Commonwealth of Virginia
Virginia Information Technologies Agency

CDPD WIRELESS CONNECTIVITY PRODUCTS

Optional Use Contract

Date:	July 30, 2003
Contract #:	VA-020510-COMS
Authorized User:	State Agencies, Institutions and Public Bodies as defined in the Virginia Public Procurement Act (VPPA)
Contractor:	CompSolutions VA, Inc. 1249 Mall Drive Richmond, VA 23235
FIN:	54-2016043
Contact Person:	Dennis Kao 804-897-8347
Term:	May 10, 2002 – May 9, 2004
Payment:	Net 30 days

Delivery: Contractor shall deliver requested Equipment not later than thirty (30) days ARO from the delivery date specified in any executive Order referring this Contract.

For Additional Information, Please Contact:

Contract Compliance Information:
Mrs. T. J. Hudson
Contracts Administrator
Phone: 804-371-5971
E-Mail: tj.hudson@vita.virginia.gov
Fax: 804-371-5969

Technical Information:
Staff
Contract Officer
Phone: 804-371-5900
Fax: 804-371-5969

NOTES: Individual Commonwealth of Virginia employees are not authorized to purchase equipment or services for their personal use from this Contract.

For updates, please visit our Website at http://www.oas.virginia.gov

VIRGINIA INFORMATION TECHNOLOGIES AGENCY (VITA): Prior review and approval by VITA for purchases in excess of $100,000.00 is required for State Agencies and Institutions only.

CONTRACT #VA-020510-COMS

CONTRACT CHANGE LOG

Change No.	Description of Change	Effective Date
1	To update VITA information	07/01/03

CDPD WIRELESS CONNECTIVITY PRODUCTS

Item #	Description	Price	Unit
9.	CDPD Cards (with attached antennas	$205.47	ea

COMMONWEALTH OF VIRGINIA Department of Information Technology

SOLICITATION, OFFER AND AWARD DATA PROCESSING / TELECOMMICATIONS					FIN: 54-2016043
1. Contract No: VA-020510-COMS	2. IFB No: 2002-009	3. Date Issued: Feb 14, 2002	Date Due: Mar 14, 2002	4. APR 69	5. Approval No: D-89

For Information Call: Douglas Crenshaw (804) 371-5993

6. ISSUING OFFICE:	7. SHIP TO:
Department of Information Technolgy Acquisition Services Division 110 S. 7th Street, Lobby Floor Richmmond, Va. 23219-9300 ATTN: Bid Section	Virginia State Agencies, Institutions and Public Bodies as defined in the Virginia Public Procurement Act (VPPA)

SOLICITATION

8. Sealed bid(s) for furnishing the Products and Services set forth in the schedule, will be returned to the Issuing Office identified in block 6 above. Please provide an original and 0 copies. If hand carried, deliver to the ASD receptionist located on the Lobby Floor of the address listed in Block 6. Bids must be received prior to 2:00 p.m. local time Mar 14, 2002.

CAUTION - LATE OFFERS: See Paragraph 3 of the Solicitation Instructions

This is an advertised solicitation which consists of (1) the schedule of Products and Services, pages 2 thru 8; (2) the solicitation instructions pages S-1 thru S-3; (3) The Contract Terms and Conditions page C-1 thru C-22; and (4) other provisions, representations, certifications or specifications as are attached or incorporated herein by reference.

Offers will be publicly opened at: 2:10 p.m. local time Mar 14, 2002, in the ASD Conference Room, 110 South 7th Street, Lobby Floor.

All offers are subject to the terms and conditions set forth in the above referenced sections of this solicitation.

Paul H. Dodson, Director
Acquisition Services

Signature

OFFER

In compliance with the terms and conditions set forth in the solicitation, the undersigned agrees, if this offer is accepted within 90 calendar days from the date of receipt of offers, to furnish any or all items awarded at the prices offered in the schedule, delivered to the address in block 7, within the time specified in the schedule.

9. CONTRACTOR:	10: BILL TO:
Company Name: CompSolution VA Inc. Address: 1249 Mall Dr. City, State: Richmond, VA 23235 Signature: Name (Typed): Dennis Kad Title: Sales Manager Phone: (804) 897-8347	Virginia State Agencies, Institutions and Public Bodies as defined in the Virginia Public Procurement Act (VPPA)

AWARD

11. Accepted as to Item Numbers:	12. Amount:	13. Award Date:
Item 9	Per order	5-10-02

14. Name of Contracting Officer:	15. COMMONWEALTH OF VIRGINIA	PAGES:
Jeff Davis Contracts Manager	By:	1 of 8

FORM 62 Rev. 12/15/2000

DIT-62A 01/15/91	SCHEDULE	IFB NO. 02-009	Page: 2 of 8
NAME OF CONTRACTOR Compsolution VA. Inc / Dennis Kao	REQUIRED DELIVERY DATE: (RDD) 30 DAYS ARO	INITIALS DK	

ITEM NO	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTEND PRICE
1.	802.11b Wireless Access Points	10	ea.	141.20	1412.00
2.	802.11b Wireless PCI Cards (If adapter, include cost of PCMCIA cards)	100	ea.	87.34	8734.00
3.	802.11b Wireless PCMCIA Cards	100	ea.	75.02	7502.00
4.	802.11b Compact Flash Cards	100	ea.	93.16	9316.00
	Total Evaluated Cost for 802.11b:				26964.00
5.	802.11a Wireless Access Points	10	ea.	320.73	3207.30
6.	802.11a Wireless PCI Cards (if adapter, include cost of PCMCIA cards)	100	ea.	172.40	17240
7.	802.11a Wireless PCMCIA Cards	100	ea.	138.57	13857
	Total Evaluated Cost for 802.11a:				34304.30

PLEASE SEE NEXT PAGE FOR CDPD PRICING

DIT-62A 01/15/91	SCHEDULE	IFB NO. 02-009	Page: 3 of 8

NAME OF CONTRACTOR	REQUIRED DELIVERY DATE:	INITIALS
ComSolution VA Inc / Dennis Kao	(RDD) 30 DAYS ARO	DK

ITEM NO	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTEND PRICE
				205.47	20547.00
9.	CDPD Cards (with attached antennas)	100	ea.		
10.	CDPD cards with capability of attaching external antenna (optional)	1	ea.	NO	BID
					20547
	Total Evaluated Cost for CDPD:				
	Note: In note #12 on page 7, it is stated that CDPD cards with capability of attaching an external antenna are desirable, but not mandatory. Prices for this item are evaluated for use as a possible option if a contract should be awarded.				

1. The Commonwealth of Virginia seeks to establish optional statewide contracts with one or more vendors to provide hardware for wireless connectivity products for personal computers and hand-held devices. Contracts would be utilized on an "as needed" basis, consequently usage is uncertain. It is the intent of the Commonwealth to allow potential users the convenience and cost savings of established contracts for these products.

2. Any contracts resulting form this procurement will be available to agencies, Institutions and Public Bodies as defined in Section 2.2-4301 of the Virginia Public Procurement Act (VPPA), herein after referred to as "Authorized Users" or "Customers".

