



**Solicitation Information  
June 13, 2012  
Addendum #6**

**RFP # 7449637**

**TITLE: Unified Health Infrastructure Project**

**Submission Deadline: June 22, 2012 @ 10:00 AM (EDT)**

- **The submission deadline is extended to Friday, June 22, 2012 at 10:00 AM.**
- Responses to second round vendor questions are posted as an attachment and are incorporated to this Addendum to the RFP.
- Additional Thin Client Information is attached.
- Please continue to monitor the website regularly.
- The revised procurement schedule is as follows:

**Revised RFP Dates**

- Friday, June 22, 2012 at 10AM. Bid Opening  
**(Eval Team Scores Round 1 Bids)**
- July 9<sup>th</sup> – 13<sup>th</sup> Vendor Orals (Tentative and subject to availability based on the scheduling of evaluation team members.)
- Fri., July 20. Clarifications to Finalists
- Wed., Aug. 1. Round 2 Proposals Due  
**(Eval Team Scores Round 2 Bids)**
- Fri., Aug. 10. Eval Team Selects Vendor(s)
- Mon., Sept. 10. Contract Signed

**All dates are tentative and are subject to change at the sole discretion of the State.**

**DANIEL W. MAJCHER, ESQ.  
ASSISTANT DIRECTOR, SPECIAL PROJECTS**

**Responses to RFP # 7449637 Vendor Questions, Batch #2**

June 12, 2012

#	Section	Page	RFP Text	Question	Answer
120.	Addendum 4	n/a	n/a	Given the comprehensive contract that Rhode Island has provided (Addendum 4), would the State consider granting a one week extension to allow bidders to properly vet the materials, and in doing so provide the most comprehensive responses possible?	<b>The submission date is being extended as part of this addendum.</b>
121.	Addendum 4	n/a	n/a	With the addendum being posted later than expected and with the impending holiday, [Vendor] respectfully requests a two week extension to the proposal due date	<b>Please see the answer to Question #120</b>
122.	Addendum 4	n/a	n/a	The State's proposed contract terms and conditions in their entirety for this specific engagement will be issued as addendum to this RFP as soon as possible. Because the State has not been able to supply this information to date, and given that the specific terms and conditions for the contract could significantly impact the bidders' approach to providing Rhode Island with an effective solution, would the State consider delaying the proposal submission due date to correspond to the release of the terms and conditions, providing bidders with at least four weeks to modify their approach?	<b>Please see the answer to Question #120</b>
123.	Appendix N	n/a	n/a	Within the RFP, there is a reference to an Appendix N. While I'm sure an over site on my part, could you either post that Appendix or forward to my attention?	<b>Appendix N was provided in the zip file posted with the original RFP on April 16, 2012.</b>
124.	Addendum 4	n/a	n/a	Can you please provide an update on when the State's proposed terms and conditions regarding the above referenced RFP will be made available? In addition, we also strongly request that the State please extend the submission deadline by a minimum of two weeks from the date the terms and conditions are released. Given the complexity of this procurement, it will be extremely difficult for vendors to conduct the necessary contract review and approval processes against the current June 8 deadline. Thanks in advance for your assistance.	<b>Addendum 4 was posted on May 23, 2012 containing the Terms and Conditions.</b>
125.	RFP	n/a	n/a	Is it acceptable for the qualifications outlined in the RFP to be met by the combined team, Prime and Subs as opposed to only the Prime?	<b>Yes, the qualifications can be met by the combined team.</b>
126.	Various	n/a	<ul style="list-style-type: none"> <li>Section 2.2, Procurement Schedule (p. 14): Bids whose technical proposals receive a score of at least 56.25 points (amounting to 75 percent of the 75 possible technical points) will advance to the second round of review and the bidder will be considered a Finalist.</li> <li>Section 7.2.1, Evaluation of Proposals: First Round (p. 69): The Evaluation Committee will review and score bids for each task, scoring Tasks 1-8 separately from Task 9. Final scores will combine technical and cost</li> </ul>	Please clarify whether a total of 75 points will be awarded to task orders 1-8 combined or if 75 points will be awarded to each task order. Additionally, please indicate how the State intends to map each required proposal section to the evaluation criteria.	<b>A total of 75 points will be awarded to Task Orders 1-8 combined. The State will utilize the scoring shown in Section 7.3.1 of the RFP for Task Orders 1-8.</b>

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			<p>proposal results into a score for Tasks 1-8 and a score for Task 9.</p> <ul style="list-style-type: none"> <li>Section 7.3.1, Task Orders 1-8 (p. 70): For task orders 1-8, the following criteria will be evaluated for each proposal ...</li> </ul>		
127.	3.1.2	21	The cover page of each proposal document must be labeled as either the Technical Proposal or the Cost Proposal and include the name and address of the Bidder, the date of submission, the title "Proposal for the Rhode Island Unified Health Infrastructure Project," and the signature and title of the appropriate officer authorizing the proposal.	Can the State please confirm that the "cover page" refers to the inside cover page and not the cover of the proposal?	<b>"Cover page" refers to the inside cover page.</b>
128.	Appendices M & N	n/a		Appendices M and N appear to be password-protected. Given the amount of information required to be incorporated from a variety of sources, can the State please provide an unprotected version of these files?	<b>Please make your entries in the unprotected cells. Comments may be inserted in the Comments column.</b>
129.	Addendum 3	24		Addendum 3, Question 78 (p. 24): Q: Does the State anticipate an update to the screens for application, registration and intake in Phase 2? Or does the State expect those screens to be complete (defined, designed, and implemented in Phase 1? A: The web portal will need to be updated in Phase 2 to reflect the new programs.	<b>The State anticipates an update to the screens for application, registration, and intake in Phase 2.</b>
130.	Addendum 3	n/a	<ul style="list-style-type: none"> <li>Addendum 3, Question 117 (p. 38): The RFP requires vendors to propose a training methodology and provide training facilities.</li> <li>Addendum 3, Question 118 (p. 38): The vendor should propose an approach to training, including locations. The State has training locations with computers that can handle up to 15 people, and larger facilities without computers.</li> </ul>	The responses to Questions #117 and #118 in Addendum 3 appear to be contradictory. Please clarify whether it is the State's intent to provide the training facilities, or whether bidders should provide such facilities. If bidder is to supply training facilities, should the quantity/location be in accordance with specifications provided in Appendix W?	<b>The responses to Questions #117 and #118 simply denote the available state facilities that the implementation vendor can choose to utilize. The vendor may choose to utilize the State's facilities <u>and</u> provide additional training venues to satisfy the training business needs.</b>
131.	Various		<ul style="list-style-type: none"> <li>RIVIP Bidder Certification Cover Form, Section 2.5 (p. 2): Offerors are advised that all materials submitted to the State for consideration in response to this solicitation will be considered without exception to be Public Records pursuant to Title 38 Chapter 2 of the Rhode Island General Laws, and will be released for inspection immediately upon request once an award has been made.</li> <li>Section 2.10, Submission of Proposals (p. 17): If the Bidder wishes to have certain sections of the proposal redacted once the award is finalized, the Bidder must submit one redacted proposal in accordance with Section 2.18 below.</li> <li>Section 2.19, Disposition of Proposals (p. 19): All submitted proposals shall become a matter of public record. Any confidential or proprietary</li> </ul>	Can the State please confirm that if a bidder provides a redacted version of its proposal, only the redacted version will be made publicly available?	<b>The State is subject to the Rhode Island Access to Public Records Act ("APRA") (RIGL 38-2-1 et seq.) While the redacted version and/or disclaimers may be helpful to determine what the vendor considers to be confidential, there is no guarantee that the redacted information is in fact exempt from disclosure in accordance</b>

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			<p>information must be handled in accordance with Section 2.20.</p> <ul style="list-style-type: none"> <li>Section 2.20, Access to Public Records Act (p. 19): Due regard will be given by the State for the protection of proprietary information contained in all proposals received. However, Bidders should be aware that all materials associated with the selection are subject to R.I.G.L. 38-2-1 et seq. It will not be sufficient for Bidders to merely state generally that the proposal is proprietary in nature and not, therefore, subject to release to third parties. Each and every subsection contained within the proposal which a bidder believes to be proprietary and/or confidential in nature must be specifically identified as such. Additionally, all bidders who desire to have their proposal redacted, must submit one (1) redacted copy of their proposal clearly marked as "Redacted" and which will be made public in its entirety upon award. The redacted copy must also include an explanation and rationale sufficient to exempt from release the specified material as contained in each subsection.</li> </ul> <p>The rationale and explanation for each redaction should cite to a specific exemption included in R.I.G.L. 38-2-2. The the final administrative authority to determine the release or exemption of any or all material so identified rests with the State of Rhode Island, with prior notice of the release sent to the bidder.</p>		<p><b>with APRA. However, if there is any difference in opinion regarding whether the information is public, the State will do its best to notify the vendor prior to disclosure.</b></p>
132.	General		General	Given the delayed release of the model agreement and the number and breadth of questions regarding the model agreement, would the State consider extending the proposal due date by 2 weeks?	<b>Please see the response to Question #120</b>
133.	3.2 Technical Proposal Requirements	23	Keeping in mind that once an award is made, the proposals may be subject to public disclosure, all bidders who desire to have their proposal redacted, must submit one (1) redacted copy of their proposal clearly marked as "Redacted" and which will be made public in its entirety upon award.	Per RFP Section 3.2, Technical Proposal Requirements, please advise if it is acceptable to mark the pages that contain private information as "Proprietary and Confidential" within the footer of the full Technical Proposal.	<b>Please see the response to Question #131</b>
134.	3.2.4 Notices and Certifications (Section 4)	25	<p>Vendors must complete and include a signed copy of the following forms:</p> <ul style="list-style-type: none"> <li>The Independent Contractor Certification, as required by R.I.G.L 28-29-17.1 (Section 4.1). A downloadable version can be accessed at <a href="http://www.dlt.ri.gov/wc/pdfs/forms/employer/DWC_11_IC_Mar06.pdf">http://www.dlt.ri.gov/wc/pdfs/forms/employer/DWC_11_IC_Mar06.pdf</a>;</li> </ul>	Please clarify how the bidder should complete this form. It seems to be intended to be filled out by an individual rather than a bidder.	<b>Fill out the form to the best of your ability.</b>
135.	3.2 Technical Proposal Requirements	22	Bidders must submit one (1) original, six (6) hard copies , and one (1) redacted copy (if necessary) of the Technical Proposal, and two (2) full electronic copies on CD-ROM or thumb drive.	Please clarify whether the State requires an electronic version of the redacted copy.	<b>Yes</b>
136.	2.20 Access to Public Records Act	19	Additionally, all bidders who desire to have their proposal redacted, must submit one (1) redacted copy of their proposal clearly marked as "Redacted" and which will be made public in its entirety upon award. The	Per RFP Section 3.2, Technical Proposal Requirements, please advise if it is acceptable to mark the pages that contain proprietary and confidential information that will not be disclosed in accordance with	<b>See answer to Question 131.</b>

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			redacted copy must also include an explanation and rationale sufficient to exempt from release the specified material as contained in each subsection. The rationale and explanation for each redaction should cite to a specific exemption included in R.I.G.L. 38-2-2. The , final administrative authority to determine the release or exemption of any or all material so identified rests with the State of Rhode Island, with prior notice of the release sent to the bidder.	R.I.G.L. 38-2-1 et seq. as "Proprietary and Confidential" within the footer of the full Technical Proposal?	
137.	3.3 Cost Proposal Requirements	31	Templates for Pricing Schedules are included in Appendix X to this RFP. For each schedule, where a signature block is indicated, an appropriate corporate official must sign and date the schedule.	In the event the completed Pricing Schedule to be signed lacks room for the signature, please confirm it meets the requirement for our corporate official to sign the second page.	Yes.
138.	RFP, Section 7.4 Contract	72	The State will require the selected vendor(s) to participate in contract negotiations regarding the terms and conditions of the contract(s). Upon resolution of the final negotiations, the State will prepare final contract(s).	Would the State please clarify how and where Vendor is to submit and identify with its proposal, any terms and conditions that Vendor would like the State to consider for the final contract negotiations?	The vendor may submit additional pages that will not be counted against the RFP's page limit counts.
139.	RFP Section 8.2.2, Insurance Requirements	73-75	<p>8.2.2 Insurance Requirements</p> <p>Throughout the term of this Contract, the Contractor, and any Subcontractor where required, shall procure and maintain, at its own cost and expense, and provide annually to the State certificates of insurance evidencing the following:</p> <p>General comprehensive liability insurance policy based on Insurance Services Office (ISO) policy forms or equivalent forms with the following minimum coverage on an occurrence basis with respect to the Services and other operations performed pursuant to this Contract by Contractor and its employees agents, suppliers, agents and invitees.</p> <p>Bodily Injury and Property Damage  \$1,000,000 each occurrence  \$1,000,000 annual aggregate</p> <p>Products and Completed Operations  \$1,000,000 each occurrence  \$1,000,000 annual aggregate</p> <p>Contractual Liability and Property Damage \$1,000,000 each occurrence</p>	<p>Would the State consider alternate language as follows:</p> <p>8.2.2 Insurance Requirements Throughout the term of this Contract, the Contractor, and any Subcontractor where required, shall procure and maintain, at its own cost and expense, and provide annually to the State certificates of insurance evidencing the following:  <u>Commercial</u> General comprehensive liability insurance policy based on Insurance Services Office (ISO) policy forms or equivalent forms with the following minimum coverage on an occurrence basis with respect to the Services and other operations performed pursuant to this Contract by Contractor and its employees <del>agents, suppliers, agents and invitees.</del> <b><u>Contractors shall require any third party such as agents, suppliers, or subcontractors to also comply with such requirement at agents', suppliers', and subcontractors' expense. Such insurance to include contractual liability and independent contractors coverage.</u></b></p> <p>Bodily Injury and Property Damage  \$1,000,000 each occurrence  \$1,000,000 annual aggregate</p> <p>Products and Completed Operations  \$1,000,000 each occurrence  \$1,000,000 annual aggregate</p> <p><del>Contractual Liability and Property Damage  \$1,000,000 each occurrence  \$1,000,000 annual aggregate</del></p> <p><u>Independent Contractors \$1,000,000</u></p>	The State's Risk Manager will review the language after vendor selection and will determine what is acceptable to the State at his sole discretion.

