publication 1075, relative to protecting all federal tax information within their possession or control. The SLA should also include details concerning the consolidated data center's responsibilities during a safeguard review and support required to resolve identified findings.
3. The agency will conduct an internal inspection of the consolidated data center every eighteen months (see section 6.3). Multiple agencies sharing a consolidated data center may partner together to conduct a single, comprehensive internal inspection. However, care should be taken to ensure agency representatives do not gain unauthorized access to other agency's FTI during the internal inspection.
4. The employees from the consolidated data center with access to FTI, including system administrators and programmers, must receive disclosure awareness training prior to access to FTI and

annually thereafter and sign a confidentiality statement. This provision also extends to any contractors hired by the consolidated data center that has access to FTI.

5. The specific data breach incident reporting procedures for all consolidated data center employees and contractors. The required disclosure awareness training must include a review of these procedures.
6. The Exhibit 7 language must be included in the contract between the recipient agency and the consolidated data center, including all contracts involving contractors hired by the consolidated data center.
7. Identify responsibilities for coordination of the 45-day notification of the use of contractors or sub-contractors with access to FTI.

Note: Generally, consolidated data centers are either operated by a separate state agency (example: Department of Information Services) or by a private contractor. If an agency is considering transitioning to either a state owned or private vendor consolidated data center, the Office of Safeguards strongly suggests the agency submit a request for discussions with Safeguards as early as possible in the decision-making or implementation planning process. The purpose of these discussions is to ensure the agency remains in compliance with safeguarding requirements during the transition to the consolidated data center.

26 U.S.C. §7213. Unauthorized disclosure of information

(a) Returns and return information

(1) Federal employees and other persons

It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former officer or employee, willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any officer or

employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.

(2) State and other employees

It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (i)(3)(B)(i) or (7)(A)(ii), (l)(6), (7), (8), (9), (10), (12), (15), (16), (19), or (20) or (m)(2), (4), (5), (6), or (7) of section 6103.

Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(3) Other persons

It shall be unlawful for any person to whom any return or return information (as defined in section 6103(b)) is disclosed in a manner unauthorized by this title thereafter willfully to print or publish in any manner not provided by law any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(4) Solicitation

It shall be unlawful for any person willfully to offer any item of material value in exchange for any return or return information (as defined in section 6103(b)) and to receive as a result of such solicitation any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(5) Shareholders

It shall be unlawful for any person to whom a return or return information (as defined in section 6103(b)) is disclosed pursuant to the provisions of section 6103(e)(1)(D)(iii) willfully to disclose such return or return information in any manner not provided by law. Any violation of this paragraph shall be a felony punishable by a fine in any

amount not to exceed \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(b) Disclosure of operations of manufacturer or producer

Any officer or employee of the United States who divulges or makes known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution; and the offender shall be dismissed from office or discharged from employment.

(c) Disclosures by certain delegates of Secretary

All provisions of law relating to the disclosure of information, and all provisions of law relating to penalties for unauthorized disclosure of information, which are applicable in respect of any function under this title when performed by an officer or employee of the Treasury Department are likewise applicable in respect of such function when performed by any person who is a "delegate" within the meaning of section 7701(a)(12)(B).

(d) Disclosure of software

Any person who willfully divulges or makes known software (as defined in section 7612(d)(1)) to any person in violation of section 7612 shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

(e) Cross references

(1) Penalties for disclosure of information by preparers of returns

For penalty for disclosure or use of information by preparers of returns, see section 7216.

(2) Penalties for disclosure of confidential information

For penalties for disclosure of confidential information by any officer or employee of

the United States or any department or agency thereof, see 18 U.S.C. 1905.

26 U.S.C. §7213A. Unauthorized inspection of returns or return information

(a) Prohibitions

(1) Federal employees and other persons
It shall be unlawful for—

(A) any officer or employee of the United States, or

(B) any person described in subsection (l)(18) or (n) of section 6103 or an officer or employee of any such person, willfully to inspect, except as authorized in this title, any return or return information.

(2) State and other employees

It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 referred to in section 7213 (a)(2) or under section 6104 (c).

(b) Penalty

(1) In general

Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding \$1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

(2) Federal officers or employees

An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

(c) Definitions

For purposes of this section, the terms "inspect", "return", and "return information" have the respective meanings given such terms by section 6103 (b).

26 U.S.C. §7431. Civil damages for unauthorized inspection or disclosure of returns and return information

(a) In general

(1) Inspection or disclosure by employee of United States

If any officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of

section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

(2) Inspection or disclosure by a person who is not an employee of United States

If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

(b) Exceptions

No liability shall arise under this section with respect to any inspection or disclosure -

(1) which results from a good faith, but erroneous, interpretation of section 6103, or

(2) which is requested by the taxpayer.