3. Award(s), if made, will be made by category to the responsive and responsible bidder with the lowest Total Evaluated Cost in each category for the "model" procurement on pages 2 and 3. There will be a maximum of 1 award per category (1) 802.11b pc cards and access points, 2) 802.11a pc cards and access points, and 3) CDPD cards, although a bidder may win an award in one or all categories.

4. No-bids are neither required nor desired.

5. All pricing must include the Industrial Funding Adjustment (IFA). See the attached Terms and Conditions for details.

6. By submitting a response to this invitation for bids (IFB), the Bidder agrees that the invoice price to the Commonwealth for any contract item shall be the best price available to any governmental entity located in the Commonwealth of Virginia for the duration of the contract. Please refer to the attached Term and Conditions for details.

7. The Commonwealth reserves the right to request any bidder to submit information missing from its bid which the Commonwealth deems necesssary in order to clarify and evaluate a Bidder's offer.

8. The term of the contract shall be for two years, with options for three one-year extensions, to be exercised at the discretion of the Commonwealth. The Commonwealth will notify the Contractor at least thirty days prior to the expiration of the current Term of its intent to renew the Contract.

9. This Public Body does not discriminate against faith-based organizations.

The Commonwealth seeks the following wireless components:

10. 802.11b

Access Points must:
Support IEEE 802.11b "High Rate" with speeds of up to 11Mbps
Be "Wi-Fi" (Wirless Fidelity) certified by the Wireless Ethernet Compatibility Alliance (WECA)
Support Frequency Channel Selection
Support frequency ranges of 2.40 GHz - 2.4835 GHz
Support Automatic Transmit Rate Select up to 11 Mbps
Support Roaming over multiple channels
Support WEP 128 bit Encryption (RC4)
Provide ability to select no encryption, 40 (64) or 128-bit encryption
Support TCP/IP, Netbeui, DHCP, IPX/SPX
Support remote access and managemnent via web standard web browsers or an SNMP-based tool
Support 10/100 RJ45 (10Base-T 802.3 interface) Ethernet connections
Use CSMA/CA media access protocol
Support DSSS (Direct Sequence Spread Spectrum)
Support access control tables
Support wireless-to-wireless bridging
Be FCC certified
Comply with warranty requirements as stated in the attached Terms and Conditions

It is desirable that Access Points:
Support port blocking
Have load balancing capability
Support connections to Broadband or DSL

Client Adapters must include:
PCI cards
PCMCIA cards
Client Adapters must support Windows '98, 2000 and XP
Support IEEE 802.11b "High Rate" with speeds of up to 11Mbps
Be "Wi-Fi" (wireless fidelity) compliant
Support 40 (64) or 128-bit encryption
Support frequency range of 2.40 Ghz - 2.4835 Ghz
Support both peer-to-peer networking and connections to access points/gateways
Use CSMA/CA media access protocol
FAA Certification
Comply with warranty requirements as stated in the attached Terms and Conditions

11. 802.11a

Access Points must:
Support IEEE 802.11a with speeds up to 54Mbps
Support Orthogonal Frequency Division Multiplexing (OFDM)
Support frequency ranges of 5.15 - 5.825GHz
Support Forward Error Correction (FEC)
Support TCP/IP, Netbeui, DHCP , IPX/SPX
Support remote access and management via standard web browsers or an SNMP-based tool
Suppot 10/100 RJ45 (10Base-T 802.3 interface) Ethernet connections
Support up to 128-bit encryption
Provide ability to select no encryption
Support access control tables
Support wireless-to-wireless bridging
Be FCC certified
Comply with warranty requirments as stated in the attached Terms and Conditions

It is desirable that Access Points:
Support port blocking
Support load balancing
Support connections to Broadband or DSL

Client Adapters must include:
PCI cards
PCMCIA cards
Client adapters must support Windows '98, 2000 and XP
Support IEEE 802.11a with speeds of up to 54Mbps
Support up to 128-bit encryption
Support frequencies from 5.15 to 5.825GHz
Support both peer-to-peer networking and connections to access points and gateways
Comply with warranty requirements as stated in the attached Terms and Conditions

12. CDPD
    CDPD Cards must:
    Be CDPD 1.1 compliant
    Be FCC compliant
    Support Windows 98, 2000, XP
    Transmit: 824 to 849 Mhz
    Receive: 869 to 894 Mhz
    Supports transmission speeds up to 19.2 kbps
    Have an attached antenna
    Comply with warranty requirements as stated in the attached Terms and Conditions

    It is desirable that:
    Antenna is detachable and card is capable of accepting a connection to an external antenna
    Card is capable of accepting an adapter connection to major cuurently manufactured cell phones
    Bidder has adapters for major currently manufactured cell phones
    Bidder provide a list of cell phone connections supported

13. Delivery is required within 30 days of the receipt of an order from any Authorized User. Items shall be shipped FOB destination.

14. In the event a Contractor defaults on a contract, the Commonwealth reserves the right to award to the next lowest-priced responsive and responsible bidder.

15. Refer to the attached Terms and Conditions (#11, #40 and #41) for requirements as to the methods of order and payment that must be accepted. Contractor shall bill the Customer directly.

16. DIT will not sign or execute any additional contract, license or other agreement containing contractual terms and conditions as a result of this procurement. Any documents signed by persons other than the Contracts Manager, DIT, shall have no validity and the attached Terms and Conditions shall supersede all such agreements. Vendors should read and understand all of the Terms and Conditions prior to submitting a bid.

17. All Bidders must be registered with the Department of Information Technology prior to award. The Bidder's Federal Identification Number (FIN) should be placed in the appropriate box on page 1 of this bid solicitation. In the event the Bidder does not supply the appropriate identification number, DIT may not be able to verify registration and the Vendor's bid may be ruled non-responsive without appeal. Registration forms are available from the ASD website (see note below), or bidders may call (804) 371-5900 to request forms.

NAME OF CONTRACTOR	REQUIRED DELIVERY DATE:	INITIALS
CompSolution VA Inc / Dennis Kao	(RDD) 30 DAYS ARO	DK

18. The Acquisition Services Division (ASD) maintaints a web site at http://asd.state.va.us. Vendors are requested to check this site prior to submitting bids, in the event the bid is amended or is extended.

19. Bid results will not be given out by telephone. Bidders wishing results should submit a stamped, self-addressed envelope along with their bid. Bid results will be posted to the ASD website.

