

“SOLE SOURCE” PROCUREMENT JUSTIFICATION

Sole source purchases are goods and services available from only one vendor. There may be just one vendor because of patents or copyrights or simply because the vendor is the only one which supplies the good or service. Using Department must provide a written explanation as to why only this particular product/service is acceptable and why no other will be suitable or acceptable to meet the need. A quote must accompany this form.

Department name: Information Technology

1. Name of product or service: Remote Database Administration
2. Name of product manufacturer: ACS/Xerox
3. Name of “sole” product supplier or service provider: ACS/Xerox
4. Describe in general terms the product/service you are requesting and the intended application.

The service is detailed specifically in Exhibit A: "Statement of Work" in the service contract, but in general terms they provide specifically requested programming, database maintenance, and administrative tasks on the Banner INB system, the Oracle database that supports Banner INB, and the servers that run those systems. Their work is based on specific need that arise each year, but always relate to Banner INB.

5. Describe the unique features/capabilities/characteristics that distinguish it from other products/services.

The remote database administration of the Banner INB product is unique because it is provided by the vendor of the supported software. Their specific knowledge of the Banner INB product allows them to support the database and server software in a way that would not be possible by a vendor that without extensive knowledge of the code and operation of the Banner INB software.

6. How did you determine there was only one source for the product or service? Provide information on the research that was performed to locate suppliers for this product(s) or service(s). (Please furnish names, addresses and other documentation).

This service is provided by the manufacturer of the Banner INB Software. No other vendor is authorized by the manufacturer to provide this service and no other vendor has the specific technical knowledge of the product to provide this service.

7. What product supplier or service provider has your Department used until now to satisfy similar requirements?

Same vendor has been used previous years.



03-0001

14-040

SERVICE AGREEMENT

THIS AGREEMENT for information technology services (hereafter the "Agreement") is entered into this 1st day of July 2013 (hereafter the "Effective Date") by and between Dona Ana County, a governmental entity (hereafter referred to as the "Client") with offices located at 251 west Amador, Room 201, Las Cruces, NM 88005, and XEROX GOVERNMENT SYSTEMS, LLC., a Delaware corporation, with its principal place of business located at 130 Division Street, Waite Park, MN 56387 (hereafter "Xerox" or "Contractor"), referred to individually as Party and collectively as Parties.

In consideration of the mutual promises and covenants contained herein the Parties hereto agree as follows:

1.0 Scope of Services

In consideration for the payments described in Section 2.0 hereof, Contractor will provide Client with the services described in the Statement of Work annexed hereto as Exhibit "A."

2.0 Compensation and Payment Provisions

Client shall make payments to Contractor for the services provided in the amount and at such times as are set forth in the payment schedule attached hereto as Exhibit "B" – Payment Provisions. Client shall pay invoices within thirty (30) days of their issuance.

3.0 Term

The services specified in Exhibit "A" will be provided beginning on July 1, 2013, assuming that both Parties have signed this Agreement prior to that date, and will end TWELVE months from such date (the "Expiration Date"). If the Client does not utilize the entire amount of services during the service period, then notwithstanding such fact, the services described within this Agreement will nonetheless be deemed to have been completed and Client will be responsible for payment of the full amount of fees for the service period. Unused service hours may not be carried forward beyond the Expiration Date set forth herein.

4.0 Termination

4.1 Default by Xerox: If Xerox defaults in the performance of any of its material default obligations under this Agreement for a period of forty-five (45) days after the sending of notice to the address on this Agreement that it is in default, Client may, at its option, terminate the Agreement by delivering written notice to Xerox at the address in this document, and paying Xerox all sums due under this Agreement to the initial date of the default. Upon termination or cancellation of this Agreement, all software, and other Xerox-owned material will promptly be returned to Xerox.

4.2 Default by Client: If Client defaults in the performance of any of its material default obligations under this Agreement for a period of forty-five (45) days after

receiving notice of default from Xerox, Xerox may, at its option, terminate the Agreement at the end of that period. Xerox may terminate this Agreement by delivering written notice of termination to Client. Upon termination of this Agreement, all equipment, software, and other Xerox-owned material will promptly be returned to Xerox.

4.3 Payment by Client: In the event of termination pursuant to this section, Client shall equitably compensate Xerox for all services performed in accordance with the Agreement up to the effective termination date.

5.0 Warranty

Xerox warrants the services provided hereunder will be performed in a professional and workmanlike manner. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THERE ARE NO WARRANTIES EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

6.0 Assignment

The rights and obligations of each Party under this Agreement will not be assignable without the prior written consent of the other Party to this Agreement, and any attempt to assign them without such consent will be void. Notwithstanding the foregoing, Xerox may assign this Agreement to its successors by merger or consolidation or to any person or entity that acquires all or substantially all of its capital stock or assets.

