

DIR Contract No. DIR-TSO-4266

Vendor Contract No. _____

TEXAS DEPARTMENT OF INFORMATION RESOURCES

**CONTRACT FOR
TECHNOLOGY BASED CONFERENCING SERVICES**

Verizon Business Network Services, Inc.

1. Introduction

A. Parties

This Contract for Services (“Contract”) is entered into between the Department of Information Resources, an agency of the State of Texas (hereinafter “DIR”) with its principal place of business at 300 West 15th Street, Suite 1300, Austin, Texas 78701, and **Verizon Business Network Services, Inc.** (hereinafter “Vendor”), with its principal place of business at 701 Brazos Street, Suite 600, Austin, Texas 78701.

B. Compliance with Procurement Laws

This Contract is the result of compliance with applicable procurement laws of the State. DIR issued a solicitation on the Comptroller of Public Accounts’ Electronic State Business Daily, Request for Offer (RFO) DIR-TSO-TMP-427, on 12/22/2017, for Technology Based Conferencing Services. DIR subsequently issued a BAFO opportunity on 9/5/2018. Upon execution of this Contract, a notice of award for DIR-TSO-TMP-427 shall be posted by DIR on the Electronic State Business Daily

C. Order of Precedence

This Contract; Appendix A, Standard Terms and Conditions For Technology Based Conferencing Services Contracts; Appendix B, Vendor’s Historically Underutilized Businesses Subcontracting Plan; Appendix C, Pricing Index; Exhibit 1, Vendor’s Response to BAFO, including all addenda; Exhibit 2, the BAFO issued on 09/05/2018, including all addenda; Exhibit 3, Vendor’s Response to RFO DIR-TSO-TMP-427, including all addenda; and Exhibit 4, RFO DIR-TSO-TMP-427, including all addenda; are incorporated by reference and constitute the entire agreement between DIR and Vendor. The documents listed in this paragraph shall be hereinafter referred to as the “Contract Documents”. In the event of a conflict between the Contract Documents, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C, then Exhibit 1, then Exhibit 2, then Exhibit 3, and finally Exhibit 4. 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substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded earlier provisions.

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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. DIR may extend this Contract, for up to two (2) optional one-year terms. Prior to expiration of each term, the contract will renew automatically under the same terms and conditions unless either party provides notice to the other party 60 days in advance of the renewal date stating that the party wishes to discuss modification of terms or not renew. Additionally, the parties by mutual agreement may extend the term for up to ninety (90) additional calendar days.

3. Service Offerings**A. Services**

Services available under this Contract are limited to audioconferencing, videoconferencing, webcasting and webconferencing as specified in Appendix C, Pricing Index. Vendor may incorporate changes to their services offering; however, any changes must be within the scope of services awarded based on the posting described in Section 1.B above. Vendor may add Emerging Technology in accordance with Subsection 3.B., below.

Excluded Telecommunications Service Offerings

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

- a. Long Distance Services
- b. Internet Services (including SOHO)
- c. Voice over Internet Protocol (VoIP)
- d. Local Voice Service
- e. Wireless Service
- f. Fixed Satellite
- g. Access and Transport

B. Emerging Technologies and Future Acquisitions

DIR recognizes that technology is ever-evolving and advancing. DIR reserves the right to consider the addition of emerging technology such as next generation, enhancements and upgrades for products or services that are within the scope of Software and Services for Technology Based Conferencing services. Vendor may propose such services throughout the term of the contract as long as the emerging technology relates to and is within the scope of services. Pricing and terms will be negotiated upon DIR acceptance. Any determination will be at DIR's sole discretion and any decision will be final.

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4. Pricing**A. Customer Price**

1) The minimum Customer price for all services will be the price as specified in Appendix C, Pricing Index. Customer Price includes the DIR Administrative Fee specified in Section 5.

B. DIR Administrative Fee

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

C. Tax-Exempt

As per Section 151.309, Texas Tax Code, Customers under this Contract are exempt from the assessment of State sales, use and excise taxes. Further, Customers under this Contract are exempt from Federal Excise Taxes, 26 United States Code Sections 4253(i) and (j).

D. Travel Expense Reimbursement

Pricing for services provided under this Contract are exclusive of any travel expenses that may be incurred in the performance of those services. Travel expense reimbursement may include personal vehicle mileage or commercial coach transportation, hotel accommodations, parking and meals; provided, however, the amount of reimbursement by Customers shall not exceed the amounts authorized for state employees as adopted by each Customer; and provided, further, that all reimbursement rates shall not exceed the maximum rates established for state employees under the current State Travel Management Program (<http://www.window.state.tx.us/procurement/prog/stmp/>). Travel time may not be included as part of the amounts payable by Customer for any services rendered under this Contract. The DIR administrative fee specified in Section 5 below is not applicable to travel expense reimbursement. Anticipated travel expenses must be pre-approved in writing by Customer.