(c) Damages

In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of -

(1) the greater of -

(A) \$1,000 for each act of unauthorized inspection or disclosure of a return or return information with respect to which such defendant is found liable, or

(B) the sum of -

(i) the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure, plus

(ii) in the case of a willful inspection or disclosure or an inspection or disclosure which is the result of gross negligence, punitive damages, plus

(2) the costs of the action, plus

(3) in the case of a plaintiff which is described in section 7430(c)(4)(A)(ii), reasonable attorneys fees, except that if the defendant is the United States, reasonable attorneys fees may be awarded only if the plaintiff is the prevailing party (as determined under section 7430(c)(4)).

(d) Period for bringing action

Notwithstanding any other provision of law, an action to enforce any liability created under this

section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized inspection or disclosure.

(e) Notification of unlawful inspection and disclosure

If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of -

(1) paragraph (1) or (2) of section 7213(a),

(2) section 7213A(a), or

(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code, the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.

(f) Definitions

For purposes of this section, the terms "inspect", "inspection", "return", and "return information" have the respective meanings given such terms by section 6103(b).

(g) Extension to information obtained under section 3406

For purposes of this section -

(1) any information obtained under section 3406 (including information with respect to any payee certification failure under subsection (d) thereof) shall be treated as return information, and

(2) any inspection or use of such information other than for purposes of meeting any requirement under section 3406 or (subject to the safeguards set forth in section 6103) for purposes permitted under section 6103 shall be treated as a violation of section 6103. For purposes of subsection (b), the reference to section 6103 shall be treated as including a reference to section 3406.

(h) Special rule for information obtained under section 6103(k)(9)

For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e).

EXHIBIT E
SECURITY AND DATA PROTECTION

Contractor shall certify to the State compliance with applicable industry standards and guidelines, including but not limited to relevant security provisions of the California State Administrative Manual (SAM), California Statewide Information Management Manual (SIMM), The National Institute of Standards and Technology (NIST) 800-53 v4 and Federal Information Processing Standard (FIPS) Publication 199 which protect and minimize risk to the State. At a minimum, provision shall cover the following:

1. The Contractor assumes responsibility of the confidentiality, integrity and availability of the data under its control. The Contractor shall implement and maintain all appropriate administrative, physical, technical, and procedural safeguards at all times during the term of the Agreement to secure such data from data breach or loss, protect the data and information assets from breaches, introduction of viruses, disabling of devices, malware and other forms of malicious or inadvertent acts that can disrupt the State's access to its data or affects the integrity of that data.
 2. Confidential, sensitive or personal information shall be encrypted in accordance with SAM 5350.1 and SIMM 5305-A.
 3. The Contractor shall comply with statewide policies and laws regarding the use and protection of information assets and data. Unauthorized use of data by Contractor or third parties is prohibited.
 4. Signed Security and Confidentiality Statement for all personnel assigned during the term of the Agreement.
 5. Apply security patches and upgrades, and keep virus protection software up-to-date on all information asset on which data may be stored, processed, or transmitted.
 6. The Contractor shall notify the State data owner immediately if a security incident involving the information asset occurs.
 7. The State data owner shall have the right to participate in the investigation of a security incident involving its data or conduct its own independent investigation. The Contractor shall allow the State reasonable access to security logs, latency statistics, and other related security data that affects this Agreement and the State's data, at no cost to the State.
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8. The Contractor shall be responsible for all costs incurred by the State due to security incident resulting from the Contractor's failure to perform or negligent acts of its personnel, and resulting in an unauthorized disclosure, release, access, review, destruction; loss, theft or misuse of an information asset. If the contractor experiences a loss or breach of data, the contractor shall immediately report the loss or breach to the State. If the State data owner determines that notice to the individuals whose data has been lost or breached is appropriate, the contractor will bear any and all costs associated with the notice or any mitigation selected by the data owner. These costs include, but are not limited to, staff time, material costs, postage, media announcements, and other identifiable costs associated with the breach or loss of data.
 9. The Contractor shall immediately notify and work cooperatively with the State data owner to respond timely and correctly to public records act requests.
 10. The Contractor will dispose of records of State data as instructed by the State during the term of this agreement. No data shall be copied, modified, destroyed or deleted by the Contractor other than for normal operation or maintenance during the Agreement period without prior written notice to and written approval by the State.
 11. Remote access to data from outside the territorial United States, including remote access to data by authorized support staff in identified support centers, is prohibited unless approved in advance by the State.
 12. The physical location of Contractor's data center where the Data is stored shall be within the territorial United States.
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PURCHASING AUTHORITY PURCHASE ORDER