20. Please submit any questions to Doug Crenshaw at dcrenshaw@dit.state.va.us by 4:00 p.m. local time, March 7, 2002.

21. The e-mail address of the person submitting the bid is:

DKAO@CompSolutionVA.Com

SOLICITATION INSTRUCTIONS
REV. 11/01/01

1. EXPLANATION TO VENDORS

Any explanation desired by a vendor regarding this solicitation/invitation for bid must be requested in writing and with sufficient time allowed for a reply to reach the vendor before the submission of their bids. PRIOR TO SUBMISSION OF A BID, VENDORS ARE REQUIRED TO READ THESE INSTRUCTIONS, REVIEW THE SCHEDULE, READ ALL TERMS AND CONDITIONS AND CHECK THE ACQUISITION SERVICE DIVISION'S (ASD'S) WEB PAGE AT (HTTP://ASD.STATE.VA.US) FOR ANY AMENDMENTS OR CHANGES. THIS SOLICITATION IS SUBJECT TO THE PROVISIONS OF THE COMMONWEALTH OF VIRGINIA VENDOR'S MANUAL WHICH WAS REVISED IN DECEMBER 1998 AND ANY REVISIONS THERETO, WHICH ARE HEREBY INCORPORATED INTO THIS CONTRACT IN THEIR ENTIRETY. A copy of the manual is available for review at the purchasing office, and can be obtained by calling the Division of Purchases and Supply (804) 786-3842, or by accessing the Department of General Services (DGS), Division of Purchases and Supply (DPS) Internet Home Page (www.dgs.state.va.us/dps). Any interpretation required by the State will be in the form of an amendment to the solicitation; SEE PARAGRAPH 11 BELOW. Oral explanations or instructions given before the award of the contract will not be binding. In any conflict arising between this solicitation and the Vendors' Manual, this solicitation shall prevail.

2. PREPARATION OF SOLICITATION

A. Bids shall be submitted on the forms furnished, and must bear an original signature by an individual authorized to bind the company submitting the bid. If erasures or other changes appear on the form, each erasure or change must be initialed by the person signing the bid. Telegraphic or facsimile bids will not be considered. Vendors may not submit multiple bids in a single envelope.

B. Vendors are required to enter their Federal Identification Number [FIN] in the upper right hand corner on Page 1, DIT Form 62. This number must correspond with the FIN number shown on Page 1 of the DIT Vendor Application For Registration Form submitted by a principal or officer of the firm submitting the bid. Failure to enter a number in the space provided or to provide a correct FIN number may delay award or result in DIT determining that the vendor is not registered to conduct business with DIT. It is the vendor's responsibility to provide the correct FIN number and to keep DIT updated as to any changes in vendor's status.

C. The bid form may provide for submission of a price or prices for one or more items. All prices shall be entered in the schedule; DIT Form 62A or 62B. Where the bid form explicitly requires that the vendor bid on all items (e.g., an all or none requirement), failure to do so will disqualify the bid. When submission of a price on all items is not required, vendor should insert the words "no bid" in the space provided for any item on which no price is submitted.

D. Additional bids may be submitted, when in the vendor's judgment they can provide more than one solution which meets the required specifications of the procurement. Additional bids shall be submitted on either a duplicate copy of the bid document or on plain paper and shall be clearly identified with the words "ADDITIONAL BID" written or printed on the face of each additional bid. Additional bids shall not be considered unless detailed specifications or descriptions sufficient to establish quality, utility and merit accompany the bid.

VENDORS SUBMITTING ADDITIONAL BIDS ARE REMINDED THAT THE TERMS AND CONDITIONS WHICH APPLY TO THE ORIGINAL BID SHALL ALSO APPLY TO THE ADDITIONAL BID AND ANY MODIFICATION TO TERMS AND CONDITIONS OF A SOLICITATION OR THE ADDITION OF RESTRICTIVE PROVISIONS BY A BIDDER SHALL BE CAUSE FOR REJECTION OF THE BID.

E. Modification of bids already submitted will be considered if received at the office designated in the invitation for bids before the time set for opening of bids.

3. SUBMISSION OF BIDS

TO BE CONSIDERED, THE BID MUST BE RECEIVED AT THE ADDRESS GIVEN IN BLOCK #6 OF THE SOLICITATION ON OR BEFORE THE DATE AND HOUR DESIGNATED. Vendors must pay particular attention to ensure that the bid is properly addressed. The State is not responsible if the bid is not properly addressed. The State is not responsible if the bid does not reach the destination specified by the date and time identified in block #8 page 1 of the Bid. Sealed bids received after the date and hour identified in block #8 are automatically disqualified, and will not be considered. All bids must be sealed, marked and addressed, to the address shown in block #6 of the Solicitation, and marked on the outside of the vendor's envelope as in the example below. Failure to do so may result in a premature opening of, or a failure to open, the bid.

From: Name of Vendor
Street or Box Number
City, State, Zip Code
Due Date Time
IFB No.

4. SPECIFICATIONS AND USE OF BRAND NAMES

Unless otherwise provided in the solicitation, the name of a certain brand, make or manufacturer does not restrict bids to the specific brand, make or manufacturer named. Any item which the State at its sole discretion determines to be the equal of that specified as defined in the Schedule, will be accepted. The award will be made to the lowest responsive and responsible bidder or offeror offering the functional equivalent to the brand name described in the specification. Thus, equivalent products of other manufacturers will be considered only if proof of equivalency is contained in or accompanies the bid.

5. LATE BIDS, MODIFICATIONS OF BIDS OR WITHDRAWALS OF BIDS

A. Any bids received at the office designated in block #6 of the Solicitation after the exact time specified for receipt will not be considered for award. (See Paragraph 4.10 of the Vendor's Manual for further discussion.)

B. A bid may be amended and/or withdrawn by a vendor if the office issuing the bid receives the request in writing before the date and hour set forth in the bid form. The request must be signed by a person authorized to represent the person or firm that submitted the bid. Submission of a subsequent bid shall normally constitute the withdrawal of any prior bid submitted by the same bidder or offeror on the same IFB.

6. PUBLIC OPENING OF BIDS

Bids will be publicly opened at the time and date specified on page 1 of the Solicitation document. The content of these solicitations will be made public in accordance with Paragraphs 1.9 and 2.4 of the Vendor's Manual. Bids will not normally be evaluated at the bid opening meeting. All bids will be opened at the location shown on page 1 of the solicitation.

7. SOLICITATION TERMS AND CONDITIONS

The terms and conditions contained in this solicitation are considered mandatory and are the only terms and conditions governing transactions under any contract awarded as a result of this solicitation.

If the vendor includes additional terms and conditions on pre-printed marketing sheets, pre-printed catalogues, or other pre-printed materials, then it is understood that those terms and conditions are of no consequence to any resulting contract.

Any other modification, addition, clarification, or change to the mandatory terms and conditions by the vendor shall cause the bid to be rejected.

8. AWARD OF CONTRACT

Bids shall be evaluated and the responsive and responsible bidder offering the lowest price will be awarded the Contract. The State reserves the right to reject any and all bids in whole or in part and to waive any informality in the bids.

9. AWARD NOTICES

Upon the completion of evaluation, the State will either post a NOTICE OF AWARD (NOA) or a NOTICE OF INTENT TO AWARD (NOITA). If a NOITA is used, the notice will be publicly posted ten days prior to the actual award date of the contract. All award notices will be posted on ASD's Web Page (HTTP://ASD.STATE.VA.US) and posted in ASD's lobby in written format.

A NOTICE OF INTENT TO AWARD OR A NOTICE OF AWARD will be mailed to any bidder submitting a self-addressed, stamped envelope with their bid.

NOTICES OF INTENT TO AWARD OR NOTICES OF AWARD will be posted in accordance with paragraph 6.3 of the Vendor's Manual.

TELEPHONIC REQUESTS FOR BID RESULTS WILL NOT BE HONORED.

