PUBLIC SERVICE BOARD MEETING
AGENDA ITEM
REGULAR MEETING

Monday, June 15, 2020

SUBJECT

Microsoft Office 365 Licensing

BACKGROUND

The implementation of Office 365 in June 2017 provided extended product support and email enhancements that included: web-enabled access to email on any device, built-in message and document malware scanning and multi-person file and document sharing capability inside and outside the Utility. Office 365 has proven to be a powerful tool that continues to enhance the ability of work done at EPWater.

STRATEGIC OBJECTIVES SUPPORTED

Improve Use of Technology

EVALUATION PROCESS

Staff requested and evaluated a Microsoft Office 365 renewal licensing quote utilizing Texas DIR Contract Number DIR-TSO-4092 from SHI Government Solutions in the estimated annual amount of $315,547.27. The quote met all requirements and staff recommends award.

SHI Government Solutions offered an 18.14% discount from the retail price.

FINANCIAL IMPLICATIONS

Sufficient funds are available in account number 810-7790, and the funding source is the Water and Sewer Fund.

PROPOSED ACTION REQUESTED

Consider and approve a renewal contract for Microsoft Office 365 licensing from SHI Government Solutions through Texas DIR Contract Number DIR-TSO-4092 in the estimated annual amount of $315,547.27, with the option for two, one-year extensions.

SUPPORTING DOCUMENTATION PROVIDED

- SHI Government Solutions Quote
- DIR-TSO-4092 Contract

Government Solutions

Pricing Proposal
Quotation #: 18739104
Created On: 4/10/2020
Valid Until: 6/23/2020

EL PASO WATER UTILITIES DEPARTMENT

Israel Chavez
PO BOX 511
ATTN: ACCOUNTS PAYABLE
EL PASO, TX 79961
United States
Phone: 915-594-5584
Fax:
Email: lchavez@epwu.org

Senior Account Executive

Paul Thomas
Software House International - Government Solutions
6371 Franklin View
El Paso, Texas 79912
Phone: 915-833-5186
Fax: 915-833-1020
Email: paul_thomas@gs.shi.com

All Prices are in US Dollar (USD)

	Product	Qty	Retail	Your Price	Total
1	BztlkSvrEnt ALNG SA MVL 2Lic CoreLic Microsoft - Part#: F52-02145 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/31/2020 – 5/30/2021	2	$4,340.00	$3,552.7240	$7,105.45
2	O365GCCE5 ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: T2N-00001 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Note: EA 46953712	61	$457.20	$374.26	$22,829.86
3	O365GCCE5FromSA ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: T2P-00001 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Note: EA 46953712	554	$417.16	$341.48	$189,179.92
4	O365GCCF1 ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: 3KS-00001 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/31/2020 – 5/30/2021	370	$40.80	$33.39	$12,354.30
5	ProjectPlan5GCC ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: 7VX-00001 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/31/2020 – 5/30/2021	20	$618.00	$505.8948	$10,117.90
6	ProjOnlnEssntlsGCC ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: 3PN-00001 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/31/2020 – 5/30/2021	160	$79.20	$64.8330	$10,373.28

7	SQLSvrEntCore ALNG SA MVL 2Lic CoreLic Microsoft - Part#: 7JQ-00343 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/31/2020 – 5/30/2021	2	$2,698.00	$2,208.5828	$4,417.17
8	SQLSvrStdCore ALNG SA MVL 2Lic CoreLic Microsoft - Part#: 7NQ-00292 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/31/2020 – 5/30/2021	3	$704.00	$576.29	$1,728.87
9	VisioPlan2GCC ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: P3U-00001 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/31/2020 – 5/30/2021	10	$169.20	$138.5070	$1,385.07
10	WinRmtDsktpSrvcsCAL ALNG SA MVL DvcCAL Microsoft - Part#: 6VC-01253 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/31/2020 – 5/30/2021	10	$22.00	$18.0092	$180.09
11	WinSvrDCCore ALNG SA MVL 2Lic CoreLic Microsoft - Part#: 9EA-00278 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/31/2020 – 5/30/2021	40	$152.00	$124.4270	$4,977.08
12	WinSvrSTDCore ALNG SA MVL 2Lic CoreLic Microsoft - Part#: 9EM-00270 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/31/2020 – 5/30/2021	128	$22.00	$18.0092	$2,305.18
13	WINVDAPerDvc ALNG SubsVL MVL PerDvc Microsoft - Part#: 4ZF-00019 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/31/2020 – 5/30/2021	15	$117.36	$96.07	$1,441.05
14	WinE3 ALNG SubsVL MVL Pltfrm PerUsr Microsoft - Part#: AAA-10798 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 **Note:** Basic Commitment	615	$70.80	$57.95	$35,639.25
15	Microsoft Core CAL Bridge for Office 365 - Subscription license (1 month) - 1 user - Platform - EA Subscription - All Languages Microsoft - Part#: AAA-12415 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092	615	$22.44	$18.72	$11,512.80
				Total	$315,547.27

