COMMONWEALTH OF VIRGINIA Department of Information Technology

SOLICITATION, OFFER AND AWARD DATA PROCESSING / TELECOMMICATIONS				FIN: 63-1143232	
1. Contract No:	2. IFB No:	3. Date Issued:	Date Due:	4. APR	5. Approval No:
VA-030722-KmCT	2003-050	May 27, 2003	Jun 17, 2003	242	A-11

For Information Call: David Butler (804) 371-5521

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	Dept. of Information Technology Attn: Stuart Thacker 110 South 7th Street 1st Floor Richmond, VA 23219-3931

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 Jun 17, 2003.

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 14; (2) the solicitation instructions pages S-1 thru S-3; (3) The Contract Terms and Conditions page C-1 thru C-21; 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 Jun 17, 2003, 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.

Douglas Wilson, 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: KMC Telecom of Virginia Address: 10 South Jefferson Street, Suite 150 City, State: Roanoke, VA 24011 Signature: Jason Adkins Name (Typed): Jason Adkins Title: Regional City Director Phone: 540-983-9482	Dept. of Information Technology Attn: Accounts Payable 110 South 7th Street 3rd Floor Richmond, VA 23219-3931

AWARD

11. Accepted as to Item Numbers:	12. Amount:	13. Award Date:
all	per order	7-22-03

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

FORM 62 Rev. 12/15/2000

KMC PRICING SCHEDULE

ISDN/PRI Services

Flat Rate PRI Services

ITEM NUMBER	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTEND PRICE
Flat Rate Access Facility (Full PRI)					
1	ISDN/PRI Access Facility (to include NI1, NI2, Clear Channel and Extended Superframe – if required by end user)	1	Per Month	$480.00	$480.00 ✓
2	ISDN/PRI Access Facility (to include NI1, NI2, Clear Channel and Extended Superframe – if required by end user)	1	Installation	$0.00	$0.00
Flat Rate Trunks/ Channels (Full PRI)					
	ISDN/PRI Local Service, "each" price per Trunk/Channel using all 23 - B channels,Voice and/or Data Capable + one (1) D Channel .				
3	Two-way Trunks/Channels	1	Per Month	$20.85	$20.85 ✓
4	Two-way Trunks/Channels	1	Installation	$0.00	
5	One-way Inbound Trunks/Channels	1	Per Month	$20.85	$20.85 ✓
6	One-way Inbound Trunks/Channels	1	Installation	$0.00	$0.00
7	One-way Outbound Trunks/Channels	1	Per Month	$20.85	$20.85 ✓
8	One-way Outbound Trunks/Channels	1	Installation	$0.00	$0.00
PRI Options					
9	Caller ID, Number only	1	Per Month	$0.00	$0.00
10	Caller ID, Number only	1	Installation	$0.00	$0.00
11	Caller ID, with name	1	Per Month	$0.00	$0.00
12	Caller ID, with name	1	Installation	$0.00	$0.00
13	Call-by-Call Trunk Selection	1	Per Month	$0.00	$0.00
14	Call-by-Call Trunk Selection	1	Installation	$0.00	$0.00
15	Package I - Caller ID Number only and Call-by-Call	1	Per Month	$0.00	$0.00
16	Package I - Caller ID Number only and Call-by-Call	1	Installation	$0.00	$0.00

17	Package II - Caller ID with Name and Call-by-Call	1	Per Month	$0.00	$0.00
18	Package II - Caller ID with Name and Call-by-Call	1	Installation	$0.00	$0.00
19	Unlimited Circuit Switched Data (CSD) over ISDN PRI, per channel charge	1	Per Month	$0.00	$0.00
20	Unlimited Circuit Switched Data (CSD) over ISDN PRI, per PRI charge (No charge per channel)	1	Per Month	$0.00	$0.00
Other Misc. Charges					
21	DID Numbers (1st block of 20)	1	Per Month	$18.23	$18.23 ✓
22	DID Numbers (1st block of 20)	1	Installation	$0.00	$0.00
23	DID Numbers (Additional blocks of 20 numbers)	1	Per month	$18.23	$18.23 ✓
24	DID Numbers (Additional blocks of 20 numbers)	1	Installation	$0.00	$0.00
25	Individual DID Number	1	Per month	$0.91	$0.91 ✓
26	Individual DID Number	1	Installation	$0.00	$0.00
27	DID trunk feature, per Trunk	1	Per month	$0.00	$0.00
28	DID trunk feature, per Trunk	1	Installation	$0.00	$0.00
29	DID trunk feature, per PRI (no per trunk charges)	1	Per month	$0.00	$0.00
30	DID trunk feature, per PRI (no per trunk charges)	1	Installation	$0.00	$0.00
31	Additional Directory Numbers (More than one non-DID number pointing a group of trunks)	1	Per Month	$0.00	$0.00
32	Installation (if applicable) Additional Directory Numbers	1	Installation	$0.00	$0.00
33	Service Order Charge (if applicable/per order to Contractor)	1	Installation	$0.00	$0.00
34	Early Termination of Service Penalty, per PRI, (if applicable). State terms in the space below				
	Delete #34 DHB				
Remote Area Access Numbers					
	Calls to a local number in this locality will be free to the caller. The call will be transported to the PRI that terminates in the Radford local exchange area at no charge to the caller. The service will permit unlimited callers to be connected simultaniously.				
35	Blacksburg to include exchanges 200, 231, 232, 443, 552, 553, 557, 558, 808, 951, 953, 961	1	Per Month	$0.00	$0.00

36	Christiansburg, to include exchanges 260, 381, 382, 394, 585	1	Per Month	$0.00	$0.00
37	Dublin, to include exchanges 518, 643, 674	1	Per Month	$0.00	$0.00
38	Narrows, to include exchanges 221 & 726	1	Per Month	$0.00	$0.00
39	Newport, to include exchange 544	1	Per Month	$0.00	$0.00
40	Pearisburg, to include exchanges 921 & 922	1	Per Month	$0.00	$0.00
41	Pembroke, to include exchange 626	1	Per Month	$0.00	$0.00
42	Pulaski, to include exchanges 980 & 994	1	Per Month	$0.00	$0.00
43	Radford, to include exchanges 267, 633, 639, 731, 831	1	Per Month	$0.00	$0.00
44	Roanoke, to include exchanges 206, 224, 265, 266, 283, 343, 343, 344, 345, 359, 362, 366, 422, 427, 491, 510, 512, 526, 527, 561, 562, 563, 581, 725, 767, 769, 772, 774, 776, 853, 855, 857, 890, 892, 904, 977, 981, 982, 983, 985, 986, 989	1	Per Month	$0.00	$0.00
45	Salem, to include exchanges 302, 375, 378, 380, 384, 387, 389, 444, 602	1	Per Month	$0.00	$0.00
46	Shawsville, to include exchange 268	1	Per Month	$0.00	$0.00

Mandated Fees

Delete # 47

47	Universal Service Fund (if applicable) Calculation Below	1	Per Month		
48	Local Number Portability (if applicable)	1	Per Month	$0.00	$0.00
49	VA Relay (if applicable)	1	Per Month	$0.16	$0.16 ✓
50	Federal Subscriber Line Charge (if applicable)	1	Per Month	$0.00	$0.00
51 >	Bidders: State in the space provided below the detailed description and unit price of any mandated fees or surcharges required by the FCC or State Corporation Commission that are not listed above and are required to be passed on to customers. In addition, provide documentation of the FCC/SCC requirement with your bid response.	1	Per Month	$0.00	$0.00
	Subtotal			$580.08	$580.08
	~~9.1% USF Calculation~~			~~$52.79~~	~~$52.79~~
	TOTAL			~~$632.87~~	~~$632.87~~
	***IMPORTANT: The Commonwealth is exempt from paying E-911 tax.**				