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			<p>\$1,000,000 annual aggregate</p> <p>Independent Contractors \$1,000,000 each occurrence</p> <p>\$1,000,000 annual aggregate</p> <p>Personal and Advertising Injury \$1,000,000 each occurrence</p> <p>\$1,000,000 annual aggregate</p> <p>Vehicle liability insurance using ISO or equivalent forms with the following minimum coverage with respect to the operations by anyone with the permission of the Contractor or including coverage for owned, non-owned and hired vehicles and equipment:</p> <p>Bodily Injury \$1,000,000 each occurrence Property Damage \$1,000,000 each occurrence Combined Single Limit \$1,000,000 per occurrence</p> <p>A Technology Errors and Omissions Policy or Professional Liability Policy in the amount of at least \$1,000,000 each occurrence and \$1,000,000 annual aggregate arising out of or resulting from the performance of Services under this Contract covering: Errors and Omissions, Product Failure, Security Failure, Professional Liability and Personal Injury. Insured will include any individual who is an agent or independent contractor while acting within the scope of his or her contract with the named insured under the Contract.</p> <p>Workers compensation insurance for Contractor and any Subcontractor as required by applicable federal and State law, including employer's liability.</p> <p>Employers Liability \$500,000 each accident Disease limit each employee \$500,000 each accident Disease Policy Limit \$500,000 each accident</p>	<p><del>each occurrence</del> <del>\$1,000,000 annual aggregate</del></p> <p>Personal and Advertising Injury \$1,000,000 each occurrence \$1,000,000 annual aggregate</p> <p>Vehicle liability insurance using ISO or equivalent forms with the following minimum coverage with respect to the operations by <del>anyone with the permission of</del> the Contractor or including coverage for owned, non-owned and hired vehicles <del>and equipment</del>:</p> <p>Bodily Injury \$1,000,000 each occurrence. Property Damage \$1,000,000 each occurrence Combined Single Limit \$1,000,000 per <b><u>accident</u></b> <b><u>or</u></b> occurrence <b><u>Contractor shall require any third party such as agents or subcontractors to also comply with such requirement at agents' and subcontractors' expense.</u></b></p> <p>A Technology Errors and Omissions Policy or Professional Liability Policy in the amount of at least \$1,000,000 each <del>occurrence</del> <b><u>claims made basis</u></b> and \$1,000,000 annual aggregate arising out of or resulting from the performance of Services under this Contract <b><u>by Contractor</u></b> covering: <b><u>the Contractor's negligent acts</u></b>, Errors and Omissions, <del>Product Failure, Security Failure, Professional Liability and Personal Injury. Insured will include any individual who is an agent or independent contractor while acting within the scope of his or her contract with the named insured under the Contract.</del> <b><u>Contractors shall require any third party such as agents or subcontractors to also comply with such requirement at agents' and subcontractors' expense.</u></b></p> <p>Workers compensation insurance for Contractor <del>and any Subcontractor</del> as required by applicable federal and State law, including employer's liability. <b><u>Contractors shall require any third party such as agents or subcontractors to also comply with such requirement at agents' and subcontractors' expense.</u></b></p> <p>Employers Liability \$500,000 each accident Disease limit each employee \$500,000 each accident Disease Policy Limit \$500,000 each accident</p>	

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			<p>Commercial Crime Policy covering all Contractor’s officers and employees with a limit of \$1,000,000 for Employee Theft, \$1,000,000 for Computer Fraud and \$1,000,000 Funds Transfer Fraud, all per occurrence and annual aggregate. Contractor shall make State a joint loss payee under the Commercial Crime Policy, for their respective interests, during the term of the Contract.</p> <p>Under Contractor’s property insurance in the event that information of the State is being stored or worked upon not on State property, or software is being prepared, developed or modified not on State Property, the State requires the Contractor have no less than \$250,000 in Electronic Data Processing Equipment and Extra Expense insurance in order that the software and data belonging to the State if damaged shall be expeditiously restored to its original format and content.</p> <p>The State of Rhode Island, the Health Benefits Exchange, DHS, and EOHHS shall be listed as an additional insured on Contractor’s Liability Policies. Contractor shall submit to the State a copy of the policy endorsement evidencing the State, the Exchange, DHS, and EOHHS as additional insureds.</p> <p>Contractor and any Subcontractor agree to a waiver of subrogation. Certificates of Insurance, acceptable to State, shall be submitted to State upon execution of this Contract and shall be renewed upon expiration of the policies. Certificates shall indicate that the coverage required is in effect. If the State is damaged by Contractor’s failure to maintain insurance, then Contractor shall be responsible for all reasonable costs or damages attributable thereto. All policies shall be issued by companies authorized to write this type of insurance under the laws of the State of Rhode Island. Any and all deductibles, self insurance or self-insured retention contained in any insurance policy shall be assumed by and at the risk of Contractor. Any such deductible, self-insurance or self- insured retention shall be less than or equal to Ten Thousand and 00/100 (\$10,000.00) Dollars.</p> <p>Notice of cancellation or alteration of any kind of insurance referenced above will be sent by the issuing company to State within thirty (30) days prior to cancellation. Failure of Contractor to so notify the State shall constitute an event of default under this Contract.</p> <p>A provision that Contractor’s insurance shall be primary as respect to any insurance, self- insurance, or self-retention maintained by the State and</p>	<p>Commercial Crime Policy covering all Contractor’s officers and employees with a limit of \$1,000,000 for Employee Theft, \$1,000,000 for Computer Fraud and \$1,000,000 Funds Transfer Fraud, all per <del>occurrence loss</del> and annual aggregate. <b><u>Coverage may also be written through a blanket crime insurance policy.</u></b> Contractor shall make <b><u>or include the</u></b> State a joint loss payee under the Commercial Crime Policy, for their respective interests, during the term of the Contract. <b><u>Contractors shall require any third party such as agents or subcontractors to also comply with such requirement at agents’ and subcontractors’ expense.</u></b></p> <p>Under Contractor’s property insurance in the event that information of the State is being stored or worked upon not on State property, or software is being prepared, developed or modified <b><u>by Contractor</u></b> not on State Property, the State requires the Contractor have no less than \$250,000 in Electronic Data Processing Equipment and Extra Expense insurance in order that the software and data belonging to the State if damaged shall be expeditiously restored to its original format and content.</p> <p>The State of Rhode Island, the Health Benefits Exchange, DHS, and EOHHS shall be listed as an additional insured on Contractor’s <b><u>Commercial General</u></b> Liability and <b><u>Business Automobile Liability</u></b> Policies. Contractor shall submit to the State a copy of the <del>policy endorsement evidencing the State, the Exchange, DHS, and EOHHS as</del> <b><u>blanket</u></b> additional <del>insureds</del> <b><u>insured provision endorsement pages.</u></b></p> <p>Contractor and any Subcontractor agree to a waiver of subrogation <b><u>in relation to the commercial general liability business automobile liability and workers’ compensation insurance. Standard ACORD form</u></b> Certificates of Insurance, acceptable to State, shall be submitted to State upon execution of this Contract and shall be renewed upon expiration of the policies. Certificates shall indicate that the coverage required is in effect. If the State is damaged by Contractor’s failure to maintain insurance, then Contractor shall be responsible for all reasonable costs or damages attributable thereto. All policies shall be issued by companies authorized to write this type of insurance under the laws of the State of Rhode Island. Any and all deductibles, self- insurance or self-insured retention contained in any insurance policy shall be assumed by and at the risk of Contractor. <del>Any such deductible, self-insurance or self-insured retention shall be less than or equal to Ten Thousand and 00/100 (\$10,000.00) Dollars.</del></p> <p>Notice of cancellation or <del>alteration</del> <b><u>material changes</u></b> of any kind of insurance referenced above will be sent by the <b><u>Contractor or</u></b> issuing</p>	

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			<p>shall be in excess of the Contractor's insurance and shall not contribute.</p> <p>The State will be defended, indemnified, and held harmless (including attorney's fees and costs) to the full extent of any coverage actually secured by Contractor in excess of the minimums set forth herein. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.</p> <p>The Purchasing Agent reserves the right to consider and accept alternative forms and plans of insurance, to waive any requirement or to require additional or more extensive coverage for any individual requirement.</p>	<p>company to State within thirty (30) days prior to cancellation. Failure of Contractor to so notify the State shall constitute an event of default under this Contract. A provision that Contractor's insurance shall be primary as respect to any insurance, self-insurance, or self-retention maintained by the State and shall be in excess of the Contractor's insurance and shall not contribute.</p> <p><del>The State will be defended, indemnified, and held harmless (including attorney's fees and costs) to the full extent of any coverage actually secured by Contractor in excess of the minimums set forth herein.</del> The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.</p> <p>The Purchasing Agent reserves the right to consider and accept alternative forms and plans of insurance, to waive any requirement or to require additional or more extensive coverage or any individual requirement.</p>	
140.	Addendum #4, Agreement Section 2.2	3	The State shall give written notice of the exercise of its right to extend the term at least ninety (90) days prior to the expiration of the then current term.	Winding down a contract of this nature and complexity will require more than ninety (90) days. Will the State please change the notice period from ninety (90) days to one hundred eighty (180) days prior to the expiration of the then current term?	No
141.	Addendum #4, Agreement Section 3.1	4	Time is of the essence in Contractor's performance of its obligations under this Agreement.	The contract already contains many protections for the State in the event the Contractor breaches or defaults in its obligations under the Agreement. Would the State please delete the time is of the essence requirement?	No
142.	Addendum #4, Agreement Section 5.3	6	If Contractor fails to achieve any Milestone or Critical Event by the applicable Deadline, the State may exercise its right to terminate this Agreement, in whole or in part, and declare Contractor in default as the State deems necessary, in its sole discretion, and Contractor shall be liable to the State for any and all damages incurred by the State including:	When there are too many SLAs associated with a contract the material requirements lose their importance and forces contractors to staff and provide services in order to meet the SLAs rather than deliver overall successful performance of the contract. In order to address what is really important to the State, would the State please add "material" between "any" and "Milestone" at the beginning of this sentence?	No
143.	Addendum #4, Agreement Section 5.3.4	6	Contractor shall also forfeit all claims for reimbursement of monthly expenses or operational payments for that month and each month thereafter until the State approves Operational readiness; and	The contract already contains many protections for the State in the event the Contractor breaches or defaults in its obligations under the Agreement. Requiring the Contractor to forfeit all claims for reimbursement considering the cumulative nature of the States remedies is unreasonable and not industry standard. Would the State please delete this requirement from the Contract?	<b>Section 5.3.4 will be deleted but that a new section (Section 5.4) will be inserted immediately after Section 5.3 providing that, in addition and without prejudice to all other State remedies, the State will withhold payment in respect of all claims for</b>

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					reimbursement of monthly expenses and operational payments for the relevant month and each month thereafter until the State approves and accepts all milestones. Payment after such acceptance shall be subject to any State offset rights and other available remedies
144.	Addendum #4, Agreement Section 6.1	7	The Retainage will be payable one (1) year after Acceptance of Milestone 22.	Holding the Retainage until after acceptance of Milestone 22 is too long of a period. Would the State consider releasing the Retainage after the acceptance of each Milestone or Deliverable to which the specific Retainage is tied?  In the alternative, would the State consider a quarterly release of the Retainage for those Milestones and Deliverables that have been accepted by the State during the quarter?	No
145.	Addendum #4, Agreement Section 6.1	7	Phase 1 Milestones Payment (including the Retainage)  Phase 2 Milestones Payment	Please confirm that there will be no Retainage for Phase 2 Milestones.	There is a retainage for Phase 2
146.	Addendum #4, Agreement Section 6.7	9	<b>Overpayments to Contractor.</b> Contractor shall pay to the State the full amount of any erroneous payment or overpayment within thirty (30) days of Contractor's detection or receipt of notice from the State of any such erroneous or overpayment.	Please confirm that Contractor will have the ability to informally discuss and dispute erroneous payments and overpayments with the State prior to making payment to the State for any alleged erroneous payment or overpayment.	Confirmed.
147.	Addendum #4, Agreement Section 6.8	9	<b>Credits.</b> The State may, in its sole discretion, apply and offset any credits, Liquidated Damages and other amounts due to the State from Contractor under this Agreement against Contractor's invoices.	Will the State please provide Contractor with thirty (30) days' prior written notice before applying and offsetting any credits, Liquidated Damages or other amounts from Contractor's invoices?  In addition, please confirm that Contractor will have the ability to informally discuss and dispute offsets to Contractor's invoices prior to the State taking any action against Contractor's invoices.	The State will provide 10 days prior written notice. The contractor will have the ability to informally discuss and dispute offsets to contractor's invoices prior to the State taking any action against contractor's invoice.
148.	Addendum #4, Agreement Section 7	9	<b>CONTINGENCIES.</b> Contractor acknowledges and agrees that this Agreement is contingent upon both: (a) the availability of State and Federal funds; and (b) the continuance of applicable State and Federal Laws and Regulations in effect on the Effective Date. Notwithstanding any provision of this Agreement to the contrary, all obligations of the State, including without limitation, the obligation to make any payments under this Agreement, are fully contingent upon the availability of State and federal funds in the current or any future State fiscal year, and in no event shall the State be	This Section creates an extremely high degree of risk for the Contractor performing under this Agreement and then in the event funding is not available or applicable laws change, the State may simply terminate the contract without any liability to the Contractor. Coupled with all of the State protections in the event Contractor breaches or defaults under the contract, plus this Section on Contingencies, the Contractor is faced with the possibility that it may not even be paid or be able to recoup its expenses even though its	Under no circumstances will the State be liable for lost profits. However, the state will insert the following language:

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			<p>liable for any payments in excess of such available funds. The State does not represent or guarantee, expressly or impliedly, that it will have available funds to make any payments pursuant to this Agreement. If any funding is delayed, reduced or eliminated in the current or any future fiscal year, or any change (including as a result of any changes to law, regulation, federal or State guidance, or resulting from decisional law) is made to any applicable State and Federal Laws and Regulations, including any change to the ACA, HIPAA or Medicaid in effect on the Effective Date, then the State may, at its sole discretion, terminate or suspend this Agreement, in whole or in part, as it deems appropriate or necessary, without any liability, penalty or damages owed to Contractor. The State may, at its sole discretion, determine which portions of the Project will continue and which will be terminated.</p>	<p>performance is stellar. Would the State please add the following to this Section of the contract:            “For a termination where Contractor is not in breach or default of the Agreement, the State shall pay Contractor all fees for Services performed through and including the date of termination; allowable costs incurred or obligated but unbilled as of the date of termination; unamortized costs; costs incurred in the performance of the work terminated, including, but not limited to start-up costs and preparatory expense allocable thereto; the cost of settling and paying termination settlements under terminated subcontracts and leases; accounting, legal, clerical, and other expenses reasonably necessary for the preparation and negotiation of termination settlement proposals and the termination claim; and a fair and reasonable profit on the foregoing costs.”</p>	<p>“If a stop work order is not cancelled or the work covered by the stop work order is terminated in accordance with Section 33.3 (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, such costs to be limited to fees for Services performed through the date of termination and accepted by the State, specifically excluding, however, unamortized costs, start up costs, preparatory expenses, costs of settling and/or paying termination settlements under terminated subcontracts and leases, accounting, legal, clerical and/or other expenses incurred in connection therewith and/or in connection with the termination for convenience generally, and lost profits.”</p>
149.	Addendum #4, Agreement Section 8.1.3	10	<p>The Contractor Project Director shall prepare or assist the UHIP Project Coordinator with the preparation of any additional reports related to the Project as requested by the UHIP Project Coordinator, including Reports summarizing all contracts with the State, Deliverables completed, hours,</p>	<p>Would the State please specify exactly what reports it will need? This requirement is open-ended and makes it impossible for bidder’s to price it.</p>	<p><b>The reports are all enumerated in section 4.1 and Appendix L of the RFP.</b></p>

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			and rates billed, any material issues during that period, and any reports required (as determined by the State in its discretion) for federal assessment reviews and certification of the Exchange.	In the alternative, will the State please allow reports to be subject to Contract Section 21 (Change Orders) in order for Contractor to obtain payment for unknown ad hoc reports which could require time and effort not accounted for in the performance of the Contract? Would the State please explain what “including Reports summarizing all contracts with the State” means?	
150.	Addendum #4, Agreement Section 8.2	11	Contractor shall not use any individual to perform work under this Agreement without the prior written consent of the State.	This requirement could become overly burdensome for the Contractor and the State. The State should have approval authority over Key Staff, however, requiring prior written consent for all Project Staff is excessive. Will the State please limit this requirement to Key Staff only?	<b>The State agrees to limit the requirement to Key Staff, but reserves the right to remove personnel once they’re on the project, per Addendum #4, Agreement Section 8.2.4(a). (See Question #152)</b>
151.	Addendum #4, Agreement Section 8.2.1(c)	11	(c) The Contractor Project Director shall devote his or her best efforts on the Project, and be on site as needed.	Would the State please substitute “commercially reasonable efforts” for “best efforts”?	<b>No</b>
152.	Addendum #4, Agreement Section 8.2.4(a)	12	During the Term, the State reserves the right to require Contractor to reassign or otherwise remove from the Project any Project Staff who are found to be unacceptable by the State.	Please redefine the term “unacceptable to the State” in order that it is objective providing known reasons for reassignment or removal of Project Staff. The Contractor’s performance under the Contract will depend on the strength and experience of the Project Staff and the State should be afforded objective and reasonable reasons for requiring Contractor to remove Project Staff from the Contract. The term “unacceptable” is too open-ended.	<b>No but the State will not be arbitrary or capricious.</b>
153.	Addendum #4, Agreement Section 8.2.4(c)	12	Contractor shall use best efforts to promptly make such replacement.	Would the State please substitute “commercially reasonable efforts” for “best efforts”?	<b>No</b>
154.	Addendum #4, Agreement Section 8.2.4(d)	12	In the event of any replacement of the Project Staff, if circumstances permit, Contractor shall provide for an appropriate transition (overlap) period for the new individual and use best efforts to minimize any disruption such replacement may cause in the performance of Contractor’s obligations under this Agreement.	Would the State please substitute “commercially reasonable efforts” for “best efforts”?	<b>No</b>
155.	Addendum #4, Agreement Section 8.2.6	13	<b>Compliance with State and Federal Laws and Regulations.</b> In performing the Services, Contractor, Project Staff and each Subcontractor, and its Project Staff shall comply with all applicable State and Federal Laws and Regulations. Contractor shall be responsible for the distribution of applicable State and Federal Laws and Regulations to Project Staff to the extent necessary and appropriate.	Due to the unexpected changes that may occur in applicable law, expecting the Contractor to comply with additional or modified laws that are unknown by the parties and unable to be priced by the Contractor without an equitable adjustment to Contractor’s price is unreasonable. Will the State please change this requirement to state Contractor will “comply with all current applicable State and Federal Laws and Regulations”? In addition, will the State please allow for an equitable adjustment to	<b>No. But any changes resulting from legislative amendments, federal guidance, changes in regulations will be handled in accordance with the change order provisions.</b>

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				Contractor's price in the event of a new or modified applicable law in accordance with Contract Section 21 (Change Orders)?	
156.	Addendum #4, Agreement Section 8.2.8	14	All Project Staff shall be subject to security clearances as required by the State in its sole discretion.	Would the State please elaborate on what types of "security clearances" will be required by the State?	<b>A local BCI check is required and must be acceptable to the State. If applicable; a confidentiality agreement may be required to sign.</b>
157.	Addendum #4, Agreement Section 8.2.9	14	The State, in its sole discretion, may conduct drug test(s) on any Project Staff prior to or during the Term.	Will the State please delete this requirement if the Contractor already has a drug testing program in place for Project Staff?	<b>No, but the State will not act in an arbitrary or capricious manner</b>
158.	Addendum #4, Agreement Section 8.4.1	14-15	All Records, including training records, shall be readily retrievable within three (3) business days for review at the request of the State, the federal government, and the State's internal and external auditors, regulators and other representatives, including customers, clients, vendors, licensees and other Third Parties to the extent the State is legally or contractually obligated to submit to audits by such entities (all such Parties and entities, the "Permitted Auditors").	Will the State please substitute "seven (7) business days" for "three (3) business days"?  In addition, the list of the State's Permitted Auditors is too broad. Will the State please limit this list to the State, the federal government, and the State's internal and external auditors and regulators who will be subject to confidentiality agreements prior to any audits?	<b>Yes, the State will substitute seven(7) days for three(3) days</b>  <b>Yes, the state will limit the auditors to the State, the federal government, and the State's internal and external auditors (including any audit firm hired by the state) and regulators.</b>
159.	Addendum #4, Agreement Section 8.6	15	Examination and Audit	Will the State provide a process for the Contractor to dispute the State's audit findings?	No
160.	Addendum #4, Agreement Section 8.6(b)	15	Contractor shall provide such cooperation and assistance as may be reasonably requested by the State and/or its Permitted Auditors in conducting any audit, and shall make requested Project Staff and Records available. In performing audits, the State shall give Contractor fifteen (15) days advance notice of audits; provided, however, the fifteen (15) day advance notice requirement shall not apply in connection with audits by or in connection with federal governmental authorities.	Would the State provide the Contractor with the same advance notice period of a federal government authorities' audit as the State receives from the federal government authorities, rather than no advance notice at all?	The State will agree to make reasonable efforts to provide the Contractor with advance notice promptly after the State itself receives notice.
161.	Addendum #4, Agreement Section 8.6.3	17	<b>Financial Audits.</b> The State and the Permitted Auditors shall have the right to conduct, at any time, any type of reasonable financial audit to verify that Contractor's invoices have been calculated in compliance with the invoicing and pricing terms and conditions and the compliance of the foregoing with the terms and conditions of this Agreement. Such audit may, in addition, as determined by the State and the Permitted Auditors: (a) verify the accuracy and completeness of Records; (b) examine the financial controls, processes and procedures utilized by Contractor; and (c) enable the State to meet applicable legal, regulatory and contractual requirements,	Would the State please revise this Section as follows:  <b>Financial Audits.</b> The State and the Permitted Auditors shall have the right to conduct, at any time, <del>any type of a</del> reasonable financial audit to verify that Contractor's invoices have been calculated in compliance with the invoicing and pricing terms and conditions and the compliance of the foregoing with the terms and conditions of this Agreement. Such audit may, in addition, as determined by the State and the Permitted Auditors: (a) verify the accuracy and completeness	<b>No</b>

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			in each case to the extent applicable to the Services and/or the payments for such Services. The State and its Permitted Auditor may perform audits of the actual costs incurred by Contractor for all Agreement activities. Contractor shall maintain and apply a cost accounting system having the capability of accumulating all pertinent cost data in sufficient detail to facilitate this analysis.	of Records; (b) examine the financial controls, processes and procedures utilized by Contractor; and (c) enable the State to meet applicable legal, regulatory and contractual requirements, in each case to the extent applicable to the Services and/or the payments for such Services. <del>The State and its Permitted Auditor may perform audits of the actual costs incurred by Contractor for all Agreement activities.</del> Contractor shall maintain and apply a cost accounting system having the capability of accumulating all pertinent <del>cost</del> <u>financial</u> data in sufficient detail to facilitate this analysis.	
162.	Addendum #4, Agreement Section 8.6.4	17	<p><b>Security Audit.</b></p> <p>(a) Contractor shall perform a SAS level 2 or its equivalent every other year with results published to the State within ____ ( ) days of audit completion.</p> <p>(b) Contractor shall perform a network penetration test every year with results published to the State within ____ ( ) days of audit completion.</p> <p>(c) The State and the Permitted Auditors shall have the right to conduct, at any time, security audits in their sole discretion.</p> <p>(d) Any physical or Data breach will require a full disclosure of the breach to the State, a re-mediation plan, and will subsequently require a full security audit with results published to the State within __ ( ) days of audit completion.</p>	<p>Will the State allow Contractor to perform a SAE 16 audit in place of the SAS level 2 as the equivalent audit?</p> <p>What is the scope of a full security audit and what will it entail?</p>	<p><b>Yes.</b></p> <p><b>The SAS 70 Certification was superseded by the SSAE-16 Certification on June 15, 2011. More information on the required Level 2 certification is available on <a href="http://www.ssae-16.com">www.ssae-16.com</a> The scope should include all aspects of the UHIP project.</b></p>
163.	Addendum #4, Agreement Section 8.6.5(a)	17-18	<p><b>Results of Operations Audits.</b> If an operations audit reveals that Contractor is not in compliance with any applicable State and Federal Laws and Regulations or this Agreement, Contractor shall be responsible for and liable for, at Contractor's sole cost and expense, promptly taking any and all actions necessary to comply with such applicable State and Federal Laws and Regulations or this Agreement. In addition, Contractor shall promptly reimburse the State for the actual cost of such audit and any damages, fees, fines or penalties assessed against or incurred by the State as a result thereof.</p>	<p>Will the State please apply a materiality standard prior to requiring Contractor to pay for the entire audit in the event Contractor is not in compliance with applicable law or the Agreement? Discussion and negotiation with the State on this issue would be welcome.</p>	<p><b>No.</b></p>
164.	Addendum #4, Agreement Section 8.6.5(b)	18	<p><b>Results of Financial Audits.</b> If a financial audit reveals an overcharge by Contractor, Contractor shall promptly pay to the State the amount of such overcharge, together with interest from the date of Contractor's receipt of such overcharge at the same rate of interest under applicable State law. In addition, if any such audit reveals an overcharge of more than three percent (3%) of the audited payments in any payment category, such as a Milestone Payment, Contractor shall promptly reimburse the State for the actual cost of such audit (including all fees of any Permitted Auditors) and any damages, fees, fines or penalties assessed against or incurred by the State as a result thereof.</p>	<p>Will the State please delete the requirement of the Contractor to pay interest on any overcharges?</p> <p>Will the State please substitute "ten percent (10%)" for "three percent (3%)" as the standard that will require Contractor to reimburse the State for the actual cost of the audit?</p>	<p><b>No</b></p>
165.	Addendum #4, Agreement Section 8.6.5(c)	18	<p><b>Audit Follow-Up.</b> Contractor and the State shall meet promptly upon the completion of a State audit (but in no event more than fifteen (15) days after completion) conducted pursuant to this Agreement (i.e., an exit</p>	<p>Will the State provide the Contractor with an opportunity to review, comment and make changes to the draft audit report before it goes final?</p>	<p><b>No</b></p>

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			interview) and/or the issuance of an interim or final report to Contractor and the State following an audit. Contractor shall develop for State approval an action plan for Contractor to take (within thirty (30) days, unless a shorter resolution time is mutually agreed to by the Parties in writing) any and all actions necessary for Contractor to rectify, at its own cost and expense, its non-compliance with the applicable State and Federal Laws and Regulations or this Agreement, or otherwise resolve any deficiencies, problems, concerns and/or recommendations identified in such exit interview and/or audit report.		
166.	Addendum #4, Agreement Section 8.6.7	18	(i) promptly pay to the State the amount of such overcharge, plus interest from the date of Contractor's receipt of such overcharge at the same rate of interest under applicable law, and	Will the State please delete the requirement of the Contractor to pay interest on any overcharges?	No
167.	Addendum #4, Agreement Section 9.3	19	<b>Surrender of Property.</b> Contractor shall surrender to the State all Property upon expiration or termination of this Agreement.	Will the State add to the end of this Section "ordinary wear and tear excepted".	Yes
168.	Addendum #4, Agreement Section 10	19	Services	Will the State consider Acceptance Criteria for Services to be in accordance with the requirements of the Agreement rather than monthly acceptance prior to payment? Rather than negotiating formal Acceptance Criteria that is appropriate for Deliverables, Services Acceptance Criteria is already set forth as contract requirements with associated SLAs. Since some of the Services are duplicated each month, treating Acceptance Criteria in this manner is less burdensome on both the State and the Contractor.	<b>It is too broad to define general acceptance criteria for deliverables. However, duplicative or repetitive services/deliverable will not be subject to additional review.</b>
169.	Addendum #4, Agreement Section 10.1	19-20	Should certification or re-certification of the HIX/IES System be denied, or any component part of it, prior to expiration or termination of this Agreement, Contractor shall be liable for any damages resulting from its actions or inactions.	The Contractor should only be required to pay damages if it has not complied with the contract. Requiring Contractor to pay damages when all contract requirements have been met is unreasonable.  Will the State please modify this Section to state "Contractor shall be liable for any damages resulting from the negligence or willful misconduct of Contractor."	<b>No, unless performed under the direction of the State.</b>
170.	Addendum #4, Agreement Section 10.2	20	<b>HHS Sanctions.</b> Contractor must perform its obligations under this Agreement for the Medicaid portion of the Project according to the terms required by the State Medicaid Manual, Part 11. If at any time during the life of the development, operation, and Maintenance of the HIX/IES System, the federal government imposes fiscal sanctions against the State as a result of the Contractor's or any of its Subcontractor's action or inaction, Contractor shall compensate the State the amount of the sanctions.	The Contractor should only be required to pay fiscal sanctions if it has not complied with the contract. Requiring Contractor to pay fiscal sanctions when all contract requirements have been met is unreasonable.  Will the State please modify this Section to state "as a result of the Contractor's or any of its Subcontractor's negligent actions or inactions or willful misconduct, Contractor shall compensate the State the amount of the sanctions."	<b>No, unless performed under the direction of the State</b>
171.	Addendum #4, Agreement	20	<b>10.4.1 Contractor.</b> Contractor shall not be held responsible for any losses resulting if the fulfillment of the terms of this Agreement shall be delayed or prevented by wars, acts of public enemies, strikes, fires, floods, acts of God,	Will the State please add the following to the list of force majeure events: strikes, lockouts, riots, epidemics, quarantines, acts of government, fire, power failures, nuclear accidents, earthquakes, or	<b>The State agrees to add the vendor requested list of force majeure with the</b>