10. FAILURE TO DELIVER

Failure to comply with the terms and conditions of the IFB or to deliver equipment, software or services identified in the solicitation at the price quoted may result in cancellation or rescission of the award/contract by the Commonwealth and may subject the Contractor to removal from DIT's Vendor Registration file and ruled ineligible to participate in DIT's (and other agencies and institutions information technology) procurements for a period of 12 months.

11. AMENDMENT OF SOLICITATION

Any amendment or change to this solicitation will be issued in writing and will identify the changes to be made in the bid. All amendments will be posted to the ASD's Web page at (http://asd.state.va.us) and posted in ASD's lobby in written format.

If the bid opening date is extended the new date and time will be clearly shown on the face of the amendment.

Bidders will be required to sign and return a copy of the amendment with their bid to indicate that they have received the document and are aware of the changes made.

12. ANTI-COLLUSION CERTIFICATION

By Bidder's signature on the face of this bid, Bidder certifies that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same equipment, software, or services, and is in all respects fair and without collusion or fraud. Vendor understands collusive bidding is a violation of the Virginia Governmental Frauds Act and Federal Law and can result in fines, prison sentences, and civil damage awards. Bidder agrees to abide by all conditions of this bid and certifies that he or she is authorized to sign this bid for the bidder' firm.

13. DEMONSTRATIONS

The State reserves the right to require the Bidder to demonstrate to the satisfaction of the State, that the products offered will perform in a completely acceptable manner and to meet or exceed the specifications referenced in the solicitation. The demonstration site and time is subject to agreement between the State and Bidder. A Bidder refusing to demonstrate his products bid after determination that he is the apparent low responsive and responsible bidder may be removed from DIT's vendor registration file and ruled ineligible to participate in DIT's (and other agencies and institutions information technology) procurements for a period of 12 months.

14. PROTESTS OF AWARDS

All protests of awards shall be conducted in accordance with Chapter 9 of the Vendors Manual.

15. VENDOR REGISTRATION

AN AWARD WILL NOT BE MADE TO ANY BIDDER NOT REGISTERED WITH THE DEPARTMENT OF INFORMATION TECHNOLOGY (DIT). A completed registration form must be on file or received by DIT (Acquisition Services Division) not later than the award date. Call (804) 371-5900 to request a registration form.

16. CONTRACT

Any contract which is awarded as a result of this solicitation, offer and award shall be between DIT and the Contractor. No other agency, institution or public body may negotiate in any way with the vendor concerning the items identified in the schedule or any terms and conditions of the contract. All problems associated with the resulting contract shall be brought to the attention of the Contracts Manger, DIT.

Specifications - Any comments or questions concerning the specifications, terms and conditions or any note contained in this solicitation shall be submitted, in writing to the issuing office (See Block #6 DIT Form #62) at least ten (10) days prior to the closing date.

17. TRADE SECRETS OR PROPRIETARY INFORMATION

Trade secrets or proprietary information submitted by a bidder in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the bidder must invoke the protections of *Code of Virginia*, Section 2.2-4342, prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected and state the reason why protection is necessary. **The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire bid document, line item prices and/or total bid prices as proprietary or trade secrets is not acceptable and will result in rejection of the bid.**

CONTRACTUAL TERMS AND CONDITIONS
INVITATION FOR BID (IFB) #02-009

1. SCOPE OF CONTRACT

The following paragraphs contain the contractual terms and conditions by which the Commonwealth of Virginia hereinafter referred to as "Commonwealth" or "State" or "DIT" (Department of Information Technology), will establish a Firm-Fixed Price, Master Contract for the use of State Agencies, Institutions and other Public Bodies, as defined in Section 2.2-4301. *Definitions* of the Virginia Public Procurement Act (VPPA), as amended, and hereinafter referred to as "Authorized Users", to acquire wireless network connectivity products ("Equipment"), including warranty ("Services"), for use with personal computers and hand-held devices from the Contractor identified in block #9, page 1 of the Solicitation, hereinafter referred to as "Contractor."

2. VENDORS MANUAL

This solicitation is subject to the provisions of the Commonwealth of Virginia Vendors Manual and any revisions thereto, which are hereby incorporated into this Contract in their entirety. A copy of the manual is normally available for review at the purchasing office and in addition, a copy can be obtained by calling the Division of Purchases and Supply (804) 786-3842, or by accessing the Department of General Services (DGS), Division of Purchases and Supply (DPS) Internet site (www.dgs.state.va.us/dps/).

3. APPLICABLE LAWS AND COURTS

This solicitation and any resulting Contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The Contractor shall comply with all applicable federal, state and local laws, rules and regulations.

4. ANTI-DISCRIMINATION

By submitting their bids, bidders certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and §2.2-4311 of the Virginia Public Procurement Act. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate

accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia, § 2.2-4343.1E).

In every contract over $10,000 the provisions in a. and b. below apply:

a. During the performance of this Contract, the Contractor agrees as follows:

1) The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2) The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for meeting these requirements.

b. The contractor will include the provisions of 1. above in every subcontract or purchase order over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

5. ETHICS IN PUBLIC CONTRACTING

By submitting their bids, bidders certify that their bids are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer or subcontractor in connection with their bid, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

6. IMMIGRATION REFORM AND CONTROL ACT OF 1986

By submitting their bids, bidders certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

7. DEBARMENT STATUS

By submitting their bids, bidders certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

8. ANTITRUST

By entering into a Contract, Contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia or the Authorized Users of this Contract all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or Services purchased or acquired by the Commonwealth of Virginia or the Authorized Users under said Contract.

9. MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR IFBs AND RFPs

Failure to submit a bid on the official state form provided for that purpose shall be a cause for rejection of the bid. Modification of or additions to any portion of the Invitation for Bids (IFB) may be cause for rejection of the bid; however, the Commonwealth reserves the right to decide, on a case-by-case basis, in its sole discretion, whether to reject such a bid as nonresponsive. As a precondition to its acceptance, the Commonwealth may, in its sole discretion, request that the bidder withdraw or modify nonresponsive portions of a bid which do not affect quality, quantity, price, or delivery. No modification of or addition to the provisions of the Contract shall be effective unless reduced to writing and signed by the parties.

10. CLARIFICATION OF TERMS

If any prospective bidder has questions about the specifications or other solicitation documents, the prospective bidder should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

11. PAYMENT

a. To Prime Contractor:

1) Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).

2) Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.

3) All goods or Services provided under this Contract, which are to be paid for with public funds, shall be billed by the Contractor at the Contract price, regardless of which public agency or authorized user is being billed.

4) The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.

5) **Unreasonable Charges**. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges that appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth or Authorized User shall promptly notify Contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. Contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges that are not in dispute (Code of Virginia, § 2.2-4363).

b. To Subcontractors:

1) A Contractor awarded a Contract under this solicitation is hereby obligated:

(a) To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or

(b) To notify the agency and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.

2) The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the

terms of the contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth or Authorized User, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary Contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth or Authorized User.