STD 05 (REV 7/2009)

SUPPLIER INSTRUCTIONS

1. **INVOICES:** Unless otherwise specified, original invoices shall be sent to the "Bill To" address on the face of this document. Invoices shall be submitted in triplicate and shall include:

- Contract registration number *(if applicable)*
- Agency order number
- Item number
- Services or Product ID number
- Unit price
- Extended item price
- Invoice total amount

State sales tax, installation cost, shipping/freight costs, and/or other non-taxable costs shall be itemized separately and added to each invoice as applicable.

2. **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 (a) the date of acceptance of goods or performance of services; or (b) receipt of an undisputed invoice — whichever is later.
3. **SHIPPING INSTRUCTIONS:** When the Purchase Order or contract allows prepaid/add transportation charges, submit original receipted expense bills if freight charges are over \$50.00. All shipments shall be F.O.B. Destination Freight Prepaid unless otherwise specified. All orders **MUST** include a copy of the packing slip inside the carton **AND** a copy securely attached to the **OUTSIDE** of the shipping carton.

VOLUNTARY STATISTICAL DATA SHEET
Information to be used for reporting purposes only

Public Contract Code 10111 requires state agencies to capture information on ethnicity, race and gender (ERG) of business owners on all awarded contracts and procurements to the extent that the information has been voluntarily reported to the department. The awarding department is prohibited from using this data to discriminate or provide a preference in the solicitation or acceptance of bids, quotes, or estimates for goods, services, construction and/or information technology. This information shall not be collected until after the contract award is made. The completion of this form is strictly voluntary.

The data you provide on this form should best describe the *ownership of your business*. Ownership of a business should be determined as follows:

- For a business that is an sole proprietorship, partnership, corporation, or joint venture at least 51 percent is owned by one or more individuals in a classification designated below or, in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more individuals in a designated classification, or
- For other business entities, the owner is the person controlling management and daily operations and who "owns" the business.

For purposes of this report, respond only if the business has its home office in the United States and which is not a branch or subsidiary of a foreign corporation, firm, or other business.

Ethnicity/Minority Classification As defined in Public Contract Code Section 2051 (c)

- ☐ **Asian-Indian** – a person whose origins are from India, Pakistan, or Bangladesh.
- ☐ **Black** – a person having origins in any of the Black racial groups of Africa.
- ☐ **Hispanic** – a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin regardless of race.
- ☐ **Native American** – an American Indian, Eskimo, Aleut, or Native Hawaiian.
- ☐ **Pacific Asian** – a person whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, or the United States Trust Territories of the Pacific including the Northern Marianas
- ☐ **Other** – Any other group of natural persons identified as minorities in the respective project specifications of an awarding department or participating local agency.

Race Classification As defined by the Office of Management and Budget, Federal Register Notice, October 30, 1997, at <http://www.whitehouse.gov/omb/fedref/1997standards.html>

- | | |
|---|--|
| <input type="checkbox"/> American Indian or Alaska Native | <input type="checkbox"/> Asian |
| <input type="checkbox"/> Black or African American | <input type="checkbox"/> Native Hawaiian or Other Pacific Islander |
| <input type="checkbox"/> Other | <input type="checkbox"/> White |

Gender Classification

- | | |
|---------------------------------|-------------------------------|
| <input type="checkbox"/> Female | <input type="checkbox"/> Male |
|---------------------------------|-------------------------------|

Sexual Orientation Classification As defined by Public Contract Code 10111(f)

- | | |
|----------------------------------|--------------------------------------|
| <input type="checkbox"/> Lesbian | <input type="checkbox"/> Bisexual |
| <input type="checkbox"/> Gay | <input type="checkbox"/> Transgender |

ITEMS BELOW TO BE COMPLETED BY STATE AGENCY/DEPARTMENT ONLY

- | | | |
|--------------------------------|-----------------------------------|---------------------------------------|
| <input type="checkbox"/> Goods | <input type="checkbox"/> Services | <input type="checkbox"/> Construction |
|--------------------------------|-----------------------------------|---------------------------------------|

Total Contract Purchase: \$91,135.34

Contract Award Date: 11/8/2016

Please return completed data form by mail to:

Or FAX to:

California Department of Technology
Sindy Cesarini
Small Business/DVBE Advocate (Y-18)
P.O. Box 1810
Rancho Cordova, CA 95741-1810

(916) 463-9909
Attn.: Sindy Cesarini
Small Business/DVBE Advocate