

REQUEST FOR PROPOSAL
INTELLIGENT TRANSPORTATION SYSTEMS
SYSTEM INTEGRATOR

Proposals Due

4:30 p.m.
Eastern Daylight Time
August 9, 2006

PROJECT SCHEDULE

July 11, 2006 – RFP Posted on Division of Program Performance Web-site
July 28, 2006, 11:00 a.m. – On-Site Visit (Optional)
July 28, 2006, 1:00 p.m. – Consultant's Pre-Proposal Conference (Required)
August 9, 2006 – Consultant's Proposals Due
August 22, 2006 – First Selection Committee Meeting
September 1, 2006 – Second Selection Committee Meeting (Interviews)
September 8, 2006 – Third Selection Committee Meeting (if needed)

Commonwealth of Kentucky

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SECTION 10 – ADMINISTRATIVE OVERVIEW

10.000 PURPOSE OF REQUEST FOR PROPOSAL AND BUDGETED FUNDS

This Request for Proposal (RFP) is to solicit proposals from qualified Consultants to provide system integration, contract administration, future procurement/installation of equipment, implementation supervision, preventive maintenance, repairs, etc., for the Transportation Operations Center (TOC) in the new Transportation Cabinet Office Building, twelve District Offices and various Field Devices. The venue is statewide with restrictions in Louisville, Northern Kentucky, Lexington and the Cumberland Gap Tunnel areas. Restrictions are detailed in Section 20.000.

The Contract will be a Catalog Master Agreement with at least \$2,000,000 expected to be available for each two-year Budget period. Funds will be added at least annually based on expected needs for each year. All work will be sub-divided into categories or tasks entitled, “Work Task Orders”. Each Work Task Order will be further sub-divided into “Work Sub-Task Orders”, to be developed as the project progresses.

The Kentucky Transportation Cabinet (KYTC) has initially provided \$1,000,000 for Fiscal Year 2007 for this Contract. It is planned to add additional funds, primarily from construction projects, as they become available and when needed. However, there is no guarantee that these additions will occur. Further, the amount that may be added is unknown. In addition to the provided funds and depending on the particular situation, funds from construction projects may be added directly to the System Integrator Contract; passed through a construction contract or added to bid items in a construction contract.

The Contract Period initially begins at the Notice to Proceed and ends June 30, 2008 with three (3) two-year options for renewal. Thus, the maximum length of the Contract is eight (8) years unless changed by Contract Modification.

Consultants are hereby advised that the successful System Integrator will be working with other consultants, electrical contractors, roadway construction contractors, etc., in performing work under this Contract. This is particularly true regarding Section 20.020, Work Task Order X, World Equestrian Games.

The Cabinet has determined that its mission will be best served by a System Integrator to provide the above services. The Kentucky Transportation Cabinet (hereinafter called the “Cabinet” and/or the “KYTC”) issues this Request for Proposal (RFP) under the authority of KRS 45A.

10.010 COMMITMENT OF THE CABINET

The issuance of this Request for Proposal constitutes neither a commitment by the Cabinet to award a contract nor a commitment to pay any costs incurred in the preparation of a response to this Request for Proposal. Costs of proposal preparation are not reimbursable, even for the selected System Integrator.

10.020 SINGULAR AND PLURAL USAGE IN THE REQUEST FOR PROPOSAL

When the language used in the Request for Proposal is singular or plural but the other is more appropriate, Consultants shall consider that the correct term has been used.

10.030 CAPITALIZATION USAGE IN THE REQUEST FOR PROPOSAL

When the same word in the Request for Proposal is capitalized or is in lower case but the other usage is the more appropriate, Consultants shall consider that the correct usage has been provided.

10.100 ORGANIZATION OF THE REQUEST FOR PROPOSAL

This Request for Proposal is organized into five sections. These are described below:

1. Section 10 – Administrative Overview – Provides Consultants with general information on the objectives of this Request for Proposal and the procurement process.
2. Section 20 – Project Requirements – Provides Consultants with a description of the system to be integrated, including staffing, equipment, reports required and Project venue.
3. Section 30 – Terms and Conditions – Provides Consultants with the terms and conditions under which the System Integration shall be provided.
4. Section 40 – Procurement – Provides Consultants with requirements and schedules for the procurement.
5. Section 50 – Proposal Requirements – Prescribes the format and content required for each proposal.

10.200 DEFINITIONS

1. “ADA” means the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, *et seq.*
2. “c/o/b” means close of business at 4:30 p.m. Eastern Standard/Daylight Time as appropriate.
3. “Building” and/or “TCOB” means the new Transportation Cabinet Office Building located at 200 Mero Street, Frankfort, Kentucky, 40622.
4. “Cabinet” and/or “KYTC” means the Kentucky Transportation Cabinet.
5. “KOHS” means the Kentucky Office of Homeland Security.
6. “LFUCG” means the Lexington-Fayette Urban County Government.
7. “FHWA” means the Federal Highway Administration, a unit of the United States Department of Transportation.
8. “In writing” refers to the method of communication, which shall also include e-mail.
9. “Proposal” means the offer of a Consultant, in the format prescribed by Section 50.000, to perform the requested work and furnish the labor/ materials at the prices quoted in various Work Task Orders.
10. “RSVP” means to respond if you please.
11. “CFR” means Code of Federal Regulations.
12. “KAR” means the Kentucky Administrative Regulations.
13. “KRS” means the Kentucky Revised Statutes.
14. “TOC” means the Transportation Operations Center located in the new Transportation Cabinet Operations Building.
15. “System Integrator” generally means a Consultant that can develop software, design equipment, assist in procurement of equipment, install equipment, etc., such that a functional design becomes a fully operational system. Specifically, it

means a Consultant that is pre-qualified with the KYTC as outlined in Section 10.610, submits a proposal in response to this RFP, is selected and executes a contract with the Cabinet.

16. System Manager means a firm that installs equipment that is specified, designed and procured by others.
17. "TOC System Integrator" means the firm of PB Farradyne, Inc., which is currently under Contract with the Cabinet to provide System Integration. PB Farradyne's work is focused on the Transportation Operations Center (TOC) and selected field devices. (See Section 20.000)
18. "Consultant" means any firm who responds to this Request for Proposal and submits a proposal. Whenever "Consultant", "System Integrator" and/or "Successful Consultant" is used and one of the other terms is more appropriate, Consultants shall consider that the correct term has been used.
19. "Contractor" means a firm that installs field devices (e.g. conduit, foundations, trenching etc.). In most instances, their contract was obtained by low bid.
20. "System" means any or all of the various coordinated or individual mechanical, electrical, or electronic systems/equipment to be installed in the TOC, District Offices and/or Roadside Field Locations and generally described in Section 20.
21. "Management" means the allocation of resources for the proper functioning of the system.
22. "Design Modifications" means actions invoked to correct a recurring problem; to accommodate changes in conditions; or to update the system to current standards.
23. "Responsive Consultant" means a Consultant who responds on time with a complete proposal as indicated in Sections 40 and 50.
24. "Notice to Begin Work" means written notice to the System Integrator to proceed with the contract work.
25. "Notice of Approval for Payment" means written notice to the KYTC System Integrator that invoices may be submitted for payment.
26. "DBE" means Disadvantaged Business Enterprise
27. "NLT" means No Later Than

28. Whenever “Work Task” or “Task Order” is used, Consultants will consider that “Work Task Order” has been used. Whenever “Work Sub-Task” or “Sub-Task Order” is used, Consultants will consider that “Work Sub-Task Order” has been used.
29. “Mark-up” means a percentage applied to a procurement of equipment and/or services to cover the procuring agency’s administrative costs and profit.
30. “Up-Set Limit” means an upper financial limitation which cannot be exceeded without a contract modification and/or addition of funds.
31. “Cooperate Vertical Chain” means a vertical block diagram that shows co-operations owned and/or owned by the Consultants firm.

10.300 CONTACTS

1. This Request for Proposal is being issued by the:

Kentucky Transportation Cabinet
Division of Program Performance
200 Mero Street, Mail Code W3-22-03
Frankfort, Kentucky 40622

2. Requests for information regarding procurement procedures shall be made in writing to:

Mr. James Wathen, P.E., P.L.S., Director
Division of Program Performance
Kentucky Transportation Cabinet
200 Mero Street, Mail Code W3-22-03
Frankfort, Kentucky 40622
E-Mail: James.Wathen@ky.gov

3. Except for the Consultant's Pre-Proposal Conference described in Section 10.400, no contacts shall be made to KYTC or FHWA regarding any additional details of this Request for Proposal. Telephone calls shall only be accepted by Mr. Wathen.

4. Subsequent to execution of the Contract, the Cabinet will not contact, meet with, deal with sub-contractors, vendors, etc., except with permission from or at the request of the System Integrator.

10.400 CONSULTANT'S PRE-PROPOSAL CONFERENCE

1. A Consultant's Pre-Proposal Conference shall be held at the Transportation Cabinet Office Building, 200 Mero Street, Frankfort, Kentucky, in order to allow prospective Consultants an opportunity to ask questions about the Request for Proposal. While all questions are preferred to be in writing, this conference provides the Consultants their only opportunity for oral questions. The time and location of the Consultant's Pre-Proposal Conference is scheduled at **1:00 p.m., EST, Friday, July 28, 2006, in the TOC Conference Room on the first floor.**
2. **Attendance at the Consultant's Pre-Proposal Conference is mandatory. Proposal responses received from firms who did not attend the Consultant's Pre-Proposal Conference will be rejected.** Interested Consultants shall send no more than five (5) representatives to the Consultant's Pre-Proposal Conference. RSVP no later than c/o/b July 26, 2006, by e-mail, facsimile, or mail. RSVP to:

Leon Walden, P. E.
Kentucky Transportation Cabinet
Division of Traffic Operations, W3-28-04
Transportation Cabinet Office Building,
200 Mero Street
Frankfort, Kentucky 40622
Telephone: (502) 564-3020
Facsimile: (502) 564-3532
E-Mail: leon.walden@ky.gov

Each firm, whether a prospective consultant, sub-contractor or vendor, shall designate one person as the firm's contact person. This person shall provide a business card to Messrs. Wathen and Walden which shall include firm name, address, phone number, fax number and email address. Any pen and ink information must be readable. There will also be a "sign-in" sheet for names, firms, addresses, etc. This information must match the information on the business cards in order for a firm to submit a response to the RFP.

3. Consultants are encouraged to submit written questions to Mr. Wathen prior to the conference. Consultants may also submit questions after the conference to Mr. Wathen NLT c/o/b three (3) Cabinet working days prior to the deadline for

submittal. No answer, clarification, etc., will be posted on the Division of Program Performance web-site after c/o/b Friday, August 4, 2006.

