



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF MANAGEMENT AND BUDGET

May 26, 2011

TO: ALL STATE AGENCIES, SCHOOL DISTRICTS, MUNICIPALITIES, VOLUNTEER  
FIRE COMPANIES AND POLITICAL SUBDIVISIONS

FROM: MICHAEL BACU  
STATE CONTRACT PROCUREMENT SUPERVISOR  
302-857-4522

SUBJECT: **AWARD NOTICE – Addendum #5**  
**CONTRACT NO. GSS11395A-NETWORK\_HRDWR**  
**Network Hardware**

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**KEY CONTRACT INFORMATION**

**1. MANDATORY USE CONTRACT**

**REF: Title 29, Chapter 6911(d) Delaware Code.** Every state department and agency within the Executive Branch and Judicial Branch of the state government shall procure all material, equipment and nonprofessional services through the statewide contracts administered by Government Support Services, Office of Management and Budget. Delaware State University, Delaware Technical and Community College, the operations funded by Public School Districts, Delaware Transit Corporation, the Legislative Branch and the Board of Pension Trustees and their consultants are specifically exempted from the requirements of this subsection.

**2. CONTRACT PERIOD**

Each contractor's contract shall be valid for a one (1) year period from July 1, 2011 through June 30, 2013. Each contract may be renewed for three (3) additional one (1) year period through negotiation between the contractor and Government Support Services. Negotiation may be initiated no later than ninety (90) days prior to the termination of the current agreement.

This contract has been extended for a period of one (1) year until June 30, 2014.

This contract has been extended for a period of one (1) year until June 30, 2015.

**This contract has been extended for a period of one (1) year until June 30, 2016.**

**3. VENDORS**

GSS11395A-NETWORK_HRDWRV01 <b>Frontier Technologies, Inc.</b> 1200 First State Blvd. Ste. 1248 Wilmington, DE 19804 Contact: Jayshree Moorthy Phone: 302-225-2530 Fax: 302-225-4565 Email: <a href="mailto:Jmoorthy@ftiusa.com">Jmoorthy@ftiusa.com</a> FSF# 0000026651	GSS11395A-NETWORK_HRDWRV02 <b>MTM Technologies, Inc.</b> 1675 S. State Street Dover, DE 19901 Contact: Brian Shuba Phone: 302-744-2250 Fax: 302-735-3373 Email: <a href="mailto:Bshuba@mtm.com">Bshuba@mtm.com</a> FSF# 0000002776	GSS11395A-NETWORK_HRDWRV07 <b>CDW-Government</b> 2 Corporate Drive Suite 800 Shelton, CT 06484 Contact: Brad Smyth Phone: 855-822-1202 Fax: 847-990-8217 Email: <a href="mailto:brasmy@cdw.com">brasmy@cdw.com</a> FSF# 0000022347
GSS11395A-NETWORK_HRDWRV04 <b>The 400, LLC DBA Whitlock Infrastructure Solutions</b> 1997 Annapolis Exchange Pkwy #300 Annapolis, MD 21401 Contact: Bryan Thomas Phone: 410-770-9762 Fax: 646-514-7006 Email: <a href="mailto:Bryan@whitlockis.com">Bryan@whitlockis.com</a> FSF# 0000005923	GSS11395A-NETWORK_HRDWRV05 <b>CNI Sales, Inc.</b> PO Box 180 2960 Skippack Pike Worcester, PA 19490 Contact: Tom Stewart Phone: 610-584-8040 Fax: 610-584-8128 Email: <a href="mailto:tstewart@corpnetworkin.com">tstewart@corpnetworkin.com</a> FSF#0000092107	GSS11395A-NETWORK_HRDWRV06 <b>Core BTS</b> 201 W 103 <sup>rd</sup> Street, Ste. 240 Indianapolis, IN 46290 Contact: Jason Eickmann Phone: 317-566-6211 Fax: 317-573-1667 Email: <a href="mailto:Jason.eickmann@corebts.com">Jason.eickmann@corebts.com</a> FSF# 0000039685

#### **4. SHIPPING TERMS**

F.O.B. destination.