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	Sections 10.4.1		or for any other acts not within the control of Contractor and which by the exercise of reasonable diligence, Contractor is unable to prevent.	other disasters, whether or not similar to the foregoing?	<b>exception of strikes, lockouts, riots, power failure, acts of Government or other disasters whether or not similar to the foregoing.</b>
172.	Addendum #4, Agreement Sections 11.2.2	21	The State reserves the right, in its absolute discretion, to Accept or reject Deliverables, with an obligation to pay only for those Deliverables Accepted.	Please confirm that the timeframes for the State's acceptance or rejection of Deliverables will be set forth in the Project Plan (Gantt Chart)?	<b>Yes</b>
173.	Addendum #4, Agreement Sections 11.4	22	Project Plan	Please confirm that the timeframes for the State's acceptance or rejection of Deliverables will be set forth in the Project Plan (Gantt Chart)?	<b>Yes</b>
174.	Addendum #4, Agreement Sections 11.6	23	If Contractor is unable to perform Maintenance or the State desires to perform (itself or via a Third Party) maintenance on Equipment or Software procured under this Agreement, then, upon written notice by the State, Contractor will provide at Contractor's then current rates and fees adequate and reasonable assistance including relevant Documentation to allow the State to maintain the Equipment and/or Software based on Contractor's methodology.	Our security policies do not allow third parties to maintain our solution Equipment and Software and in a SaaS model we would always be operating and maintaining our Equipment and Software. Would the State please delete this requirement?	<b>No. The State reserves the right to sustain operations by providing maintenance/support in the event the contractor can not. Vendor will be expected to provide adequate and reasonable assistance including relevant documentation and functionality/data migration assistance to allow the State and its vendors to maintain the Equipment, Data, and/or Software based on Contractor's methodology.</b>
175.	Addendum #4, Agreement Sections 12.1.1	24	<b>Grant.</b> Upon the Effective Date, Contractor hereby grants to the State a nonexclusive, perpetual, fully-paid up, irrevocable license to use, demonstrate, reproduce, and sublicense the Commercial Software and Documentation.	In the event there is Commercial Software and Documentation provided to the State as Software as a Service or SaaS, will the State negotiate with the Contractor intellectual property and license terms and conditions that are appropriate for SaaS? For example, a SaaS model does not envision a perpetual license.	<b>The State understands that a perpetual license may not be reasonable in a SAAS model. The State expects that the license will be commercially reasonable to justify the contract</b>
176.	Addendum #4, Agreement Sections 13.1	25	<b>Grant.</b> Contractor hereby grants to the State a nonexclusive, perpetual, irrevocable and fully-paid up license to use, demonstrate, reproduce, modify, prepare derivative works based on, itself maintain and support (or use Third Party maintenance and support) Contractor Pre-Existing Software and its Documentation.	In the event there is Pre-Existing Software and Documentation provided to the State as Software as a Service or SaaS, will the State negotiate with the Contractor intellectual property and license terms and conditions that are appropriate for SaaS? For example, a SaaS model does not envision a perpetual license.	<b>The State understands that a perpetual license may not be reasonable in a SAAS model. The State expects that the license will be commercially</b>

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					<b>reasonable to justify the contract</b>
177.	Addendum #4, Agreement Sections 13.8.4	27	Contractor shall provide the State with written verification that the Deposit Materials have been updated (and such updates submitted to the Escrow Agent) in accordance with the provisions of this Section 13.1.8.	Should the reference to Section 13.1.8 actually be to Section 13.8.4?	<b>Yes.</b>
178.	Addendum #4, Agreement Sections 13.8.5	27	(iii) Contractor (or any successor in interest) fails in its obligation (hereunder or in any other agreement between Contractor and the State) to provide support services with respect to Contractor's Pre-Existing Software, the State, after giving Contractor written notice, shall be entitled to immediately obtain the escrowed Deposit Materials for the sole purpose of repairing, maintaining, servicing, modifying, enhancing, updating, further developing and otherwise supporting (by utilizing independent contractors or otherwise) Contractor's Pre-Existing Software.	Will the State please delete "(hereunder or in any other agreement between Contractor and the State)"? Release of the source code from Escrow should be in accordance with the release provisions of the Escrow Agreement and not related to any other contract that the Contractor may have with the State. This provision is overreaching.	The provision at issue (which is subclause (iii)) relates to the Contractor's failure "to provide support services with respect to Contractor's Preexisting Software." Thus, no accommodation will be made in response to this question
179.	Addendum #4, Agreement Sections 13.8.5(b)	28	The State's right to use the Deposit Materials (and/or have a Third-Party under contract with the State use the Deposit Materials) shall be non-exclusive, non-transferable, royalty-free and perpetual, notwithstanding any termination of this Agreement by either party.	Will the State please change this requirement by deleting "perpetual, notwithstanding any termination of this Agreement by either party" and substitute "shall end upon the natural termination or expiration date of the Agreement."	<b>No</b>
180.	Addendum #4, Agreement Sections 13.8.5(d)	28	The Escrow Agreement shall be governed by the laws of the State of Rhode Island, and the arbitrator under the dispute resolution procedure shall apply Rhode Island law. Any arbitration with respect to the Escrow Agreement shall take place in Rhode Island, unless that is not reasonably possible, in which event it shall take place in Boston, Massachusetts.	Would the State consider substituting arbitration for an informal dispute resolution process, and in the event the dispute is not resolved using the information dispute resolution process, either party may avail itself of available remedies in a court of law?	<b>No</b>
181.	Addendum #4, Agreement Sections 18.1	29-30	<b>Warranty Periods.</b> The following HIX/IES System Warranty Period and Phase Warranty Period (collectively, the "Warranty Periods"), apply to this Agreement: <b>18.1.1 HIX/IES System Warranty Period.</b> The HIX/IES System Warranty commences upon Phase 2 Acceptance and continues through six (6) months after the expiration of the Term (as it may be extended). The HIX/IES System Warranty Period shall be in addition to the Phase 1 Warranty. <b>18.1.2 Phase 1 Warranty Period.</b> The Phase 1 Warranty commences upon Phase 1 Acceptance and continues through Phase 2 Acceptance.	The Warranty Phases are confusing. If the Phase 1 Warranty commences upon Phase 1 Acceptance and continues through Phase 2 Acceptance, and the HIX/IES System Warranty commences upon Phase 2 Acceptance, how are the warranties in addition to each other or overlapping?	<b>The Phase 1 Warranty applies to Phase 1 deliverables. The Phase 2 Warranty applies to Phase 2 deliverables.</b>
182.	Addendum #4, Agreement Sections 18.2	30	Warranties	Will the State please add the following to the Warranties Section: the Contractor disclaims the warranties of merchantability or fitness for a particular purpose.	<b>No. The vendor should be capable of providing the necessary guidance unless performed at the direction of the State.</b>
183.	Addendum #4, Agreement Sections 18.2.5	32	<b>State and Federal Laws and Regulations.</b> Contractor represents and warrants to the State that all Software provided hereunder, including when installed and in "live" operation, will meet and satisfy all applicable State and Federal Laws and Regulations.	Will the State please modify this Section by inserting "current" before "applicable State and Federal Laws and Regulations"?	<b>No</b>
184.	Addendum #4,	33	For any breach of any of the warranties provided in this Agreement, without	Will the State please modify this Section as follows:	<b>No</b>

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	Agreement Sections 18.4.1		limiting any other remedies to which the State may be entitled, the State's remedies include the following: (a) re-performance, repair, or replacement (collectively, "Correct") of any Deficiency in the HIX/IES System, in whole or in part, or Service (including without limitation any infringing Software or Hardware); or (b) should the State in its sole discretion consent, refund of all amounts paid by the State for the Deficient Deliverables or Services and payment to the State of any additional amounts necessary to equal the State's cost to cover. "Cost to Cover" means the cost, properly mitigated, of procuring Deliverables or Services of equivalent capability, function, and performance.	For any breach of any of the warranties provided in this Agreement, without limiting any other remedies to which the State may be entitled, the State's remedies include the following <u>at the Contractor's discretion</u> : (a) re-performance, repair, or replacement (collectively, "Correct") of any Deficiency in the HIX/IES System, in whole or in part, or Service (including without limitation any infringing Software or Hardware); <del>or (b) should the State in its sole discretion consent, refund of all amounts paid by the State for the Deficient Deliverables or Services</del> <u>and, or (c) payment to the State of any additional amounts necessary to equal the State's cost to cover.</u> "Cost to Cover" means the cost, properly mitigated, of procuring Deliverables or Services of equivalent capability, function, and performance.	
185.	Addendum #4, Agreement Sections 18.4.2	33	In the event the State requires, in its sole discretion, Contractor to Correct any Deficient Deliverable or Service noted during the applicable Warranty Periods, Contractor shall re-perform, repair or replace correct any such Deficiency in accordance with the following deficiency severity level (as assigned by the State) and its corresponding SLA, at no additional cost to the State. Failure of Contractor to satisfy any such SLA shall be subject to the corresponding Liquidated Damages listed below.	Will the State please modify this Section as follows: In the event <del>the State requires, in its sole discretion, Contractor to Correct</del> any Deficient Deliverable or Service noted during the applicable Warranty Periods, Contractor shall re-perform, repair or replace <del>correct</del> any such Deficiency in accordance with the following deficiency severity level (as assigned by the State) and its corresponding SLA, at no additional cost to the State. Failure of Contractor to satisfy any such SLA shall be subject to the corresponding Liquidated Damages listed below.	No
186.	Addendum #4, Agreement Sections 18.4.3	35	The applicable Warranty Period shall automatically extend one day for each day required for Contractor to correct any Deficiency.	Will the State please delete this requirement?	No.
187.	Addendum #4, Agreement Sections 18.4.4	35	Deficiencies noted before the expiration of any of the Warranty Periods shall be covered regardless of such expiration. HIX/IES System modifications and changes made during the Warranty Periods shall be covered by the warranties contained herein.	Will the State please modify this Section as follows: Deficiencies noted before the expiration of any of the Warranty Periods shall be <del>covered</del> <u>resolved</u> regardless of such <u>Warranty Period</u> expiration. HIX/IES System modifications and changes made during the Warranty Periods shall be covered by the warranties contained herein.	Yes ,the state will allow the proposed changes.
188.	Addendum #4, Agreement Sections 20.1	35	Service Level Agreements	Will the State consider a monthly cap on Liquidated Damages for failure to meet SLAs in the amount of 10% of the total of all monthly invoices? In addition, will the State consider an annual cap on Liquidated Damages for failure to meet SLAs in the amount of 10% of the annual contract price? As is customary in the industry, will the State provide a three (3) month grace period before operation of the HIX/IES System prior to assessing Liquidated Damages and actual damages for failures to meet SLAs or contract requirements, as the case may be?	<b>No monthly cap on Liquidated damages</b>  <b>No annual cap for failure to meet SLAs</b>  <b>The state will abide by cure periods or corrective action periods as provided by the contract</b>

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189.	Addendum #4, Agreement Sections 20.6	36	Accordingly, if Contractor fails to meet any of the SLAs, then, in addition to other remedies available to the State, Contractor shall pay or credit (at the State's discretion) to the State the Liquidated Damages specified in Attachment S of the RFP and in this Agreement.	Will the State delete the concept of paying the Liquidated Damages and always allow for a credit on the Contractor's invoice if Liquidated Damages are assessed?	No
190.	Addendum #4, Agreement Sections 20.7	36-37	and (c) Contractor uses best efforts to perform notwithstanding the State's action or failure to act or perform.	Would the State please substitute "commercially reasonable efforts" for "best efforts"?	No
191.	Addendum #4, Agreement Sections 21	37	As soon as possible after receipt of a written change request from the State, but in no event more than thirty (30) days thereafter, Contractor shall determine if there is an impact on price with the change requested and provide the State a written statement to identify any price impact on this Agreement or to state that there is no impact.	Please confirm that the State will also accept change requests first suggested by the Contractor and not only initiated by the State.	<b>Yes, the State will review requests submitted by the vendor, but approval is subject to the same procedures and authority of the Department of Administration.</b>
192.	Addendum #4, Agreement Sections 22	37	Subcontractors	Please confirm that the Subcontractors listed in the winning bidder's proposal are deemed accepted by the State upon award.	<b>No. The State will respond in a timely manner to approve all subcontractors.</b>
193.	Addendum #4, Agreement Sections 22	38	Contractor certifies to the State that it has conducted background checks required under Section 2.21 of the RFP (Background Checks). All Subcontractor employees, agents and consultants assigned to perform work under this Agreement and at the site may be subject to security clearance at the sole discretion of the State.	Please confirm that it is acceptable to the State for Subcontractors to perform background checks on Subcontractor employees and for Contractor to certify that Subcontractor has conducted the background checks on Subcontractor's employees after obtaining the same certification from Subcontractor.  Would the State please elaborate on what types of "security clearances" will be required by the State for Subcontractor employees, agents and consultants?	<b>A Local BCI check is required and proof must be provided to the State for all contractor and subcontractor employees. The BCI check must be acceptable by the State. If applicable, a confidentiality agreement may be required to be signed.</b>
194.	Addendum #4, Agreement Sections 22.5	38	Contractor acknowledges that its indemnity obligations to its Subcontractors and suppliers under this Section 22 shall include all claims for payment or damages by any Subcontractor or supplier who furnishes or claims to have furnished any labor, services, materials or Equipment in connection with the Services, except to the extent its Subcontract or supply contract has been assigned to the State as contemplated hereunder.	Would the State please explain the meaning of this sentence?	<b>The sentence is incorrectly worded. The sentence should read:</b>  <b>"Contractor acknowledges that its indemnity obligations to <u>the State</u> under this Section 22 shall include..."</b>
195.	Addendum #4, Agreement Sections 22.7	39	Removal/Replacement of Subcontractors	In the event Contractor does not wish for Subcontractor to be removed from the project or if the Subcontractor's services are integral to the performance of the Services and provision of the Deliverables, what are the Contractor's rights in these situations?	<b>Please see Dispute Resolution paragraph 35.11 in Addendum #4.</b>

