



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET

January 27, 2014

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

FROM: MARIA FRY
STATE CONTRACT PROCUREMENT OFFICER
302-857-4583

SUBJECT: **AWARD NOTICE – ADDENDUM #1**
CONTRACT NO. GSA14025-LIMS
Laboratory Information Management System

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KEY CONTRACT INFORMATION

1. MANDATORY USE CONTRACT

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- a. 29 Del. C. § 6935 authorizes Government Support Services to enter into contracts which will enable agencies and local governments to purchase materiel at prices approved by the General Services Administration. This agreement is consistent with GSA's authorization to allow state governments to purchase under their Cooperative Purchasing program.
- b. This is not a mandatory use contract under 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

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Each contractor's contract shall be valid through September 6, 2016. This contract may be renewed upon the renewal of the vendor's GSA contract.

Addendum #1 extends the contract upon the renewal of the vendor's GSA contract through September 6, 2021.

3. VENDORS

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GSA Contract: GS-24F-0045L
FSF ID: 0000032088
Accelerated Technology Laboratories, Inc. (ATL)
496 Holly Grove School Rd
West End, NC 27376-8412
Contact: Thomas McLean
Phone: 910-673-8165
Fax: 910-673-8166
Email: tmclean@atlab.com
Website: www.atlab.com

4. SHIPPING TERMS

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FOB Point Destination

5. DELIVERY AND PICKUP

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7 days ARO (software only)

6. PRICING

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Prices will remain firm for the term of the contract year.
Discount: 5.25% off list price

ADDITIONAL TERMS AND CONDITIONS

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7. WARRANTY

1 year with ATL Support Plan.

8. EQUIPMENT

- a. Any problem with the Equipment shall be the responsibility of its manufacturer;
- b. ATL or its representatives are not liable for any problem with any Equipment;
- c. Reasonable access will be provided for installation of the Equipment, and use the Equipment in a manner consistent with the recommendations of the manufacturer;
- d. The ordering Agency will execute all documents as may be reasonably requested by the manufacturer in connection with the purchase of Equipment;
- e. The ordering Agency agrees not to relocate the Equipment to a different address, site or laboratory without the prior written consent of ATL

9. 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.

10. 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.

11. SOFTWARE

- a. ATL grants to the ordering Agency a non-transferable, non-exclusive, limited license;
 - i. For its employees and agents to use the Software in a machine-readable form on the Equipment or other computer hardware approved by ATL and at the site specified in the Agreement solely for the Agency's internal business purposes and
 - ii. To make up to two backup copies of machine readable code portions of the Software and printed listings thereof, for backup or archival purposes only, which copies shall be subject in all respects to the terms and conditions hereof.
- b. The ordering Agency agrees and understands:
 - i. that no title to the Software, its copies or to its intellectual property is transferred to Customer
 - ii. that the Software is derived in part and may contain portions of software code proprietary to others;
 - iii. that it shall not disassemble or decompile the Software; and
 - iv. that it shall not publish any results of benchmark tests run on the Software.

- c. The ordering Agency shall have no rights to any modifications, enhancements or extensions with respect to the Software.
- d. If the Equipment is not operative, the ordering Agency may transfer to and use the Software on other, approved equipment at the Designated Site, provided ATL is informed of such transfer in writing.
- e. The Software is not specifically developed, manufactured or licensed for use in the planning, construction, maintenance, operation or use in any nuclear capacity or for the flight, navigation, or communication of aircraft or ground support equipment.
- f. Upon any termination of the license granted under this Agreement, the Agency shall immediately cease use of the Software, and either deliver to ATL the Software and all copies of the Software, and all documentation containing the Software and other proprietary information, or destroy such materials on the instruction of ATL.
- g. The ordering Agency shall display all proprietary and copyright notices and legends to the extent and in the manner specified by ATL.
- h. The ordering Agency is aware that in the event the Agency fails to pay all amounts due to ATL in accordance with the terms and conditions of this Agreement, the software provided to the Customer by ATL will be disabled so as to prevent the automatic generation of reports. In the event that the Software is disabled in this manner, the Agency should contact ATL immediately. THE AGENCY ACKNOWLEDGES AND AGREES THAT ATL SHALL NOT BE LIABLE FOR ANY LOSSES OF TIME OR DATA, OR FOR ANY OTHER DAMAGES THAT MAY RESULT IN ANY WAY FROM THE DISABLING OF THE SOFTWARE PURSUANT TO THIS SECTION.

12. SERVICES

In the performance of Services specified in this Agreement, ATL and any agent or employee of ATL, is acting as an independent contractor, and not as an employee, of Agency or the State of Delaware.

13. DTI BUSINESS CASE

The Work ID # is 1300756. Project Name: ITC DDA LIMS

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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>.
- f. The Agency shall hold in confidence, and make reasonable efforts to ensure that its employees and agents also hold in confidence all technical, business or financial information of ATL and shall not disclose such information except upon written authorization of ATL.