NTS

correct amt ✓

PRICING SCHEDULE

ISDN/PRI Services

Flat Rate PRI Services

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Flat Rate Trunks/ Channels (Full PRI)					
	ISDN/PRI Local Service, "each" price per Trunk/Channel using all 23 - B channels,Voice and/or Data Capable + one (1) D Channel .				
3	Two-way Trunks/Channels	1	Per Month	20.85	20.85
4	Two-way Trunks/Channels	1	Installation	None	None
5	One-way Inbound Trunks/Channels	1	Per Month	20.85	20.85
6	One-way Inbound Trunks/Channels	1	Installation	None	None
7	One-way Outbound Trunks/Channels	1	Per Month	20.85	20.85
8	One-way Outbound Trunks/Channels	1	Installation	None	None
PRI Options					
9	Caller ID, Number only	1	Per Month	No Charge	No Charge
10	Caller ID, Number only	1	Installation	None	None
11	Caller ID, with name	1	Per Month	No Charge	No Charge
12	Caller ID, with name	1	Installation	None	None
13	Call-by-Call Trunk Selection	1	Per Month	No Charge	No Charge
14	Call-by-Call Trunk Selection	1	Installation	None	None
15	Package I - Caller ID Number only and Call-by-Call	1	Per Month	No Charge	No Charge
16	Package I - Caller ID Number only and Call-by-Call	1	Installation	None	None

17	Package II - Caller ID with Name and Call-by-Call	1	Per Month	No Charge	No Charge
18	Package II - Caller ID with Name and Call-by-Call	1	Installation	None	None
19	Unlimited Circuit Switched Data (CSD) over ISDN PRI, per channel charge	1	Per Month	No Charge	No Charge
20	Unlimited Circuit Switched Data (CSD) over ISDN PRI, per PRI charge (No charge per channel)	1	Per Month	No Charge	No Charge
Other Misc. Charges					
21	DID Numbers (1st block of 20)	1	Per Month	18.23	18.23
22	DID Numbers (1st block of 20)	1	Installation	None	None
23	DID Numbers (Additional blocks of 20 numbers)	1	Per month	18.23	18.23
24	DID Numbers (Additional blocks of 20 numbers)	1	Installation	None	None
25	Individual DID Number	1	Per month	0.91	0.91
26	Individual DID Number	1	Installation	None	None
27	DID trunk feature, per Trunk	1	Per month	No Charge	No Charge
28	DID trunk feature, per Trunk	1	Installation	None	None
29	DID trunk feature, per PRI (no per trunk charges)	1	Per month	No Charge	No Charge
30	DID trunk feature, per PRI (no per trunk charges)	1	Installation	None	None
31	Additional Directory Numbers (More than one non-DID number pointing a group of trunks)	1	Per Month	No Charge	No Charge
32	Installation (if applicable) Additional Directory Numbers	1	Installation	None	None
33	Service Order Charge (if applicable/per order to Contractor)	1	Installation	None	None
34	Early Termination of Service Penalty, per PRI, (if applicable). State terms in the space below			See Below	See Below
Item# 34: See KMC Addendum A--Item #1					
Remote Area Access Numbers					
	Calls to a local number in this locality will be free to the caller. The call will be transported to the PRI that terminates in the Radford local exchange area at no charge to the caller. The service will permit unlimited callers to be connected simultaniously.				
35	Blacksburg to include exchanges 200, 231, 232, 443, 552, 553, 557, 558, 808, 951, 953, 961	1	Per Month	No Charge	No Charge

36	Christiansburg, to include exchanges 260, 381, 382, 394, 585	1	Per Month	No Charge	No Charge
37	Dublin, to include exchanges 518, 643, 674	1	Per Month	No Charge	No Charge
38	Narrows, to include exchanges 221 & 726	1	Per Month	No Charge	No Charge
39	Newport, to include exchange 544	1	Per Month	No Charge	No Charge
40	Pearisburg, to include exchanges 921 & 922	1	Per Month	No Charge	No Charge
41	Pembroke, to include exchange 626	1	Per Month	No Charge	No Charge
42	Pulaski, to include exchanges 980 & 994	1	Per Month	No Charge	No Charge
43	Radford, to include exchanges 267, 633, 639, 731, 831	1	Per Month	No Charge	No Charge
44	Roanoke, to include exchanges 206, 224, 265, 266, 283, 343, 343, 344, 345, 359, 362, 366, 422, 427, 491, 510, 512, 526, 527, 561, 562, 563, 581, 725, 767, 769, 772, 774, 776, 853, 855, 857, 890, 892, 904, 977, 981, 982, 983, 985, 986, 989	1	Per Month	No Charge	No Charge
45	Salem, to include exchanges 302, 375, 378, 380, 384, 387, 389, 444, 602	1	Per Month	No Charge	No Charge
46	Shawsville, to include exchange 268	1	Per Month	No Charge	No Charge

Mandated Fees

47	Universal Service Fund (if applicable)	1	Per Month	See below	
48	Local Number Portability (if applicable)	1	Per Month	No Charge	No Charge
49	VA Relay (if applicable)	1	Per Month	0.16	0.16
50	Federal Subscriber Line Charge (if applicable)	1	Per Month	No Charge	No Charge
51 >	Bidders: State in the space provided below the detailed description and unit price of any mandated fees or surcharges required by the FCC or State Corporation Commission that are not listed above and are required to be passed on to customers. In addition, provide documentation of the FCC/SCC requirement with your bid response.	1	Per Month	None	None
	Item #47--Explanation of Universal Service Fund is on KMC Addendum				
	TOTAL				
	***IMPORTANT: The Commonwealth is exempt from paying E-911 tax.**				

1. The Department of Information Technology (DIT) is soliciting bids from responsive and responsible Bidders for the establishment of a requirements type contract with firm fixed prices for T-1 and Integrated Services Digital Network/Primary Rate Interface (ISDN/PRI) Access services in the Radford, Virginia geographical Area. DIT, a provider of telecommunications services to state agencies, institutions and other public bodies as defined in Section 2.2-4301 of the Virginia Public Procurement Act (VPPA), will bill those customers defined as "Authorized Users".

2. The Commonwealth intends to contract for T-1 and ISDN/PRI Access services. The contract service area shall at a minimum, provide service to the Radford calling area as defined in the front of the Verizon local white pages. The The remote access numbers include the following exchanges within the 540 area code:

   200, 206, 221, 224, 231, 232, 260, 265, 266, 267, 268, 283, 302, 343, 344, 345, 359, 362, 366, 375, 378, 380, 381, 382, 384, 387, 389, 394, 427, 442, 443, 444, 491, 510, 512, 518, 526, 527, 544, 552, 553, 557, 558, 561, 562, 563, 581, 585, 602, 626, 633, 639, 643, 674, 725, 726, 731, 767, 769, 772, 774, 776, 808, 831, 853, 855, 857, 890, 892, 904, 921, 922, 951, 953, 961, 977, 980, 981, 982, 983, 985, 986, 989, 994

   NOTE: Calls to a local number will be transported to the PRI(s) in the Radford exchange area at no cost to the caller. The number of simultaneous calls will be limited by the quantity of channels available on the PRI's in Radford.

   Response: KMC agrees to these conditions.

3. The term of the contract awarded as the result of this solicitation shall be for one (1) year. The Commonwealth, at its sole discretion, reserves the right to extend the contract, at the prices quoted or less, for up to three (3) additional one (1) year periods. Should the Commonwealth elect to exercise this option, the Contractor will be notified of the State's decision not less than thirty (30) days prior to the expiration of the initial contract or its subsequent extension period(s).

   Response:KMC accepts the Commonwealth's right to extend the contract under these conditions.