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196.	Addendum #4, Agreement Sections 23	40	Intellectual Property Rights	For any Customized Software provided to the State or customizations to Contractor or Subcontractor Pre-Existing Software or the development of new Software (collectively for purposes of this question "Customized Software"), where the State retains ownership, will the State agree to provide Contractor and/or its Subcontractors with a perpetual and exclusive license right back to use, copy, distribute, modify, and create derivative works of the Customized Software for Contractor and/or its Subcontractors and for other Contractor and/or Subcontractor customers?	No
197.	Addendum #4, Agreement Sections 23.2.1	40-41	Except as otherwise provided herein, Contractor shall retain all right, title and interest in and to its the Commercial Software, Contractor Pre-Existing Software, and to Contractor's Intellectual Property. In the event and to the extent that the Work Product contains any Contractor Confidential Information, Contractor's Intellectual Property, and/or items, elements, tools, and/or scripting of Contractor or its Third Party licensors or Subcontractors, and to the extent any Contractor Confidential Information, Contractor's Intellectual Property and/or items, elements, tools, and/or scripting of Contractor or its Third Party licensors or Subcontractors are necessary for the operation of the HIX/IES System, Contractor shall specifically identify such items, elements, tools, and/or scripting, and Contractor (or its licensors or subcontractors, if applicable) shall be deemed to have granted to the State (including its Affiliates and Third Party contractors, which contractors have signed confidentiality agreements with the State) a nonexclusive, perpetual, royalty-free, irrevocable, worldwide, and enterprise-wide license to use, reproduce, alter, adapt, modify, display, perform, repair, maintain, distribute, and make derivative works of such Contractor Confidential Information, Contractor's Intellectual Property, items, elements, tools, and/or scripting.	In the event there is Commercial Software and Pre-Existing Software and Documentation provided to the State as Software as a Service or SaaS, will the State negotiate with the Contractor intellectual property and license terms and conditions that are appropriate for SaaS as it relates to Contractor's confidential information? For example, a SaaS model does not envision a perpetual license.	See answer to question 175
198.	Addendum #4, Agreement Sections 25.3.1	42-43	In the event Contractor discovers or is notified of a breach or potential breach of security relating to the Data in Contractor's possession or direct or indirect control, Contractor shall:...  (c) remediate the effects of such breach  or potential breach of security, provided that the State, its Third Parties or its Affiliates are not the direct cause of the breach or potential breach; (d) provide the State with such assurances as the State shall request that such breach or potential breach shall not recur, provided that the State, its Third Parties or its Affiliates are not the direct cause of the breach or potential breach;...	Contractor will only be able to completely protect the State's Data that is in Contractor's direct possession or control. Contractor has no control over the State, its Third Parties or its Affiliates and the measures they use to protect the State's Data. Will the State please revise this Section as follows:  In the event Contractor discovers or is notified of a breach or potential breach of security relating to the Data in Contractor's <u>direct</u> possession or <del>direct or indirect</del> control, Contractor shall:... (c) remediate the effects of such <u>Contractor</u> breach or potential breach of security, provided that the State, its Third Parties or its Affiliates are not the <u>direct or indirect</u> cause of the breach or potential breach; (d) provide the State with such assurances as the State shall request that such <u>Contractor</u> breach or potential breach shall not recur, provided that the State, its Third Parties or its Affiliates are not the <u>direct or indirect</u> cause of the breach or potential breach;...	<b>The indicated deletions – "direct or indirect" – will not be accepted by the State</b>  <b>The indicated additions will be accepted by the State.</b>

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199.	Addendum #4, Agreement Sections 25.3.2	43	<b>Reconstruction Procedures.</b> As part of the Services, Contractor shall be responsible for developing and maintaining procedures for Data backup and restoration to the last back-up and/or restoration of lost the Data using other generally accepted Data restoration techniques which are no less rigorous than those maintained by Contractor, as modified by Contractor from time to time, for its own information of a similar nature, and no less rigorous than accepted industry standards.	Will the State please revise this Section as follows: <b>Reconstruction Procedures.</b> As part of the Services, Contractor shall be responsible for developing and maintaining procedures for Data backup and restoration to the last back-up and/or restoration of <u>the</u> lost <del>the</del> Data using other generally accepted Data restoration techniques which are no less rigorous than those maintained by Contractor, as modified by Contractor from time to time, for its own information of a similar nature, and no less rigorous than accepted industry standards.	<b>Yes.</b>
200.	Addendum #4, Agreement Sections 25.4.1	44	The State may require, in its sole discretion, Project Staff having access to the State Confidential Information to be execute a written non-disclosure agreement protecting the State Confidential Information, a form and substance satisfactory to the State.	Will the State please revise this Section to state: The State may require, in its sole discretion, Project Staff having access to the State Confidential Information to <del>be</del> execute a written non-disclosure agreement protecting the State Confidential Information, <u>in a</u> form and substance satisfactory to the State <u>and Contractor.</u>	<b>Yes</b>
201.	Addendum #4, Agreement Sections 25.5	44	<b>Public Records Law.</b> Notwithstanding the above and any provision of this Agreement to the contrary, Contractor acknowledges that the State is subject to R.I.G.L. 38-2-2(5) and that: (a) this Agreement and all parts hereof, and all communications between the Parties hereunder shall be a public record as defined in R.I.G.L. 38-2-2(5); and...	Will the State please revise this Section to state: <b>Public Records Law.</b> Notwithstanding the above and any provision of this Agreement to the contrary, Contractor acknowledges that the State is subject to R.I.G.L. 38-2-2(5) and that: (a) this Agreement and all parts hereof, and all communications between the Parties hereunder <del>shall</del> <u>may</u> be a public record as defined in R.I.G.L. 38-2-2(5); and...	<b>We accept the indicated change –(delete shall and add may) However, please note the answer to question 131.</b>
202.	Addendum #4, Agreement Sections 25.7	45	<b>Legally Required Disclosures.</b> The Receiving Party may disclose the Confidential Information of the Disclosing Party to the extent disclosure is based on the good faith written opinion of the Receiving Party’s legal counsel that disclosure is required by applicable State and Federal Laws and Regulations; provided, however, that the Receiving Party shall give advance notice of such requested disclosure and a legal opinion to the Disclosing Party prior to any such disclosure and shall use commercially reasonable efforts to obtain a protective order or otherwise protect the confidentiality of the Disclosing Party’s Confidential Information. Notwithstanding the foregoing, the Disclosing Party reserves the right to obtain a protective order or otherwise protect the confidentiality of such Confidential Information. For purposes of this, the Parties’ in-house counsel or law department may act as their respective legal counsel.	Will the State please revise this Section to state: <b>Legally Required Disclosures.</b> The Receiving Party may disclose the Confidential Information of the Disclosing Party to the extent disclosure is based on the good faith written opinion of the Receiving Party’s legal counsel that disclosure is required by applicable State and Federal Laws and Regulations; provided, however, that the Receiving Party shall give advance notice of such requested disclosure and a legal opinion to the Disclosing Party prior to any such disclosure <del>and shall use commercially reasonable efforts in order for the Disclosing Party to</del> obtain a protective order or otherwise protect the confidentiality of the Disclosing Party’s Confidential Information. <del>Notwithstanding the foregoing, the Disclosing Party reserves the right to obtain a protective order or otherwise protect the confidentiality of such Confidential Information.</del> For purposes of this, the Parties’ in-house counsel or law department may act as their respective legal counsel.	<b>The State may revisit this change after vendor selection</b>
203.	Addendum #4, Agreement Sections	46	Contractor will immediately report to the State any and all unauthorized disclosures or uses of the State's Confidential Information of which it or Project Staff is aware or has knowledge. Contractor acknowledges that any publication or disclosure of the State's Confidential Information to others	Will the State please make the following changes in order to make the Section mutual: <del>Contractor</del> <u>Each party</u> will immediately report to the <del>State</del> <u>other party</u>	<b>Accordingly, the clause will be amended to read as follows:</b>

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	25.10.2		may cause immediate and irreparable harm to the State and the State. If Contractor should publish or disclose such Confidential Information to others without authorization, the State shall immediately be entitled to injunctive relief or any other remedies to which it is entitled under law or equity without requiring a cure period.	any and all unauthorized disclosures or uses of the <del>State's</del> <u>the other party's</u> Confidential Information of which <del>the Contractor or its Project Staff or the State or its employees or its Affiliates</del> <u>is</u> are aware or <del>has</del> <u>have</u> knowledge. <del>Contractor</del> <u>Each party</u> acknowledges that any publication or disclosure of the <del>State's</del> <u>other party's</u> Confidential Information to others may cause immediate and irreparable harm to the State <del>and the State or the Contractor, as the case may be.</del> If <del>Contractor</del> <u>either party</u> should publish or disclose such Confidential Information to others without authorization, the <del>State</del> <u>other party</u> shall immediately be entitled to injunctive relief or any other remedies to which it is entitled under law or equity without requiring a cure period.	<b>"Each Party will promptly report to the other Party any and all unauthorized disclosures or uses of the other Party's Confidential Information of which it becomes aware or has knowledge. Each Party acknowledges that any publication or disclosure of the other Party's Confidential Information to others may cause immediate and irreparable harm to the State or the Contractor, as the case may be. If either Party should publish or disclose such Confidential Information to others without authorization, the other Party shall be entitled to seek injunctive relief or any other relief to which it is entitled under law or equity without requiring a cure period."</b>
204.	Addendum #4, Agreement Sections 26.1	47	<b>Contractor General Indemnification.</b> Contractor shall indemnify, defend and hold harmless the State Indemnities from and against, and shall pay any and all Losses sustained or incurred by any of the State indemnitees, based upon, relating to or arising from, any and all claims in connection with any of the following:	Will the State please modify this Section as follows: <b>Contractor General Indemnification.</b> Contractor shall indemnify, defend and hold harmless the State Indemnities from and against, and shall pay any and all Losses sustained or incurred by any of the State indemnitees, based upon, relating to or arising from, any and all <u>third party</u> claims in connection with any of the following:	No
205.	Addendum #4, Agreement Sections 26.1.1	47	...or any failure of Contractor and such officers, agents, Subcontractors, employees, suppliers, laborers or persons, firms or corporation to comply with State and Federal Laws and Regulations, including, but not limited to, labor and wage laws;	Will the State please modify this Section as follows: ...or any failure of Contractor and such officers, agents, Subcontractors, employees, suppliers, laborers or persons, firms or corporation to comply with <u>applicable</u> State and Federal Laws and Regulations, including, but not limited to, labor and wage laws <u>applicable to this Agreement</u> ;	<b>The State agrees with the indicated changes and will allow modification of the indicated section.</b>
206.	Addendum #4, Agreement	48	Any aspect of the employment of Project Staff (including transferred Project Staff solely with respect to Losses accruing on or after their applicable employment dates with Contractor), or the termination of such	Will the State please add the following to this Section 26.1.4: Notwithstanding the above, Contractor shall provide such indemnity	No

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	Sections 26.1.4		employment, including claims relating to: (a) any violation by Contractor or its officers, directors, employees, representatives and/or agents of State and Federal Laws and Regulations protecting persons or members of protected classes or categories and/or prohibiting discrimination or harassment on the basis of a protected characteristic;... (e) claims by Project Staff for wages, benefits, discrimination or harassment of any kind, wrongful termination and/or denial of severance or termination payments upon leaving their applicable place of employment; and...	to the State Indemnitees as determined on a case by case basis and so long as the State Indemnitees have not violated any applicable State and Federal Laws and Regulations described above as it relates to a specific case.	
207.	Addendum #4, Agreement Sections 26.1.6	48	Any introduction by Contractor or its Subcontractors of Malicious Code in the State's environment, network or systems, to the extent Losses caused by such introduction arise from acts, errors or omissions of Contractor or Project Staff;	Will the State please revise this Section as follows: Any introduction by Contractor or its Subcontractors of Malicious Code in the State's environment, network or systems, to the extent Losses caused by such introduction arise from <u>the negligent</u> acts, errors or omissions <u>or willful misconduct</u> of Contractor or Project Staff;	<b>No.</b>
208.	Addendum #4, Agreement Sections 26.1.9	48-49	Any failure by Contractor to pay applicable taxes, together with any interest and penalties, assessed or imposed against the State for which Contractor has responsibility or applicable State and Federal Laws and Regulations; and	Will the State please revise this Section as follows: Any failure by Contractor to pay applicable taxes, together with any interest and penalties, assessed or imposed against the State for which Contractor has responsibility or <u>pursuant to</u> applicable State and Federal Laws and Regulations; and	<b>We agree with the indicated change and will revise the section.</b>
209.	Addendum #4, Agreement Sections 26.1.10	49	Contractor or its Subcontractors asserting rights under this Agreement, or any entity to which Contractor assigned, transferred, pledged, hypothecated or otherwise encumbered its rights to receive payments from the State under this Agreement.	Will the State please modify this Section as follows: <del>Contractor or its</del> Subcontractors asserting rights under this Agreement, or any entity to which Contractor assigned, transferred, pledged, hypothecated or otherwise encumbered its rights to receive payments from the State under this Agreement.	<b>No.</b>
210.	Addendum #4, Agreement Sections 26.2.1	49	Contractor shall indemnify, defend, and hold harmless the State Indemnitees from and against all Third Party claims, and shall pay any and all Losses (including without limitation reasonable attorneys' fees), sustained or incurred by any of the State Indemnitees, based upon, relating to, or arising from, any and all actual threatened and/or alleged claims for violation of any U.S. Intellectual Property right, including any claims of infringement, misappropriation and/or violation of any patent, copyright, trademark, trade secret and/or other Intellectual Property, proprietary, moral or privacy rights of any Third Party, by any product, Service, Software, Deliverable, Contractor's Intellectual Property, Subcontractor Intellectual Property, and any other Contractor and/or Contractor Third Party services, technologies, techniques or products used to provide the Services, and/or the receipt or use by the State of any of the foregoing items (collectively referred to as "Contractor Items").	Will the State please delete "threatened"?	<b>No.</b>