4. A Consultant or its representative who has a disability for which the Cabinet needs to make an accommodation shall notify Mr. Walden of the need when communicating the RSVP.
5. Since impromptu questions will be permitted and spontaneous answers may be provided, Consultants should clearly understand that oral answers given by the Cabinet at the conference are not binding. The Cabinet shall prepare written responses to all written or oral questions and shall submit them, as an addendum to the Request for Proposal, to all Consultants at the earliest possible date. Minutes of the Pre-Proposal Conference will be posted on the Division of Program Performance web-site within five working days.

10.500 ON-SITE VISIT

An opportunity to visit the Transportation Operations Center will coincide with the Consultant's Pre-Proposal Conference. **The on-site visit is not required.** Failure by a Consultant to visit the site shall not constitute grounds for a claim after award of the Contract. The on-site inspection will precede the conference and be conducted by Mr. Walden. This inspection will be the only visit allowed Consultants during the Request for Proposal period. The only exception is that the current TOC Systems Integrator, PB Farradyne, may visit the TOC to perform work under the current contract. The site visit is scheduled for 11:00 a.m. EDT on July 28, 2006.

10.600 LAWS AND REGULATIONS

Consultants are responsible for obtaining, reading, and complying with the laws and regulations cited in this Request for Proposal. This Request for Proposal may not necessarily cite all laws and regulations that the Consultants may be responsible for following.

10.610 PRE-QUALIFICATION, LICENSE, CERTIFICATION REQUIREMENTS

KRS 45A provides for the pre-qualification of Consultants. All Consultants submitting a Proposal must have been pre-qualified in **each** of the following categories prior to July 11, 2006 at 4:30 p.m. EDT:

ITS/Systems Integrator
ITS/Communications Planning and Development

ITS/Management and Operations

The Consultant or a Sub-Contractor on the Consultant's team must be licensed by the Kentucky Fire Marshall's Office. Preferably, a copy of the Electrical License(s) is to be placed in the Proposal. The period of time to acquire an Electrical License(s) can be lengthy. Proposals that contain a copy of the Electrical License(s) application will be accepted, however, the Contract will not be executed until the Electrical License(s) is obtained.

The Consultant is to obtain and maintain National Incident Management Systems (NIMS) certification for non-administrative employees who will be working on this Contract. Certification is obtained by completing several on-line training courses which typically take an hour each. Detailed information on the certification process can be obtained by contacting:

Mr. Thomas H. Arnold
Director of Training Programs and
State NIMS Compliance Officer
tom.arnold@ky.gov
502-564-2081

10.700 CONSULTANT, SYSTEM INTEGRATOR AND TOC SYSTEM INTEGRATOR USAGE

It is intended that the term "Consultant" refer to any firm that could or has submitted a proposal in response to this Request for Proposal. The term, "Systems Integrator" means the Consultant selected for this contract. The term "TOC System Integrator" refers to the Consultant who has been selected and has executed a Contract with the Cabinet for Systems Integration in the TOC (PB Farradyne).

10.800 SPECIAL REQUIREMENTS

Consultants should pay close attention to the provisions in Section 10.800 through Section 10.900.

This Contract shall be effective on the date that a Notice to Proceed is issued. It shall be in effect initially until June 30, 2008. There shall be the option for three renewals; one July 1, 2008; one July 1, 2010 and the last one July 1, 2012. The absolute end date is June 30, 2014. The Cabinet may decline a renewal option without explanation to the incumbent System Integrator. Likewise, the System Integrator may decline a renewal

option without explanation to the Cabinet. See Section 30.200, TERMINATION OF CONTRACT.

10.801 PROCUREMENTS AND FUTURE CONTRACT MODIFICATIONS

Contract Modifications may occur for various reasons, namely:

- Add Funds and/or Work Task Orders to the contract
- Raise the “Up-Set Limit
- Add options for renewal
- Extend milestone dates
- React to changing conditions

The list is not inclusive. Procurement of equipment and/or services by the System Integrator may be through use of (1) Company price contracts, (2) Request for Proposals from vendors and/or (3) by System Integrator personnel (e.g. software). Vendor requests may be prepared by the System Integrator prior to Contract Modification approval. Issuance of RFP’s, in-house software preparation or any activity not specifically covered by the Contract is not to begin until Contract Modification approval(s).

Procurements may allow a partial payment of fifty percent (50%) of equipment costs upon delivery and a finding of compliance with specifications. Consultants are warned that they must be prepared to handle a significant up-front cost and financial capacity in the procurement of hardware.

10.802 SPECIAL INSURANCE REQUIREMENT

Any and all insurance requirements are to be in place for two (2) years from completion of the Contract.

10.803 ACQUISITION OF SYSTEM INTEGRATOR AND/OR SUB-CONTRACTORS

Acquisition of the System Integrator and/or a Sub-Contractor by another firm during the life of the Contract does not automatically open up the Contract to re-negotiation. Any change in cost, terms and/or conditions would have to be determined by the Cabinet to be in the Cabinet’s benefit. The nature of the acquisition, whether

voluntary or involuntary, will have no effect on this provision. Any insistence by an acquiring firm or holding company to increase the upset limit of the Contract is grounds for Termination by Default. See Section 30.210.

The Cabinet is to be notified within ten (10) working days of any proposed or completed acquisition. Also, the Cabinet is to be provided with a listing of company affiliations both owned and owned by the System Integrator. This listing is to be kept current. Failure to comply with this requirement can be grounds for Termination by Default. See Section 30.210.

10.804 EQUIPMENT/SERVICE MARK-UP PERCENTAGES

The System Integrator from time to time may repair existing equipment or replace with equipment that has been repaired. Reimbursement of out-of-pocket costs will be made without mark-up. However, new equipment or service procured by the System Integrator or a Sub-Contractor is allowed **one** mark-up percentage to cover procurement costs and profit. The System Integrator may share a portion of the mark-up with a Sub-Contractor as long as there is no mark-up on another mark-up. The Cabinet has placed a limit of twenty percent (20%) on the mark-up for this project. A proposed higher percentage could result in rejection of the response. (See Sections 20.014 and 20.015).

This percentage also provides one of the factors in “short-listing” for the second part of the selection process (see Section 10.900). Consultants are to write-in their proposed mark-up percentage in both numbers and words in their Proposal. Failure to do so will result in ZERO mark-up points for this item. Points will be assigned as follow for proposed Mark-ups.

| Mark-up Percentage | Points |
|--------------------|--------|
| >20% | 0 |
| 20% | 0 |
| 19% | 0.5 |
| 18% | 1.0 |
| 17% | 1.5 |
| 16% | 2.0 |
| 15% | 2.5 |
| 14% | 3.0 |
| 13% | 3.5 |
| 12% | 4.0 |
| 11% | 4.5 |
| 10% | 5.0 |
| 9% | 5.5 |

| | |
|----|------|
| 8% | 6.0 |
| 7% | 6.5 |
| 6% | 7.0 |
| 5% | 7.5 |
| 4% | 8.0 |
| 3% | 8.5 |
| 2% | 9.0 |
| 1% | 9.5 |
| 0% | 10.0 |

10.805 INNOVATIVE APPROACHES FOR ENGAGING DBE FIRMS, MINORITY-OWNED BUSINESSES, SMALL BUSINESSES, AND RECOGNIZED MINORITY ORGANIZATIONS

DBE goals and objectives have not been established for this System Integrator Contract. The objective of this factor is to assess the creativity and ingenuity of the Consultant Team in developing ideas or strategies that will help level the playing field for DBE firms, minority-owned businesses, small businesses and recognized minority organizations. The concepts should explain how the Consultant Team will engage DBE firms, minority-owned businesses, small businesses and recognized minority organizations through race and gender neutral outreach, education, training, technical assistance and other supportive services. The focus of these concepts should be to increase the number and capacity of underutilized DBE firms, minority-owned businesses, small businesses and recognized minority organizations in order to take advantage of contracting opportunities available through this Contract. The Proposal should not commit to the establishment of goals or percentage levels for participation of DBE firms or other small businesses. Except to the extent that the KYTC establishes a DBE goal for this Contract, all measures will have to be race and gender neutral, as the term is used in 49 CFR 26.

The Consultant’s Proposal will contain a “DBE Firms and Other Small Business Participation Plan” as part of the scope of work for this Contract. In addition to DBE firms, minority-owned businesses, small businesses and other recognized minority organizations that provide Engineering and/or System Integration services, the Plan should also describe how other DBE firms, minority-owned businesses, small businesses and other recognized minority organizations would be utilized. This Plan will be subject to the concurrence of the KYTC’s Office for Business and Occupational Development. Except to the extent that the KYTC establishes a DBE goal for this Contract, all measures used will have to be race and gender neutral, as the term is used in 49 CFR 26.

There is not a specific DBE goal or a required percentage for participation. Consultant teams are expected to make good faith efforts in accordance with 49 CFR 26 to encourage the participation of DBE firms, minority-owned businesses, small

businesses and other recognized minority organizations based on needed services, qualifications and availability. (NOTE: This is not intended to be exclusionary in consideration for the use of any DBE firm, minority-owned business or small business as a sub-consultant for this Contract.)

Small and minority-owned businesses are not required to be certified as DBE's in order to participate in this Contract. The utilization of small, minority-owned, and DBE businesses will be tracked and reported.

The above Plan is to be placed in a separate binder notebook that is clearly identified on the outside and conforms to the criteria stated under Section 40.350.

Consultants will receive a maximum of **ten** (10) points for this item.

10.806 KEY SYSTEM INTEGRATOR PERSONNEL

Section 50.154 covers key System Integrator personnel assigned to this project. It is recognized that there will likely be personnel changes that can not be avoided. All changes in the System Integrator's Project Manager and those key personnel listed in the Consultant's Proposal will require approval by the Cabinet. Personnel changes which appear to the Cabinet to be "bait and switch" changes may be cause for Contract Termination. This requirement also covers key subcontractor personnel.

One very important person will be the System Integrator's Information Technology System Administrator. There should be a section, not to exceed three pages, devoted to this person which addresses the following:

- Name
- Education and Experience
- Three to five references from prior clients
- Current location
- Time and cost devoted to travel on a weekly basis
- Anticipated hours available each week, excluding travel
- Home base distance from Frankfort
- Familiarity with Operating Systems, Applications, Networking, Graphics, Imaging, Web Design, Audio/Video Equipment, Computer Hardware, Security and Data Recovery

The Cabinet's Selection Committee members will review the quality of the Consultant's submission for their proposed Systems Administrator. The quality of this submission will be a factor in both short-listing and final selection of the Systems Integrator (See Section 10.900). Consultants will receive a maximum of ten points for this item.

