

**STATE OF TEXAS
DEPARTMENT OF INFORMATION RESOURCES**

CONTRACT FOR TELECOMMUNICATIONS SERVICES

CenturyLink Communications LLC.

1. Introduction

A. Parties

This Contract for Telecommunications (Telecom) services is entered into between the State of Texas, acting by and through the Department of Information Resources (hereinafter “DIR”) with its principal place of business at 300 West 15th Street, Suite 1300, Austin, Texas 78701, and CenturyLink Communications LLC. (hereinafter “Vendor”), with its principal place of business at 100 CenturyLink Dr., Monroe, LA 71203.

B. Compliance with Procurement Laws

This Contract is the result of compliance with applicable procurement laws of the State of Texas. DIR issued a solicitation on the Comptroller of Public Accounts’ Electronic State Business Daily, Request for Offer (RFO) DIR-TSO-TMP-262, on February 15, 2017, for Managed Services for Telecommunications. Upon execution of this Contract, a notice of award for RFO DIR-TSO-TMP-262 shall be posted by DIR on the Electronic State Business Daily.

C. Order of Precedence

This Contract; Appendix A, Standard Terms and Conditions For Telecom Services Contracts; Appendix B, Vendor’s Historically Underutilized Businesses Subcontracting Plan; Appendix C, Sample Statement of Work (SOW); Exhibit 1, Vendor’s Response to RFO DIR-TSO-TMP-262, including all addenda; and Exhibit 2, RFO DIR-TSO-TMP-262, including all addenda; are incorporated by reference and constitute the entire agreement between DIR and Vendor. In the event of a conflict between the documents listed in this paragraph, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C, then Exhibit 1, then Exhibit 2. In the event and to the extent any provisions contained in multiple documents address the same or substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded earlier provisions.

2. Term of Contract

The term of this Contract shall be two (2) years commencing on the last date of approval by DIR and Vendor. Prior to expiration of the original term, DIR and Vendor may extend this Contract, upon mutual agreement, for up to two (2) optional one-year terms. Additionally, the parties by mutual agreement may extend the term for up to ninety (90) additional calendar days.

3. Service Offerings

Services available under this Contract are limited to the designated Telecom managed services as specified below. Vendor may incorporate changes to their services offerings; however, any changes must be within the scope of services awarded based on the posting described in Section 1.B above. The designated services are offered only as components of comprehensive suites of Telecom managed services. One or more of the designated service offerings (i) may require contracting for service components of a comprehensive suite of Telecom managed services or (ii) may be unavailable as service components, at the discretion of the Vendor.

Management of Telecom services as set forth below:

A. Telecom Management Services is the management of customer owned equipment or vendor-provided equipment in support of the following technology services:

1. Management of call processing architecture
2. Call Center or Contact Center Services
3. Interactive Voice Response (IVR)/Auto-Attendant
4. Phone Systems Management (Private Branch Exchange (PBX), key system, etc.) or Integration
5. Management of Voice and/or Data Networks
6. Network Optimization

B. The following services can be included to provide a total Telecom managed service solution:

1. Hosted Solutions are offered to customers on a subscription basis and include the IT infrastructure (hardware and software) and support services necessary to deliver the solution. Hosted services include technology services listed here:
 - a. Management of call processing architecture
 - b. Call Center or Contact Center Services
 - c. IVR/Auto-Attendant
 - d. Phone Systems Management (PBX, key system, etc.) or Integration
 - e. Management of Voice and/or Data Networks
 - f. Network Optimization
2. Requirements Development
3. Integration Services
4. SLA (Service Level Agreements) and Performance Metrics
5. Reporting
6. Asset Management
7. Project Management
8. Operations
9. Support Services
 - a. Move, Add, Changes (MACs)
 - b. Solution Design
 - c. Solution Software and Licenses

- d. Network Readiness Assessment and Optimization
- e. Transition and Termination Services
- f. Break/Fix and Maintenance
- g. Help/Support Desk Services
- h. Training

C. Excluded Telecom Service Offerings

Any service awarded under the TEX-AN Next Generation (TEX-AN NG) Procurement, RFO number DIR-TEX-AN-NG-001. The following services were awarded under the TEX-AN Next Generation Procurement:

- 1. Long Distance Services
- 2. Internet Services (including Small Office/Home Office (SOHO) as defined in TEX-AN NG contracts)
- 3. Voice over Internet Protocol (VoIP)
- 4. Local Voice Service
- 5. Fixed Satellite
- 6. Access and Transport

4. Pricing

A. Customer Price

Customers purchasing Telecom services under this Contract shall negotiate pricing directly with the Vendor in accordance with the Customer's Statement of Work.