Additional Comments

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and

fluctuations.

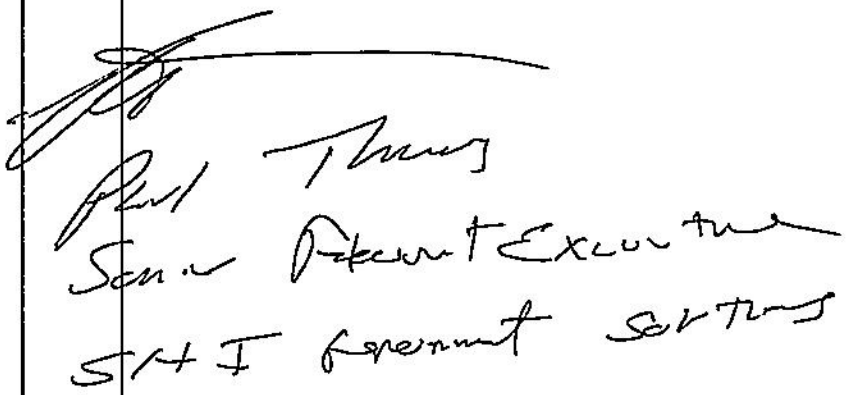
Microsoft Enterprise Agreement is for a 3 year Period:
Year one payment = $315,547.27
Yoar two payment = $315,547.27
Year three payment = $315,547.27

Thank you for choosing SHI-GSI The pricing offered on this quote proposal is valid through the expiration date set above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address and applicable Contract Number when submitting a Purchase Order. SHI Government Solutions, Inc. is 100% Minority Owned, Woman Owned Business. TAX ID# 22-3695478; DUNS# 14-724-3096

Quotes may be updated to reflect changes due to industry wide constraints and fluctuations

---

The products offered under this proposal are resold in accordance with the terms and conditions of the Contract referenced under that applicable line item.



STATE OF TEXAS
DEPARTMENT OF INFORMATION RESOURCES

CONTRACT FOR PRODUCTS AND RELATED SERVICES

SHI Government Solutions, Inc.

1. Introduction

A. Parties

This Contract for products and related services is entered into between the State of Texas, acting by and through the Department of Information Resources (hereinafter "DIR") with its principal place of business at 300 West 15th Street, Suite 1300, Austin, Texas 78701, and SHI Government Solutions, Inc. (hereinafter "Vendor"), with its principal place of business at 1301 South MoPac ExpresswaySte. 375 Austin,TX 78746.

B. Compliance with Procurement Laws

This Contract is the result of compliance with applicable procurement laws of the State of Texas. DIR issued a solicitation on the Comptroller of Public Accounts' Electronic State Business Daily, Request for Offer (RFO) DIR-TSO-TMP-404, on 6/08/2017, for Value Added Software Resellers. Upon execution of this Contract, a notice of award for RFO DIR-TSO-TMP-404 shall be posted by DIR on the Electronic State Business Daily.

C. Order of Precedence

For purchase transactions under this Contract, the order of precedence shall be as follows: this Contract; Appendix A, Standard Terms and Conditions For Products and Related Services Contracts; Appendix B, Vendor's Historically Underutilized Businesses Subcontracting Plan; Appendix C, Pricing Index; Exhibit 1, Vendor's Response to RFO DIR-TSO-TMP-404, including all addenda; and Exhibit 2, DIR-TSO-TMP-404, including all addenda; Exhibit 3, Eligible Customer Exceptions; are incorporated by reference and constitute the entire agreement between DIR and Vendor governing purchase transactions. In the event of a conflict between the documents listed in this paragraph related to purchases, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C, then Exhibit 3, then Exhibit 1, and finally Exhibit 2. In the event and to the extent any provisions contained in multiple documents address the same or substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded earlier provisions.