12. PRECEDENCE OF TERMS

Paragraphs 1-12 of these General Terms and Conditions shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

13. QUALIFICATIONS OF BIDDERS

The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the bidder to perform the services/furnish the goods and the bidder shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect bidder's physical facilities prior to award to satisfy questions regarding the bidder's capabilities. The Commonwealth further reserves the right to reject any bid if the evidence submitted by, or investigations of, such bidder fails to satisfy the Commonwealth that such bidder is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

14. TESTING AND INSPECTION

The Commonwealth or Authorized User reserves the right to conduct any test/ inspection deemed advisable to assure Equipment or Services conform to the specifications.

15. ASSIGNMENT OF CONTRACT

This Contract shall not be assignable by the Contractor in whole or in part without the written consent of the Commonwealth.

16. CHANGES TO THE CONTRACT

Changes can be made to the Contract in any of the following ways:

a. The parties may agree in writing to modify the scope of the Contract. An increase or decrease in the price of the Contract resulting from such modification

shall be agreed to by the parties as a part of their written agreement to modify the scope of the Contract.

b. The Purchasing Agency may order changes within the general scope of the Contract at any time by written notice to the Contractor. Changes within the scope of the Contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:

1) By mutual agreement between the parties in writing; or

2) By agreeing upon a unit price or using a unit price set forth in the Contract, if the work to be done can be expressed in units, and the Contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the Contractor's records and/or to determine the correct number of units independently; or

3) By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the Contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the Contractor, as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the Contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this Contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia Vendors Manual. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this Contract shall excuse the Contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the Contract generally.

17. DEFAULT

In case of failure to deliver Equipment or Services in accordance with the Contract terms and conditions, the Commonwealth, after due oral or written notice, may procure Equipment from other sources and hold the Contractor responsible for any resulting

additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the Commonwealth may have.

18. TAXES

Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request, and can be obtained online at http://www.tax.state.va.us/. Deliveries against this Contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

19. USE OF BRAND NAMES

Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article that the public body, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The bidder is responsible to clearly specify and identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the Commonwealth to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the bidder clearly indicates in its bid that the product offered is an equal product, such bid will be considered to offer the brand name product referenced in the solicitation.

20. TRANSPORTATION AND PACKAGING

By submitting their bids, all bidders certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.

21. INSURANCE

By signing and submitting a bid under this solicitation, bidder certifies that if awarded the Contract, it will have the following insurance coverages at the time the Contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the Code of Virginia. Bidder further certifies that the Contractor and any subcontractors will maintain these insurance coverages during the

entire term of the Contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

INSURANCE COVERAGES AND LIMITS REQUIRED:

a. Worker's Compensation - Statutory requirements and benefits.

b. Employers Liability - $100,000.

c. Commercial General Liability - $500,000 combined single limit. Commercial General Liability is to include Premises/Operations Liability, Products and Completed Operations Coverage, and Independent Contractor's Liability or Owner's and Contractor's Protective Liability. The Commonwealth of Virginia must be named as an additional insured when requiring a Contractor to obtain Commercial General Liability coverage.

22. ANNOUNCEMENT OF AWARD

Upon the award or the announcement of the decision to award a contract as a result of this solicitation, ASD will publicly post such notice on its website at http://asd.state.va.us/ for a minimum of 10 days.

23. DRUG-FREE WORKPLACE

During the performance of this Contract, Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by, or on behalf of the Contractor, that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Contract.

24. NONDISCRIMINATION OF CONTRACTORS

A bidder, offeror, or Contractor shall not be discriminated against in the solicitation or award of this Contract because of race, religion, color, sex, national origin, age, or disability or against faith-based organizations. If the award of this Contract is made to a

faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this Contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, Services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

25. eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION

The eVA Internet electronic procurement solution, web site portal www.eva.state.va.us, streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies.

All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service, and complete the Ariba Commerce Services Network registration.

a. eVA Basic Vendor Registration Service: $25 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is $500 per order. eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, and electronic bidding, as they become available.

b. eVA Premium Vendor Registration Service: $200 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is $500 per order. eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic email or fax notification of solicitations and amendments, and ability to research historical procurement data, as they become available.

c. Ariba Commerce Services Network Registration. The Ariba Commerce Services Network (ACSN) registration is required and provides the tool used to transmit information electronically between state agencies and vendors. There is no additional fee for this service.

26. RISK OF LOSS OR DAMAGE

Contractor shall have the risk of loss or damage to all Equipment until clear and unrestricted title to such Equipment is transferred to the Commonwealth or Authorized User.

27. CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS

Any commitment made by the Contractor within the scope of this Contract shall be binding upon Contractor. For the purposes of this Contract, a commitment by the Contractor includes:

a. Prices and options committed to remain in force over a specified period(s) of time;

b. Any written warranty or representation made by the Contractor in this solicitation as to hardware or software performance, or other physical design or functional characteristics of that which is offered.

28. DELIVERY DATES

a. Contractor shall deliver requested Equipment not later than thirty (30) days from the delivery date specified in any executed Order referencing this Contract.

b. Any amendment to an order by an Authorized User of this Contract may require the establishment of a new mutually agreed to required delivery date. An Authorized User may delay the delivery date by notifying the Contractor at least ten (10) days before the required delivery date.

c. If Equipment is not delivered within the time specified in an Order, the Commonwealth or Authorized User reserves the right to cancel the Order and/or terminate the Order for default without further obligation, and award the solicitation to the next responsive and responsible bidder. Contractors are cautioned that failure to deliver proposed Equipment as stated in response to a solicitation document may result in removal from DIT's Vendor Registration File as per Section 7.20 of the Division of Purchases and Supply's Vendor's Manual dated December 1998.

d. Neither the Contractor nor the State shall be responsible for delays resulting from acts beyond the control of each party. These include, but are not limited to, acts of God, riots, acts of war, fire, earthquakes, epidemics, or disasters.

29. PATENT/COPYRIGHT PROTECTION

Contractor, at its own expense, shall defend any suit brought against the Commonwealth for the infringement of patents, copyrights or trade secrets enforceable in the United States if the claim of infringement is alleged to relate to or arise from the Contractor's or Commonwealth's use of any equipment, software, materials or information prepared, developed or delivered in connection with performance of this Agreement. In such suit, Contractor shall indemnify the Commonwealth, its agents, officers and employees for any loss, liability or expense incurred as a result of such suit.

The purchasing agency shall notify the Contractor of such suit within a reasonable time after learning of it and shall give the Contractor the full right and opportunity to conduct the defense of the suit, subject however to the requirements of Section 2.2-510 and Section 2.2-514 of the Code of Virginia or any successor statute. If principles of governmental or public law are involved, the Commonwealth may, at its option and expense, participate in the defense of the suit.

Contractor shall not be required to indemnify the Commonwealth for liability arising solely out of the Commonwealth's own specifications or design or solely from the combination of equipment or software furnished hereunder with any equipment or software not supplied by the Contractor.

If, any Product or Service becomes, or in the Contractor's opinion, is likely to become, the subject of a claim of infringement, Contractor may, at its option, provide noninfringing substitutes that are satisfactory to the Commonwealth, or at Contractor's option and expense, may obtain the right for the Commonwealth to continue the use of such Product or Service.