4. Award, if made, will be to the responsive and responsible Bidder with the lowest annualized and combined costs for all the services listed on the Price Schedule. The total cost for all the services listed on the Price Schedule will be used to evaluate the bid responses, however, PRI's must be provided in any quantities specified by the Commonwealth.

   Response: KMC agrees to these conditions.

5. This solicitation identifies the services that the Contractor must be capable of providing during the term of the contract. Although the Price Schedule specifies the quantities and types of services the Commonwealth anticipates initially procuring, the state offers the successful Bidder no guarantees or assurance that any minimum quantity of the services listed will be purchased or, if purchased, will remain in service for any minimum period of time.

   Response: KMC understands and accepts these conditions.

6. Fees for items such as the Universal Service Fund, Local Number Portability, VA Relay Service, and the Federal Subscriber Line Charge may be included in the cost of the service or priced individually. Any fees not specifically itemized in your response will not be paid for by the Commonwealth.
   Response: All charges are shown as part of the Pricing section.
7. If Vendor service offering requires penalty charges for disconnecting PRI services before one year of service, please specify. The charges are included in the Pricing Schedule.
   Response: KMC's early termination penalties are outlined in KMC Addendum A, Item #1.
8. GENERAL DESCRIPTION:

   PRI service is provided between one customer location and a local or long distance carrier. T-1/PRI service provides a full duplex serial, bipolar, isochronous, digital transmission access facility at a nominal 1.544 Megabit per second rate. The PRI facility consists of 23 "B" (Bearer) and 1 "D" (Data) channels. The "B" channels can be used to carry any combination of voice, data and video transmissions.
   Response: KMC understands and accepts this description.
9. T-1/PRI SERVICE INTERFACE AND PERFORMANCE SPECIFICATIONS:

   PRI access facility will comply with Bellcore Technical Publication TR 000054. The Network Interface will be a DS-1, 4 wire electrical interface. Performance will be better than 99.9% over a 24-hour period. The T-1/PRI CSU/DSU may be supplied by the customer.
   Response: KMC PRI access facilities comply with these specifications.
10. The definitions below are designed to clarify terminology. A Bidder may choose to charge for the items described, but it is not a requirement to charge for each item. However, the Bidder must provide the items and features as described.

    A. Primary Rate Interface (PRI)

    PRI service is based on the Primary Rate Interface specifications of the Integrated Services Digital Network (ISDN). ISDN PRI is a high capacity access path for transmitting voice, data and video transmissions over the public network. PRI interfaces are available from many PBX, Router, Bridge, and data switch vendors. PRI offers PBX and Data users Caller ID, and/or Call-by-Call options.

    The PRI service will comply with National ISDN - 2 or later standards.

    B Channel: Each B channel must provide 64 Kbps of bandwidth that may be used for circuit switched voice, circuit switched data or packet switched data transmission.

    D Channel: Each D channel must provide 64 Kbps of bandwidth. The D channel carries the signaling and control information for the B channels. The D channel bandwidth is not available for agency use.

Paragraph #10 Continued:

Primary Rate Access Facility: The PRI must provide the transmission facility at a minimum speed of 1.544 Mbps. This is a T-1 (DS-1) facility conditioned for PRI. For the purposes of this IFB a "Full Bandwidth" facility will utilize all 23 channels/trunks. Standard interfaces, NI1, NI2, etc. and framing options, ESF and B8ZS are required.

PRI Arrangement: The PRI arrangement must consist of 24 channels. The first PRI in group of PRI's must have 23 "B" channels and one "D" channel Ther are 23 "B" channels available for customer use. The channels are most commonly used for voice trunks. The trunks can be provisioned for flat rate calls. They can be restricted to inbound only, outbound only or have two-way capability.

23B + D Channel Configuration: All PRI arrangements must have at least one PRI configured for 23 "B" channels and one "D" channel. the 23 "B" channels provide 64Kbps paths for the transfer of Agency information. The "D" channel is used for signaling and control functions.

24B + 0D Channel Configuration: Where available and requested, a single "D" channel can support multiple PRI arrangements. The additional PRI facilities can then be configured for 24B+0D.

23B + Back up D Channel Configuration: Where available and requested, a back up D channel must be provided to automatically take over for the failed D channel. If the "D" channel on the first PRI fails, the signaling automatically switches to the "D" channel on the back up 23B+D arrangement.

Dedicated "B" Channel Configuration: Services such as DOD, DID, WATS, 800 can be directly assigned to specific "B" channels.

Call-by Call Service: "B" channels may be configured to access multiple services on a per call basis. The Agency's equipment (PBX, VRU, ACD, Centrex, etc.) signals the vendor's switching equipment as to what type of service to access for each call. Incoming and outgoing Trunk Groups must be able to be selected from the combined Trunk Group on a Call-by-Call basis based on traffic demand.

Caller ID: This feature will provide the end user access to the directory number of the calling party. The Caller ID feature will have the capability to transmit the calling line information to the customer's switch, Router, bridge or data communications equipment and receive calling line identification from the customer's switch. Caller ID is offered as number only or number with the name of the caller.

Paragraph #10 Continued:

PRI Trunk Group: Types of Trunk Groups:

Incoming, with or without DID capability
Outgoing
Two-way
WATS
800 Trunk Group
Call-by-Call Service Trunk Group

The same trunking options listed under "Trunking" below will apply to PRI trunk groups.

In addition to Trunk Groups, "B" channels may be used individually or in groups for voice, data, or video applications.

Response: KMC accepts the specifications and requirements in this section.

B. Trunking:

Direct Out-Dial Trunks (DOD): The outbound trunks must be able to support PBX equipment. The trunking options must accommodate loop start, and ground start, immediate start, wink, and E&M signaling; Pulse, Touch-tone (Dual Tone Multi-Frequency (DTMF) dialing; Multi-Frequency (MF) signaling, and all standard impedance terminations.

Two-Way Trunks: The two-way trunks must have the ability to handle incoming and outgoing traffic. The two-way trunks must provide the same options as the DOD trunks. The two-way trunks must have the ability to have individual numbers, a lead hunting number for a group of trunks, or both.

Direct Inward Dialing Trunks (DID or DNIS): DID trunks allow an outside caller to directly connect to a PBX or Centrex extension without having to be assisted by a PBX or Centrex operator. The DID trunks must be able to send the specified number of digits to the PBX or Centrex using the standard signaling arrangements specified under DOD trunking above.

Flat Rate Voice Option: This option establishes a fixed rate for a trunk/channel, regardless of the quantity of calls or the length of the calls.

Flat Rate Data Option: This option establishes a fixed rate for a trunk/channel, regardless of the length of the calls. Provide pricing per channel or per PRI. The customer will choose the per channel or per PRI rates based on the number of data channels in use.

Direct Inward Dialing numbers: DID numbers allow callers from the public network to access individual stations that are connected to the customer's switching equipment. DID numbers may be assigned individually or in blocks of numbers.

Paragraph #10 Continued:

DID trunk feature: Incoming trunks which carry DID traffic may be billed at a higher rate than those that do not carry DID traffic. This feature provides the billing element. The charge may be calculated on a per trunk or per PRI basis or a choice of either per trunk or per PRI.

Additional Directory Numbers: Non-DID two-way trunks usually have one number assigned to the trunk group. Additional Directory Numbers are needed when more than one number is used to direct calls to a common trunk group.

Response: KMC accepts and agrees to these specifications and descriptions.

C. Remote Access Numbers:

Local numbers in other communities that will automatically connect callers to the PRI with no charges to the calling party. The usage charges, if any, will be billed to the PRI account, not to the caller. The service should permit an unlimited number of callers from each area to connect simultaneously to the PRI. The charges, if any, for this service will be a flat monthly fee.

Response: KMC can provide this service at no additional monthly cost.