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211.	Addendum #4, Agreement Sections 26.2.2	49-50	With respect to claims arising from computer hardware or Software manufactured by a Third Party and sold by Contractor as a reseller, Contractor will pass through to the State such indemnity rights as it receives from such Third Party ("Third Party Obligation") and will cooperate in enforcing them; provided that if the Third Party manufacturer fails to honor the Third Party Obligation, Contractor will provide the State with indemnity protection equal to that called for by the Third Party Obligation, but in no event greater than that called for in the first sentence of this Section 26. The provisions of the preceding sentence apply only to Third Party computer hardware or Software sold as a distinct unit and accepted by the State. Unless a Third Party Obligation provides otherwise, the defense and payment obligations set forth in this Section 26 will be conditional upon the following:	Will the State please revise this Section as follows:  With respect to claims arising from computer hardware or Software manufactured by a Third Party and sold by Contractor as a reseller, Contractor will <u>use commercially reasonable efforts</u> to pass through to the State such indemnity rights as it receives from such Third Party ("Third Party Obligation"), <u>subject to such Third Party's agreement</u> and will cooperate in enforcing them; <del>provided that if the Third Party manufacturer fails to honor the Third Party Obligation, Contractor will provide the State with indemnity protection equal to that called for by the Third Party Obligation, but in no event greater than that called for in the first sentence of this Section 26.</del> The provisions of the preceding sentence apply only to Third Party computer hardware or Software sold as a distinct unit and accepted by the State. Unless a Third Party Obligation provides otherwise, the defense and payment obligations set forth in this Section 26 will be conditional upon the following:	<b>No.</b>
212.	Addendum #4, Agreement Sections 26.2.2(c)	50	Should the Deliverables or Software, or the operation thereof, become the subject of a claim or infringement or violation of the U.S. Intellectual Property right, be enjoined, or appear likely to be enjoined, the State shall permit Contractor, at its option and sole cost and expense, either to procure for the State the right to continue using the Deliverables or Software, or to replace or modify the same so that they become non-infringing with identical functionality. If none of these options can reasonably be taken, or if the use of such Deliverables or Software by the State shall be prevented by injunction, Contractor agrees to take back such Deliverables or Software and make every reasonable effort to assist the State in procuring substitute Deliverables or Software. If, in the sole opinion of the State, the return of such infringing Deliverables or Software makes the retention of other Deliverables or Software acquired from Contractor under this Agreement, the State shall then have the option of terminating this Agreement, or applicable portions thereof, without penalty. Without limiting the State's remedies, Contractor agrees to take back such Deliverables or Software and refund any sums the State has paid Contractor.	Will the State please modify this Section as follows:  Should the Deliverables or Software, or the operation thereof, become the subject of a claim or infringement or violation of the U.S. Intellectual Property right, be enjoined, or appear likely to be enjoined, <del>the State shall permit</del> Contractor, at its option and sole cost and expense, <u>shall</u> either to procure for the State the right to continue using the Deliverables or Software, or to replace or modify the same so that they become non-infringing with identical functionality. If none of these options can reasonably be taken, or if the use of such Deliverables or Software by the State shall be prevented by injunction, Contractor agrees to take back such Deliverables or Software and <del>make every reasonable effort</del> <u>using commercially reasonable efforts to shall</u> assist the State in procuring substitute Deliverables or Software. If, in the sole opinion of the State, the return of such infringing Deliverables or Software makes the retention of other Deliverables or Software acquired from Contractor under this Agreement <del>non-functional</del> , the State shall then have the option of terminating this Agreement, or applicable portions thereof, without penalty. <del>Without limiting the State's remedies, Contractor agrees to take back such Deliverables or Software and refund any sums the State has paid Contractor.</del>	<b>The State agrees to make the following change:</b> "Should the Deliverables or Software, or the operation thereof, become the subject of a claim or infringement or violation of the U.S. Intellectual Property right, be enjoined, or appear likely to be enjoined, <del>the State shall permit</del> Contractor, at its option and sole cost and expense, <u>shall</u> either to procure for the State the right to continue using the Deliverables or Software, or to replace or modify the same so that they become non-infringing with identical functionality."  The State will not make any additional changes, as vendor has requested, to the section.
213.	Addendum #4, Agreement	51	<b>STATE'S LIMITATION OF LIABILITY.</b> <b>27.1 Cap On State Liability for Direct Damages.</b> The State's liability for	Will the State please revise this Section as follows:  <b>STATE'S LIMITATION OF LIABILITY.</b>	<b>No to both 27.1 and 27.2</b>

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	Sections 27		<p>damages for any cause, claims, events or occurrences whatsoever, and regardless of the form of action, whether in contract or in tort, or otherwise, shall be limited to the Total Purchase Price. Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law.</p> <p><b>27.2 Limitation on Non-Direct Damages.</b> THE STATE SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY AND/OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS OR LOSS OF BUSINESS, LOST GOODWILL, REGARDLESS OF THE FORM OF THE ACTION OR THE THEORY OF RECOVERY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE FORM IN WHICH ANY ACTION IS BROUGHT.</p>	<p><b>27.1 Cap On State Liability for Direct Damages.</b> <del>The State's</del> <u>Each party's</u> liability for damages for any cause, claims, events or occurrences whatsoever, and regardless of the form of action, whether in contract or in tort, or otherwise, shall be limited to the Total Purchase Price. Nothing herein shall be construed to waive or limit the State's sovereign immunity or any other immunity from suit provided by law.</p> <p><b>27.2 Limitation on Non-Direct Damages.</b> <del>THE STATE SHALL NOT</del> <u>NEITHER PARTY SHALL BE</u> LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY AND/OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS OR LOSS OF BUSINESS, LOST GOODWILL, REGARDLESS OF THE FORM OF THE ACTION OR THE THEORY OF RECOVERY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE FORM IN WHICH ANY ACTION IS BROUGHT.</p>	
214.	Addendum #4, Agreement Sections 28	51-52	<p>INSURANCE AND RISK OF LOSS.</p> <p>28.3.2 Waiver. Each Party waives all rights to recover against the other Party for damage, destruction, loss, theft or government taking of their respective real or tangible personal property (whether owned or leased) from any cause to the extent: (a) covered by insurance required to be maintained by such Party under this Agreement, including their respective deductibles or self-insured retentions; and (b) insurance proceeds are actually received by such Party for such loss. Contractor and the State shall cause their respective insurers to issue appropriate waivers of subrogation rights endorsements to all property insurance policies required to be maintained by each Party.</p>	Would the State please clarify what type of property the State is referring to in this Section?	The provision speaks for itself.
215.	Addendum #4, Agreement Sections 30.5	55-56	If a stop work order is not canceled and the work covered by the stop work order is terminated in accordance Section 33.3 (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. The State shall not be liable to Contractor for loss of profits because of a stop work order issued under this Section 30.	<p>Since a resulting termination will result in a Termination for the Convenience of the State, will the State please modify this Section as follows:</p> <p>If a stop work order is not canceled and the work covered by the stop work order is terminated in accordance Section 33.3 (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 <u>including but not limited to the following: all fees for Services performed through and including the date of termination; allowable costs incurred or obligated but unbilled as of the date of termination; unamortized costs; costs incurred in the performance of the work terminated, including, but not limited to start-up costs and preparatory expense allocable thereto; the cost of settling and paying termination settlements under terminated subcontracts and leases; accounting, legal, clerical, and other expenses reasonably necessary for the preparation and negotiation of termination settlement proposals and the termination claim; and a fair and reasonable profit on the foregoing costs.</u> <del>The State shall not be liable to Contractor for</del></p>	See answer to question 148

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				loss of profits because of a stop work order issued under this Section <del>30.</del>	
216.	Addendum #4, Agreement Sections 30.6	56	<b>Correction or Removal.</b> The State may correct such Deficiencies or nonconformities or cure any Contractor default under this Agreement without prejudice to any other remedy it may have if Contractor fails to correct Deficiencies in the HIX/IES System as required in this Agreement or if Contractor otherwise defaults or fails to perform any provision of this Agreement within ten (10) business days of receipt of notice from the State of such defaults or failures to perform.	Will the State please add “or such longer period as the parties may agree” at the end of this Section?	<b>The State agrees with the indicated change and will add “or such longer period as the parties may agree” at the end of this Section</b>
217.	Addendum #4, Agreement Sections 31.3	56	<b>Efficiency and Cost Effectiveness.</b> Contractor covenants to the State that Contractor shall use best efforts to provide the Services in a cost-effective manner consistent with the required levels of quality and performance. Without limiting the generality of the foregoing, such actions shall include: (a) making adjustments in the timing of actions and the performance of non-critical functions (consistent with the State priorities and schedules for the Services and Contractor’s obligation to meet the Critical Event Deadlines, Milestones and SLAs); (b) scheduling usage of State system resources to low utilization periods where practicable and in Contractor’s control; and (c) efficiently using the processes and resources for which the State is charged hereunder, consistent with industry norms.	Will the State please substitute “commercially reasonable efforts” for “best efforts”?	<b>No.</b>
218.	Addendum #4, Agreement Sections 31.4	57	<b>Compliance with Statutes and Regulations.</b> Contractor warrants and certifies that in the performance of this Agreement, it will comply with all applicable State and Federal Laws and Regulations, including statutes, rules, regulations and orders of the United States and the State of Rhode Island and agrees to indemnify the State against any loss, cost, damage or liability by reason of Contractor’s violation of this provision.	Will the State please modify this Section as follows: <b>Compliance with Statutes and Regulations.</b> Contractor warrants and certifies that in the performance of this Agreement, it will comply with all <u>current</u> applicable State and Federal Laws and Regulations, including statutes, rules, regulations and orders of the United States and the State of Rhode Island and agrees to indemnify the State against any loss, cost, damage or liability by reason of Contractor’s violation of this provision.	<b>See answer to question 155.</b>
219.	Addendum #4, Agreement Sections 31.8	58	...provided that in the case of clauses (b) or (c), Contractor's obligations shall apply only if such Malicious Code was introduced by Contractor, Contractor's its Subcontractors.	Will the State please modify this Section as follows: ...provided that in the case of clauses (b) or (c), Contractor's obligations shall apply only if such Malicious Code was introduced by Contractor, <del>Contractor's</del> <u>or</u> its Subcontractors.	<b>Yes</b>
220.	Addendum #4, Agreement Sections 32	59	<b>FISCAL ASSURANCES.</b> Contractor agrees to segregate all receipts and disbursements pertaining to this Agreement from recipients and disbursements from all other sources, whether by separate accounts or by utilizing a fiscal code system. Contractor assures a system of adequate internal control will be implemented to ensure a separation of duties in all cash transactions. Contractor assures the existence of an audit trail which includes: cancelled checks, voucher authorization, invoices, receiving reports and time	Since the payment methodology has not been established yet, will the State negotiate this Section of the Agreement with the winning bidder: “Contractor agrees any unexpended funds from this Agreement are to be returned to the State at the end of the time of performance unless the State gives written consent for their retention.” In addition, will the State please modify this Section as follows: <b>FISCAL ASSURANCES.</b>	Without more, it is difficult to understand what the prospective bidder is seeking in the first part of its question. While the State may agree to negotiate the provision regarding unexpended funds, this is already

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			<p>distribution reports.</p> <p>Contractor assures a separate subsidiary ledger of Equipment and property will be maintained.</p> <p>Contractor agrees any unexpended funds from this Agreement are to be returned to the State at the end of the time of performance unless the State gives written consent for their retention.</p> <p>Contractor shall comply with the following:</p> <p>OMB Circular A-21: Cost Principles for Educational Institutions</p> <p>OMB Circular A-87: Cost Principles For State, Local and Indian Tribal Governments</p> <p>OMB Circular A-102: Grants to and Cooperative Agreements with State and Local Governments</p> <p>OMB Circular A-110: Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations</p> <p>OMB Circular A-122: Cost Principles for Nonprofit Organizations</p> <p>If Contractor expends federal funds during the Contractor’s fiscal year of \$300,000 or more, then OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations shall apply.</p> <p>This Agreement may be funded in part with federal funds under CFDA 93.525 and 93.778.</p>	<p>Contractor agrees to segregate all receipts and disbursements pertaining to this Agreement from recipients and disbursements from all other sources, whether by separate accounts or by utilizing a fiscal code system.</p> <p>Contractor assures a system of adequate internal control will be implemented to ensure a separation of duties in all cash transactions.</p> <p>Contractor assures the existence of an audit trail which includes: cancelled checks, voucher authorization, invoices, receiving reports and time distribution reports.</p> <p>Contractor assures a separate subsidiary ledger of Equipment and property will be maintained.</p> <p>Contractor agrees any unexpended funds from this Agreement are to be returned to the State at the end of the time of performance unless the State gives written consent for their retention.</p> <p>Contractor shall comply with the following:</p> <p><del>OMB Circular A-21: Cost Principles for Educational Institutions</del></p> <p>OMB Circular A-87: Cost Principles For State, Local and Indian Tribal Governments</p> <p>OMB Circular A-102: Grants to and Cooperative Agreements with State and Local Governments</p> <p><del>OMB Circular A-110: Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations</del></p> <p><del>OMB Circular A-122: Cost Principles for Nonprofit Organizations</del></p> <p>If Contractor expends federal funds during the Contractor’s fiscal year of \$300,000 or more, then OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations shall apply.</p> <p>This Agreement may be funded in part with federal funds under CFDA 93.525 and 93.778.</p>	<p>signaled in the Agreement, as the sentence provides that “any unexpended funds from this Agreement are to be returned to the State at the end of the time of performance unless the State gives written consent for their retention.” Thus, there does not appear to be any need to accommodate the prospective bidder’s question in this regard.</p> <p>In regard to the OMB circular that the prospective bidder seeks to have deleted from the agreement the State may revisit this requirement upon vendor selection</p>
221.	Addendum #4, Agreement Sections 33.2	60	<p><b>Termination for Default.</b> If Contractor materially breaches this Agreement, then the State shall give Contractor written notice of such default (“Notice of Default”). Contractor shall correct the default within thirty (30) days of its receipt of the Notice of Default or as otherwise required by the State. If the default is not corrected, this Agreement may be terminated, in whole or in part at the State’s sole discretion, immediately by written notice from the State to Contractor. The option to terminate shall be at the sole discretion of the State.</p>	<p>Will the State please modify this Section as follows:</p> <p><b>Termination for Default.</b> If Contractor materially breaches this Agreement, then the State shall give Contractor written notice of such default (“Notice of Default”). Contractor shall correct the default within thirty (30) days of its receipt of the Notice of Default or <u>such longer period</u> as otherwise <del>required by the State</del> <u>agreed to by the parties</u>. If the default is not corrected, this Agreement may be terminated, in whole or in part at the State’s sole discretion, immediately by written notice from the State to Contractor. The option to terminate shall be at the sole discretion of the State.</p>	<p><b>The State agrees with the indicated change and will modify the section.</b></p>