10.900 SELECTION PROCESS

The selection of the System Integrator will be a two-step process. The first step will be to short-list three (3) Consultants for interviews with the Selection Committee. This will be accomplished by the Selection Committee ranking the responses as follow:

Section 10.804 (Maximum of Ten Points)

Section 10.805 (Maximum of Ten Points)

Section 10.806 (Maximum of Ten Points)

Relative experience, capabilities and expertise of Consultant Team while working on System Integrator projects and the Team's ability to bring innovation to KYTC projects (Maximum of Thirty Points)

Project approach and proposed procedures to accomplish the services to be provided under this Contract (Maximum of Ten Points)

Consultant's Kentucky Office where 75% - 100% of the work is to be performed. (2 Points)

Consultant's Kentucky Office where 26% - 74% of the work is to be performed. (1 Point)

Thus, Consultants can receive a Maximum of Seventy-Two Points.

Ground Rules for the interviews are as follow:

- (1) Combined attendance for the interviews by Consultant and Sub-Contractor personnel shall not exceed four persons.
- (2) The proposed Project Manager will make the presentation and answer all questions.
- (3) The total interview shall not exceed thirty minutes.
- (4) Any power-point presentation shall not exceed ten (10) minutes.
- (5) All questions from the Consultant team shall be in writing
- (6) The ranking member of the Consultant team shall use the last three to five minutes to sum up the firm's commitment to the project.
- (7) The order of presentation shall be determined by lot. Thirty (30) minutes will be scheduled between presentations for set-up and take-down of power point

equipment and/or displays. A consultant should not infringe on another consultant's time.

SECTION 20 - SYSTEM REQUIREMENTS

20.000 PROJECT OVERVIEW

The Cabinet has implemented a Transportation Operations Center (TOC) located on the first floor of the Transportation Cabinet's Office Building located at 200 Mero Street in Frankfort, Kentucky. Subsequently, a Homeland Security (KOHS) Fusion Center has been co-located in the TOC.

Work needed for the TOC/Fusion Center over the next several years includes preventive maintenance, equipment repairs and possibly an equipment refresh of selected items. Some of the work will need to be performed on KOHS equipment however, the Cabinet will be responsible for arranging, supervising, payment, etc., for all work within the TOC/Fusion Center.

The Cabinet will also be expanding the various ITS devices to additional locations in the Commonwealth. Generally, expansion will be District by District. The Systems Integrator will be tasked to work with Contractors and affected District personnel to install devices and integrate them with the TOC/Fusion Center. The System Integrator will be involved in planning, designing, preparing specifications and installation to the extent contained in the Work Task Order Work Plan. District(s) for expansion have not been determined as of this point in time. Contract Modification(s) will be necessary for expansion.

The System Integrator will be responsible for procuring equipment for repairs and preventive maintenance. All equipment procured will be reimbursed at the invoice price plus a markup as contained in Section 10.804. All shipping, handling, postage, etc., shall be shown on the invoices in order to be reimbursed.

The Cabinet currently has a contract with PB Farradyne Inc., of Rockville, Maryland for implementation of the TOC and integration with selected field devices. This Contract expires June 30, 2007 and will not be extended for reasons totally beyond the control and responsibility of the Cabinet and PB Farradyne. There is also the likelihood that all available funds will be expended prior to the expiration date which, in essence, will terminate the Contract before June 30, 2007. Work remaining for PB Farradyne includes preventive maintenance and special assignments.

PB Farradyne is eligible to respond to this RFP. In the case that they are NOT selected, the selected Systems Integrator will work with PB Farradyne as each carry

out their work tasks. The Cabinet's Project Manager will assign all work and set priorities.

As of the issuance of this Request for Proposal, PB Farradyne is performing system integration of field devices in Cabinet Districts 3, 4 and 7 as a subcontractor to construction contractors. The System Integrator will have no role or responsibility in the work under these sub-contracts. The Systems Integrator will, however, need to be familiar with this work as the firm will likely be performing preventive maintenance and repairs on this equipment after it is accepted from the Contractor(s).

Similar work has been completed for Districts 5 and 6. The Systems Integrator will have no responsibility for any work in Kenton, Boone and Campbell Counties unless added by Contract Modification. Work in District 5 is restricted to the District Office and its connection to the TRIMARC Operations Center, unless modified by a Contract Modification.

Similar work has been completed for The Cumberland Gap Tunnel. This includes two Dynamic Message Signs on I-75 near London. The Systems Integrator will have no responsibility for any work involving the Tunnel, including its field devices unless added by Contract Modification.

The Cabinet has a large inventory of equipment installed in the LFUCG Traffic Management Center in Lexington. The Systems Integrator will coordinate all visits and work with LFUCG personnel. All work must be performed carefully and professionally. Any conflicts with LFUCG or damage to their equipment could result in termination of the Contract with the Cabinet. The Systems Integrator will be responsible for any damage to Cabinet and/or LFUCG equipment.

The selected Systems Integrator will be reimbursed on a "cost plus" basis. The table below depicts the various reimbursement criteria:

Salaries- Actual cost plus approved payroll additives.

Air Travel- Actual cost of Business class.

Automobile- Standard Cabinet rates for mileage.

Per Diem- Standard Cabinet rates for meals and lodging.

Items purchased- Actual cost plus additives and/or mark-ups.

Work Task Orders- As specified.

The Systems Integrator will plan any air travel to conserve scarce funds. This could require week-end work in Kentucky. Another cost saving approach for some Consultants could result from opening an Office in Kentucky.

Several Work Sub-Task Orders are anticipated. Each Sub-Task Order shall be assigned by a Letter Agreement and shall have a number, title, termini, location, scope of services, work to be performed, basis for payment, cost, and assigned personnel. Funding may be through this Contract, another consultant or some other similar source. A Sub-Task Order may be deleted without written explanation to the Systems Integrator. To the extent feasible, both Work Task Orders and Sub-Task Orders will be added/deleted at the time of option renewal.

It is probable that there will be an overlap of this Contract with the Cabinet's existing contract with PB Farradyne. In this situation, PB Farradyne will perform the work and the Systems Integrator will observe for familiarity and training reasons. In case of conflicts, the Cabinet's Project Manager will have final say over work to be performed.

There are two other contracts that Consultants need to be aware of. One is Master Agreement M-05218418 entitled, "Highway Electronic Maintenance and Repair Contract". The Contractor is Davis H. Elliot Contractors, Inc of Roanoke, VA. The Contract was effective in November of 2005 for one year with the option of two one-year renewals. It provides for installation, preventive maintenance and repair of traveler information kiosks, Automatic Vehicle Identification Systems, Dynamic Message Signs, Road Weather Information Systems and other types of electronic infrastructure. There are no plans at this time to transfer any items currently maintained by Davis H. Elliot to the System Integrator or **vice versa**.

The second contract is Master Agreement M-04062645 entitled, "ADVANTAGE CVO – AVI Equipment Maintenance". The Contractor is International Road Dynamics, Inc., of Saskatoon, Saskatchewan, Canada. The Contract was effective July 16, 2004 with a time frame of one year and the option of four one-year renewals. This Contract is currently in the second renewal and steps are underway to exercise the third one-year option. Due to the special nature of this contract and the work to be performed, it is highly unlikely that there will be any shifting of work to or from Agreement M-04062645.

All continuing work is to be performed in increments of two years. Each increment is to have a detailed plan and schedule, where appropriate. The two-year increments are to coincide with the Commonwealth's Fiscal Budgets.

20.010 PROJECT WORK TASK ORDERS

Initially, there are eleven Work Task Orders. Additional Work Task Orders may be added if the need arises and Funds are available.

20.011 WORK TASK ORDER I – PREVENTIVE MAINTENANCE OF TOC EQUIPMENT

The Systems Integrator will initially become familiar with all ITS equipment in the TOC, including that belonging to KOHS. Manuals, as-built plans, maintenance logs, manufacturer's brochures, etc., will be reviewed in detail. The second activity under this Work Task is to prepare a work plan which includes manufacturer recommended preventive maintenance schedules and procedures. Any changes proposed to these schedules and procedures by the Systems Integrator will be submitted to the Cabinet's Project Manager prior to inclusion in Work Task Order I. The work plan will be reviewed by the System Integrator and the Cabinet as needed or as part of the approval of options for renewal, which ever comes first. Modifications to the work plan, as a general rule, are to be part of the renewal process. Otherwise a Work Sub-Task Order may be used as long as there is no increase in funding. The third activity will be to carry out the work plan and any subsequent Work Sub-Task Orders.

20.012 WORK TASK ORDER II – PREVENTIVE MAINTENANCE OF FIELD EQUIPMENT

The Systems Integrator will initially become familiar with all ITS field equipment in Districts 3, 4 and the District 5 Office. Manuals, as-built plans, maintenance logs, manufacturer's brochures, etc., will be reviewed in detail. The second activity under this Work Task is to prepare a work plan which includes manufacturer recommended maintenance schedules and procedures. Any changes proposed to these schedules and procedures will be submitted to and approved by the Cabinet's Project Manager prior to inclusion in Work Task Order II. The work plan will be reviewed by the Systems Integrator and the Cabinet as needed or as part of the approval of options for renewal, whichever comes first. Modifications to the work plan, as a general rule, are to be made as part of the renewal process. Otherwise, a Work Sub-Task Order may be used. The third activity will be to carry out the work plan and any subsequent Work Sub-Task Orders.

20.013 WORK TASK ORDER III – PREVENTIVE MAINTENANCE OF DISTRICT OFFICE ITS EQUIPMENT

The Systems Integrator will initially become familiar with all ITS equipment (excluding field equipment) in Districts 3, 4, 7, the District 5 Office and the LFUCG Traffic Management Center. Manuals, as-built plans, maintenance logs, manufacturer's brochures, etc., will be reviewed in detail. The second activity under this Work Task is to be prepare a work plan which, includes manufacturer recommended maintenance schedules and procedures. Any changes proposed to these schedules and procedures will be submitted to and approved by the Cabinet's Project Manager prior to inclusion in Work Task Order III. The work plan will be reviewed by the System Integrator and the Cabinet as needed or as part of the approval of options for renewal, whichever comes first. Modifications to the work plan, as a general rule, are to be made as part of the renewal process. Otherwise, a Work Sub-Task Order may be used. The third activity will be to carry out the work plan and any subsequent Work Sub-Task Orders.

20.014 WORK TASK ORDER IV – REPAIRS TO ITS EQUIPMENT

The Systems Integrator will repair or replace any ITS equipment that is damaged, worn out, superceded, etc. The equipment may be located in the TOC, a District Office or along a roadway. A Work Sub-task will be prepared for each repair or replacement that is to be made and will be presented to the Cabinet's Project Manager.