B. DIR Cost Recovery Fee

The cost recovery fee specified in Section 5 below shall not be broken out as a separate line item when pricing or invoice is provided to Customer.

5. DIR Cost Recovery Fee

A. The Cost Recovery Fee (CRF) to be paid by the Vendor to DIR for Telecom Products and Services based on the dollar value of all sales to Customers pursuant to this Contract is zero-point seventy-five percent (0.75%). This Contract does not authorize, nor does it support payment for, Products. In the event Products become necessary for a particular solution, those products must be procured through another DIR Contract. Payment will be calculated for all Telecom service sales, net of returns and credits. For example, the CRF fee for sales totaling \$100,000 shall be \$750.

B. All prices quoted to Customers shall include the applicable CRF fee. DIR reserves the right to change this fees upwards or downwards during the term of this Contract, upon written notice to Vendor. Changes in the CRF fees shall be incorporated into the price to the Customers on the date designated by DIR.

6. Notification

All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:

Aiko Neill, CTPM, CTCM
Interim Director, Enterprise Contract Management
Department of Information Resources
300 W. 15th St., Suite 1300
Austin, Texas 78701
Phone: (512) 475-4000
Facsimile: (512) 475-4759
Email: aiko.neill@dir.texas.gov

If sent to the Vendor:

Britt Schavey, Program Manager
CenturyLink Communications LLC
11921 N. Mopac Expressway, Ste 100
Austin, TX 78759
Phone: (512) 338-5732
Facsimile: (720) 842-8624
Email: Brittin.schavey@centurylink.com

7. Managed Services Requirements

A. The centralized Telecom system for the state of Texas is known as TEX-AN. The current technological platform of TEX-AN is known as TEX-AN NG. The TEX-AN NG architecture provides a solid statewide communications infrastructure that is adaptable to changing requirements and can incorporate new and emerging technologies. The TEX-AN NG platform provides unified, scalable, redundant, flexible, and extremely cost-effective networking solutions. TEX-AN NG provides voice and data services and features:

Voice Services:

- Toll-Free Service
- Long Distance Service
- Directory Assistance
- Dedicated circuit access

Data Services:

- Frame Relay/Asynchronous Transfer Mode (ATM)
- MPLS (Multiprotocol Label Switching)
- Access Services

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- Internet Access
- Point-to-Point circuits
- DSL (Digital Subscriber Line)
- SOHO
- Fixed Satellite

Vendors must utilize the TEX-AN Network for any transport services included in their managed Telecom service solution. These services and associated fees should be included by the vendor in a managed Telecom service solution proposal as required for a Customer. Any transport services required for the managed Telecom service solution will be ordered by the customer from DIR. The Customer is required, as the eligible purchasing entity, to utilize the current TEX-AN or Co-op Contracts and procedures to directly purchase the services from DIR.

In addition to its primary services, DIR offers Co-op and Telecom contracts for communications services. These contracts are awarded on behalf of the state according to state competitive bidding requirements, and are designed to satisfy user requirements for easy-to-use communications services contracts. The comprehensive suite of products and services offered by these contracts includes:

- Interpreter Services
- Local Telephone Services
- Wireless/Cellular Services
- Pagers and Paging Services
- Technology Based Conferencing

These services and associated fees should be included by the vendor in a managed service solution proposal as required for a customer. The customer is required, as the eligible purchasing entity, to utilize the current TEX-AN NG, Co-op Contracts and Telecom procedures to directly purchase the services from DIR.

- B.** Vendor shall prepare and provide each customer with a managed Telecom service solution proposal. The proposal shall include all services proposed by Vendor which are included in this contract, as well as all Excluded Service Offerings and associated fees as required for a Customer to contract for a complete solution.
- C.** Vendor shall make every effort to provide value to DIR Customers through well-defined requirements and project scheduling that meet the stated objectives and business goals for managed service customers. Vendors must create Statements of Work (SOW) under this Contract to document customer expectations; requirements; milestones for deliverables and activities; and payment schedules.
- D.** Vendor shall provide a copy of Customer's proposed SOW and solution design documents to a designated contact at DIR no less than fifteen (15) days prior to presenting the final managed Telecom services solution proposal to the customer. The plan for the TEX-AN NG network connectivity in the solution design must be approved

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by DIR. The approval shall occur as soon as practicable based on the date of submission.