2. Term of Contract

The term of this Contract shall be two (2) years commencing on the last date of approval by DIR and Vendor. **Prior to expiration of the original term, the contract will renew automatically in two year increments for two additional years, for a total of six years (6), under the same terms and conditions unless either party provides notice to the other party 60 days in advance of the renewal date stating that the party wishes to discuss modification of terms or not renew.** Additionally, the parties by mutual agreement may extend the term for up to ninety (90) additional calendar days.

3. Product and Service Offerings

A. Products

Products available under this Contract are limited to *Microsoft Products* as specified in Appendix C, Pricing Index. Vendor may incorporate changes to their product offering; however, any changes must be within the scope of products awarded based on the posting described in Section 1.B above. Vendor may not add a manufacturer's product line which was not included in the Vendor's response to the solicitation described in Section 1.B above.

B. Services

Services available under this Contract are limited to *Software services,* plus related technical *services* as specified in Appendix C, Pricing Index. Vendor may incorporate changes to their service offering; however, any changes must be within the scope of services awarded based on the posting described in Section 1.B above.

4. Pricing

Pricing to the DIR Customer shall be as set forth in Appendix A, Section 8, Pricing, Purchase Orders, Invoices and Payment, and as set forth in Appendix C, Pricing Index, and shall include the DIR Administrative Fee.

5. DIR Administrative Fee

A) The administrative fee to be paid by the Vendor to DIR based on the dollar value of all sales to Customers pursuant to this Contract is three quarters of one percent (75%). Payment will be calculated for all sales, net of returns and credits. For example, the administrative fee for sales totaling $100,000 shall be $*750.00*

B) All prices quoted to Customers shall include the administrative fee. DIR reserves the right to change this fee upwards or downwards during the term of this Contract, upon written notice to Vendor without further requirement for a formal contract amendment. Any change in the administrative fee shall be incorporated in the price to the Customer.

6. Notification

All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:
Kelly A Parker, CTPM, CTCM
Director, Cooperative Contracts
Department of Information Resources
300 W. 15th St., Suite 1300
Austin, Texas 78701
Phone: (512) 475-1647
Facsimile: (512) 475-4759
Email: kelly.parker@dir.texas.gov

If sent to the Vendor:
Victoria Pubylski
SHI Government Solutions, Inc.
1301 South Mo-Pac Expressway, Suite 375
Austin, Texas 78746
Phone: (512) 582-6724
Fax: (512) 732-0232
Email: Victoria_Pubylski@shi.com

7. Software License Agreements

A. Shrink/Click-wrap License Agreement

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

B. Conflicting or Additional Terms

In the event that conflicting or additional terms in Vendor Software License Agreements, Vendor Shrink/Click Wrap License Agreements, Vendor Service Agreements or linked or supplemental Vendor documents amend or diminish the rights of DIR Customers or the State, such conflicting or additional terms shall not take precedence over the terms of this Contract.

In the event of a conflict, any linked documents may not take precedence over the printed or referenced documents comprising this contract; provided further that any update to such linked documents shall only apply to purchases or leases of the associated Vendor product or service offering after the effective date of the update; and, provided further, that, if Vendor has responded to a solicitation or request for pricing, no update of such linked documents on or after the initial date of Vendor's initial response shall apply to that purchase unless Vendor directly informs Customer of the update before the purchase is consummated.

In the event that different or additional terms or conditions would otherwise result from accessing a linked document, agreement to said linked document shall not be effective until reviewed and approved in writing by Customer's authorized signatory.

Vendor shall not [without prior written agreement from Customer's authorized signatory,] require any document that: 1) diminishes the rights, benefits, or protections of the Customer, or that alters the definitions, measurements, or method for determining any authorized rights, benefits, or protections of the Customer; or 2) imposes additional costs, burdens, or obligations upon Customer, or that alters the definitions, measurements, or method for determining any authorized costs, burdens, or obligations upon Customer. The foregoing requirements do not apply to contracts between Customer and a software publisher.