11. The Contractor must provide a centralized problem reporting, and maintenance system (Help Desk) that is manned 24 hours a day 7 days a week. The Contractor will be required to provide an "800" number to Help Desk for unlimited telephone support for the duration of the contract. A plan for escalation of troubles and after hour's contacts in the case of an emergency must be included as an attachment.

Response: KMC provides this level of service. The requested plan is included as KMC Addendum #2

12. SERVICES BILLING:

A. Each month, the Contractor will be required to submit one (1) consolidated bill to DIT for all goods and services purchased from the contract during the billing period. DIT will function as the intermediary between the Contractor and the agecies to provide a single point of contact for both service acquisition and billing matters.

Response: KMC accepts this requirement.

B. Each monthly bill shall include both monthly recurring charges and non-recurring charges for one-time installation costs, partial month's service charges, etc. The non-recurring charges are often referred to as "Other Charges and Credits (OC&C)." The bill shall specifically delineate State and Federally mandated charges and fees, such as Virginia Relay Service, Universal Service Fund, Federal Access Fees, etc. No invoice may include any costs other than those identified in the Pricing Schedule.

Response: KMC's invoice meets these criteria, and KMC accepts these requirements.

C. All charges must be identified at the lowest level of detail. Failure to submit adequate billing details will result in non-payment of the invoice.

Response: KMC's invoice provides this level of detail. KMC accepts this requirem

Paragraph #12 Continued:

D. Vendor bills must include the Contractor's Federal Identification Number (FIN).

Response: KMC will provide the PIN on the invoice as requested.

E. The Commonwealth's billing cycle will begin on the 28th day of each month, and will end on the 27th day of each month. Vendor bills must be submitted to DIT within ninety (90) days after the services are delivered. Any charges disputed by DIT must be formally responded to by the Vendor within ninety (90) days or DIT will assume problems are resolved. Charges older than ninety (90) days will not be paid.

Response: KMC's billing cycle begins on the 20th of the month and concludes the 19th of the next month.

F. Vendor bills will be paid in accordance with the Commonwealth's Prompt Payment Act", which requires payment within thirty (30) days of receipt of goods and services or a proper invoice, whichever is later.

Response: KMC accepts this requirement.

G. If available, charges should be provided on electronic media at the detail level. Magnetic tape is the preferable media.

Response: KMC provides charges on CD-ROM as well as paper, at no additional cost.

13. UNIVERSAL SERVICE FUND (USF) PARTICIPATION

A. The Contractor agrees to make available to all requesting USF Participants, all Services as delineated and priced herein.

Response: KMC agrees.

B. All USF requests by participants shall be made directly to the Contractor. The Contractor agrees to provide the Services directly to the USF participant, and bill each USF participant directly.

Response: KMC agrees.

C. The Contractor agrees to any and all additional submission of paperwork as generated by the said contract participation required the USF as administered by the FCC, i.e., obtaining the correct amount of reimbursement from the FCC, etc.

Response: KMC agrees.

D. The Contractor agrees and understands that the responsibility for payment of all charges incurred, and the responsibility for resolving all service problems as well as administration of said contract for USF participation shall be the sole responsibility of the Contractor.

Response: KMC agrees and accepts.

14. MANDATORY INSTALLATION REQUIREMENTS

A. The Contractor shall terminate the T-1 and/or ISDN/PRI service on a Contractor-provided RJ-45 network interface device (NID) located in the end user's building telecommunications equipment room. The NID shall be labeled to clearly identify the location of each T-1 and/or ISDN/PRI on the interface. The NID shall be located in each facility's building main telecommunications equipment room. Additionally, the Contractor shall provide and install fast-acting gas-tube transient voltage surge suppressors on each service installed in the facility. The Commonwealth will not accept carbon block protectors as secondary protection.

NOTE: The Commonwealth will be responsible for all intra-building cabling from the NID to the telecommunications equipment.

Response: KMC accepts these requirements and agrees to meet these standards.

Paragraph #14 Continued:

B. During the course of installation, the Contractor shall not interfere with the current operational telephone system and/or telecommunications cabling system in a manner that causes operational outages. In the event that temporary modifications to the existing telephone and/or cabling system become necessary to complete the installation of the new service, the Contractor shall notify the on-site contact person of such need in order to schedule a mutually agreeable time for the Commonwealth to have the modifications completed.

Response: KMC agrees to this requirement.

C. The Contractor shall be responsible for obtaining all rights-of-way, licenses, and/or permits required by applicable authorities in order to install the service at the location specified on the Telecommunications Service Order issued by DIT.

Response: KMC accepts this responsibility and agrees to this requirement.

15. TELECOMMUNICATIONS SERVICE ORDER (TSO) PROCESSING

A. DIT reserves the exclusive authority to Order service from the contract that results from this solicitation. All requests for service under the contract will be submitted to the Contractor on a Department of Information Technology "Telecommunications Service Order (TSO)" that has been signed by an authorized "Ordering Officer" appointed by DIT's Contracts Manager. The Ordering Officers appointed by DIT's Contracts Manager are identified in the paragraph of the contractual "Terms and Conditions" section of this solicitation entitled, "Ordering Officers". A properly endorsed TSO issued by DIT will serve as the only official document for ordering services from the contract, and will cite the contract as its ordering authority.

Response: KMC agrees to this requirement.

B. The TSO will clearly identify the services desired, requested service installation date, point of contact at the site that is familiar with the installation requirements, and other information necessary to accurately deliver the required services.

Response: KMC accepts this requirement.

C. Changes, additions and or deletions to the services requested will not be permitted unless approved in advance by an Ordering Officer.

Response: KMC agrees to this requirement.

D. Upon processing a properly issued TSO, the Contractor must provide DIT written confirmation that the service requested will be delivered as ordered, or amended with approval from an Ordering Officer. The written confirmation must include the Contractor's service order number, service installation date, and the name and telephone number of the Contractor's representative responsible for processing the TSO. The confirmation should be received by DIT's ordering office at least seventy-two (72) hours before the agreed to due date.

NOTE: A copy of a DIT Telecommunications Service Order is provided in "Attachment A" of this solicitation.

Response: KMC agrees to provide written confirmation as per this specification.

Paragraph #15 Continued:

E. All additional instructions pertaining to TSOs are identified in the paragraph of the contractual "Terms and Conditions" section of this solicitation entitled, "Telecommunications Service Orders (TSO)".

Response: KMC accepts this requirement.

16. WARRANTY AND MAINTENANCE REQUIREMENTS

A. The Primary Rate Interface (PRI) ISDN service shall be warranted to operate free from failure and shall be available for use by the Commonwealth twenty-four (24) hours per day, seven days per week, including weekends and holidays. The cost of the warranty shall be included in the monthly cost for the service. Bidders shall provide the name, address, and toll-free telephone number of the Bidder's service organization on page 16 of this solicitation.

Response: KMC agrees to provide this warranty at no cost. Information is provided as requested.

B. The Contractor shall respond to reports of interruptions of the normal operation of the Primary Rate Interface (PRI) ISDN service within one (1) hour after receipt of notification from the Commonwealth. The Contractor's response may be on-site or from a remote location based on the Contractor's determination of the source of the failure. If an on-site response is required, the Contractor's repair personnel shall be on-site and working to restore service within four (4) hours after receipt of the initial report of the failure. The Contractor shall restore service to normal operation within eight (8) hours after the initial report of the failure or provide a credit to the Authorized User for each eight (8) hours or portion thereof that the circuit is out of order.

Response: KMC accepts these response time and credit specifications.

17. MCI Worldcom is the Commonwealth's current preferred inter-exchange carrier (PIC). To be responsive, the Bidder's faccilities must provide "Equal Access" to all inter-exchange carriers (IXCs) to allow the Commonwealth to route all of its outgoing intra-LATA, inter-LATA and interstate long distance calls to MCI or any other IXC that the state may select to use in the future.