5. DIR Administrative Fee

A) The Administrative Fee (AF) to be paid by the Vendor to DIR for Telecommunications Services based on the dollar value of all sales to Customers pursuant to this Contract is two percent (2.0%). Payment will be calculated for all telecommunications sales, net of returns and credits. For example, the AF for sales totaling \$100,000 shall be \$2,000.

B) All prices quoted to Customers shall include the applicable AF. DIR reserves the right to change this fee upwards or downwards during the term of this Contract, upon

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written notice to Vendor. Changes in the AF rates 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, Director, Enterprise Contract Management
Department of Information Resources
300 W. 15th St., Suite 1300
Austin, Texas 78701
Phone: (512) 475-4700
Facsimile: (512) 475-4759
Email: aiko.neill@dir.state.tx.us

If sent to the Vendor:

Gary Gennarelli
Verizon Business Network Services, Inc.
10801 N Mopac Exwy Bldg 1, Ste. 360
Austin, TX 78759
Phone: (512) 284-3120
Email: gary.gennarelli@verizon.com

7. Service Agreement and Shrink/Click-wrap License Agreements

A. Service Agreement

There are no separate vendor service agreements for this Contract. Services provided under this Contract shall be in accordance with the Service Requirements as set forth in this Contract. No changes to the Service Requirements may be made unless previously agreed to by Vendor and DIR.

B. Shrink/Click-wrap License Agreement

Regardless of any other provision or other license terms which may be issued by Vendor after the effective date of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of a Purchase Order for products licensed under this Contract, or the fact that such other agreement may be affixed to or accompany software upon delivery (shrink-wrap), the terms and conditions set forth in this Contract shall supersede and govern the license terms between Customers and Vendor. **It is the Customer's responsibility to read the Shrink/Click-wrap License Agreement and determine if the Customer accepts the license terms as amended by this Contract. If the Customer does not agree with the license terms, Customer shall be responsible for negotiating with the reseller to**

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obtain additional changes in the Shrink/Click-wrap License Agreement language from the software publisher.

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

A. Appendix A Standard Terms and Conditions for Technology Based Conferencing Services Contracts, Section 9.A.2) Vendor Responsibilities, Indemnification, ACTS OR OMISSIONS is hereby restated in entirety as follows.

9.A.2) ACTS OR OMISSIONS. Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL THIRD-PARTY LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any negligence, misconduct or wrongful acts or omissions of the Vendor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

B. Appendix A Standard Terms and Conditions for Technology Based Conferencing Services Contracts, Section 9.N Required Insurance Coverage is hereby restated in entirety as follows.

9.N. Required Insurance Coverage. 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 reasonably approved by, DIR and the Customer. All required insurance must be issued by

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companies that have an A rating and a Financial Size Category Class of VII from A.M. Best and are licensed in the State of Texas and authorized to provide the corresponding coverage. The Customer and DIR will be included as an Additional Insured as their interest may appear under this Agreement on all required coverage except worker's compensation and employer's liability. Required coverage must remain in effect through the term of the Contract and each Purchase Order issued to Vendor there under. The acceptable insurance provisions are as follows:

1) Commercial General Liability

Commercial General Liability must include with a limit of \$1,000,000 per occurrence for Bodily Injury and Property Damage, with a separate aggregate limit of \$2,000,000; Medical Expense per person of \$5,000; Personal Injury and Advertising Liability of \$1,000,000; Products/Completed Operations Aggregate Limit of \$2,000,000; and Damage to Premises Rented: \$50,000. Agencies and Vendor may agree that additional Umbrella/Excess Liability insurance is needed. 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 as their interest may appear under this Agreement; and
- d) Waiver of Subrogation

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 EMPLOYERS' LIABILITY WITH A LIMIT OF \$1,000,000 BODILY INJURY PER ACCIDENT, \$1,000,000 BODILY INJURY DISEASE PER EMPLOYEE AND \$1,000,000 PER DISEASE POLICY LIMIT.

3) Business Automobile Liability Insurance

Business Automobile Liability Insurance must cover all owned, non-owned and hired vehicles with a combined single limit of \$500,000 per occurrence each accident for bodily injury and property damage. The policy shall contain the following in favor of DIR and/or Customer:

- a) Waiver of Subrogation; and
- b) Additional Insured as their interest may appear under this Agreement.

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This Contract is executed to be effective as of the date of last signature.

Verizon Business Network Services, Inc.

Authorized By: _____ /Signature on File/

Name: Anthony Recine

Title: Senior Vice President

Date: 11/8/2018 | 10:21 AM CST

The State of Texas, acting by and through the Department of Information Resources

Authorized By: _____ /Signature on File/

Name: Wayne Egeler

Title: Director, Communication Technology Services

Date: 11/20/2018 | 8:56 AM CST

Office of General Counsel: _____ /Intials on File/