20.015 WORK TASK ORDER V – PURCHASE OF EQUIPMENT

The Cabinet will procure all equipment for expansion and/or upgrading purposes and the Systems Integrator will procure equipment for repair purposes. Procurement by the Cabinet may be by delivery order, sealed bids, price contracts, through Contractor(s), etc. The Systems Integrator will assist by preparing plans, specifications and cost estimates; etc. A Work Sub-task, including recommended method of procurement and/or installation, will be prepared by the Systems Integrator for each procurement and be submitted to the Cabinet's Project Manager.

20.016 WORK TASK ORDER VI – PURCHASE OF EQUIPMENT THROUGH CONTRACTOR(S)

The Cabinet, at its discretion, may purchase equipment through Contractor(s). In such instances, installation may also be by the Contractor(s). The System Integrator will assist the Cabinet in the same manner as for Work Task V. The cost of the equipment purchased through Contractor(s) and its installation will NOT be through this

Contract

and is not estimated here. The Cabinet, at its discretion, may assign the System

Integrator to work with the Contractor(s) in integration activities. A Work Sub-Task will be prepared for each procurement under this activity.

20.017 WORK TASK ORDER VII – PREVENTIVE MAINTENANCE OF DISTRICT 7 FIELD EQUIPMENT

Work Task Order VII provides preventive maintenance for Cabinet equipment located in the Lexington Fayette Urban County Government (LFUCG) Traffic Management Center, at the Clays Ferry Bridge, the District 7 Office and the associated communication equipment. The Systems Integrator will initially become familiar with all ITS equipment at the above locations. Manuals, as-built plans, maintenance logs, manufacturer’s brochures, etc., will be reviewed in detail. The second activity under this Work Task Order is to prepare a work plan which includes manufacturer recommended preventive maintenance schedules and procedures. Any changes proposed to these schedules and procedures will be submitted to and approved by the Cabinet’s Project Manager prior to inclusion in Work Task Order VII. The work plan will be reviewed by the System Integrator as needed or as part of the approval of options for renewal, whichever comes first. Modifications to the work plan, as a general rule, are to be made as part of the renewal process. Otherwise, a Work Sub-Task Order may be used. A third activity will be to carry out the work plan and any subsequent Work Sub-Task Order.

20.018 WORK TASK ORDER VIII – SYSTEM INTEGRATION

This is the primary Work Task Order for the Systems Integrator and the firm will work with and assist the Cabinet in many ways, namely:

- Preventive Maintenance
- Repairs
- Equipment Procurement and Installation
- ITS System Design
- Technical Advice
- ITS System Administration

- Trouble Shooting
- Contract Management
- Preparation of Work Sub-Tasks

As noted earlier, Work Task Orders and Work Sub-Task Orders will be prepared for each activity under this Contract. In many cases, a Work Sub-Task Order will consist of a paragraph while others may require several pages.

The venue of service by the System Integrator is State-wide except as previously constrained. Also, some work serving Kentucky may be located in an adjacent State. In such cases, Cabinet personnel will be responsible for co-ordination with the adjacent State. An overall Work Task Order and individual Work Sub-Task Orders will govern all work. These documents will be prepared by the Systems Integrator and submitted to the Cabinet's Project Manager for revision and/or approval.

20.019 WORK TASK ORDER IX – TRAFFIC SIGNAL SYSTEM SOFTWARE

The System Integrator will initially become familiar with Kentucky's existing Traffic Signal Systems and the software being developed in-house by the Division of Traffic Operations. The System Integrator will then prepare a work plan for assisting in the development and installation of the new software. This work plan will likely consist of several Work Sub-Task Orders.

20.020 WORK TASK ORDER X – WORLD EQUESTRIAN GAMES

Lexington will be the site of the 2010 World Equestrian Games which will be in the Fall of 2010. At this time, there is no information on what will be required from the System Integrator. The first item of work will be to develop a work plan as information becomes available. Several Work Sub-Task Orders are envisioned.

20.021 WORK TASK ORDER XI – REST AREA/WELCOME CENTER SECURITY CAMERAS

The Kentucky Department of Tourism has applied to the KOHS for funding to procure and install security cameras at the Kentucky Rest Areas and Welcome Centers. The System integrator may be requested to perform some or all of this work. If this occurs, a Work Task Order must be prepared and added to the Contract by a Contract Modification.

SECTION 30 – TERMS AND CONDITIONS

30.000 GENERAL

The contract between the Cabinet and the System Integrator shall be based on: (1) the Request for Proposal and any amendments thereto, and (2) the Consultant's Proposal submitted in response to the Request for Proposal. In the event of a conflict in language between the two documents referenced above, the provisions and requirements set forth and/or referenced in the Request for Proposal shall govern. In the event that an issue is addressed in one document that is not addressed in the other document, no conflict in language shall be deemed to occur. However, the Cabinet reserves the right to clarify any contractual relationship in writing with the concurrence of the Consultant, and such written clarification shall govern in case of conflict with the applicable requirements stated in the Request for Proposal or the Consultant's Proposal. In all other matters not affected by the written clarification, if any, the Request for Proposal shall govern.

No modification or change of any provision in the contract shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by the Consultant and the Cabinet, and incorporated as a written amendment to the Contract and processed through the Cabinet prior to the effective date of such modification or change. Memoranda of Understanding, Work Sub-Task Orders and Correspondence shall not be construed as Contract Modifications.

The contract shall be construed according to the laws of the Commonwealth of Kentucky and in particular, KRS-45A. Any legal proceedings against the Commonwealth regarding this Request for Proposal or any resultant contract shall be brought in Commonwealth of Kentucky administrative or judicial forums. Venue shall be in Franklin County Circuit Court, Commonwealth of Kentucky.

30.010 DEVIATIONS FROM CONTRACT

The stated requirements appearing elsewhere in the Request for Proposal shall become a part of the terms and conditions of any resulting contract. Any deviations therefrom shall be a result of negotiations with the Consultant and shall become a part of the contract.

30.020 ENTIRE AGREEMENT

The resulting contract represents the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or

agreements, either written or oral, between the parties hereto relating to the subject hereof. It shall be independent of and have no effect on any other contracts. A record of formal contract negotiations between the contractual parties shall be prepared by the Cabinet and shall become a permanent part of the contract file.

30.030 NOTICE TO BEGIN WORK AND COMPLETION DATE

The System Integrator shall not commence any work until all necessary parties have fully executed a valid contract and the Cabinet has issued a Notice to Begin Work. Completion Dates are as stated in Section 20.000, Project Overview.

30.040 ADVERTISING AWARD

The System Integrator shall not refer to awards in commercial advertising in such a manner as to state or imply that the firm or its services are endorsed or preferred by the Cabinet. There shall be no prohibition against the System Integrator listing the Cabinet among its clients in a statement of qualifications and experience.

30.050 NOTICES

After contract award, all notices pursuant to this contract shall be deemed duly given when: (1) delivered by hand or (2) sent by registered mail, return receipt requested, overnight delivery with waybill tracking and received no later than 3 days after posting.

All notices from the System Integrator to the Cabinet are to be delivered to:

Kentucky Transportation Cabinet
State Highway Engineer's Office
Transportation Cabinet Office Building, Mail Code E6-S1-00
200 Mero Street
Frankfort, Kentucky 40622

30.060 TITLES AND NUMBERING OF SECTIONS AND SUBSECTIONS

Titles and numbering of sections and subsections used in this Request for Proposal are for the purpose of facilitating ease of reference only and shall not be construed to infer a contractual construction or language.

30.100 BONDS

There are no bonding requirements. See also Section 40.360.

30.200 TERMINATION OF CONTRACT

The contract and/or subcontract(s) resulting from this Request for Proposal shall be subject to the following termination provisions. The contract may be terminated by the Cabinet at any time for default, System Integrator bankruptcy, convenience, unavailability of funds, or failure to comply with confidentiality laws, corporate takeovers (friendly or unfriendly), etc. This list is not inclusive.

30.210 TERMINATION FOR DEFAULT

NOTE: Most of Section 30.210 is taken word for word from 200 KAR 5:312 Section 1. However, a few words and phrases have been added for clarity, emphasis and/or explanation. No words or phrases have been knowingly deleted.

If the System Integrator and/or sub-contractors, vendors, etc., are determined in writing by the purchasing official (i.e. the Director of the Division of Program Performance) to be in breach of any of the terms and conditions of a contract with the Commonwealth of Kentucky held by such System Integrator, shall, at the discretion of the purchasing official, be declared in default and such contract may be terminated as a result of such default.

A default in performance by the System Integrator for which a contract may be terminated shall include, but shall not necessarily be limited to: failure to perform the contract according to its terms, conditions and specifications; failure to make delivery within the time specified or according to a delivery schedule fixed by the contract; late

payment or nonpayment of bills for labor, materials, supplies, or equipment furnished in connection with a contract for construction services as evidenced by mechanics liens filed pursuant to the provisions of KRS Chapter 376, or letters of indebtedness received from creditors by the purchasing agency; failure to diligently prosecute the work under contract for construction services.

The Cabinet shall not be liable for any further payment to the System Integrator under a contract terminated for the System Integrator's default after the date of such default as determined by the purchasing official except for commodities, supplies, equipment or services delivered and accepted on or before the date of default and for which payment had not been made as of that date. The System Integrator and/or the System Integrator's surety, shall be jointly and severally liable to the Cabinet for all loss, cost

or damage sustained by the Cabinet as a result of the System Integrator's default; provided, however that the System Integrator's surety liability shall not exceed the final sum specified in the System Integrator's bond should one be required as part of the Contract Modification process. See also Section 40.360.

30.220 TERMINATION FOR SYSTEM INTEGRATOR BANKRUPTCY

In the event of the filing of a petition in bankruptcy by or against the System Integrator, the Cabinet shall have the right to terminate the contract upon the same terms and conditions as a termination for default.

30.230 TERMINATION FOR CONVENIENCE

NOTE: Most of Section 30.230 is taken word for word from 200 KAR 5:312 Section 2. However, a few words or phrases have been added for clarity, emphasis and/or explanation. No words or phrases have been knowingly deleted.