Response: KMC provides "Equal Access" and will route calls as requested by the Commonwealth.

18. Concurrent with the issuance of this IFB, DIT is developing a long-term strategy for procuring local exchange telephone services throughout the Commonwealth. This effort could result in contracts being awarded for the provision LEC services in large geographical regions of the state. Therefore, by submitting a bid, each Bidder agrees that if it is the vendor awarded the contract resulting from this solicitation, and is also the recipient of a contract to provide the same or substantially similar services on a statewide basis or in a region encompassing the location(s) specified herein, the Commonwealth shall have the option to cancel this agreement and have the services provided under the new contract.

Bidders further agree that should the Commonwealth convert the services specified herein to a state or regional contract, the state will NOT be held liable for early termination of the original contract, nor will the state be responsible for any installation or conversion charges to acquire services under the replacement contract.

Response: KMC agrees to accept this exception to the early termination penalty.

19. All Bidders submitting bids must be registered with the Department of Information Technology prior to an award. The Bidder's Federal Identification Number (FIN) should be placed in the upper right hand corner of Page 1 of the bid solicitation. In the event the Bidder does not provide the appropriate identification number, DIT may not be able to verify registration and the Bidder's bid may be ruled non-responsive without appeal. Registration forms are available from the issuing office, the ASD web site, URL http://asd/state.va.us or by calling(804) 371-5900.

    Response: KMC has provided the FIN as requested and is registered with the DIT.

20. The Acquisition Services Division (ASD) maintains and Internet web site at http://asd.state.va.us which contains the official copy of this solicitation and all amendments. Bidders are requested to check this site prior to submitting bids, in the event the solicitation is amended or extended. It is the Bidder's responsibility to submit a bid containing the latest version of this solicitation with all signed amendments.

    Response: KMC accepts this requirement.

21. Bid results will not be given out by telephone. Bidders wishing bid results should submit a self-addressed, stamped envelope along with their bid. The envelope should have the bid number clearly noted on the outside. Awards will also be posted to the ASD web site http://asd.state.va.us

    Response: KMC has submitted the envelope.

22. Contract Terms and Conditions are attached to this solicitation document. 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 document signed by persons other than the Contracts Manager, DIT, shall have not validity and the attached Terms and Conditions shall supercede all such agreements. Bidders should read and understand all of the terms and conditions prior to submission of a bid. All Bidders are reminded to sign and return Attactment "B" to IFB 2003-037, Certification Regarding Lobbying.

    Response: KMC accepts these Terms and Conditions, and is returning a signed Attachment "B".

23. Bidder's attention is directed to the Code of Virginia 56-234. The Commonwealth is procuring Services as identified and provisioned under this Contract. The only Terms and Conditions governing the purchase and provision of the Services, are contained herein. Any bid response that purports to supply Services in whole or in part under different Terms and Conditions, shall be considered non-responsive.

    Response: KMC understands and accepts these requirements.

24. To be eligible to bid, Bidders must be currently authorized by the Virginia State Corporation Commission (SCC) to provide T-1 and ISDN/PRI services within the geographical area of Radford, Virginia.

    Response: KMC is currently authorized to provide these services within Radford, Virginia.

NAME OF CONTRACTOR	REQUIRED DELIVERY DATE:	INITIALS
KMC Telecom	(RDD) 30 DAYS ARO	

25. Any questions concerning this solicitation must be submitted, in writing to the attention of Dave Butler at the address listed in Block #6, page 1 of this solicitation no later than April 30, 2003. Please mark the outside of your envelope "QUESTIONS CONCERNING IFB 2003-037". Written questions may also be submitted via facsimile to (804) 371-5969 or via e-mail to dbutler@dit.state.va.us No response will be made to telephone calls.

IN THE SPACE BELOW, BIDDERS SHALL PROVIDE THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE SERVICE ORGANIZATION.

Response: KMC Telecom of Virginia

Address: 10 South Jefferson Street, Suite 150, Roanoke, VA 24011

Telephone: 540.982.8180

SOLICITATION INSTRUCTIONS
REV. 03/01/02

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) #03-050

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 acquire Centrex-type local exchange telephone services ("Services") on the behalf of Agencies, Institutions, and other public bodies as defined in §2.2-4301 of the Virginia Public Procurement Act ("VPPA"), hereinafter referred to as "Authorized User", in the area of Radford, Virginia, from the Contractor identified in block #9, page 1 of the Solicitation, hereinafter referred to as "Contractor." This is firm fixed-price, requirements-type Contract.

2. VENDORS MANUAL

This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.dgs.state.va.us/dps under "Manuals."

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 this Contract, the Contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia 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 Services purchased or acquired by the Commonwealth of Virginia under this 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 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 or purchase order, that are to be paid for with public funds, shall be billed by the Contractor at the Contract price, regardless of which public agency 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 shall promptly notify the Contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A 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, 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.

12. 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 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 contemplated therein.

13. TESTING AND INSPECTION

The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure Services conform to the specifications and requirements delineated herein.

14. ASSIGNMENT OF CONTRACT

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

15. MODIFICATIONS

This Contract maybe modified in accordance with Section 2.2-4309 A, C of the Code of Virginia. Such modifications may only be made by the representatives noted below. No modifications to this Contract shall be effective unless it is in writing and signed by the duly authorized representative of both parties. No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent to breach is in writing. For purposes of the Contract, the only authorized representative for the Commonwealth shall be the individual identified in block #14 of this solicitation or his duly designated alternate, and for the Contractor the person identified in block #9 of the solicitation.

Any contract issued on a firm fixed price basis may not be increased more than twenty five percent (25%) or $50,000.00 whichever is greater, without the approval of the Governor of the Commonwealth of Virginia or his authorized designee.

16. TAXES – FEDERAL, STATE AND LOCAL

The Commonwealth of Virginia is exempt from Federal excise and all State and Local taxes. Such taxes shall not be included in Contract prices. Tax certificates of

exemption, Form ST-12 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.

17. INSURANCE

By signing and submitting a bid under this solicitation, the 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. The 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.

18. ANNOUNCEMENT OF AWARD

Upon the award or the announcement of the decision to award a contract over $30,000, as a result of this solicitation, the purchasing agency will publicly post such notice on the DGS/DPS eVA web site (www.eva.state.va.us) for a minimum of 10 days.

19. DRUG-FREE WORKPLACE

During the performance of this Contract, the 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.

20. 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.

21. ENTIRE AGREEMENT

This Contract, the solicitation, bid response, solicitation instructions, attachments, and all Services 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 Services 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 Services acquired under this Contract unless signed by the Contracts Manager, DIT, or his alternate as designated by the Director, DIT.

22. BREACH

Contractor shall be deemed in breach of this Agreement if Contractor (a) fails to make any Service ready for acceptance testing by the specified delivery date; (b) repeatedly fails to respond to requests for Warranty maintenance or other required Service within the time limits set forth in this Agreement; (c) fails to comply with any other term of this Agreement and fails to cure such noncompliance within ten days (or such greater period as is acceptable to the Commonwealth) following Contractor's receipt of a "Show Cause" Notice identifying such noncompliance; or (d) fails to provide a written response to the Commonwealth's "Show Cause" Notice within ten (10) days after receiving same.

Contractor shall not be in breach of this Agreement if its default was due to causes beyond the reasonable control of, and occurred without any fault or negligence on the part of, both the Contractor and its subcontractors. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Commonwealth in either its sovereign or Contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

In the event of breach, in addition to any other remedies provided by law, the Commonwealth may cancel its obligations with respect to any or all unaccepted Products or Services. All costs for deinstallation and return of Products shall be borne by the Contractor. In no event shall any failure by the Commonwealth to exercise any remedy available to it be construed as a waiver of or consent to any breach.