If the use of such Equipment by the Commonwealth is prevented by permanent injunction or by Contractor's failure to procure the right for the Commonwealth to continue using the Equipment, the Contractor agrees to take back the infringing Equipment, materials or information and refund the total amount the Commonwealth has paid Contractor under this Agreement, less one-half (1/2%) percent of the total paid for each month of use by the Commonwealth. This obligation is in addition to the obligations cited in the first four subparagraphs above.

30. NON-APPROPRIATION

All funds for payment of Equipment or Services ordered under this Contract are subject to the availability of legislative appropriation for this purpose. In the event of non-appropriation of funds by the Legislature for the items under this Contract, the Commonwealth will terminate this Contract for those goods or services for which funds have not been appropriated. Written notice will be provided to the Contractor as soon as possible after legislative action is completed.

If any purchases are to be supported by federal funding, and such funding is not made available, the Commonwealth may terminate this Contract for goods or services dependent on such federal funds without further obligation.

31. HEADINGS NOT CONTROLLING

Headings used in this Contract are for reference purposes only and shall not be considered to be a substantive part of this Contract.

32. INVENTIONS AND COPYRIGHTS

The Contractor is prohibited from copyrighting any papers, reports, forms or other materials, and from obtaining any patent on any invention or other discovery resulting solely from its performance under the terms and conditions of this Contract.

33. CONTRACTUAL RECORDS

All Contractual books, records and other documents related to matters under this Contract shall be made available by Contractor to the State and its designated agents for a period of five (5) years after final payment for purposes of audit and examination.

Contractual records are hereby further defined as this Contract and all delivery/purchase orders, invoices or correspondence directly relating to this agreement.

34. LIMITATION OF LIABILITY

To the maximum extent permitted by applicable law, the Contractor will not be liable under this Contract for any indirect, incidental, special or consequential damages, or damages from loss of profits, revenue, data or use of the supplies, equipment and/or services delivered under this Contract. This limitation of liability will not apply, however, to liability arising from: (a) personal injury or death; (b) defect or deficiency caused by willful misconduct or negligence on the part of the Contractor; or (c) circumstances where the Contract expressly provides a right to damages, indemnification or reimbursement.

35. ENTIRE AGREEMENT

This Contract, the solicitation, bid response, solicitation instructions and all Equipment specifically listed in the Schedule, and the notes in the Schedule constitute the entire agreement between the parties with respect to the subject matter of this Contract. All prior agreements, representations, statements, negotiations and undertakings are hereby superseded with respect to equipment and/or software acquired by the State under the terms and conditions of this Contract.

No other written documents regardless of form or content shall be executed by any agency or institution for equipment acquired under this Contract unless signed by the Contracts Manager, DIT, or his alternate as designated by the Director, DIT.

36. TITLE

Clear and unrestricted title to all Equipment purchased under this Agreement shall pass to the Commonwealth or Authorized User upon payment of the purchase price.

37. MOST FAVORED CUSTOMER AND PRICE PROTECTION

The Commonwealth or Authorized User shall not pay any costs above those specified in this Agreement or set forth on any Order or Attachment referencing this Agreement. Contractor agrees and warrants that for all products pursuant to this Contract, the prices are, and will continue to be at or below any prices offered to any other "Customer", defined herein as Authorized User.

Any price decrease effectuated during the Contract period by reason of market change shall be passed on to the Commonwealth or any Authorized Users of this Contract. This decrease will be effective on the date the price decrease is announced to the general public.

If for any reason, during the term of this Agreement, and any renewals thereof, the Contractor enters into an Agreement with any Customer, as defined herein, for the same Equipment offered under this Agreement that results in a price less than that provided for under this Agreement, then the Commonwealth and any Authorized User shall receive an equivalent reduction in price for such Equipment delivered to all Customers under this Agreement from the date that the Contractor provided the lower price to the Customer. In the event the Commonwealth becomes aware of a Customer, who has received such lower prices, during the Term of this Agreement, DIT will notify the Contractor of such prices for such Equipment and elect to make the more favorable prices applicable to the Commonwealth and the Authorized Users of this Contract, from the date those prices were available to the Customer.

38. TERM

This Agreement shall take effect on the date of award, and shall continue in full force and effect for two (2) years thereafter. At the Commonwealth's sole discretion, this Agreement may be renewed for three (3) additional one (1) year periods after the initial two (2) year Term. The Commonwealth shall issue a written notice to the Contractor thirty (30) days in advance, for any renewal period after the initial two (2) year Term.

39. TYPE CONTRACT

This is a Firm-Fixed Price, Indefinite Delivery, Indefinite Quantity **Master Contract.**

40. ORDERS

Authorized ordering officials representing the "Authorized Users" of this Contract may order Equipment or Services from this Contract by one of the following Order methods:

A. eVA: An order placed through the eVA electronic procurement website portal http://www.eva.state.va.us

B. Purchase Order (PO): An official PO form issued by an Authorized User.

C. Delivery Order (DO): A DO issued by the Acquisition Services Division, DIT.

D. Charge/Credit Card:
   1) Any order/payment transaction processed through the Commonwealth's contract with American Express (AMEX). Each Commonwealth Charge Card

Order must not exceed $5,000, or the then current charge card limit. Payment will be made by AMEX to Contractor within three (3) business days.

2) Any other order/payment charge or credit card process, e.g. AMEX, MASTERCARD, or VISA, under contract for use by an Authorized User.

This ordering authority is limited to issuing Orders for Equipment that is available only under this Agreement. Notwithstanding the section herein, entitled Modifications, no Authorized User or other public body of the Commonwealth shall have the authority to modify this Contract.

41. INVOICES

All invoices shall be rendered to the Authorized User promptly after all Equipment covered by the invoice has been accepted. No invoice may include any costs other than those identified in the Schedule. Invoices shall provide at a minimum:

1. Type and description of the Equipment;
2. Serial number, if any;
3. Charge for each item;
4. This Contract Number and Order Number; and
5. Contractor's Federal Identification Number (FIN).

42. CREDITS

Any credits due to the State or Authorized User under the terms of this Contract may be applied against Contractor's invoices with appropriate information attached.

43. ACCEPTANCE, TESTING AND COMPLIANCE WITH SPECIFICATIONS

All Equipment is subject to inspection and testing by the State or Authorized User, as delineated herein under TESTING AND INSPECTION and any that does not meet or exceed the specifications or other requirements of the Contract may be rejected. The Authorized User shall be given thirty (30) days from the delivery of Equipment by the Contractor to test, evaluate and accept the Equipment delivered under this Contract (provided that the using agency, in its sole discretion, may accept the same prior to expiration to the thirty (30) day period). If the Contractors Equipment fails to meet the Contract specifications or other requirements, including the specifications of the brand name (see paragraph 4 of the Solicitation Instructions), or those required by the Contractor's own technical documentation, then the same may be rejected and returned to the vendor. Such rejection will terminate this Contract and exempt the Authorized User from all costs incurred by the Contractor.