8. Eligible Customers

Vendor is authorized to sell awarded products and related services to all eligible DIR customers, excluding Texas state agencies. Exceptions to this provision are noted in Exhibit 3, Eligible Customer Exceptions. **Appendix A, Standard Terms and Conditions for Product and Related Services Contracts, Section 3, Definitions Customer** is hereby restated in its entirety and replaced as follows:

A. Customer - any unit of local government, institution of higher education as defined in Section 2054.003, Texas Government Code, the Electric Reliability Council of Texas, the Lower Colorado River Authority, a private school, as defined by Section 5.001, Education Code, a private or independent institution of higher education, as defined by Section 61.003, Education Code, a volunteer fire department, as defined by Section 152.001, Tax Code, and those state agencies purchasing from a DIR contract through an Interagency Agreement, as authorized by Chapter 771, Texas Government Code, any local government as authorized through the Interlocal Cooperation Act, Chapter 791, Texas Government Code, and the state agencies and political subdivisions of other states as authorized by Section 2054.0565, Texas Government Code and, except for telecommunications services under Chapter 2170, Texas Government Code, assistance organizations as defined in Section 2175.001, Texas Government Code to mean:

1) A non-profit organization that provides educational, health or human services or assistance to homeless individuals;
2) A nonprofit food bank that solicits, warehouses, and redistributes edible but unmarketable food to an agency that feeds needy families and individuals;
3) Texas Partners of the Americas, a registered agency with the Advisory Committee on Voluntary Foreign Aid, with the approval of the Partners of the Alliance Office of the Agency for International Development;
4) A group, including a faith-based group, that enters into a financial or non-financial agreement with a health or human services agency to provide services to that agency's clients;
5) A local workforce development board created under Section 2308.253;
6) A nonprofit organization approved by the Supreme Court of Texas that provides free legal services for low-income households in civil matters;

7) The Texas Boll Weevil Eradication Foundation, Inc., or an entity designated by the commissioner of agriculture as the foundation's successor entity under Section 74.1011, Texas Agriculture Code;

8) A nonprofit computer bank that solicits, stores, refurbishes and redistributes used computer equipment to public school students and their families; and

9) A nonprofit organization that provides affordable housing.

9. Change of Channel Partner

For all agreements, enrollments and tenant enrollments associated with DIR's Data Center Services (DCS) program, and any other Texas state agency, the authorized Reseller and Channel Partner transition to a new value-added reseller will be effective on the date stated in the Change of Channel Partner and Change of Direct and Large Account Reseller amendments executed by all Parties. Vendor agrees to sign and return the Change of Channel Partner amendments within 5 days of receipt.

10. Authorized Exceptions

1. Appendix A, Standard Terms and Conditions for Product and Related Services Contracts.

B. Contract, **Section 3, Definitions, B) Compliance Check** is hereby restated in its entirety as follows:
B) Compliance Check – an audit of Vendor's, to the extent reasonably necessary, to verify performance hereunder. Vendor's audit may be performed by, but not limited to, a third-party auditor, DIR Internal Audit department, DIR contract management staff or their designees.

C. Contract, **Section 5, Intellectual Property Matters, Section A Definitions, Item 1, Work Product** is hereby restated in its entirety as follows:
1)" Work Product" means any and all tangible and intangible output of Vendor's Services produced by Vendor for Customer under a Statement of Work issued pursuant to this Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed for Customer, including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, flow charts, notes, writings, data, information, multimedia files, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (ii) any copies, and similar or derivative works to any of the foregoing, (iii) documentation and materials, and (iv) all Intellectual Property Rights in any of the foregoing, and which are or were created, prepared, developed, invented or conceived for the use or benefit of Customer in connection with this Contract or a Statement of Work, or with funds appropriated by or for Customer or Customer's benefit: (a) by any Vendor personnel or Customer personnel, or (b) any Customer personnel who then became personnel to Vendor or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is

completed while the person is affiliated with Vendor or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

D. Contract, **Section 5, Intellectual Property Matters, A Definitions, Item 2) "Intellectual Property Rights"** is hereby restated in its entirety as follows:

2) "Intellectual Property Rights" means the worldwide legal rights or interests evidenced by or embodied in: (i) any compilations, diagrams, layouts, mask works, idea, design, concept, personality right, method, process, formula, technique, apparatus, invention, discovery, or improvement, including any patents, trade secrets, and know-how, show-how, research and development; (ii) any work of authorship, including any copyrights, moral rights or neighboring rights; (iii) any software (including routines and sub routines, trademark, service mark, logo, Confidential Information, pre-existing and independently developed materials, trade dress, trade name, or other indicia of source or origin; (iv) domain name registrations; and (v) any other proprietary or similar rights. The Intellectual Property Rights of a party include all worldwide legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.