- E.** Vendor will work with DIR to facilitate the communication and management of the contract provisions outlined in this document for reviews, reporting, purchasing and approvals.
- F.** Vendor shall employ performance-based managed services for highly reliable customer solutions that meet or exceed customer expectations and performance metrics. Performance metrics and SLA's will meet, as a baseline, or exceed industry standards.
- G.** Vendor shall adhere to the DIR Security Policies included in 1 TAC Chapter 202, Information Security Standards and be consistent with the best practices as outlined in the State Enterprise Security Plan or its successor. Vendor must convey the established security standards to the customer, as well as any additional vendor-provided security services. The State Enterprise Security Plan and other guiding security policies are located on the DIR web site.
- H.** Vendor will execute a direct contract with the customer that accurately reflects the resources required for the total project and contains the resources and prices for services the customer is required to purchase directly from DIR for the successful implementation of the proposed solution ("Supplemental Agreements"). DIR or TEX-AN NG Vendor will bill the customer directly for the services purchased from TEX-AN NG. Vendor is responsible for preparing and properly billing the customer for its services according to milestones or other scheduled triggering events.

8. Statement of Work

Services provided under this Contract shall be based on the Sample Statement of Work as set forth in Appendix C of this Contract. Customers may negotiate the terms and conditions of a SOW to suit their business needs, so long as the SOW terms and conditions do not conflict with this Contract.

9. Authorized Exceptions to Appendix A, Standard Terms and Conditions for Services Contracts.

A. Appendix A, Section 6. Contract Fulfillment and Promotion, B. Internet Access to Contract and Pricing Information, 1) Vendor Webpage, c, d, g, and h are deleted in their entirety.

B. Appendix A, Section 6. Contract Fulfillment and Promotion, C. Services Warranty and Return Policies is deleted in its entirety.

C. Appendix A, Section 7. Pricing, Purchase Orders, Invoices, and Payments, D. Changes to Prices is deleted in its entirety.

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D. Appendix A, Section 7. Pricing, Purchase Orders, Invoices, and Payments, I. Other Fees is hereby restated in its entirety as follows:

Vendor may waive some or all activation fees and termination fees, including early termination fees, for a Customer if Vendor and Customer mutually agree in a Statement of Work between those parties.

E. Appendix A, Section 9. Vendor Responsibilities, K. Limitation of Liability is hereby restated in its entirety as follows:

For any claim or cause of action arising under or related to the Contract: i) to the extent permitted by the Constitution and the laws of the State, none of the parties shall be liable to the other for punitive, special, or consequential damages, even if it is advised of the possibility of such damages; and ii) Vendor's liability for damages of any kind to the Customer shall be limited to the total amount paid to Vendor under the Contract during the twelve months immediately preceding the accrual of the claim or cause of action. However, this monetary limitation of Vendor's liability (as set forth in item (ii) above) shall not apply to claims of patent, trademark, or copyright infringement; indemnification requirements under this Contract; and violation of State or Federal law including but not limited to disclosures of confidential information and any penalty of any kind lawfully assessed as a result of such violation.

F. Appendix A, Section 9. Vendor Responsibilities, N. Required Insurance Coverage is hereby restated in its entirety as follows:

As a condition of this Contract with DIR, Vendor shall provide the listed insurance coverage within 5 business days of execution of the Contract if the Vendor is awarded services which require that Vendor's employees perform work at any Customer premises and/or use employer vehicles to conduct work on behalf of Customers. In addition, when engaged by a Customer to provide services on Customer premises, the Vendor shall, at its own expense, secure and maintain the insurance coverage specified herein, and shall provide proof of such insurance coverage to the related Customer within five (5) business days following the execution of the Purchase Order. Vendor may not begin performance under the Contract and/or a Purchase Order until such proof of insurance coverage is provided to, and approved by, DIR and the Customer. All required insurance must be issued by companies that are A rated by A.M. Best, licensed in the State of Texas, and authorized to provide the corresponding coverage. The Customer and DIR will be included as Additional Insureds on all required coverage. Required coverage must remain in effect through the term of the Contract and each Purchase Order issued to Vendor there under. The minimum acceptable insurance provisions are as follows:

1) Commercial General Liability

Commercial General Liability must include a combined single limit of \$1,000,000 per occurrence for coverage A, B, & C including products/completed operations, where appropriate, with a separate aggregate limit of \$2,000,000. Agencies may require

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additional Umbrella/Excess Liability insurance. The policy shall contain the following provisions:

- a) Blanket contractual liability coverage for liability assumed under the Contract;
- b) Independent Contractor coverage;
- c) State of Texas, DIR and Customer included as an additional insured;
- d) Vendor agrees to provide notice of any termination to DIR; and
- e) Waiver of Transfer Right of Recovery Against Others in favor of DIR and/or Customer

2) Workers' Compensation Insurance

WORKERS' COMPENSATION INSURANCE AND EMPLOYERS' LIABILITY COVERAGE MUST INCLUDE LIMITS CONSISTENT WITH STATUTORY BENEFITS OUTLINED IN THE TEXAS WORKERS' COMPENSATION ACT (ART. 8308-1.01 ET SEQ. TEX. REV. CIV. STAT) AND MINIMUM POLICY LIMITS FOR EMPLOYERS' LIABILITY OF \$1,000,000 BODILY INJURY PER ACCIDENT, \$1,000,000 BODILY INJURY DISEASE POLICY LIMIT AND \$1,000,000 PER DISEASE PER EMPLOYEE.

3) Business Automobile Liability Insurance

Business Automobile Liability Insurance must cover all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternative acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements in favor of DIR and/or Customer:

- a) Waiver of Subrogation
- b) Vendor agrees to provide notice of any termination to DIR; and
- c) Additional Insured.

G. Appendix A, Section 9. Vendor Responsibilities, X Privacy Laws is hereby added as follows:

Privacy Laws. Each party is responsible for complying with the privacy laws applicable to its business. If Customer does not want Vendor personnel to comprehend Customer data to which they may have access in performing Services, Customer should encrypt such data so that it will be unintelligible. Until directed otherwise by Customer in writing, if Vendor designates a dedicated account representative as Customer's primary contact with Vendor, Customer authorizes that representative to discuss and disclose Customer's customer proprietary network information (CPNI) to any employee or agent of Customer without a need for further authentication or authorization.

H. Appendix A, Section 9. Vendor Responsibilities, Y Disclaimer of Warranties is hereby added as follows:

Disclaimer of Warranties. EXCEPT AS SET FORTH IN SECTION 9.A.3) INFRINGEMENTS, VENDOR MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR ANY WARRANTY ARISING BY USAGE OF TRADE OR COURSE OF DEALING. FURTHER, VENDOR MAKES NO REPRESENTATION OR WARRANTY THAT TELEPHONE CALLS OR OTHER TRANSMISSIONS WILL BE ROUTED OR COMPLETED WITHOUT ERROR OR INTERRUPTION (INCLUDING CALLS TO 911 OR ANY SIMILAR EMERGENCY RESPONSE NUMBER), OR GUARANTEE REGARDING NETWORK SECURITY, THE ENCRYPTION EMPLOYED BY ANY SERVICE, THE INTEGRITY OF ANY DATA THAT IS SENT, BACKED UP, STORED OR SUBJECT TO LOAD BALANCING, OR THAT VENDOR'S SECURITY PROCEDURES WILL PREVENT THE LOSS OR ALTERATION OF, OR IMPROPER ACCESS TO, CUSTOMER'S DATA AND CONFIDENTIAL INFORMATION.

I. Appendix A, Section 9. Vendor Responsibilities, Z Disclaimer of Liabilities is hereby added as follows:

Disclaimer of Liability VENDOR WILL NOT BE LIABLE FOR ANY DAMAGES, EXCEPT TO THE EXTENT CAUSED BY VENDOR'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, ARISING OUT OF OR RELATING TO: INTEROPERABILITY, ACCESS OR INTERCONNECTION OF THE SERVICES WITH APPLICATIONS, EQUIPMENT, SERVICES, CONTENT, OR NETWORKS PROVIDED BY CUSTOMER OR THIRD PARTIES; SERVICE DEFECTS, SERVICE LEVELS, DELAYS, OR INTERRUPTIONS (EXCEPT FOR LIABILITY FOR SUCH EXPLICITLY SET FORTH IN THIS AGREEMENT OR A SERVICE AGREEMENT); ANY INTERRUPTION OR ERROR IN ROUTING OR COMPLETING CALLS OR OTHER TRANSMISSIONS (INCLUDING 911 CALLS OR ANY SIMILAR EMERGENCY RESPONSE NUMBER); LOST OR ALTERED MESSAGES OR TRANSMISSIONS; OR UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS, OR DESTRUCTION OF CUSTOMER'S, ITS AFFILIATE'S, USERS', OR THIRD PARTIES' APPLICATIONS, CONTENT, DATA, PROGRAMS, CONFIDENTIAL INFORMATION, NETWORK, OR SYSTEMS.

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