Acceptance shall be effective for the purpose of determining title to that which is delivered and for making payment, however, acceptance by the Authorized User following testing and evaluation during the thirty (30) day period shall not be conclusive that the Equipment conforms in all respects to the Contract specifications and other requirements. In the event that nonconformance therewith is discovered by the State

after acceptance, whether due to a latent defect or otherwise, the Contractor shall take whatever action is necessary to conform the Equipment to the Contract specifications and other requirements, including but not limited to modification or replacement of the same. The Contractor's failure to do so shall constitute breach of Contract for which the State may exercise the remedies provided in the section herein entitled "Termination and Cancellation," in addition to and not in lieu of any other remedies available under Virginia law.

44. GUARANTEE (WARRANTY)

Contractor will provide Depot ("Return to Vendor") Warranty Services for a period of not less than twelve (12) months, or such greater period as may be provided in the Schedule, beginning on the date of acceptance, at no cost to the State. Contractor shall act as sole point of contact for all units repaired under Warranty.

Prior to the expiration of the Warranty period, whenever Equipment is shipped for mechanical repair or replacement purposes, the Contractor will bear all costs, postage prepaid, associated with returning Equipment to the Contractor's repair facility. When repair of Equipment is completed, the Contractor shall bear all costs associated with returning Equipment to the Authorized User's original point-of-shipment. Cost of shipping includes but is not limited to, costs of packing, transportation, rigging, drayage and insurance for damage or loss. Contractor shall repair Equipment or provide an interim replacement product, within seventy-two (72) hours of notification that a malfunction exists. Any interim product(s) will be provided at no additional cost to the Authorized User, until the original product is returned, in good working condition.

All parts used under this Agreement must be new parts or refurbished parts certifiable as new. Parts that have been replaced shall become the property of the Contractor.

EQUIPMENT WARRANTY IS PERFORMANCE-BASED AND ALL SOFTWARE, FIRMWARE, AND MICROCODE SHALL BE CONSIDERED INTEGRAL COMPONENTS OF EQUIPMENT, AND CONTRACTOR SHALL RESPOND TO ALL REQUESTS FOR WARRANTY/MAINTENANCE SERVICE FOR ANY FAILURE.

45. TITLE (SOFTWARE/FIRMWARE)

For any software or firmware provided as an integral part of this agreement, The Contractor represents and warrants that it is the sole owner of the software/firmware product or, if not the owner, has received all proper authorizations from the owner to license the software/firmware product, and has the full right and power to grant the rights contained in this Contract. Contractor further warrants and represents that the software/firmware product is of original development, and that the package and its use will not violate or infringe upon any patent, copyright, trade secret or other property right of any other person.

46. TERM OF LICENSE

All licenses granted under this Agreement are purchased on a non-exclusive, irrevocable perpetual license basis and shall commence upon the acceptance of the software Product by the Commonwealth. Notwithstanding the foregoing, the Commonwealth may terminate the license at anytime. All licenses granted to the Commonwealth are for the use of the software Product at the Commonwealth's computing facilities at the sites identified in any executed Attachment or Order referencing this Agreement. This license is perpetual and in no event shall Contractor's remedies for any breach of this Agreement include the right to terminate any license or support services hereunder.

47. FIELD MODIFICATIONS AND/OR ENGINEERING CHANGES

Contractor sponsored modifications and/or engineering changes shall be made with the consent of the State at no additional charge for a period of one (1) year from the date of installation. The State reserves the right at all times to schedule these Contractor sponsored modifications and/or changes to minimize the impact on the daily operations of the State.

48. SUPPLIES

Authorized charges do not include operational supplies (e.g. paper, tape, etc.) unless such supplies are specifically identified in the Schedule. All supplies used by the State shall conform to the Contractor's published specifications provided to State at time of Equipment installation. Authorized Users reserve the right to acquire such supplies from any Contractor of their choice.

49. REPAIR PARTS

All parts used under this Agreement must be new parts or refurbished parts certifiable as new. Parts, which have been replaced, shall become the property of the Contractor.

50. EQUIPMENT CONDITION

All Equipment supplied by Contractor shall be new equipment. All Equipment proposed by Contractor must have been approved by Underwriters Laboratories or a recognized equivalent certification agency.

51. EQUIPMENT REPLACEMENT

In the event that any Equipment furnished under this Agreement experiences continual maintenance downtime, while under Warranty and as a result the total system is inoperative in excess of 5% of total time available for daily service (e.g., 45 hours per week, 180 hours per month, 5% = 9 hours per month) for two (2) consecutive calendar months, the Authorized User reserves the right to require the Contractor to replace the

Equipment at no cost to the Authorized User. Replacement Equipment shall be delivered no later than thirty (30) days after the Authorized User requests Contractor to provide a replacement.

52. TERMINATION FOR CONVENIENCE

This Contract may be terminated, in whole or in part, upon sixty (60) days advance written notice by the Commonwealth of Virginia. There are no additional costs or financial obligations to the Commonwealth upon termination for convenience.

53. TERMINATION FOR CONVENIENCE OF INDIVIDUAL ORDER

Any individual Order that is placed under this Agreement may be terminated, in whole or in part, by an Authorized User for its convenience, at any time up to sixty (60) days advance written notice to the Contractor. There are no other costs or obligations for termination for convenience.

54. TERMINATION AND CANCELLATION

The Commonwealth shall have the unilateral right to terminate this Contract for Default, in the event that any one or more of the following events of default occur or continue during the term of this Agreement, (a) the vendor shall fail to deliver Equipment required by this Contract or (b) the vendor shall repeatedly fail to respond to requests for Warranty or other Services within the time limits set forth in the Contract or (c) the vendor shall breach any of the other terms set forth within this Agreement or (d) the vendor shall fail to cure any breach after receiving a "Show Cause Notice" identifying the failure, and providing the vendor ten (10) days to cure the failure/nonperformance. If the vendor fails to answer the cure notice, or does not correct the deficiencies noted, the State may immediately terminate the Agreement for Default.

In such event, the State or Authorized User shall only be liable for the costs incurred to the date of termination. All costs of de-installation and return of Equipment from a Customer's premises will be at Contractor's expense.

The Commonwealth's failure to exercise its right to terminate for default under this provision shall not be construed as a waiver of its right to terminate, rescind or revoke this Contract in the event of any subsequent breach of any provisions of this Agreement.

55. FAILURE TO DELIVER

In the event a Contractor fails for any reason to deliver in a timely manner or according to Contract terms the items set forth in the Schedule, the Commonwealth, at its own discretion, may give Contractor oral or written notice of such breach. Once notice by the State is sent or given, the State may immediately procure the items from another source. Once the State has effected a purchase from an alternate source (in

accordance with the Virginia Public Procurement Act) the parties agree that the State may charge-back Contractor, in which case Contractor agrees to reimburse State for any difference in cost between the original Contract price and the State's cost to cover from the alternate source. In no event shall State be held to pay Contractor any costs incurred by Contractor, including but not limited to ordering, marketing, manufacturing, or delivering the item(s) which are subject of the State's notice of breach. This remedy is in addition to and not in lieu of any other remedy the Commonwealth may have under this agreement and the laws of the Commonwealth of Virginia.