#### **5. DELIVERY AND PICKUP**

- All hardware and software are to be delivered postpaid to the location or locations indicated on the State of Delaware purchase order. No labor will be provided to help unload and product under this Contract.
- The delivery of hardware, software and services furnished under the terms of the Contract shall not be considered as acceptance thereof until said hardware, software and services are inspected and tested. The inspection, test and acceptance of any hardware, software and services does not relieve the supplier from any responsibility regarding defects or other failure to meet the Contract requirements which may be discovered subsequent to delivery.
- In case any items or lots of items are found to be defective in material or workmanship or otherwise not in conformity with the requirements of the Contract, the State shall have the right to either reject them (with or without instructions as to their disposition) or to require their correction. Items or lots of items which are defective or required to be corrected shall be removed, or if required by the State as it may deem appropriate, corrected in place by and at the expense of the supplier promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirements of correction is disclosed. If the supplier fails to promptly remove such items or lots of items, the State Agency shall either (1) may re-contract or otherwise replace or correct such items and charge the supplier the cost occasioned the State Agency thereby, or (2) may terminate the Contract for default as provided herein.
- Acceptance or rejection of any items shall be made as promptly as practicable after delivery, except as otherwise provided in the Contract, but failure to inspect and accept or reject items shall neither relieve the supplier from responsibility for such items which are not in accordance with the Contract requirements not impose liability on the State of Delaware therefore.
- Neither the State of Delaware nor its agencies will assume responsibility for damage to any items including items rejected for mishandling during delivery.
- All outer packs of items delivered under the Contract must be marked with the purchase order/contract number and item identification. Failure to provide adequate indentifying markings may result in refusal of the delivery.
- All prices include delivery and placement within the ship-to address in that area specified on the State of Delaware purchase order.
- Collect shipments will not be accepted.

#### **6. PRICING**

Prices will remain firm for the term of the contract year.

[http://contracts.delaware.gov/contracts\\_detail.asp?i=432](http://contracts.delaware.gov/contracts_detail.asp?i=432)

The Pricing Spreadsheet attached provide the list price, percentage discount off list price and net price for the awarded vendors. The list only represents eight (8) commonly purchased network hardware items. These items and pricing were used only as a basis for evaluations and contract award. They are only a guide and may not represent actual pricing and discounts for any particular agency project. Each vendor is required to submit a proposal to the agency based on the applicable project requirements.

## **ADDITIONAL TERMS AND CONDITIONS**

### **7. BILLING**

The successful vendor is required to **"Bill as Shipped" to the respective ordering agency(s).** Ordering agencies shall provide at a minimum the contract number, ship to and bill to address, contract name and phone number.

### **8. PAYMENT**

The agencies or school districts involved will authorize and process for payment each invoice within thirty (30) days after the date of receipt. The contractor or vendor must accept full payment by procurement (credit) card and/or conventional check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions.

### **9. PRODUCT SUBSTITUTION**

All items delivered during the life of the contract shall be of the same type and manufacture as specified unless specific approval is given by Government Support Services to do otherwise. Substitutions may require the submission of written specifications and product evaluation prior to any approvals being granted.

### **10. ORDERING PROCEDURE**

Successful contractors are required to have either a local telephone number within the (302) area code, a toll free (800) number, or agree to accept collect calls. Each agency is responsible for placing their orders and may be accomplished by written purchase order, telephone, fax or computer on-line systems. The contractor or vendor must accept full payment by procurement (credit) card and/or conventional check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions.

### **11. HOLD HARMLESS**

The contractor agrees that it shall indemnify and hold the State of Delaware and all its agencies harmless from and against any and all claims for injury, loss of life, or damage to or loss of use of property caused or alleged to be caused, by acts or omissions of the contractor, its employees, and invitees on or about the premises and which arise out of the contractor's performance, or failure to perform as specified in the Agreement.

### **12. NON-PERFORMANCE**

In the event the contractor does not fulfill its obligations under the terms and conditions of this contract, the ordering agency may purchase equivalent product on the open market. Any difference in cost between the contract prices herein and the price of open market product shall be the responsibility of the contractor. Under no circumstances shall monies be due the contractor in the event open market products can be obtained below contract cost. Any monies charged to the contractor may be deducted from an open invoice.

