

**State of California
Department of General Services
Office of Business and Acquisition Services**

SERVICE ORDER CONTRACT CONDITIONS

CERTIFICATION

By signing the STD 213, I CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

1. OFFER/ACCEPTANCE. This Service Order is an offer to contract which becomes a binding agreement between the State and the Contractor upon commencement of work by the Contractor. Thereby, by commencement of work, the Contractor agrees to the conditions and specifications contained herein. The State reserves the right to cancel this offer at any time prior to commencement of work.

2. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

3. NATIONAL LABOR RELATIONS BOARD. By acceptance of this agreement, the Contractor swears, under penalty of perjury, that no more than one final, unappealable finding of the contempt of court by a Federal Court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of the National Labor Relations Board.

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

5. INDEMNIFICATION. The Contractor agrees to indemnify, defend, and save harmless the State and its employees from any claims or losses to any parties who supply goods or services in performance of this agreement and any claims or losses to any parties damaged as a result of the Contractor's performance of this agreement.

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

7. INDEPENDENT CAPACITY. The Contractor, and the agents and employees of the contractor, in performance of this agreement, shall act in an independent capacity and not as officers, employees or agents of the State of California.

8. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

1) the dangers of drug abuse in the workplace;

2) the person's or organization's policy of maintaining a drug-free workplace;

3) any available counseling, rehabilitation and employee assistance programs; and,

4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

1) receive a copy of the company's drug-free workplace policy statement; and,

2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: The Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

9. TERMINATION. After commencement of work, the State may terminate this agreement and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein. In event of such termination, the State may

proceed with the work in any manner deemed proper by the State. The cost to the State shall be deducted from any sum due the Contractor under this agreement and the balance, if any, shall be paid the Contractor on demand.

10. AMENDMENTS. These conditions may be altered in writing as agreed to by both parties prior to commencement of work. However, the project specifications and the cost estimate may be amended after commencement of work.

11. NONASSIGNMENT. Without written consent of the State, this agreement is not assignable by Contractor either in whole or in part.

12. CONSIDERATIONS. The agreed consideration to be paid to the Contractor shall be full compensation for all of Contractor's expenses incurred in the performance of this agreement.

13. WAGES. The Contractor shall pay his/her employees' wages no less than those required by applicable law.

14. LICENSES/PERMITS. The Contractor shall obtain, and at his/her expense, pay for all licenses/permits required by law for accomplishment of work performed in connection with this agreement.

15. CONFIDENTIALITY OF DATA. Any information designated as confidential by the State and made available to the Contractor in performance of this agreement shall be protected by the Contractor from any use or disclosure except as specifically authorized in writing by the State.

16. AVAILABILITY OF FUNDS. Work to be performed under this contract is subject to availability of funds through the State's normal budget process.

17. NONDISCRIMINATION. During the performance of this agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractors and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations Title 2, Section 7285.0 et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12900 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. The Contractor agrees to include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this agreement.

18. DISPUTES. In the event of a dispute of fact arising from this agreement, the Contractor/State agrees to attempt to resolve the issue through an administrative process. The issues must first be discussed with the Chief of the Office/Division within the Department of General Services responsible for award of the agreement. If this does not resolve the issue, the Contractor will present a written complaint to the Director, Department of General Services with 30 days of the discussion. Within 30 days of receipt of the complaint, the Director or his/her representative shall meet with the Contractor to discuss the issue. If an agreement cannot be reached by this application of high level management attention, the State/Contractor may assert other rights and remedies including filing suit with a court of competent jurisdiction. Contractor shall continue with the responsibilities under this Agreement during any dispute.

19. INVOICING AND TAX REPORTING INFORMATION. Invoices must be sent to the billing address and must reference the Service Order Number (Purchase Order Number) shown on the face of the Order. If the vendor was requested to provide a completed STD. 204 a delay in providing the form may result in a delay in payment. The form is needed to facilitate the State's compliance with income tax reporting laws.

20. DARFUR CONTRACTING ACT. PCC sections 10475 et seq., the Darfur Contracting Act of 2008, establish restrictions against contracting with vendors doing certain types of business in Sudan. The Act sets forth criteria to determine if a vendor is a —scrutinized company and therefore ineligible to bid on or submit a proposal for State contracts. When a company submitting a bid or proposal has or within the previous three years has had business activities or other operations outside the United States, they must execute a certification stating they are not a scrutinized company as defined, or demonstrate they obtained permission under the statute. (PCC §§ 10478, 10477(b).) The Act includes penalties for false certifications. (PCC § 10479.)

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

22. LOSS LEADER: If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)23.

23. INSURANCE REQUIREMENT. By signing the Contract, Contractor certifies that the Contractor and any employees, subcontractors or servants maintain the following insurance coverages outlined as follows. The State reserves the right to request proof of such insurance at any time.

- A. Commercial General Liability: General liability coverage with limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage liability combined. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the contractor's limit of liability. The policy must include the State of California, their officers, agents, and employees as additional insureds, but only insofar as the operations under the Contract are concerned.
- B. Automobile Liability: Valid automobile coverage in accordance with California Vehicle Code Sections 16450 to 16457, inclusive.
- C. Workers' Compensation: Statutory workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Contract, including special coverage extensions where applicable. Employer's liability limits of \$1,000,000 are required. The policy must include a Waiver of Subrogation or Right to Recover endorsement in favor of the State of California.

24. HEALTH AND SAFETY PROVISIONS

- A. Contractor and all subcontractors shall abide by all health and safety mandates issued by federal, state, and local governments and/or public health officers as well as those issued by DGS, and worksite specific mandates. If multiple mandates exist, the Contractor and subcontractors shall abide by the most restrictive mandate. The term “employee”, “worker”, “state worker” or “state employee” in health and safety mandates includes contractor and subcontractor personnel.
- B. Costs associated with adhering to health and safety mandates are the responsibility of the Contractor. Contractor is responsible for the tracking and compliance of health and safety mandates and may be audited upon request.