7.0 Applicable Law

This Agreement shall be governed by and construed in accordance with the applicable laws of the State of Kentucky, and venue for any legal action shall be in the State of Kentucky.

8.0 Modification

This Agreement may only be modified by a written documentation signed by both Parties.

9.0 Limitation of Liability

As permitted by NIM Law
EXCEPT FOR SERVICE FEES AND AMOUNTS EXPRESSLY DUE AND PAYABLE TO CONTRACTOR HEREUNDER, IN NO EVENT SHALL EITHER PARTY TO THIS AGREEMENT BE LIABLE TO THE OTHER PARTY HEREUNDER FOR ANY CLAIMS, PENALTIES OR DAMAGES, WHETHER IN CONTRACT, TORT, OR BY WAY OF INDEMNIFICATION, IN AN AMOUNT EXCEEDING TWENTY FIVE PERCENT (25%) OF THE FEES AND CHARGES PAID TO CONTRACTOR DURING THE PRECEEDING TWELVE MONTH PERIOD. UNDER NO CIRCUMSTANCES WILL EITHER PARTY TO THIS AGREEMENT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, HOWEVER CAUSED AND BASED ON ANY THEORY OF LIABILITY. THIS LIMITATION SHALL APPLY EVEN IF SUCH A PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES.

10.0 Notices

All notices, requests for payment, or other communications arising hereunder shall be sent to the following:

Notices to Client:

Dona Ana County
Attn: ~~Sandra Capps~~ *845 N. Motel Blvd*
~~251 W. Armador~~
~~Room 201~~ *88007*
Las Cruces, NM ~~88005~~

Notices to Xerox:

Xerox Government Systems, LLC.
130 Division Street
Waite Park, MN 56387
Attn.: Jay McDaniel

11.0 Integration

This Agreement, the attached exhibits, and any Software License Agreement executed by and between the Parties with respect to the subject matter described herein, constitute the entire agreement between the Parties. No agreements, representations, or warranties other than those specifically included in this Agreement and the attached exhibits shall be binding on either of the Parties. In case of a conflict between the terms of this Agreement and any attached exhibit, the terms of this Agreement shall prevail.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

Dona Ana County, NM

XEROX GOVERNMENT SYSTEMS, LLC.

By: *M. Sue Padilla*
M. Sue Padilla, Interim County Manager

By: *[Signature]*

Name: _____

Name: Hubert P. Auburna

Date: 7/24/13

Date: 6/20/13



DONA ANA COUNTY
845 N. MOTEL BLVD.
LAS CRUCES, NM 88007
 (575) 525-5929

PURCHASE ORDER

PO Number:	P1401283
Issue Date:	07/29/13
Delivery Date:	06/30/14

Supplier: @00003989
 VENDOR CODE
ACS GOVERNMENT SERVICES
1733 HARRODSBURG RD
LEXINGTON KY 40504

Ship to:
 HANA MATKIN
 DONA ANA COUNTY INFO SYSTEMS
 845 N MOTEL BLVD
 LAS CRUCES NM 88007

Send Billing Invoice to:

ACCOUNTS PAYABLE
845 N. MOTEL BLVD.
LAS CRUCES, NM 88007
 A - K (575) 525-5962
 L - Z (575) 525-5824
 TAX EXEMPT ID#
 A-1727764-09-00571

BUYER NAME: BOB TYFAIR
 PAYMENT TERMS: NET 30 DAYS

F.O.B. POINT

SHIP VIA

COMMODITY DESCRIPTION

QUANTITY

UNIT PRICE

EXTENDED

1
 REMOTE DATABASE ADMINISTRATOR SERVICE AGREEMENT
 RDBA SUPPORT PROVIDED BY ACS STAFF ON BEST EFFORT
 SHARED BASIS.
 ACS WILL PROVIDE UP TO 200 HRS OF SUPPORT DURING
 THE 12 MONTH PERIOD.
 SERVICES RENDERED ABOVE AND BEYOND THE 200 HRS
 DURING 12 MONTH PERIOD COVERED BY THIS SCOPE OF
 WORK WILL BE CHARGED \$140.00/HOUR.
 JULY 1, 2013 THRU JUNE 30, 2014
 IN STRICT ACCORDANCE TO CONTRACT #DAC 14-040
 HEREBY INCORPORATED BY REFERENCE.

12.00 EA

2,333.3300

27,999.96

SOLE SOURCE

DI

SCOUNT:

.00

ADDL CHARGES: .00
 TOTAL TAXES: .00

TOTAL: 27,999.96

By: _____

ACCOUNT CODES: 10001-10250-72830 27999.9599999

VENDOR INFORMATION:

Phone:
 Fax:

FILE COPY