56. CONTRACTUAL DISPUTES

In accordance with Section 2.2-4363 of the Code of Virginia, Contractual claims, whether for money or other relief, shall be submitted in writing to the purchasing agency no later than sixty (60) days after final payment; however, written notice of the Contractor's intention to file such claim must be given to such agency at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final payment. The purchasing agency shall render a final decision in writing within thirty (30) days after its receipt of the Contractor's written claim.

The Contractor may not invoke any available administrative procedure under Section 2.2-4365 of the Code of Virginia nor institute legal action prior to receipt of the purchasing agency's decision on the claim, unless that agency fails to render its decision within thirty (30) days. The decision of the purchasing agency shall be final and conclusive unless the Contractor, within six (6) months of the date of the final decision on the claim, invokes appropriate action under Section 2.2-4364, Code of Virginia or the administrative procedure authorized by Section 2.2-4365, Code of Virginia.

DIT, its officers, agents and employees, including, without limitation, the Contracts Manager, are executing this Agreement and any Orders issued hereunder, solely in its or their statutory and regulatory capacities as agent for the Commonwealth agency purchasing and receiving the goods or services identified in Attachment "A" to this Agreement or on the subsequent Order in question and need not be joined as a party to any dispute that may arise there under.

In the event of any breach by the Commonwealth, Contractor's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Contractor's remedies include the right to terminate any license or support services hereunder.

57. CONTRACTUAL RECORDS

Contractor shall make all Contractual books and records and other documents relating to matters under this Agreement available to the Commonwealth and its designated

agents for purposes of audit and examination for a period of five years after final payment.

Contractual records include, but are not limited to, this Agreement and all executed Orders, Attachments, modifications, invoices, and correspondence between the parties to this Agreement.

58. COMPLIANCE WITH FEDERAL LOBBYING ACT

a. Contractor shall not, in connection with this Agreement, engage in any activity prohibited by 31 U.S.C.A. Section 1352 (entitled "Limitation on use of appropriated funds to influence certain Federal Contracting and financial transactions") or by the regulations issued from time to time there under (together, the "Lobbying Act"), and shall promptly perform all obligations mandated by the Lobbying Act in connection with this Agreement, including, without limitation, obtaining and delivering to the Commonwealth all necessary certifications and disclosures.

b. Contractor is hereby advised that a significant percentage of the funds used to pay Contractor's invoices under this Agreement may be federal funds. Under no circumstances shall any provision of this Agreement be construed as requiring or requesting the Contractor to influence or attempt to influence any person identified in 31 U.S.C.A. Section 1352 (a) (1) in any matter.

c. A representative of Contractor shall sign the certification attached as Attachment "A" and deliver such certification to the Commonwealth simultaneously with the execution and delivery of this Agreement. Contractor shall have the certification signed by a representative with knowledge of the facts and shall fulfill the promises of undertakings set forth in the certification.

59. CONTRACTOR'S REPORT OF SALES

Contractor must report the quarterly dollar value, in U.S. dollars and rounded to the nearest whole dollar, of all sales under this Contract by calendar quarter; i.e., January through March, April though June, July through September, and October through December. The dollar value of a sale is the price paid by the user for products and services on a Contract order as recorded by the Contractor. The reported Contract sales value must include the Industrial Funding Adjustment, as delineated in paragraph entitled "Industrial Funding Adjustment". Contractor shall provide this report in hard copy to the Controller, DIT, and a copy of the report to the Contracts Manager, DIT, both within 30 days after the end of each quarterly reporting period as defined herein. The report must show each individual item and quantities purchased and the purchaser. The report is required to be hard copy. DIT may at a later time, agree to an electronic version of the report, however, in lieu of any express agreement by both parties as to the electronic format, the Commonwealth will only accept a hardcopy version. Contractor shall define "sale" prior to the first reporting period and then shall maintain that definition through out the term of this Agreement. Sale may be defined as; 1) when

the Commonwealth or Authorized User pays the purchase price, or 2) when the Commonwealth or Authorized User accepts Products, or 3) other as defined by the Contractor.

60. INDUSTRIAL FUNDING ADJUSTMENT

Contractor must pay DIT, an Industrial Funding Adjustment (IFA). Contractor must remit the IFA within 30 days after the end of each quarterly reporting period as established in the clause entitled "Contractor's Report of Sales". The IFA equals two percent (2%) of the total quarterly sales reported. Contractor shall remit the IFA together with a copy of the Contractor's Report of Sales as delineated in the paragraph herein entitled "Contractor's Report of Sales". The IFA reimburses the Commonwealth and defrays the costs for IT procurement and administration of subsequent awards. The IFA amount due must be paid by check with identification of "Contract number", "report amounts", and "report period", on either the check stub or other remittance material. DIT may at its discretion, agree to an electronic funds transfer, in lieu of a check, however in the absence of an express written agreement from DIT that validates agreement, then the payment shall be made by check as described herein made payable to the Controller, DIT.

If the full amount of the IFA is not paid within 30 calendar days after the end of the applicable reporting period, it shall constitute a Contract debt to the Commonwealth of Virginia, and the State may exercise all rights and remedies available under law. Failure to submit sales reports, falsification of sales reports, and or failure to pay the IFA in a timely manner may result in termination or cancellation of this Contract. Willful failure or refusal to furnish the required reports, falsification of sales reports, or failure to make timely payment of the IFA constitutes sufficient cause for terminating this Contract for default.

It is the intent of the Commonwealth to recover 2% of all sales, including temporary reduced pricing, fire sales, one time sales, trade ins, promotional items that have been marked down and all sales to the Commonwealth under this Agreement.

61. NONVISUAL ACCESS TO TECHNOLOGY:

All information technology which, pursuant to this Agreement, is purchased or upgraded by or for the use of any State agency or institution or political subdivision of the Commonwealth (the "Technology") shall comply with the following nonvisual access standards from the date of purchase or upgrade until the expiration of this Agreement:

(i) Effective, interactive control and use of the Technology shall be readily achievable by nonvisual means;

(ii) The Technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom any blind or visually impaired user of the Technology interacts;

(iii) Nonvisual access technology shall be integrated into any networks used to share communications among employees, program participants or the public; and

(iv) The technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

Compliance with the foregoing nonvisual access standards shall not be required if the head of the using agency, institution or political subdivision determines that (i) the Technology is not available with nonvisual access because the essential elements of the Technology are visual and (ii) nonvisual equivalence is not available.

Installation of hardware, software, or peripheral devices used for nonvisual access is not required when the Technology is being used exclusively by individuals who are not blind or visually impaired, but applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.

If requested, the Contractor must provide a detailed explanation of how compliance with the foregoing nonvisual access standards is achieved and a validation of concept demonstration.

The requirements of this Paragraph shall be construed to achieve full compliance with the Information Technology Access Act, 2.2-3500 through 2.2-3504 of the Code of Virginia.

ATTACHMENT "A"
TO
INVITATION FOR BID (IFB) #02-009

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee or an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal Contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and Contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Printed Name: DENNIS KAO

Organization: CompSolution VA Inc.

Date: 3/14/02