23. 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.

24. INSTALLATION DATES

a. The Contractor shall deliver/install the requested Services ready for use, by the installation date identified on each individual TSO, and subsequently agreed to.

b. Any amendment by the State to this Contract or any part thereof, may require the establishment of a new mutually agreed to required delivery date. The State may delay the installation date by notifying the Contractor at least ten (10) days before the required installation date.

c. If the Services are not delivered/installed within the time specified in the Schedule, the State reserves the right to cancel the award of this Contract and/or terminate this Contract for default without further obligation, and award the solicitation to the next responsive and responsible bidder. Contractors are cautioned that failure to deliver/install the proposed Services 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.

25. TELECOMMUNICATIONS SERVICE ORDERS (TSOs)

DIT retains the exclusive authority to order all Services delineated herein. The Commonwealth will issue a Telecommunications Services Order (TSO) to the Contractor for Services identified herein. To be valid, the TSO must cite the Contract Number identified in Block #1, DIT form 62, and must be signed by an Ordering Officer authorized to bind the Commonwealth contractually for telecommunications Services acquired under this Agreement. The TSO must identify the Service(s) to be acquired, the price for each Service and the required Service Commencement Date for each Service.

Upon receipt of a TSO via either regular mail, facsimile, or electronically, the Contractor shall process the TSO and return a Service Order identifying the following information:

a. Verification that the TSO is technically correct;
b. Date Services will commence;
c. Verification of the charge for each item (Service) to be provided, and;
d. Other applicable administrative information necessary to deliver the Services requested on the TSO.

A copy of DIT's standard TSO is attached to this solicitation as "Attachment A".

26. CONTRACTOR ACCESS TO COMMONWEALTH LOCATION/S

Commonwealth shall grant to Contractor personnel such access to the Commonwealth location as may be necessary or appropriate for Contractor to perform its obligations under this Agreement, subject to all security issues. For any individual Commonwealth location, the Contractor may be required to undergo additional security procedures that may include but not be limited to; records verification, submission of photos and or fingerprints, etc. The Contractor may at any time, for any Commonwealth location, be required to undertake the execution and completion for each individual employee, the requirement of the submission of additional forms that the Commonwealth would consider reasonable for security measures. These forms may include the individual employee's agreement that all Commonwealth information that is garnered while at the Commonwealth site is confidential and proprietary. Any unauthorized release of proprietary information by the Contractor or Contractor's employees shall constitute a breach of this Agreement.

27. ORDERING OFFICER(S)

The Contracts Manager, Acquisition Services Division, DIT, appoints the following authorized Primary and Alternate Ordering Officers. The Ordering Officer(s) authority is

limited to ordering the Services as identified in the Schedule herein, by written TSO(s) which reference this Contract, and does not include the ability to add any additional Services not set forth in the Schedule herein or to change or modify any prices, terms and/or conditions agreed upon by the parties hereto. All changes to this Contract must be incorporated in a formal modification to this Contract by the parties identified in paragraph 15 of this Contract.

The authorized Ordering Officers appointed by DIT and assigned to this Contract are identified below. Notwithstanding anything to the contrary, the State will make payment only against the base Contract and other valid TSO(s) executed by the Ordering Officers listed below.

ALTERNATE ORDERING OFFICER	PRIMARY ORDERING OFFICER
Mr. Phil Johnson Dept. of Information Technology 110 South 7th Street Richmond, VA 23219 Phone (804) 371-8537 pjohnson@dit.state.va.us	Mr. Donald Spangler Dept. of Information Technology 110 South 7th Street Richmond, VA 23219 Phone (804) 371-8538 dspangler@dit.state.va.us

28. SERVICES

During the term of this Contract, the Contractor is not authorized to substitute any Service identified in the Schedule without the written permission of the Director, Acquisition Services Division, DIT. Violation of this condition shall be considered grounds for termination of the Contract.

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.

The 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 or software by the Commonwealth is prevented by permanent injunction or by Contractor's failure to procure the right for the Commonwealth to continue using the software, the Contractor agrees to take back the infringing equipment, software, 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 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 Services listed under this Contract, the Commonwealth will terminate this Contract, or any individual TSO, for those 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 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. PRICE PROTECTION/ADJUSTMENTS

The State will not pay any additional costs above those costs provided for in the Schedule identified herein. In no event may the amount of any Contract, without adequate consideration, be increased for any purpose.

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

33. TERM

The term of this Contract shall be for a period of one (1) year from the date of execution of this Contract by the Contracts Manager, DIT. The Commonwealth at its sole option may extend the term of this Contract, at the prices quoted or less, for up to three (3) additional one (1) year periods. The Contractor shall be given thirty (30) days notice of the Commonwealth's intention to extend the term for such additional periods.

34. TERMINATION FOR CONVENIENCE

The Department of Information Technology (DIT), may at its sole option and discretion, cancel all or any portion of the Services set forth in this Contract at any time such action is deemed to be in the best interest of the Commonwealth of Virginia.

The Contractor shall be given thirty (30) days written notice of any such request for termination.

By execution of this Agreement, Contractor agrees that in the event of termination for convenience, there shall be no termination costs or charges due.

The Commonwealth makes no assurances that any Service purchased under this Contract will remain in service for any minimum amount of time.

35. 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.

36. 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.

37. LIMITATION OF LIABILITY

To the maximum extent permitted by applicable law, the Contractor's liability under this Contract for loss or damages to government property caused by use of any defective or deficient supplies, products, equipment and/or services delivered under this Contract shall not exceed the greater of $120,000 or twice the amount of money paid to the

Contractor under this Contract during the twelve-month period preceding the event or circumstance giving rise to such liability. 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. The above limitation of liability is per incident. The limitation and exclusion of damages in the foregoing sentences 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.

38. ACCEPTANCE, TESTING AND COMPLIANCE WITH SPECIFICATIONS

All Services (each installation) are subject to inspection and testing by the State to ensure Services delivered are in accordance with all requirements delineated herein and in the attached Schedule, and any which do not meet or exceed the specifications or other requirements of the Contract may be rejected. The State shall be given seventy-two (72) hours from the completion of installation by the Contractor to test, evaluate and accept the Services delivered or furnished under this Contract (provided that the using agency, in its sole discretion, may accept the same prior to expiration of the seventy-two (72) hour period). If the Contractors Services fail to meet the Contract specifications or other requirements, or those required by the Contractor's own technical documentation, then the same may be rejected and returned to the Contractor. Such rejection will terminate the individual TSO issued under this Contract, and at the sole option of the State, the Contract. Such termination shall exempt the State from all costs incurred by the Contractor.

Acceptance shall be effective for the purpose of making payment for Services delivered, however, acceptance by the State following testing and evaluation during the seventy-two (72) hour period shall not be conclusive that the Services conform 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 Services 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.

39. INVOICES

All invoices shall be rendered promptly after all Services covered by the invoice have been accepted. All payments under this Agreement shall be monthly in arrears. No invoice may include any costs other than those identified in the Schedule or the individual TSO referencing this Contract. Invoices shall provide at a minimum:

1 Type and description of the Service;

2. Charge for each item;

3. This Contract Number/TSO Number, and;

4. Contractor's Federal Identification Number (FIN);

40. SERVICES WARRANTY

Contractor shall deliver and maintain the Services as defined below:

a. The Service shall be warranted to operate free from failure and shall be available for use by the Commonwealth twenty-four (24) hours per day, seven (7) days per week, including weekends and holidays. The cost of this Warranty is included in the monthly recurring price, for each Service contained herein and continues throughout the life of the Service.

b. The Contractor shall respond to reports of interruptions of the local exchange service within one (1) hour after receipt of notification from the Commonwealth. The Contractor's response may be On-site or from a remote location based on the Contractor's determination of the source of the failure. If an On-site response is required, the Contractor's repair personnel shall be On-site and working to restore service within four (4) hours after receipt of the initial report of the failure. The Contractor shall restore service to normal operation within eight (8) hours after the initial report of the failure or provide a credit to the Authorized User for each eight (8) hours or portion thereof that the Commonwealth is denied access to the Service.

c. Contractor shall furnish this On-site warranty service twenty-four (24) hours per day, seven (7) days per week for the duration of this Agreement at no cost to the State. The warranty covers all travel, labor, and parts.