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222.	Addendum #4, Agreement Sections 33	59		Will the State please add the following to the Agreement: <b>Termination by Contractor.</b> If the State materially breaches this Agreement, including the State's failure to pay Contractor undisputed invoices when due, then the Contractor shall give the State written notice of such default ("Notice of Default"). The State shall correct the default within thirty (30) days of its receipt of the Notice of Default or such longer period as agreed to by the parties. If the default is not corrected, this Agreement may be terminated at the Contractor's sole discretion, immediately by written notice from the Contractor to the State. The option to terminate shall be at the sole discretion of the Contractor.	<b>No.</b>
223.	Addendum #4, Agreement Sections 34	60	Termination Procedure	Will the State please add the following to this Section: For a termination where Contractor is not in breach or default of the Agreement, the State shall pay Contractor all fees for Services performed through and including the date of termination; allowable costs incurred or obligated but unbilled as of the date of termination; unamortized costs; costs incurred in the performance of the work terminated, including, but not limited to start-up costs and preparatory expense allocable thereto; the cost of settling and paying termination settlements under terminated subcontracts and leases; accounting, legal, clerical, and other expenses reasonably necessary for the preparation and negotiation of termination settlement proposals and the termination claim; and a fair and reasonable profit on the foregoing costs.	<b>No</b>
224.	Addendum #4, Agreement Sections 35.1	62	<b>Legal and Regulatory Compliance.</b> Contractor shall comply with all applicable federal, State and local laws, regulations, policies, procedures, rules, codes, standards and other requirements during the Term, including those described in this Agreement, the RFP, and the following:	Will the State please modify this Section as follows: <b>Legal and Regulatory Compliance.</b> Contractor shall comply with all <u>current</u> applicable federal, State and local laws, regulations, policies, procedures, rules, codes, standards and other requirements during the Term, including those described in this Agreement, the RFP, and the following:	<b>See answer to question 155</b>
225.	Addendum #4, Agreement Sections 35.3	63	<b>Contractor Assignment.</b> Contractor shall not sell, transfer, assign, or otherwise dispose of this Agreement or any portion thereof or of any right, title, or interest therein without written consent of the Executive Office. Any such purported assignment or transfer shall be void. If approved, any assignee shall be subject to all terms and conditions of this Agreement.  No approval by the Executive Office  No approval of any assignment may be deemed to obligate the State beyond the provisions of this Agreement. This provision includes reassignment of this Agreement due to change in ownership of Contractor. The Executive Office shall at all times be entitled to assign or transfer all or a portion of its rights, duties, and/or obligations under this Agreement to another governmental agency in the State of Rhode Island upon giving prior	Will the State please add the following to the end of this Section: Notwithstanding the above, Contractor may assign or transfer this Agreement without the written consent of the Executive Office to an Affiliate of Contractor. Contractor will provide notice of such assignment or transfer to the Executive Office.	<b>Yes. However, the State reserves the right to cancel the contract with appropriate notice as provided in the agreement after an assignment or transfer of the agreement.</b>

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			written notice to Contractor.		
226.	Addendum #4, Agreement Sections 35.7	63	<b>Cooperation of Parties.</b> The Parties agree to fully cooperate with each other in connection with the performance of their respective obligations and covenants under this Agreement. Contractor shall provide all reasonable assistance to, and cooperation with, all other contractors of the State that are providing goods or services to or on behalf of the State relating to the Project or otherwise providing services to the State, including its agents and/or any contractor or contractors as may be engaged by the State to monitor, validate or verify Contractor's performance. Contractor shall be liable to the State for the actual additional costs incurred due to its failure to cooperate with other contractors of the State. If reasonably requested to facilitate such cooperation, Contractor and any other contractor of the State shall enter into written contract(s) that reasonably limit(s) their disclosure and use of each other's Confidential Information in the course of their performance of services for the State.	Will the State please add the following to the end of this Section:  In the event Contractor's performance under this Agreement is dependent upon a third party's performance or provision of information, and the Contractor notifies the State that the third party is not being cooperative or providing information of the nature and scope required during the time frames required, the State will require the third party to cooperate with Contractor. If the third party fails to cooperate with Contractor and causes Contractor to be unable to fulfill this Agreement or portions thereof, Contractor shall not be liable to the State or any other party associated with the State in any manner whatsoever (including but not limited to, Liquidated Damages, withholds, fines, penalties, etc.) for the provision of Services or Deliverables where the third party is uncooperative.	<b>The State is willing to revisit this language after vendor selection is made.</b>
227.	Addendum #4, Agreement Sections 35.11	65	<b>Dispute Resolution.</b> In the event of any dispute arising during the Term concerning performance of this Agreement, either Party shall serve notice of such dispute on the other Party, and the dispute shall be decided by the UHIP Project Coordinator, who shall reduce his decision to writing and serve a copy on Contractor. The decision of the UHIP Project Coordinator shall be final and conclusive. The UHIP Project Coordinator's decision in the event of any written notice of dispute shall be final subject to Contractor's right to relief under applicable law.	Will the State please modify this Section in order to make the Dispute Resolution process more meaningful:  <b>Dispute Resolution.</b> In the event of any dispute arising during the Term concerning performance of this Agreement, either Party shall serve notice of such dispute on the other Party, and the dispute shall be decided by the UHIP Project Coordinator, who shall reduce his decision to writing and serve a copy on Contractor. The decision of the UHIP Project Coordinator shall be final and conclusive. The UHIP Project Coordinator's decision in the event of any written notice of dispute shall be final subject to Contractor's right to relief under applicable law. The Project Managers of each party shall attempt to resolve any dispute or controversy hereunder, informally who shall meet in person or by telephone conference call in an effort to resolve the dispute, as often as they deem necessary to gather and analyze any information relevant to the resolution of the dispute, but not less than once every day.  (a) During the course of attempting to resolve the dispute informally, all reasonable requests for non-privileged information related to the dispute, made by one party to the other, shall be honored; provided, however, in attempting to resolve the dispute, the conduct and activities of the parties, any offers of compromise, all settlement proposals and/or information exchanged shall: (i) be considered Information that is confidential and proprietary to each of the parties, and therefore, prohibited from disclosure by either of them in accordance with the provisions of Section 25 (Confidentiality); (ii) be considered settlement discussions, and shall be inadmissible in any subsequent proceedings; and (iii) shall in no way be construed or deemed to preclude, prohibit or restrict either party, at any time or in	<u>The State agrees only to delete the following:</u> <del>The decision of the UHIP Project Coordinator shall be final and conclusive. The UHIP Project Coordinator's decision in the event of any written notice of dispute shall be final subject to Contractor's right to relief under applicable law.</del> This language shall be replaced with the following: "Any appeal of the UHIP Project Coordinator's decision shall be made to the Chief Purchasing Officer or his designee in accordance with R.I. Gen. Laws § 37-2-46 and the process outlined in the corresponding State Procurement Regulation Section 1.5."

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				<p>any manner, from proceeding to litigation or otherwise exercising any right or remedy available to it under this Agreement, at law or in equity.</p> <p>(b) If the Project Managers determine in good faith that resolution through continued discussions does not appear likely or if the dispute cannot be resolved within five (5) business days after the dispute has been submitted in writing, either party may notify the other (“<b>Dispute Notice</b>”) to proceed with the following escalation and dispute resolution procedures:</p> <ol style="list-style-type: none"> <li>1. The Project Managers shall gather any additional information relevant to the resolution of the dispute and which may be necessary and appropriate for presentation to the State’s _____ and the Contractor’s _____.</li> <li>2. The State’s _____ and the Contractor’s _____ shall, within fifteen (15) business days after the Dispute Notice has been given shall submit a Report to the State’s _____ and the Contractor’s _____ which includes a description of the nature, extent and basis of the dispute, how the dispute arose, the U.S. dollar amount involved in the dispute, any agreed upon statements of fact, a fair, accurate and complete representation of the positions of each of the parties in the dispute, and any other information relevant to the dispute, including information that represents agreed upon stipulations and statements of fact, as well as points of disagreement between the parties. The Report shall include one or more recommendations and alternatives which the parties believe should be consider. A description of the projected impact failure to resolve the dispute promptly and amicably shall also be included in the submission. Each party may include separate statements of impact, recommendations or other information to the extent any of the participants cannot or do not agree on particular items.</li> <li>3. Not later than ten (10) days after the Report in connection with any dispute is submitted to them for review, the State’s _____ and the Contractor’s _____ shall meet in an attempt to resolve the dispute. Either party may request additional information, material, advice and input from individuals and organizations inside or outside the State’s and Contractor’s organization.</li> </ol>	

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				If the State's _____ and the Contractor's _____ are unable to resolve the dispute within five (5) business days after the aforesaid meeting date, either party may seek to resolve the dispute through litigation. Any litigation shall be brought, and the parties hereby agree to submit, to the jurisdiction and venue in a state or federal court in Providence County, Providence, Rhode Island. In any litigation, the prevailing party will be entitled to recover, in addition to its damages (subject to limitations stated elsewhere in this Agreement), its reasonable attorneys' fees, expert witness fees, and other ordinary and necessary costs of litigation, as determined by the court. Such costs include, without limitation, costs of any legal proceedings brought to enforce a judgment or decree.	
228.	Addendum #4, Agreement Sections 35.12	65	<b>Cost of Litigation.</b> In the event that the State deems it necessary to take legal action to enforce any provision of this Agreement, Contractor shall bear the cost of such litigation, as assessed by the court, in which the State prevails. The State shall not bear any of Contractor's cost of litigation for any legal actions initiated by Contractor against the State regarding the provisions of this Agreement. Legal action shall include administrative proceedings. Contractor agrees to pay reasonable attorney fees incurred by the State in enforcing this Agreement or otherwise reasonably related thereto.	Will the State please delete this Section in its entirety and substitute the following:  <b>Cost of Litigation.</b> In any litigation, the prevailing party will be entitled to recover, in addition to its damages (subject to limitations stated elsewhere in this Agreement), its reasonable attorneys' fees, expert witness fees, and other ordinary and necessary costs of litigation, as determined by the court. Such costs include, without limitation, costs of any legal proceedings brought to enforce a judgment or decree.	No
229.	Addendum #4, Agreement Sections 35.14.5	66	<b>References to Statutes.</b> Each reference to a statute or statutory provision includes any statute or statutory provision which amends, extends, consolidates or replaces the statute or statutory provision or which has been amended, extended, consolidated or replaced by the statute or statutory provision and includes any orders, regulations, bylaws, ordinances, codes of practice or instruments made under the relevant statute.	Changes to health care laws and especially health insurance exchanges will occur and do occur often and without knowing the actual change it is impossible for Contractor to provide the State with pricing for the Services and Deliverables that could be affected by the change in Laws. Any changes to Laws should be treated as out of scope and handled through Section 21 (Change Orders). Will the State please delete this Section?	See answer to question 155
230.	Addendum #4, Agreement Sections 35.14.11	67	<b>Neither Party Considered Drafter.</b> Despite the possibility that one Party may have prepared the initial draft of this Agreement or played the greater role in the preparation of subsequent drafts, the Parties agree that neither of them shall be deemed the drafter of this Agreement, and that, in construing this Agreement in case of any claim that any provision hereof may be ambiguous, no such provision shall be construed in favor of one Party on the ground that such provision was drafted by the other Party.	Since this Agreement was provided by the State in a competitive procurement, negotiations will be conducted pursuant to the State's direction and on the topics to be decided by the State (at this point in the procurement it is unknown what the State will and won't negotiate), will the State please delete this Section of the Agreement?	The State is willing to revisit this language after vendor selection is made.
231.	Addendum #4, Agreement Sections 35.16	67-68	Contractor shall not assign, convey, transfer, or delegate any of its responsibilities and obligations under this Agreement to any person, corporation, partnership, association or entity without expressed written consent of the State.	Will the State please add the following to the end of this Section? Notwithstanding the above, Contractor may assign or transfer this Agreement without the written consent of the Executive Office to an Affiliate of Contractor. Contractor will provide notice of such assignment or transfer to the Executive Office.	See answer to question 225
232.	Addendum #4, Agreement Sections 35.19	68	<b>Waiver of Rights.</b> Any action or inaction by the State or the failure of the State on any occasion to enforce any right or provision of this Agreement, shall not be construed to be a waiver by the State of its rights hereunder	Will the State please modify this Section as follows:  <b>Waiver of Rights.</b> Any action or inaction by the State <u>either party</u> or the failure of the State <u>either party</u> on any occasion to enforce any	No.