The Cabinet shall be authorized to terminate for its own convenience any or all contracts, sub-contracts and/or purchase orders, etc., in their entirety or a portion thereof, for the procurement of supplies and services when the purchasing official (Director of the Division of Program Performance) has determined that such terminations will be in the Cabinet's best interests. When it has been determined that a contract should be terminated for the convenience of the Cabinet, the purchasing agency shall be authorized to negotiate a settlement with the System Integrator according to terms deemed just and equitable by the purchasing agency. Compensation to the System Integrator for lost profits on a contract terminated for convenience of the Cabinet shall not exceed an amount proportionate to the sum that the System Integrator's total expected margin of profit on the contract bore to the contract price, based on the total out of pocket expense incurred by the System Integrator as of the date of termination of the contract. Whenever a contract is terminated for the convenience of the Cabinet, the System Integrator shall have the burden of establishing the amount of compensation to which the System Integrator is believed to be entitled by submission of complete and accurate cost data employed in submitting or proposal for the contract and evidence of expenses paid or incurred in performance of the contract from the date of award through the date of termination. Payment of the sum agreed to in settlement of a contract terminated for convenience of the Cabinet shall be made from the same source of funds or account as the original contract.

30.240 TERMINATION FOR UNAVAILABILITY OF FUNDS AND/OR SPENDING AUTHORITY

In the event that Cabinet funds and/or spending authority for the contract become unavailable, the Cabinet shall have the right to terminate the contract without penalty and upon the same terms and conditions as termination for convenience.

Availability of funds and/or spending authority will be determined at the sole discretion of the Cabinet.

30.250 TERMINATION FOR FAILURE TO COMPLY WITH CONFIDENTIALITY PROVISIONS

The Cabinet shall have the right to void the contract if the System Integrator fails to adhere to the provisions of disclosure laws as referenced in this Request for Proposal. The terms and conditions for termination under this section shall be the same terms and conditions set forth in Section 30.210.

30.260 NOTICE OF TERMINATION

The Cabinet shall have the right to terminate or cancel the Contract, in its entirety or a portion thereof, at any time upon providing a written Notice of Termination by certified mail to the System Integrator. The termination shall be effective in not less than thirty days, and may be greater than thirty days, after the postmarked date of the Notice of Termination. The Notice of Termination shall state the reason for termination, the effective date of termination, and the extent to which the contract is canceled.

30.270 PROCEDURE ON TERMINATION

Upon delivery by certified mail to the System Integrator of a Notice of Termination, the System Integrator shall:

- Stop work under the contract on the date and to the extent specified in the Notice of Termination;
- Place no further orders for materials, services, or facilities, except as may be necessary for completion of such portion of work under the contract as is not terminated;

- With the approval or ratification of the contracting officer, settle all outstanding liabilities and all claims arising out of such termination of orders or agreements with subcontractors, the cost of which would be reimbursable in whole or in part, in accordance with the provision of the contract;
- Terminate all orders to the extent that they relate to the performance of work terminated by the Notice of Termination;
- Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination; and
- Take such action as may be necessary, or as the Cabinet may direct, for the protection and preservation of the property related to the contract which is in the possession of the System Integrator and in which the Cabinet has or may acquire an interest.

30.280 TERMINATION CLAIMS

After receipt of a Notice of Termination, the System Integrator shall submit to the Contracting Officer (i.e. the Director of the Division of Program Performance) any termination claim in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than two (2) months from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer within such two (2) month period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, the Contracting Officer may receive and act upon any such termination claim at any time after such two (2) month period or any extension thereof. Upon failure of the System Integrator to submit its termination claim within the time allowed, the Contracting Officer may, subject to any review required by the Cabinet procedures in effect as of the date of execution of the contract, determine, on the basis of information available to the Contracting Officer, the amount, if any, due to the System Integrator by reason of the termination and shall thereupon cause to be paid to the System Integrator, the amount so determined.

Subject to the provisions of the previous paragraphs and subject to any review required by the Cabinet procedures in effect as of the date of execution of the contract, the System Integrator and the Cabinet may agree upon the amounts to be paid to the System Integrator by reason of the total or partial termination of work pursuant to this article. The contract shall be amended accordingly.

In the event of the failure of the System Integrator and the Cabinet to agree in whole or in part as to the amounts with respect to costs to be paid to the System Integrator in connection with the total or partial termination of work pursuant to this article, the Cabinet shall determine on the basis of information available, the amount, if any, due to the System Integrator by reason of termination and shall pay to the System Integrator the amount so determined.

The System Integrator shall have the right of appeal, as stated under Disputes, Subsection 30.500, from any such determination made by the Cabinet.

30.300 CHANGES IN SCOPE

The Cabinet may, at any time by a written order, make changes within the general scope of the contract including but not limited to the length and renewal. No changes in scope are to be conducted except at the approval of the Cabinet. If any such change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under the contract, whether changed or not changed by any such order, a mutually satisfactory adjustment shall be made in the contract price, and the contract shall be modified in writing accordingly.

30.400 FORCE MAJEURE

The System Integrator shall not be liable for any excess cost to the Cabinet if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the System Integrator. Such causes may include, but are not restricted to, acts of God, fires, quarantine restriction, and freight embargoes. In all cases, the failure to perform shall be beyond the control and without fault or negligence of the System Integrator. The System Integrator shall take all possible steps to recover from such occurrences.

30.500 DISPUTES

Except as otherwise provided in this contract, a question or act arising under this contract which is not disposed of by agreement, amendment, or addenda shall be decided by the Secretary of the Kentucky Transportation Cabinet who shall reduce his decision to writing, and shall serve by certified mail a copy on the System Integrator.

The decision of the Secretary shall be final and conclusive unless within thirty (30) days from the date of service, the System Integrator files with the Secretary of the Kentucky Transportation Cabinet a petition for an administrative hearing. The Secretary's decisions in the event of such a petition shall be final subject to the System Integrator's right to administrative review pursuant to Kentucky Statutes.

Pending final determination of any dispute hereunder, the System Integrator shall proceed diligently with the performance of the contract and in accordance with the Secretary of the Kentucky Transportation Cabinet's direction.

This section does not preclude consideration of legal questions in connection with the decision provided for above; provided, that nothing in this contract shall be construed as making the final decision of any administrative official, representative or board on a question of law.

30.600 CONFIDENTIALITY

The System Integrator shall comply with the provisions of the Privacy Act of 1974 and instruct its employees to use the same degree of care as it uses with its own data to keep confidential information concerning client data, the business of the Cabinet, its financial affairs, its relations with its citizens and its employees, as well as any other information which may be specifically classified as confidential by the Cabinet in writing to the System Integrator. All federal and state regulations and statutes related to confidentiality shall be applicable to the System Integrator. The System Integrator shall have an appropriate agreement with its employees to that effect, provided however, that the foregoing will not apply to:

- Information which the Cabinet has released in writing from being maintained in confidence;
- Information which at the time of disclosure is in the public domain by having been printed and published and available to the public in libraries or other public places where such data is usually collected; and
- Information which, after disclosure, becomes part of the public domain as defined above, through no act of the System Integrator.

30.610 CONFIDENTIALITY OF CONTRACT TERMS

The System Integrator and the Cabinet agree that all information communicated between them before the effective date of the agreement shall be received in strict confidence, shall not be necessarily disclosed by the receiving party, its agents, or employees without prior written consent of the other party. Such material shall be kept confidential subject to state and federal disclosure laws.

Upon signing the contract by all parties, terms of the contract become available to the public, pursuant to the provisions of Kentucky law and/or regulations.

30.700 PERSONNEL

The System Integrator shall warrant that all persons assigned by it to the performance of this contract shall be employees of the System Integrator (or specified subcontractor) and shall be fully qualified to perform work herein. The System Integrator shall include a similar provision in any contract with any subcontractor selected to perform work hereunder.

Personnel commitments identified in the Consultant's Proposal shall be considered mandatory to the work performed under this Request for Proposal. Staffing must include those individuals as proposed and at the level of effort proposed. Failure to provide the designated contract staff may be considered a breach of contract and appropriate termination proceedings may be started. Replacement of personnel shall be with personnel of equal ability and qualifications, or greater.

During the course of the contract, the Cabinet reserves the right to require the System Integrator to reassign or otherwise remove from the project any System Integrator or Sub-Contractor employee found unacceptable by the Cabinet.

30.710 INDEPENDENT MANAGER

It is expressly agreed that the System Integrator and any Subcontractor and agents, officers, and employees of the System Integrator or Subcontractor in the performance of this contract shall act in an independent capacity and not as officers or employees of the Cabinet. It is further expressly agreed that this contract shall not be construed as a partnership or joint venture between the System Integrator or any Subcontractor and the Cabinet.

30.720 SYSTEM INTEGRATOR COOPERATION IN RELATED EFFORTS

The Cabinet may undertake or award other contracts for additional or related work, and the System Integrator shall fully cooperate with such other contractors and Cabinet employees and carefully fit the System Integrator's own work with such additional work. The System Integrator shall not commit or permit any act which will interfere with the performance of work by another contractor or by employees of the Cabinet. This clause shall be included in the contracts of all contractors with whom the System Integrator will be required to cooperate. The Cabinet shall equitably enforce this clause as to all contractors, to prevent any imposition of unreasonable burdens on any contractor.

30.800 EMPLOYMENT PRACTICES

The System Integrator shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliations, or disability. The System Integrator shall take affirmative action to ensure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability. Such action shall include, but is not limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, other forms of compensation, and selection for training, including apprenticeship. The System Integrator agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this clause.

The System Integrator, in all solicitations or advertisements for employees placed by or on behalf of the System Integrator, shall state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability, except where it relates to a bona fide occupational qualification.

The System Integrator shall comply with the nondiscrimination clause contained in Federal Executive Order 11246, as amended by Federal Executive Order 11375, relative to Equal Employment Opportunity for all persons without regard to race, color, sex, or national origin, and the implementation rules and regulations prescribed by the Secretary of Labor and with Title 41, Code of Federal Regulations, Chapter 60. The System Integrator shall comply with related Commonwealth of Kentucky laws and regulations.

The System Integrator shall comply with regulations issued by the Secretary of Labor of the United States in Title 20, Code of Federal Regulations, Part 741, pursuant to the provisions of Executive Order 11748 and the Federal Rehabilitation Act of 1973.

The System Integrator shall comply with the Civil Rights Act of 1964, and any amendments thereto, and the rules and regulations there under, and Section 504 of Title V of the Vocational Rehabilitation Act of 1973 as amended by the Kentucky Civil Rights Act and the ADA.

30.810 CONFLICTS OF INTEREST

No official or employee of the Cabinet and no other public official of the Commonwealth of Kentucky or the Federal Government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in this contract or proposed contract.

The System Integrator shall insure that it complies with any Kentucky or federal law relating to conflicts of interest, including but not limited to, KRS Chapter 11A and KRS 45A.340.

30.900 CONFORMANCE WITH STATE AND FEDERAL LAWS

The contract is subject to all applicable state and federal laws.

31.000 PERMITS, LICENSES, TAXES AND STATE REGISTRATION

The System Integrator shall procure all necessary permits and licenses and abide by all applicable laws, regulations, and ordinances of the United States, the Commonwealth of Kentucky and political subdivisions in which the work under this contract is performed.