### **13. FORCE MAJEURE**

Neither the contractor nor the ordering agency shall be held liable for non-performance under the terms and conditions of this contract due, but not limited to, government restriction, strike, flood, fire, or

unforeseen catastrophe beyond either party's control. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this contract.

#### **14. AGENCY'S RESPONSIBILITIES**

The Agency shall:

- a. Examine and review in detail all letters, reports, drawings and other documents presented by the Contractor to the Agency and render to the Contractor in writing, findings and decisions pertaining thereto within a reasonable time so as not to delay the services of Contractor.
- b. Give prompt written notice to the Contractor whenever the Agency observes or otherwise becomes aware of any development that affects the scope or timing of the Contractor's services.
- c. When an ordering agency first experiences a relatively minor problem or difficulty with a vendor, the agency will contact the vendor directly and attempt to informally resolve the problem. This includes failure to perform by the date specified and any unacceptable difference(s) between the purchase order and the merchandise received. Ordering agencies should stress to vendors that they should expedite correction of the differences because failure to reply may result in an unfavorable rating in the execution of the awarded contract.
- d. The state has several remedies available to resolve non-performance issues with the contractor. The Agency should refer to the Contract Terms and Conditions to view these remedies. When a default occurs, the Agency should first review the contract to confirm that the issue is a part of the contract. If the issue is not covered by the contract, the state cannot expect the contractor to perform outside the agreement. If the issue is a part of the contract, the Agency or GSS - Contracting must then contact the contractor, discuss the reasons surrounding the default and establish a date when the contractor will resolve the non-performance issue.
- e. If there is a performance deficiency, a Corrective Action Report (CAR) may be used. Complete this form to report concerns with vendors or commodities. Be sure to furnish as much detail as possible. <http://gss.omb.delaware.gov/divisionwide/forms.shtml>.

#### **15. PRICE ADJUSTMENT**

If agreement is reached to extend this contract for the second, optional year, the Division of Government Support Services shall have the option of offering a determined price adjustment and shall not exceed the current Philadelphia All Urban Consumers Price Index (CPI-U), U.S. City Average. If the CPI-U is used, any increase/decrease shall reflect the change during the previous published twelve (12) month period at the time of renegotiation.

#### **16. PRODUCTS WARRANTY**

Any communications hardware, services, and software will be covered by the manufacturer's warranty.

#### **17. STORAGE OF MATERIALS**

Every effort shall be made by the Contractor to schedule delivery of materials so that a minimum of storage space is required. The Contractor shall not encumber the premises with his materials and shall

store all materials in a place designated by the State Agency or its representative. The State of Delaware will not be in any way responsible for tools or materials used in this work that may be stolen or damaged during the progress of the work.

**18. RESPONSIBILITY FOR DAMAGE AND CARE OF PROPERTY**

The Contractor will be held financially responsible for any damage to the grounds, buildings, equipment or other work caused by act of omission of him, his subcontractors or employees, or other persons engaged in the performance of the Contract. Every reasonable effort shall be made by workmen to proceed with the work as described in these specifications in a manner accepted in trade circles as the highest level workmanship.

**19. SCHEDULE FOR PERFORMANCE OF WORK**

All work described in these specifications must be completed with reasonable promptness. As used in this section, the State of Delaware shall be the sole judge of the term "reasonable". If the contractor does not begin the work in a reasonable amount of time, they will be notified that if they fail to initiate the work promptly, the contract may be terminated and the State will forthwith proceed to collect for nonperformance of work.

**20. INVOICES**

Invoices must be completely identifiable supported by delivery receipts where specified and contain the following minimum information:

- Address
- Purchase Order No. /Contract No.
- Delivery destination as it appears on the Purchase Order
- Contract item number, quantity and description of item billed
- Unit price and extended price of each item
- Total amount of invoice
- Any prompt payment discount offered

**21. FUTURE BENEFITS**

The contractor shall pass on to the State any more favorable terms, conditions and pricing that are driven by market conditions or technological advancement, when such favorable terms, conditions and pricing are based upon executed contracts with other State or other large users of equivalent systems, components or services.