E. Contract, **Section 5, Intellectual Property Matters, A Definitions, Item 5) "Vendor IP"** is hereby restated in its entirety as follows:

5) "Vendor IP" shall mean all tangible or intangible items or things, including the Intellectual Property Rights therein, created or developed by Vendor (a) prior to providing any Services or Work Product to Customer and prior to receiving any documents, materials, information or funding from or on behalf of Customer relating to the Services or Work Product, or (b) after the Effective Date of the Contract if such tangible or intangible items or things do not include (i) any Confidential Information of Customer; or (ii) any ideas, concepts, know-how, skills, methodologies, or techniques which (A) are developed solely by Customer, or (B) are unique to Customer or its applications and are developed for inclusion in the Work Product.

F. Contract, **Section 5, Intellectual Property Matters, B Ownership** is hereby restated in its entirety as follows:

Vendor owns all right, title, and interest the Vendor IP. As between Vendor and Customer, and upon payment by Customer, of any undisputed invoice of vendor directly related to a specific element of work product, that absent of the Work Product and Intellectual Property Rights therein are and shall be owned exclusively by Customer, and not Vendor. Vendor specifically agrees that the Work Product shall be considered "works made for hire" and that the Work Product shall, upon creation, be owned exclusively by Customer. Subject to Vendor's confidentiality obligations to customer; Nothing in this Contract precludes Vendor from providing services similar to those described in this Contract or any Statement of Work to any other customers. To the extent that the Work Product, under applicable law, may not be considered works made for hire, Vendor hereby agrees that the Contract effectively transfers, grants, conveys, assigns, and relinquishes exclusively to Customer all right, title and interest in and to all ownership rights in the Work Product, and all Intellectual Property Rights in the Work Product, without the necessity of any further consideration, and Customer shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Work Product. Vendor acknowledges that Vendor and Customer do not intend Vendor to be a

joint author of the Work Product within the meaning of the Copyright Act of 1976. Customer shall have access, during normal business hours (Monday through Friday, 8AM to 5PM) and upon reasonable prior notice to Vendor, to all necessary and relevant Vendor materials, premises and computer files containing the Work Product Vendor and Customer, as appropriate, will cooperate with one another and execute such other documents as may be reasonably appropriate to achieve the objectives herein. No license or other right is granted hereunder to any Third-Party IP, except as may be incorporated in the Work Product by Vendor.

G. Contract, **Section 5, Intellectual Property Matters, G) Return of Materials Pertaining to Work Product** is hereby restated in its entirety as follows:

Upon the request of Customer, but in any event upon termination or expiration of this Contract or a Statement of Work, Vendor shall surrender to Customer all documents and things necessary to the understanding and operation of the work product and all things pertaining to the Work Product, including but not limited to drafts, memoranda, notes, records, drawings, manuals, reports, data, and all other documents or materials (and copies of same) generated or developed by Vendor or furnished by Customer to Vendor, including all materials embodying the Work Product, any Customer confidential information, or Intellectual Property Rights in such Work Product, regardless of whether complete or incomplete. This section is intended to apply to all Work Product as well as to all documents and things furnished to Vendor by Customer or by anyone else that pertain to the Work Product.

H. Contract, **Section 5, Intellectual Property Matters, K) License to Customer** is hereby restated in its entirety as follows:

If Vendor includes any Vendor IP , then Vendor grants to Customer, a limited, perpetual, irrevocable, royalty free, non-exclusive license, solely for the Customer's internal business purposes, to use, copy, modify, display, perform (by any means), transmit and prepare derivative works of any Vendor IP, solely to the extent such Vendor IP is necessary to use the Work Product, embodied in or delivered to Customer in conjunction with the Work Product. The foregoing license includes the right to sublicense third parties, solely for the purpose of engaging such third parties to assist or carryout Customer's internal business use of the Work Product. Except for the preceding license, all rights in Vendor IP remain in Vendor.