The prospective System Integrator shall furnish certification of authority to conduct business in the Commonwealth of Kentucky as a condition of contract award. Such registration is obtained from the Office of the Secretary of State, which provides the certification thereof. However, the prospective System Integrator need not be registered as a prerequisite for responding to the Request for Proposal.

The System Integrator shall pay any sales, use, and personal property taxes arising out of this contract and the transactions contemplated thereby. Any other taxes levied upon this contract, the transactions, or the equipment or services delivered pursuant hereto shall be the responsibility of the System Integrator.

The System Integrator shall locate an office within the Commonwealth of Kentucky with appropriate staff and local or toll free telephone access to the Department of Highways within the Kentucky Transportation Cabinet.

31.100 RIGHTS AND REMEDIES

The rights and remedies of the Cabinet provided in Section 30 shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

31.200 WAIVER

No covenant, condition, duty, obligation, or undertaking contained in, or made a part of, the contract shall be waived except by the written agreement of the parties, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the party to which the same may apply; and until complete performance or satisfaction of all such covenants, conditions, duties, obligations, and undertakings, and other party shall have the right to invoke any remedy available under law or equity, notwithstanding any such forbearance or indulgence.

Any consent by any party to, waiver of, a failure by the other, whether express or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent failure.

31.300 ASSURANCES BEFORE THE BREACH

If documentation, training, or other deliverables due under the contract resulting from this Request for Proposal are not to the satisfaction of the Cabinet, the System Integrator is to be prepared to deliver assurances in the form of additional System Integrator resources to the project in order to complete the deliverable to the satisfaction of the Cabinet and to demonstrate that other major schedules shall not be affected. The quantity and quality of such additional resources is at the discretion of the Cabinet and failure to comply is subject to the provisions of termination as specified herein.

31.400 INSURANCE

The System Integrator shall provide public liability, property damage and Workers' Compensation insurance, insuring as they may appear, the interest of all parties of agreement against any and all claims which may arise out of System Integrator operations under the terms of the contract. The System Integrator shall obtain the insurance from an insurance company licensed to do business in Kentucky. The terms of this insurance subsection apply to all subcontractors.

The System Integrator shall furnish to the Cabinet a certificate(s) evidencing that such insurance is in effect, for what amounts, and applicable policy numbers and expiration dates, within fourteen (14) days of contract signing.

The System Integrator shall carry the following insurance in addition to the insurance required by law:

- System Integrator’s Public Liability Insurance not less than \$1,000,000.00 for the damages arising out of bodily injuries to or death to one person. Not less than \$1,000,000.00 for damages arising out of bodily injuries to or death to two or more persons.
- System Integrator’s Property Damages Liability Insurance, not less than \$500,000.00 for all damages arising out of injury or destruction of property in any one accident. Not less than \$1,000,000.00 for all damages during the policy period.
- System Integrator’s Protective Public Liability and Property Damage Insurance. The System Integrator shall furnish evidence with respect to operations performed for the System Integrator by subcontractors that the subcontractor carries in its own behalf for the above stipulated amounts.
- The insurance required above must be evidenced by a Certificate of Insurance and this Certificate of Insurance must contain one of the following statements:
 - A. “policy contains no deductible clauses.”
 - B. “policy contains a _____ deductible property damage
(amount)
clause but company will pay claim and collect the deductible
from the insured.”
- Workmen’s Compensation Insurance. In compliance with KRS 176.085, the System Integrator shall furnish evidence of coverage of all System Integrator employees or give evidence of self-insurance by submitting a copy of a certificate issued by the Workmen’s Compensation Board.
- Unemployment Compensation Insurance. In compliance with KRS 176.085, the Manager shall furnish evidence of coverage of all System Integrator employees or give evidence of self-insurance.

- **Umbrella Coverage.** In addition to the primary coverages listed in this section, the System Integrator shall maintain an umbrella or excess liability policy of not less than \$5,000,000 for any one occurrence and subject to the same aggregate over the public and property damage liability coverages. The umbrella coverage is subject to approval as to form and amount of self-insured retention.

Upon the event of cancellation of any insurance coverage, the System Integrator shall immediately notify the Cabinet of such cancellation. The System Integrator shall provide the Kentucky Transportation Cabinet with written notice at least ten (10) days prior to any change in the insurance required under this subsection.

31.500 PRIME SYSTEM INTEGRATOR RESPONSIBILITY, SUBCONTRACTORS

Any contract that may result from this Request for Proposal shall specify that the System Integrator is responsible for the fulfillment of the contract with the Cabinet. The person proposed as the System Integrator's Project Manager shall be designated in the proposal. The System Integrator will be responsible for the entire contract performance whether or not subcontractors are used.

The response or proposal should clearly explain and identify all firms and entities that are proposed to be a part of the project. All firms participating in the operation and maintenance of the facility should be indicated including the functions, responsibilities, and work tasks they will be performing.

The proposal will also define the organizational structure for performing the work specified in the RFP. Any activities that are expected to be subcontracted, joint ventured, or franchised should be stated.

Firms submitting as a joint venture, contractor/subcontractor, partnership, or other form of association shall include the organization of each individual company within the group. The legal document under which the associates operate being Letter of Commitment and Letters of Agreement between and among team members, plus a description of the role that each company will play in the overall operation must be submitted. All subcontracted services must be clearly identified in terms of contractual arrangement, as well as name and address of company.

Unless provided for in the contract, no contract shall be made by the System Integrator with any other party for furnishing any of the work or services herein contracted for without notification of the Cabinet. This provision will not be taken as requiring the notification of contracts of employment between the System Integrator and personnel for services there under.

All references in this Request for Proposal to the System Integrator should be construed to encompass both the System Integrator and the subcontractor.

The proposal must also include copies of any agreements to be executed between the System Integrator and any subcontractors in the event of contract award.

31.510 AFFILIATION

If any affiliate (as hereinafter defined) of the System Integrator shall take any action which, if done by the System Integrator, would constitute a breach of this agreement, the same shall be deemed a breach by such party with like legal effect. "Affiliate" shall mean a "parent," subsidiary, or other company controlling, controlled by or in common control with a party.

31.600 ASSIGNMENT

The System Integrator shall not assign the contract in whole or in part or any payment arising there from without the prior written consent of the Cabinet. Any purported assignment shall be void.

31.700 HOLD HARMLESS

The System Integrator agrees to indemnify, defend, and hold harmless the Cabinet, its officers, agents, and employees from:

- any claims or losses for service rendered by the System Integrator, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the contract;
- any claims or losses to any person or firm injured or damaged by the erroneous or negligent acts of the System Integrator, its officers or employees in the performance of the contract;
- any claims or losses resulting to any person or firm injured or damaged by the System Integrator, its officers or employees by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the contract, or by Federal or Commonwealth of Kentucky regulations or statutes;
- any failure of the System Integrator, its officer or employees to observe Kentucky laws, including but not limited to labor laws and minimum wage laws; and

- any environmental actions by any individual or government agency.

31.710 PATENT OR COPYRIGHT INFRINGEMENT

The System Integrator, at its own expense, will defend any claim or suit which may be brought against the Cabinet for the infringement of United States patents or copyrights arising from the System Integrator's or Cabinet's use of any equipment, materials, or information prepared or developed in connection with performance of the contract and in any suit will satisfy any final judgment for such infringement. The Cabinet will give the System Integrator written notices of such claim or suit and full right and opportunity to conduct the defense thereof, together with full information and all reasonable cooperation.

If principles of government or public law are involved, the Cabinet may participate in the defense of any such action, but no costs or expenses shall be incurred for the account of the System Integrator and without the System Integrator's written consent.

If, in the System Integrator's opinion, the equipment, materials, or information mentioned in the paragraphs above is likely to or does become the subject of a claim of infringement of a United States patent or copyright, then without diminishing the System Integrator's obligation to satisfy any final award, the System Integrator may, with the Cabinet's written consent, substitute other equally suitable equipment, materials, and information, or at the System Integrator's option and expense, obtain the right of the Cabinet to continue the use of such equipment, materials, and information.

31.720 NOTICE OF INFRINGEMENT

The System Integrator shall report to the Cabinet promptly and in reasonable detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the System Integrator has knowledge.

31.730 GUARANTEE OF AUTHORITY

The System Integrator warrants that it has the full power and authority to grant the right herein granted without the consent of any other person and will indemnify and hold the Cabinet harmless from and against any loss, cost, liability, and expense (including reasonable counsel fees) arising out of any breach or claimed breach of this warranty. During the pendency of any claim against the System Integrator or the Cabinet with respect to the System Integrator's ownership and/or authority, the Cabinet may withhold payment of any sums otherwise required to be paid hereunder.

31.740 SETTLEMENT OF CLAIM

The Cabinet agrees that the System Integrator has the right to defend and the System Integrator agrees to defend at its own expense or at its option to settle any claim, suit or proceeding brought against the Cabinet on the issue of infringement of any United States patent or copyright or any product, or any part thereof, supplied by the System Integrator to the Cabinet under this agreement. The System Integrator agrees to pay, subject to the limitations hereinafter set forth in this paragraph, any final judgment entered against the Cabinet on such issue in any suit or proceeding defended by the System Integrator.

The Cabinet agrees that the System Integrator at its own sole option shall be relieved of the foregoing obligations unless the Cabinet notifies the System Integrator promptly, in writing, of any such claim, suit or proceeding, and at the System Integrator's expense gives the System Integrator proper and full information needed to settle and/or defend any such claim, suit or proceeding. If the product, or any part thereof, furnished by the System Integrator to the Cabinet becomes, or in the opinion of the System Integrator may become, the subject of any claim, suit or proceeding for infringement of any United States patent or copyright, or in the event of an adjudication that such product or part infringes any United States patent or copyright, or if the use, lease or sale of such product or part is enjoined, the System Integrator may, at its own option and expense:

- Procure for the Cabinet the right under such patent or copyright to use, lease or sell, as appropriate, such product or part;
- Replace such product or part with other products or parts suitable to the Cabinet;
or
- Suitably modify such product or part.
- The System Integrator shall have no liability for any infringement based upon:
- The combination of such product or part with any other product or part not furnished to the Cabinet by the System Integrator;
- The modification of such product or part unless such modification was made by the System Integrator; or
- The use of such product or part in a manner for which it was not designed.

The System Integrator shall not be liable for any cost, expense or compromise incurred or made by the Cabinet in conjunction with any issue of infringement

without the System Integrator's prior written authorization. The foregoing states the entire warranty by the System Integrator and the exclusive remedy of the Cabinet with respect to any alleged patent infringement by such product or part.