41. RESPONSE TIME

Contractor shall respond to reports of interruption of Service and acknowledge all requests for service with a status report within one (1) hour after notification by an Authorized User that a Service failure has occurred. Contractor shall include in the status report a description of the failure, and the estimated time to repair/restore Services.

42. TROUBLE REPORTING

Contractor shall provide designated point-of-contact name, address, and toll-free telephone number for the reporting of Service problems encountered by the Commonwealth while using the Services. The point of contact shall be staffed and

available twenty-four (24) hours per day, seven (7) days per week, including weekends and holidays.

43. DOWNTIME CREDITS

The Commonwealth shall be rebated, or credited, a prorated hourly portion of the applicable monthly service charges for each occurrence during which the Commonwealth is denied use of the Service due to service failures and disruptions for eight (8) hours or more during any single twenty-four (24) hour period. The rebate shall apply to the initial eight (8) hours and all additional hours, or portions thereof, during which the Commonwealth is denied access to the Service.

44. 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 Contractor shall fail to deliver the Services required by this Contract or (b) the Contractor shall repeatedly fail to respond to requests for maintenance or other services within the time limits set forth in the Contract or (c) the Contractor shall breach any of the other terms set forth within this agreement or (d) the Contractor shall fail to cure any breach after receiving a "Show Cause Notice" identifying the failure, and providing the Contractor ten (10) days to cure the failure/nonperformance. If the Contractor 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 Commonwealth will only be liable for cost incurred to the date of termination.

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.

45. 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.

The Department of Information Technology, 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 thereunder.

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.

46. PRIME CONTRACTOR RESPONSIBILITY

If the Contractor's proposal includes any goods or services to be supplied by another party, the Contractor agrees as follows:

a. The Contractor shall act as prime Contractor for the procurement and maintenance of the entire proposed configuration and shall be the sole point of contact with regard to all obligations under this Agreement.

b. The Contractor hereby represents and warrants that the Contractor has made such other party aware of the proposed use and disposition of the other party's product or services, and that such other party has agreed in writing that it has no objection thereto.

47. THIRD PARTY BILLING

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

48. CREDITS

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

49. PRIORITY OF SERVICE (DELIVERY)

The Commonwealth of Virginia requires that Contractor provide delivery equal to or better than that provided its commercial and retail customers. Contractors who fail to comply with this provision are advised that such action shall be considered grounds for termination of this Agreement. Contractors whose agreements are terminated for such action may be placed on DIT's list of Debarred/Ineligible bidders in accordance with Section 7.20 of the Division of Purchases and Supply's Vendor's Manual dated December 1998.

50. CONTRACTUAL RECORDS

The 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.

51. 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 thereunder (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 "B" 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.

52. 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.

53. UNIVERSAL SERVICE FUND

Contractor agrees to make available to all requesting USF participants, all products and Services as listed and priced herein. Contractor agrees to provide the Products and

Services directly to the USF participant, and to bill each USF participant directly. Contractor agrees and understands that responsibility for collection of all charges incurred, and responsibility for resolving all Product and Service problems as well as administration of said Contract for USF participation shall be the sole responsibility of the Contractor.

Contractor warrants that it is qualified under applicable Federal Communications Commission and Virginia State Corporation Commission rules to apply for and receive Universal Service Fund allocations/disbursements for services provided pursuant to this Contract to agencies and entities and users which are eligible for those allocations/disbursements on behalf, and for the benefit, of those agencies and institutions. Contractor also agrees to maintain those qualifications, and to assist agencies and entities in applying for and receiving these allocations/disbursements.

54. ADDITIONAL SERVICES

The Commonwealth may order additional Services during the Term or any extensions thereof, from this Contract for Services identified herein and at the computed unit prices expressly stated herein. All orders shall be composed and processed as per paragraph #25 entitled "Telecommunications Service Orders".

ATTACHMENT "A"
TO
IFB 2003–050

DEPARTMENT OF INFORMATION TECHNOLGY
110 SOUTH 7TH STREET, RICHMOND, VA 23219
TELECOMMUNICATIONS SERVICE ORDER

* DIT ORDER NO : PROJECT:
* ACCOUNT NO. : REQUESTED DUE DATE:
* DIT CONTACT :
* TELEPHONE :
* COPY TO :
*
* DIT APPROVAL : _____ DATE: _____

ACTIVITY CODE: AGENCY LOG NO:
AGENCY :
COORDINATOR : .
ADDRESS :
CITY :
STATE: ZIP:
TELEPHONE :

* VENDOR :
* ADDRESS :
* CITY :
* STATE : ZIP:
* REMARKS TO VENDOR:
*
* ATTENTION:
*
*
*
*
* SERVICE REP: _____
*
* TELEPHONE : _____ DUE DATE: _____
*
* S.O. NOS : _____ _____ _____ _____
*
* REMARKS FROM VENDOR:
* _____
* _____
* _____
* _____
*

SERVICE ORDER GENERAL DESCRIPTION: DESCRIPTION PAGE 1

ATTACHMENT "B"
TO
IFB 2003–03750

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: Jason Adkins

Printed Name: Jason Adkins

Organization: KMC Telecom

Date: 6/12/2003

Butler, Dave

From: McAllister, Michael [mmcall@kmctelecom.com]
Sent: Monday, June 30, 2003 11:32 AM
To: Butler, Dave
Subject: RE: DIT IFB 2003-50 (Radford PRI/ISDN)

Dave--

I think I am confused about how this is calculated.

I am only coming up with $580.08, broken down as follows:

$480.00 ISDN/PRI✓
$20.85 Two Way Trunks ✓
$20.85 One Way Inbound Trunks ✓
$20.85 One Way Outbound Trunks ✓
$18.23 DID (1st Block of 20) ✓
$18.23 DID (Additional Block of 20) ✓
$0.91 Individual DID Number ✓
$0.16 VA Relay ✓

$580.08 Total.

Please call me or e-mail so we can resolve the discrepancy (540.983.9481).

Thanks,
Mike

-----Original Message-----
From: Butler, Dave [mailto:dbutler@dit.state.va.us]
Sent: Friday, June 27, 2003 9:48 AM
To: McAllister, Michael
Subject: DIT IFB 2003-50 (Radford PRI/ISDN)

Mr. McAllister, per our discussion regarding clarification of items #34 and #47 of subject IFB and your e-mail basically stating that there is NO Cost for either item, I have deleted them from your original response. Therefore, the TOTAL cost of your bid amounts to $632.87, if you concur with this please respond by e-mail prior to noon on Monday, June 30, 2003. Thank you for your interest and cooperation.

Dave Butler
Systems Engineer Consultant
Acquisition Services Division
Dept of Information Technology
(804) 371-5521

Butler, Dave

To: mmcall@kmctelecom.com
Cc: Jason Adkins
Subject: DIT IFB 2003-50 (Radford PRI/ISDN)

Mr. McAllister, per our discussion regarding clarification of items #34 and #47 of subject IFB and your e-mail basically stating that there is NO Cost for either item, I have deleted them from your original response. Therefore, the TOTAL cost of your bid amounts to $632.87, if you concur with this please respond by e-mail prior to noon on Monday, June 30, 2003. Thank you for your interest and cooperation.