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			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.	right or provision of this Agreement, shall not be construed to be a waiver by <del>the State that party</del> of its rights hereunder and shall not prevent <del>the State that party</del> from enforcing such provision or right on any future occasion. The rights and remedies of <del>the State each party</del> herein are cumulative and are in addition to any other rights or remedies that <del>the State each party</del> may have at law or in equity.	
233.	Addendum #4, Agreement Sections 35.25	69	<b>Third Party Beneficiaries.</b> The State and its agencies shall be considered as Third Party beneficiaries for purposes of this Agreement. Except as otherwise specifically stated in this Agreement, the provisions of this Agreement are for the benefit of the Parties hereto and not for any other person:	Since the State and its agencies are already party to this Agreement, why would they need to be Third Party Beneficiaries? Please delete the first sentence of this section and substitute the following: There are no Third Party beneficiaries to this Agreement.	<b>No. While OHHS and DOA are parties to the agreement, all other agencies involved in this project are considered 3<sup>rd</sup> party beneficiaries.</b>
234.	Addendum #4, Agreement, Exhibit A, Definitions – Acceptance Criteria	72	<b>"Acceptance Criteria":</b> The measures against which Deliverables, Services Software, Equipment, Milestones and the HIX/IES System shall be evaluated and the grounds for the State's Acceptance or rejection thereof.	Will the State consider Acceptance Criteria for Services to be in accordance with the requirements of the Agreement rather than monthly acceptance prior to payment? Rather than negotiating formal Acceptance Criteria that is appropriate for Deliverables, Services Acceptance Criteria is already set forth as contract requirements with associated SLAs. Since some of the Services are duplicated each month, treating Acceptance Criteria in this manner is less burdensome on both the State and the Contractor.	<b>See answer to question 168</b>
235.	Addendum #4, Agreement, Exhibit A, Definitions – Change Order	73	<b>"Change Order":</b> A written form used by the Parties to modify, delete or add to the Deliverables or Services, in whole or in part, made in accordance with the terms of Section 22 (Change Orders).	Please confirm that the Section reference for Change Orders should be Section 21 and not Section 22?	<b>Correct. It should be Section 21.</b>
236.	Addendum #4, Agreement, Exhibit A, Definitions – Deliverable(s)	75	<b>"Deliverable(s)":</b> The deliverables which result from the Services including the deliverables described in Appendix L of the RFP, Goods, Software, Information Technology, telecommunications technology, Documentation, Software code, tangible outcomes, and other items (e.g. reports) to be delivered pursuant to this Agreement, including any such items furnished incident to the provision of the Services. This term includes all tangible and/or intangible assets used to perform the Services to be rendered by Contractor under this Agreement.	In a SaaS model or other type of model where a bidder uses certain assets to perform the Agreement yet does not intend to license or deliver the assets to a customer, the last sentence does not make sense. Will the State be agreeable to deleting the last sentence if the winning bidder provides a SaaS solution or uses certain assets to perform the Agreement which the bidder does not intend to turnover or license to the State?	<b>The State is agreeable to deleting the last sentence in a SaaS model.</b>
237.	Addendum #4, Agreement, Exhibit A, Definitions – Principle Period of Maintenance	78	<b>"Principal Period of Maintenance":</b> Any nine consecutive hours per day (usually between the hours of 7:00 AM and 6:00 PM) as selected by the State, including an official meal period not to exceed one hour, Monday through Friday, excluding holidays observed at the installation.	Does the State intend the hours to be Eastern Time?	<b>Yes.</b>
238.	Addendum #4, Agreement, Exhibit A,		<b>"Retainage":</b> The fifteen percent (15%) Retainage to be retained by the State for each Milestone Payment (except for Maintenance and Operations which shall not be subject to Retainage) payable upon one (1) year after	Holding the Retainage until after acceptance of Milestone 22 is too long of a period. Would the State consider releasing the Retainage after the acceptance of each Milestone or Deliverable to which the	<b>No</b>

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	Definitions – Retainage		Acceptance of Milestone 22.	<p>specific Retainage is tied?</p> <p>In the alternative, would the State consider a quarterly release of the Retainage for those Milestones and Deliverables that have been accepted by the State during the quarter?</p> <p>In addition, would the State decrease the amount of the Retainage to 10% which is more in line with industry standards? The State already has added protection in the Agreement to include SLAs and the performance bond.</p>	
239.	Addendum #4, Agreement, Exhibit A, Definitions – State and Federal Laws and Regulations	80	<p><b>“State and Federal Laws and Regulations”:</b> All applicable federal and State laws, rules, regulations, ordinances, guidance, directives, orders, policies, practices, controls, procedures, standards, as promulgated, supplemented and/or amended from time to time, including the ACA and HIPAA.</p>	<p>Will the State please revise this Definition as follows:</p> <p><b>“State and Federal Laws and Regulations”:</b> All <u>current</u> applicable federal and State laws, rules, regulations, ordinances, guidance, directives, orders, policies, practices, controls, procedures, standards, as promulgated, <del>supplemented and/or amended from time to time,</del> including the ACA and HIPAA.</p>	See answer to question 155
240.	Addendum #4, Agreement, Exhibit A, Definitions – State Indemnitees	80	<p><b>“State Indemnitees”:</b> The State, each of its agencies, its officers, employees, agents, attorneys, representatives, consultants, successors and assigns.</p>	<p>The definition of State Indemnitees is too broad. Will the State please revise this Definition as follows:</p> <p><b>“State Indemnitees”:</b> The State, each of its agencies, its officers, employees, <del>agents, attorneys, representatives, consultants,</del> successors and assigns.</p>	No
241.	Addendum #4, Agreement, Exhibit F, Business Associate Agreement	92	Business Associate Agreement	<p>Would the State please provide the Business Associate Agreement or provide a link to it?</p>	Yes
242.	Addendum #4, Agreement, Exhibit G, Escrow Agreement, Section 2(a)	96	<p>Depositor shall make an initial deposit that is complete and functional of all proprietary technology and other materials covered under this Agreement (“<b>Deposit Materials</b>”) to Iron Mountain within thirty (30) days of the Effective Date.</p>	<p>Will the State please modify this Section as follows:</p> <p>Depositor shall make an initial deposit that is complete and functional of all proprietary technology and other materials covered under this Agreement (“<b>Deposit Materials</b>”) to Iron Mountain <del>within thirty (30) days of the Effective Date</del> pursuant to the terms of the License Agreement.</p>	The State is willing to revisit issues pertaining to the escrow agreement after vendor selection.
243.	Addendum #4, Agreement, Exhibit G, Escrow Agreement, Section 7	98	<p><b><u>Infringement Indemnification.</u></b></p> <p>Anything in this Agreement to the contrary notwithstanding, Depositor at its own expense shall defend and hold Beneficiary and Iron Mountain (the “Indemnified Party”) fully harmless against any claim or action asserted against the Indemnified Party (specifically including costs and reasonable attorneys’ fees associated with any such claim or action) to the extent such claim or action is based on an assertion that Iron Mountain’s proper administration of this Agreement or Beneficiary’s use of the Deposit</p>	<p>Since infringement indemnification is already addressed in the Agreement, will the State please modify this Section as follows:</p> <p><b><u>Infringement Indemnification.</u></b></p> <p>Anything in this Agreement to the contrary notwithstanding, Depositor at its own expense shall defend and hold <del>Beneficiary and</del> Iron Mountain <del>(the “Indemnified Party”)</del> fully harmless against any claim or action asserted against <del>the Indemnified Party</del> <u>Iron Mountain</u></p>	The State is willing to revisit issues pertaining to the escrow agreement after vendor selection

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			<p>Material, within the scope of this Agreement, infringes any patent, copyright, license or other proprietary right of any third party. When the Indemnified Party has notice of a claim or action, it shall promptly notify Depositor in writing. At its option, Depositor may elect to control the defense of such claim or action and may elect to enter into a settlement agreement, provided that no such settlement or defense shall include any admission or implication of wrongdoing on the part of the Indemnified Party without such Party's prior written consent, which consent shall not be unreasonably delayed or withheld. Iron Mountain shall have the right to employ separate counsel and participate in the defense of any claim at its own expense.</p>	<p>(specifically including costs and reasonable attorneys' fees associated with any such claim or action) to the extent such claim or action is based on an assertion that Iron Mountain's proper administration of this Agreement or Beneficiary's use of the Deposit Material, within the scope of this Agreement, infringes any patent, copyright, license or other proprietary right of any third party. When the Indemnified Party Iron Mountain has notice of a claim or action, it shall promptly notify Depositor in writing. At its option, Depositor may elect to control the defense of such claim or action and may elect to enter into a settlement agreement, provided that no such settlement or defense shall include any admission or implication of wrongdoing on the part of the Indemnified Party Iron Mountain without such Party's prior written consent, which consent shall not be unreasonably delayed or withheld. Iron Mountain shall have the right to employ separate counsel and participate in the defense of any claim at its own expense.</p>	
244.	Addendum #4, Agreement, Exhibit G, Escrow Agreement, Section 12(b)	99	<p><u>Purchase Orders</u>. In the event that the Paying Party issues a purchase order or other instrument used to pay Service Fees to Iron Mountain, any terms and conditions set forth in the purchase order which constitute terms and conditions which are in addition to those set forth in this Agreement or which establish conflicting terms and conditions to those set forth in this Agreement are expressly rejected by Iron Mountain.</p>	<p>Will the State please add "and Depositor" at the end of this Section?</p>	<p><b>The State is willing to revisit issues pertaining to the escrow agreement after vendor selection</b></p>
245.	Addendum #4, Agreement, Exhibit G, Escrow Agreement, Section 12(o)	100	<p><u>Disputes</u>. Any dispute, difference or question relating to or arising among any of the Parties concerning the construction, meaning, effect or implementation of this Agreement or the rights or obligations of any Party hereof will be submitted to, and settled by arbitration by a single arbitrator chosen by the corresponding Regional Office of the American Arbitration Association in accordance with the Commercial Rules of the American Arbitration Association. The Parties shall submit briefs of no more than 10 pages and the arbitration hearing shall be limited to two (2) days maximum. The arbitrator shall apply Massachusetts law. Unless otherwise agreed by the Parties, arbitration will take place in Boston, Massachusetts, U.S.A. Any court having jurisdiction over the matter may enter judgment on the award of the arbitrator. Service of a petition to confirm the arbitration award may be made by regular mail or by commercial express mail, to the attorney for the Party or, if unrepresented, to the Party at the last known business address. If however, Depositor or Beneficiary refuse to submit to arbitration, the matter shall not be submitted to arbitration and Iron Mountain may submit the matter to any court of competent jurisdiction for an interpleader or similar action. Unless adjudged otherwise any costs incurred by Iron Mountain including reasonable attorney's fees and costs, shall be divided equally and paid by Depositor and Beneficiary.</p>	<p>Will the State please modify this Section as follows:  <u>Disputes</u>. Any dispute, difference or question relating to or arising among any of the Parties concerning the construction, meaning, effect or implementation of this Agreement or the rights or obligations of any Party hereof will be submitted to, and settled by arbitration by a single arbitrator chosen by the corresponding Regional Office of the American Arbitration Association in accordance with the Commercial Rules of the American Arbitration Association. The Parties shall submit briefs of no more than 10 pages and the arbitration hearing shall be limited to two (2) days maximum. The arbitrator shall apply Massachusetts law. Unless otherwise agreed by the Parties, arbitration will take place in Boston, Massachusetts, U.S.A. Any court having jurisdiction over the matter may enter judgment on the award of the arbitrator. Service of a petition to confirm the arbitration award may be made by regular mail or by commercial express mail, to the attorney for the Party or, if unrepresented, to the Party at the last known business address. If however, Depositor or Beneficiary refuse to submit to arbitration, the matter shall not be submitted to arbitration and Iron Mountain may be submitted the matter to any court of competent jurisdiction for an interpleader or similar action. Unless adjudged otherwise any costs</p>	<p><b>The State is willing to revisit issues pertaining to the escrow agreement after vendor selection</b></p>

#	Section	Page	RFP Text	Question	Answer
				<p><del>incurred by Iron Mountain including reasonable attorney's fees and costs, shall be divided equally and paid by Depositor and Beneficiary.</del></p>	
246.	Addendum #4, Agreement, Exhibit G, Escrow Agreement, Exhibit C of Escrow Agreement, Section 1(i)	106	(i) Depositor's breach of the license agreement or other agreement between the Depositor and Beneficiary regulating the use of the Deposit Material covered under this Agreement;	<p>Will the State please delete this Section and substitute the following:</p> <p>(i) Depositor's breach of the License Agreement between Depositor and Beneficiary regulating the use of the Deposit Material covered under this Agreement for the benefit of the Beneficiary, where, such breach substantially and adversely alters or impairs Beneficiary's ability to use the services or software provided to it by Depositor; or</p>	<p><b>The State is willing to revisit issues pertaining to the escrow agreement after vendor selection</b></p>

Additional Thin Client Information for Inclusion in a RFP 7449637 Addendum  
Rev. 3: June 7, 2012

The information presented here impacts the usage of the new IES (Integrated Eligibility System) system by the State's EOHHS and DHS eligibility work force personnel, who plan to continue using the existing thin client units on their desks. The following thin client information does not apply to internal users of the Exchange HIX system and the Exchange's internal use of the IES.

For EOHHS and DHS, the State plans to utilize their existing thin client infrastructure to run the new IES. There are two aspects to thin clients: the Session Host servers and the desktop thin client units.

On the server end and at present, the State is migrating from a Citrix server environment to Microsoft Remote Desktop Services. The project is planned to be completed by the end of 2012. These RDS Session Host servers will power all 450 InRhodes thin client users. The physical servers to be used are HP ProLiant BL460C G6 Blade Servers with 2 Xeon E5504 2.0Ghz processors and 64GB RAM. Each physical server has VMware ESX 4. And will support many virtual servers, not just the RDS Session Host servers. The virtual machines use the Windows Server 2008 R2 Datacenter operating system and are located on an HP SAN. Java can be installed on the servers to allow usage of IES web Java applets.

The servers will support the usage of Internet Explorer 8 (not 9), Microsoft Office, Adobe Acrobat Reader, and Novell Groupwise email. The State has standardized on IE8 and does not use other browsers; however other HIX users may use other browsers.

At present on the desktop end, the thin client units are relatively old. Many of the units only support an 800x600 screen resolution with about (200) 15" monitors still in use, which would provide a relatively low quality user interface to InRhodes users utilizing the new IES web-based system. The State does have newer desktop thin client units used to replace the old units when they fail. The new units have 17" monitors and support a 1024x768 screen resolution. The State does not now have sufficient replacement thin client units to replace all 450 units.

Vendors must describe the impact their proposed web-based IES system will have on the State's thin client infrastructure that will exist in 2013. Note that the green screen InRhodes legacy eligibility system and the IES will be used in parallel for some time, requiring users to toggle back and forth between the two systems. Specifically, vendors should supply the following information:

- Vendors must be clear if their proposed IES system will work with Rhode Island's Remote Desktop Services
- Vendors must provide the minimum desktop specifications required to deliver a quality IES user interface experience to State field workers.