31.800 AUDITING, ACCOUNTING AVAILABILITY, AND ACCESS TO SITES AND DOCUMENTS

The System Integrator must make available the books and allow for on-site inspections of the facilities and other items relating to this Contract. The System Integrator must also agree to furnish upon request to the Cabinet a copy of any work plan, documents, information, etc. being developed at any time during the period of the contract and which relates to the project either directly or indirectly.

The System Integrator shall keep the books, records and accounts of its operation under this contract agreement separate and apart from all other operations carried on by it and shall make any and all reports concerning the same to the Cabinet in such form and at such times as the Cabinet may require. The books, records and accounts relating to the operation under this contract agreement shall be kept in a form and manner satisfactory to the Cabinet. The System Integrator shall submit to the Cabinet, within ninety (90) days following the close of its fiscal year, an audited financial statement that includes at least a Balance Sheet and Revenue and Expense Statement during the Cabinet's fiscal year.

The System Integrator may elect to submit to the Cabinet copies of its Federal Income Tax Return and State Corporate Income Tax Return with reports as required above, in lieu of audited financial statements.

In the event the System Integrator is a partnership or a corporation, a statement disclosing all names and the addresses of the partners or Stockholders owning more than five (5) percent interest or Stock of any kind during the year shall be submitted upon request with the above required statements or reports. It is expressly understood and agreed by the parties hereto the Cabinet or its representatives shall be allowed access to all books, records and accounts relating to said operations including but not limited to, any reports or returns on file with the Kentucky Revenue Cabinet, at all times during the regular business hours and at a place convenient for that purpose. Such availability shall be maintained for a period of three (3) years from the payment of the final invoice by the Cabinet to the System Integrator.

31.900 WARRANTY

Failure of the System Integrator to fulfill any written commitment within the scope of the proposed contract shall render the System Integrator liable for services due the Cabinet under the terms of this Request for Proposal. SEE TERMINATION.

32.000 PROPERTY OF KENTUCKY

The System Integrator shall be responsible for the proper custody and care of any property owned by the Commonwealth of Kentucky and furnished for the System Integrator's use in connection with the performance of this contract. The System Integrator shall reimburse the Cabinet for its loss or damage, normal wear and tear excepted.

32.100 WARRANTY AGAINST BROKER'S FEE

The System Integrator warrants that it has not employed any company or person, other than a bona fide employee working solely for the System Integrator or a company regularly employed as its marketing agent, to solicit or secure this contract and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the System Integrator or a company regularly employed by the System Integrator as its marketing agent, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award of this contract. For breach or violation of this warranty, the Cabinet shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

32.200 ATTORNEY'S FEES

In the event that either party deems it necessary to take legal action to enforce any provision of the contract, and in the event the Cabinet prevails, the System Integrator agrees to pay all expenses of such action including attorney's fees and costs at all stages of litigation as set by the court or hearing officer.

32.300 OFFER OF GRATUITIES

By submission of a proposal, the Consultant certifies that no member of or delegate of Congress, nor any elected or appointed official or employee of the Commonwealth of Kentucky has or will benefit financially or materially from this procurement. Any

contract arising from this procurement may be terminated by the Cabinet if it is determined that gratuities of any kind were either offered to or received by any of the aforementioned officials or employees from the System Integrator, its agent, or employee.

32.400 CONTRACT VARIATIONS

If any provision of this contract, (including items incorporated by reference) is declared or found to be illegal, unenforceable, or void, then both the Cabinet and the System Integrator shall be relieved of all obligations arising under such provision. If the remainder of the contract is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed.

32.500 OPERATIONS REVIEW

The System Integrator shall review its operations with the Cabinet quarterly and at such other times during the contract term hereof as the Cabinet may designate.

32.600 PAYMENT SCHEDULE

The System Integrator shall be paid on either a quarterly or a monthly basis for work performed.

SECTION 40 - PROCUREMENT

40.000 RULES OF PROCUREMENT

To facilitate this procurement, various rules have been established and are described in the following paragraphs.

40.001 CAMPAIGN FINANCE LAW STATEMENT PURSUANT TO KRS 45A.110 AND KRS 45A.115

A Commonwealth of Kentucky sworn statement regarding campaign financing laws must be completed and signed by an authorized agent of the System Integrator's company.

40.002 REMINDER TO FORMER STATE EMPLOYEES

KRS 11A is referenced as a reminder to former state employees seeking to do business with the State government. It should be thoroughly reviewed by any former State employees that will be involved with this contract.

40.003 EXECUTIVE BRANCH CODE OF ETHICS

Additionally, the System Integrator is reminded of KRS Chapters 11A and 45A concerning conflicts of interest and the acceptance of gifts by state employees and related to Conflicts of Interest regarding Contractors Seeking to Sell Goods or Services to the Executive Branch of State Government.

40.010 NO CONTINGENT FEES

No person or selling agency shall be employed or retained or given anything of monetary value to solicit or secure this contract, excepting bona fide employees of the System Integrator or bona fide established commercial or selling agencies maintained by the System Integrator for the purpose of securing business. For breach or violation of this provision, the Cabinet shall have the right to reject the proposal, annul the contract without liability, or, at its discretion, deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee or other benefit.

40.100 RESTRICTIONS ON COMMUNICATIONS WITH COMMONWEALTH STAFF

From the issue date of this Request for Proposal until a System Integrator is selected and selection is announced, Consultants are not allowed to communicate with any Commonwealth staff concerning this Request for Proposal except:

- Cabinet representatives during the System Integrator's Pre-Proposal Conference or
- Via written questions to those specified.

For violation of this provision, the Cabinet reserves the right to reject the proposal.

In order to provide equal treatment to all Consultants, questions must be submitted in writing pursuant to Section 10.300. Written responses to these questions shall be distributed to all Consultants.

This provision does not preclude Consultants who presently hold contracts with the Cabinet from communicating with the Cabinet regarding existing contracts.

40.200 REQUEST FOR PROPOSAL ADDENDA

Addenda to this Request for Proposal may be necessary prior to the closing date and will be furnished by mail; e-mail, or the web to all prospective Consultants if prior to receipt date and to all Consultants determined to be susceptible for award if after receipt date.

40.300 PROPOSAL PREPARATION

Consultants shall follow Section 50, and any other pertinent sections of the Request for Proposal, in the preparation of the proposal. Failure to provide any of the information required by this Request for Proposal may result in the proposal being excluded from further evaluation.

40.310 COST OF PREPARING PROPOSAL

The cost of developing the proposal is solely the responsibility of each individual Consultant. The Cabinet shall not provide reimbursement for such costs. Costs associated with the oral presentation to the Cabinet shall be the responsibility of each individual Consultant and shall in no way be billable to the Cabinet.

40.320 DISPOSITION OF PROPOSALS

All proposals become the property of the Cabinet. The successful proposal shall be incorporated by reference into the resulting contract.

40.330 CONSULTANT RESPONSE AND PROPRIETARY INFORMATION

The Request for Proposal specifies the format, required information, and general content for each proposal submitted in response to this Request for Proposal. The Cabinet shall not disclose any portion of any proposal prior to contract award to anyone outside the Cabinet, representatives of the federal government, if required, and members of the Review Committee. After a contract is awarded in whole or in part, the Cabinet shall have the right to duplicate, use, or disclose all proposal data submitted by Consultants in response to this Request for Proposal as a matter of public record. Although the Cabinet recognizes the Consultant's possible interest in preserving selected data which may be part of a proposal, the Cabinet must treat such

information as provided by Consultants pursuant to Kentucky's Open Records Act, KRS 61.870 *et seq.*

Information areas which normally might be considered proprietary must be limited to: individual personnel data, customer references, selected financial data, formulae, and financial audits, which if disclosed should permit an unfair advantage to competitors. If a proposal contains information in these areas that a Consultant declares proprietary in nature and not available for public disclosure, each sheet containing such information must be clearly designated as proprietary at the top and bottom of the page and must be submitted under separate cover marked "**PROPRIETARY DATA**". Proposals containing information declared by a Consultant to be proprietary, either in whole or in part, outside the areas listed above, shall be deemed unresponsive to the Request for Proposal and shall be rejected.

The Cabinet shall have the right to use all ideas, or adaptations of those ideas, contained in any proposal received in response to this Request for Proposal. Selection or rejection of the proposal shall not affect this right.

40.340 PROPOSAL ADDENDA AND RULES FOR WITHDRAWAL

Prior to the date specified for receipt of proposals, a submitted proposal may be withdrawn by submitting a written request for its withdrawal to the Director of the Division of Program Performance (address in Subsection 10.300, paragraph 2).

The Cabinet shall accept addenda, revisions, or alterations to its proposal from any Consultant until c/o/b on the due date. The Cabinet shall not accept any unsolicited addenda, revisions, or alterations to any proposal after the c/o/b on the due date. If the Cabinet issues an addendum to the Request for Proposal after c/o/b on the due date, then any Consultant may respond. A Consultant's response shall precisely respond to the contents of the Cabinet's addendum.

The Cabinet reserves the right to request clarification or additional information. Unless requested by the Cabinet, the Cabinet may not accept any addenda, revisions, or alterations to proposals after the proposal due date.

Any submitted proposal shall remain a valid proposal for 120 days after the proposal due date.

40.350 Proposal Submission Requirements

A Consultant may submit only one proposal. The format and content are specified in Section 50. Alternate proposals shall not be allowed. Each proposal shall be prepared simply and economically, providing a straightforward, concise description of the Consultant's ability to meet the requirements of this Request for Proposal. Fancy bindings, colored displays or promotional materials shall receive no evaluation credit. Emphasis shall be on completeness and clarity of content. The Cabinet retains the right to request, receive and consider additional information and clarifications throughout the evaluation process.

Consultants shall submit one (1) original and six (6) copies of the proposal under a single sealed cover and shall be received in Room W3-22-03 of the Transportation Cabinet Office Building no later than **4:30 p.m., Eastern Daylight Time, on August 9, 1006**. The Cabinet shall reject any proposal received after 4:30 p.m. EDT on August 9, 2006, and shall return it unopened to the Consultant. The original proposal shall be signed in blue ink by an authorized representative of the Consultant's firm to be considered. The System Integration Experience and Work Task Approach Sections (narrative portion) of the proposal shall be three-hole punched and assembled in a three-ring binder. Tabs shall separate these two Sections as well as the remainder of the Consultant's Proposal.