I. Contract, **Section 5, Intellectual Property Matters, L) Vendor Development Rights** is hereby restated in its entirety as follows:

To the extent not inconsistent with Customer's rights in the Work Product or as set forth herein, nothing in this Contract shall preclude Vendor from developing for itself, or for others, materials which are competitive with those produced as a result of the Services provided hereunder, provided that no Work Product is utilized, and no Intellectual Property Rights of Customer therein are infringed by such competitive materials. To the extent that Vendor wishes to use the Work Product, or acquire licensed rights in certain Intellectual Property Rights of Customer therein in order to offer competitive goods or services to third parties, Vendor and Customer agree to negotiate in good faith regarding an appropriate license and royalty agreement to allow for such. Customer shall not and shall not permit any affiliates or third party to translate, reverse engineer, decompile, recompile, update, or modify any Vendor IP. If Customer provides any input, comments or suggestions regarding the Services, Vendor IP, or Vendor's business or technology

plans, including comments or suggestions regarding the possible creation, development, modification, correction, improvement or enhancement of the Services or Vendor IP (collectively "Feedback"), then Customer shall grant and hereby grants Vendor a perpetual, nonexclusive, world-wide, royalty free, license to use such Feedback without restriction.

J. Contract, **Section 10, Vendors Responsibibility, A Indemnification, Item 3 Infringements** is hereby restated in its entirety as follows:

a) Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES from any direct damages arising from all third party claims that the Work Product involve infringement of any United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights in connection with the PERFORMANCES OR ACTIONS OF VENDOR PURSUANT TO THIS CONTRACT. SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

b) Vendor shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Vendor's written approval, (iii) any modifications made to the product by the Vendor pursuant to Customer's specific instructions, (iv) any intellectual property right owned by or licensed to Customer, (v) Customer's combination or use of the Work Product or Service with software, services, or products developed by Customer or third parties or (vi) any use of the product or service by Customer that is not in conformity with the terms of any applicable license agreement.

c) If Vendor becomes aware of an actual or potential claim, or Customer provides Vendor with notice of an actual or potential claim, Vendor may (or in the case of an injunction against Customer, shall), at Vendor's sole option and expense: (i) procure for the Customer the right to continue to use the affected portion of the product or service, (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that Customer's use is non-infringing, or (iii) replace the Work Product or Services at no cost to Customer with non-infringing substitutes provided that the substitutes do not entail a material diminution in function in Customer's reasonable estimation.

(Remainder of page intentionally left blank)

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

SHI Government Solutions, Inc.

Authorized By: Signature on File

Name: Natalie Castagno

Title: Director of Response Team

Date: 2/20/2018

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

Authorized By: Signature on File

Name: Hershel Becker

Title: Chief Procurement Officer

Date: 2/21/2018

Office of General Counsel: David Brown
Signature on File 2/21/2018

Exhibit 3 to DIR-TSO-4092
Eligible Customers Exceptions

Vendor is authorized, through the applicable agreement end date stated below, to conduct all business necessary to meet agency requirements of current and existing Microsoft Enterprise License Agreements (EA) for the following agencies and pertaining to the agency's agreement numbers listed herein.

Agreement Number	Primary Customer Name	Primary Public Customer Number	Program	License Agreement Type	Agreement Status	Agreement Start Date	Agreement End Date
5069791	Texas Health & Human Services Commission on behalf of itself and its affiliates	B7FF95C2	Enterprise Subscription 6	Government	Active	12/1/2015	11/30/2018
6365385	Texas HHS Commission on behalf of itself and its affiliates-5069791-HHSC Test Tenant	B34833B3	Enterprise Subscription 6	Government	Active	12/1/2015	11/30/2018
4944569	Texas Legislative Council	9C6CED4B	Enterprise 6	Government	Active	12/1/2015	11/30/2018
5000039	Texas Legislative Council	BF449D30	Enterprise 6	Government	Active	12/1/2015	11/30/2018
7617237	Texas Medical Board	905EB7DD	Enterprise 6	Government	Active	1/1/2016	12/31/2018
5679409	Texas Office of Court Administration	AB73A50F	Enterprise 6	Government	Active	1/1/2016	12/31/2018
6609840	Texas Office of Court Administration	BAC04E4C	Enterprise 6	Government	Active	1/1/2016	12/31/2018
7610597	TX Commission on Fire Protection	8F83B4A3	Enterprise 6	Government	Active	8/28/2015	8/31/2018