Dave Butler
Systems Engineer Consultant
Acquisition Services Division
Dept of Information Technology
(804) 371-5521

Butler, Dave

From: McAllister, Michael [mmcall@kmctelecom.com]
Sent: Wednesday, June 25, 2003 3:47 PM
To: Butler, Dave
Cc: Adkins, Jason
Subject: IFB 2003-50 (Radford)

Radford Addendum A--2003-050 (... New Radford FPAmended.pdf (2 .

Mr. Butler--

Per your conversation with Jason Adkins yesterday, I am following up with clarification of the two items referenced in the June 24, 2003 letter from J.B. Edmonds. Additionally, I have attached an amended version of the IFB and related documents to this email. I woould be happy to send hard copies of these changes to you via fax or overnight mail.

Our clarified responses are as follows:

Item #34) Our response to this item is "No Termination Penalty". The language in our original response has been changed to "No Termination Penalty" and the KMC Addendum A, Item #1 has been changed to "No Termination Penalty" as well. I have changed our response on Item 7 (page 6 of 14) in the Service

Item #47) We have determined that PRIs, local trunks and DID blocks are not considered to be interstate services. Therefore, there should be no Universal Service Fund fees on these services. Our response has been amended both Item 47 and on the KMC Addendum A, Item 2.

Please let me know if you would like a hard copy of these changes. Please feel free to call me with any questions or if I may be of assistance at 540.983.9481.

Thank you for your consideration in this matter.

Mike McAllister
KMC Telecom
<<Radford Addendum A--2003-050 (Amended).doc>> <<New Radford RFPAmended.pdf>>

KMC Addendum A for:

Commonwealth of Virginia IFB # 2003-050

#1) Early Termination of Service Penalty Terms (Line Item 34, page 3 of 14):

There is no penalty for early termination of services.

#2) Universal Service Fund Charges (Line Item #47, page 4 of 14)

KMC has determined that the services included in this IFP are not considered to be interstate and are therefore not subject to Universal Service Funds Charges.

For qualifying interstate services, KMC charges 9.1% on interstate end-user revenues. This contribution changes quarterly.

Cheryl Clark
Director
Email: cclark@dit.state.va.us

COMMONWEALTH of VIRGINIA

Department of Information Technology
110 South Seventh Street
Richmond, Virginia 23219-3900
(804) 371-5000

TDD VOICE-TEL. NO.
371-8076

June 24, 2003

Mr. Jason Adkins, Regional City Director
KMC Telecom of Virginia
10 South Jefferson Street, Suite 150
Roanoke, VA 24001

Reference: Invitation for Bids 2003-050

Dear Mr. Adkins:

The Commonwealth is in receipt of your response to the above referenced IFB. In Order for the Commonwealth to continue its evaluation of your response, your clarification concerning Item #34 in the Price Schedule is required. As paragraph #4, page 5 of 14 states in part, "...The total cost for all the services listed on the Price Schedule will be used to evaluate the bid responses,…". Your response to this as requested is ambiguous. Also, your response to Item #47, Universal Service charge is 9.1% on interstate and end-use revenues and changes quarterly.

The Commonwealth is anticipating your response for Item #34 to be either no termination penalty or at minimum a termination penalty that can be calculated (as a flat rate) in determining KMC's TOTAL cost for the IFB. It is also impossible for the Commonwealth to compute a definitive figure for the Universal Service Fund in Item #47.

Also for your consideration, please note paragraphs 3 and 5 on page 5 of 14. Paragraph 3 denotes a contract that would never exceed a 12 month period. Whereas, paragraph 5 denotes…"no guarantees or assurance that any minimum quantity of the services listed will be purchased or, if purchased, will remain in service for any minimum period of time.

Your clarification of these points is essential for the completion of evaluation of this IFB and must be submitted to this office not later than June 30, 2003. If you have any questions, please contact Dave Butler at (804) 371-5521 and follow up with an e-mail to dbutler@dit.state.va.us Your prompt attention to this matter would be greatly appreciated.

Sincerely,

J. B. Edmonds, Deputy Director
Acquisition Services Division

IFB File: 2003-050

AN EQUAL OPPORTUNITY EMPLOYER

KMC Addendum A for:

Commonwealth of Virginia IFB # 2003-050

#1) Early Termination of Service Penalty Terms (Line Item 34, page 3 of 14):

If a Customer terminates or cancels Service after Service has been initiated, but before the completion of the Term for any reason, the Customer agrees to pay to KMC termination liability charges, as defined below. These charges shall become due and owing as of the effective date of the cancellation or termination. The Customer's termination liability for cancellation of Service shall be equal to: (A) all unpaid and waived non-recurring charges reasonably expended by KMC as well as all costs incurred by KMC to establish service to the Customer, including, without limitation, any installation costs; plus (B) any disconnection, early cancellatio or termination charges reasonably incurred and/or paid to third parties by KMC on behalf of the Customer, including, without limitation, any contract termination penalties for a previous carrier for which KMC either reimbursed the Customer or paid on behalf of the Customer; plus (C) all recurring charges for the balance of the then current term discounted at the prime rate announced in the Wall Street Journal on the third business day following the date of cancellation; plus (D) the difference between KMC's month to month rates multiplied by the actual length of Service and the Customer's term rates.

#2) Universal Service Fund Charges (Line Item #47, page 4 of 14)

KMC charges 9.1% on interstate end-user revenues. This contribution changes quarterly.

KMC Addendum B for:

Commonwealth of Virginia IFB # 2003-050

Escalation List for Service

1) Customer Service Center

800.850.9048 (24 hours)

2) Implementation/Project Manager

Carolyn Masterson, Implementation Manager
10 South Jefferson Street, Suite 150
Roanoke, Virginia 24011
540.983.9493 (office)
540.537.0849 (cell)

3) Central Office Supervisor

Paul Snead
2151 Hollins Road
Roanoke, Virginia 24012
540.366.8743 (office)
540.537.0851 (cell)

Senior Account Executive

Mike McAllister
10 South Jefferson Street, Suite 150
Roanoke, Virginia 24011
540.983.9481 (office)
540.353.1111 (cell)

Regional City Director

Jason Adkins
10 South Jefferson Street, Suite 150
Roanoke, Virginia 24011
540.983.9482 (office)
540.353.1999 (cell)

Senior Vice President

Kim Stanley
10 South Jefferson Street, Suite 150
Roanoke, Virginia 24011
540.983.9480 (office)
540.353.8025 (cell)

CHERYL CLARK
Chief Transition officer
Cheryl.Clark@vita.virginia.gov

COMMONWEALTH of VIRGINIA

Virginia Information Technologies Agency
Office of Acquisition Services
110 S. 7th Street
Richmond, Va. 23219-3900

Phone: (804) 371-5948
Fax: (804) 371-5969
Email: jb.edmonds@vita.virginia.gov

July 22, 2003

Mr. Jason Adkins
KMC Telecom of Virginia
10 South Jefferson Street, Suite 150
Roanoke, VA 24011

RE: IFB# 2003-050; VA-030722-KMCT (Contract)

Dear Mr. Adkins:

Please accept this letter as your official notice of award for the above referenced procurement. A copy of the fully executed contract is enclosed with this notice. Please reference the contract number shown above in all future correspondence/invoices concerning this Agreement.

Correspondence concerning acceptance of the products and services should be addressed to the attention of the individual identified, as shown in block #7, Page 1, of DIT Form 62 / the contract. The DIT point of contact for this procurement is Mr. Dave Butler and the DIT point of contact for the resulting contract is Staff.

Sincerely,

Jeff Davis
Contracts Manager

Enclosure
cc: File

AN EQUAL OPPORTUNITY EMPLOYER