The Narrative Portion of the proposal shall be clear and concise, and provide the Selection Committee with an understanding of the Consultant's ability to undertake and complete the proposed work in a thorough manner. The proposal shall not exceed fifty (50) pages. Financial Statements and Resumes shall be enclosed at the rear of the binder and shall not count toward the fifty pages. The DBE Participation Plan (Section 10.805), placed in a separate binder notebook, shall not count toward the fifty pages. A page is defined as an 8.5" by 11" or 11" by 17" sheet which contains text, pictures, graphs, charts, plan sheets, or any other graphics. An 11" by 17" sheet shall not contain only text but shall contain pictures, graphs, charts, plans, or other graphics. If an 11" by 17" sheet contains only text, it shall be counted as two pages. A piece of paper with printing on both sides is considered two pages. Text shall be printed using a font size no less than 12 cpi. Page margins shall be a minimum of one inch top, bottom and each side.

The proposals shall either be mailed or hand-delivered to:

Mr. James Wathen P.E., P.L.S., Director
Division of Program Performance
200 Mero Street, Mail Code W3-22-03

Transportation Cabinet Office Building
Frankfort, Kentucky 40622.

The outside cover of the package containing the proposal shall be marked:

CONSULTANT PROPOSAL

Transportation Operations Systems Integrator

Name of Consultant

Address of Consultant

Any Consultant's addenda to its proposal shall be submitted in a manner consistent with Subsection 40.340, paragraph 2.

40.360 PERFORMANCE BOND

The System Integrator may be required to provide a performance bond as part of the contract modification process.

40.400 ACCEPTANCE OF PROPOSALS

All proposals properly submitted shall be accepted by the Cabinet. However, the Cabinet reserves the right to request necessary amendments which may become part of the Consultant's proposal; reject all proposals; reject any proposal that does not meet mandatory requirements; or cancel this Request for Proposal, to the best interest of the Cabinet.

The Cabinet also reserves the right to waive minor irregularities in proposals providing such action is in the best interest of the Cabinet.

While the Cabinet may waive minor irregularities, such waiver shall in no way modify the Request for Proposal requirements or excuse the Consultant from full compliance with the Request for Proposal specifications and other contract requirements if the Consultant is awarded the contract.

40.500 PROTESTS

The Secretary of the Kentucky Transportation Cabinet, or his designee, shall have authority to determine protests and other controversies of actual or prospective Consultants in connection with the solicitations or selection for award of a contract.

Any actual or prospective Consultant's who is aggrieved in connection with solicitation or selection for award of a contract, may file a protest with the Secretary of the Transportation Cabinet. A protest or notice of other controversy must be filed promptly, and in any event within two calendar weeks after such aggrieved person knows or should have known of the facts giving rise thereto. All protests or notices of other controversies must be in writing to:

Secretary,
Kentucky Transportation Cabinet
200 Mero Street, Mail Code W6-S1-00
Frankfort, Kentucky 40622

The Secretary of the Kentucky Transportation Cabinet shall promptly issue a decision in writing. A copy of that decision shall be mailed or otherwise furnished to the aggrieved party and shall state the reasons for the action taken.

The decision by the Secretary of the Kentucky Transportation Cabinet shall be final and conclusive.

40.600 EQUAL EMPLOYMENT OPPORTUNITY ACT

The Equal Employment Opportunity Act of 1978 applies to all State government projects with an estimated value exceeding \$250,000. The Consultant shall comply with all terms and conditions of the Act as outlined in Appendix E.

40.700 CONSULTANT REPORTS OF PRIOR VIOLATIONS OF KRS CHAPTERS 136, 139, 141, 337, 338, 341, AND 342

Pursuant to KRS 45A.485, the Bidder shall reveal to the Commonwealth, prior to this award of a contract, any final determination of a violation by the Consultant within the previous five (5) year period of the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342.

For the purpose of complying with the provisions of KRS 45A.485, please list any final determination(s) of violation(s) of KRS Chapters 136, 139, 141, 337, 338, 341,

and 342, which have been rendered against the Consultant within the five (5) years preceding the award of this contract.

Please include the date of the determination and the date agency issuing the determination.

| KRS VIOLATION | DATE | STATE AGENCY |
|---------------|------|--------------|
|---------------|------|--------------|

The Consultant is further notified that KRS 45A.485 requires that for the duration of this contract, the Consultant shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342, which apply to the Consultant's operations. KRS 45A.485, further provides that the Consultant's failure to reveal a final determination of a violation of KRS Chapters 136, 139, 141, 337, 338, 341, and 342, or failure to comply with the above-cited statutes for the duration of the contract, shall be grounds for the Cabinet's termination of the contract, and the Consultant's disqualification from eligibility to submit proposals to the Cabinet for a period of two (2) years.

SECTION 50 - PROPOSAL REQUIREMENTS

50.000 INTRODUCTION

This Section provides the content and format for the Consultant's Proposal. Consultants are cautioned to follow the outline Section by Section and include all pertinent information. Statements should be clear and concise.

50.100 PROPOSAL CONTENTS

The proposal contents shall comply with the following subsections. (Please note that Section 10.805 requires that the portion of the Consultant's Response entitled, "Innovative Approaches for Engaging DBE Entities and Small Businesses" is to be in a separate notebook binder.)

50.110 TITLE PAGE

The Consultant on the title page shall state the proposal subject (System Integrator), the name of the Consultant, address, telephone number, name of contact person, and

the date of proposal submittal in response to this Request for Proposal. Points will not be awarded for fancy covers.

50.120 TABLE OF CONTENTS

The Consultant shall include in its proposal a clear identification of the material by section and page number. Each notebook shall have a Table of Contents.

50.130 TRANSMITTAL LETTER

The transmittal letter shall be in the form of a standard business letter and shall be signed by an individual authorized to legally bind the Consultant. It shall include:

- A statement indicating whether the Consultant is a corporation in good standing or, if not a corporation, its type of legal entity;
- A statement identifying all addenda to this Request for Proposal issued by the Cabinet and received by the Consultant. If no addenda have been received, a statement to that effect shall be included;
- A statement certifying that no personnel currently employed by, under contract with or in any way associated with the Department of Highways, Kentucky Transportation Cabinet, have participated in any activities relating to the preparation of the Consultant's proposal, except as provided for in the Request for Proposal.
- A statement specifying whether proprietary data has been included in the proposal. If so, a statement that the proprietary data has been properly marked is to be provided.
- An itemization of all materials and enclosures being forwarded collectively in response to this Request for Proposal;
- A statement that the proposal shall meet the specification/requirements set forth in the Request for Proposal, and/or a list of exceptions to the specifications/requirements in the Request for Proposal. The Cabinet reserves the right to reject any proposal containing such exceptions or to require modifications before acceptance;
- A statement that the Consultant's proposal shall remain valid until 120 days after the c/o/b on the proposal due date;

- A statement which acknowledges and agrees to all of the rights of the Cabinet including terms and conditions and all other rights and terms specified in this Request for Proposal;
- A statement identifying the name and telephone number of the individual the Cabinet should contact if additional information is required;
- A statement that the person signing this proposal certifies that he/she is the person in the Consultant's organization responsible for, or authorized to make, legally-binding decisions on behalf of the Consultant;
- A statement that the Consultant shall accept financial responsibility for all expenses incurred in preparing the Request for Proposal; and
- A statement that the Consultant accepts System Integrator responsibilities for all Work Tasks and Activities.

50.140 EXECUTIVE SUMMARY

The Executive Summary shall condense and highlight the contents of the proposal in such a way as to provide Cabinet management with a broad understanding of the entire proposal.

50.150 TECHNICAL EXPERTISE/CAPACITY

This section shall contain information about the corporate background and experience for the Consultant including:

- Detailed background of the company;
- Corporate experience relevant to the proposed contract;
- A list of other current or recent projects that are the same or similar to this project.
- Key staff background and experience relevant to the proposed contract.
- Background and experience of subcontractors relevant to the proposed contract

(The purpose of this section is to assure that the Consultant has the corporate technical expertise and capacity necessary to provide the services required by the Cabinet.)

50.151 CORPORATE BACKGROUND

The details of the background of the corporation, its size, and resources, shall cover:

- Date established;
- Ownership (public company, partnership, subsidiary, etc.) List all firms in the “corporate vertical chain”, both above and under the Consultant.
- Total number of Consultant full-time employees;
- Total number, by firm, of Sub-Contractor full time employees;
- Total number, by firm, of any full time employees in each firm in the Corporate Vertical Chain;
- Number of personnel engaged in providing system integration services;
- Number of personnel or full time equivalent (FTE) that will be assigned/employed by this project, including the background, experience, and resumes of key personnel who will be, or may be committed to any portion of the work in the project; and
- Primary services or products offered by the corporation.

50.152 CORPORATE EXPERIENCE

The Consultant’s proposal shall include detailed information regarding previous projects similar to this Request for Proposal which the Consultant has successfully undertaken or completed. For each project, the Consultant shall provide a description of the work performed, the time period of the project, the contract cost and customer references including name, current e-mail address, and current telephone number.

Please check for correctness.

50.153 RELATED PROJECTS

The Consultant shall list any related major projects currently being performed or completed within the past three (3) years, including all projects with the Commonwealth of Kentucky during this time period. The Consultant shall provide the following for each project:

- Customer names;
- Customer reference (including **current** telephone number and e-mail address). **Please check for correctness.**
- Time period of contract;
- A brief statement of the scope of the project, indicating personnel requirements; and
- A list of any major contract disputes.

50.154 PROPOSED PROJECT STAFF

The Consultant shall provide proposed project staffing including the Project Manager and other key staff assigned to the project and the proposed complete staffing organization.

The response is to identify those individuals in the corporate structure that will have management and oversight responsibilities. Inclusive in the response shall be identification of all those individuals who will have management responsibilities at the site. Personnel resumes shall include:

- Experience attained and length of employment by the Project Manager;
- Experience with government projects/agencies;
- Experience with managing, planning and development of projects the same or similar to the project required by this Request for Proposal;
- Management expertise and background;
- All applicable certifications; and

- Names, positions, current telephone number and e-mail address of persons who can give information on the individuals' experience and competence. **Please check for correctness.**

The description of experience must include specific responsibilities and number of years. Each project referenced in a resume should include both the customer name and the time period of the project, as well as a brief description of the project.

50.155 SUBCONTRACTOR BACKGROUND AND EXPERIENCE

The details of the background of the corporation, its size, and resources, shall cover: date established; ownership (public company, partnership, subsidiary, etc.); total number of full-time employees; number of personnel engaged in providing operation and maintenance services; number of personnel or full time equivalent (FTE) that will be assigned/employed by this project, including the background, experience, and resumes of key personnel who will be, or may be committed to any portion of the work in the project; and primary services or products offered by the corporation.

The details of the experience shall include information regarding previous projects similar to this Request for Proposal which the subcontractors have successfully undertaken or completed. For each subcontractor, the Consultant shall provide a description of the work performed, the time period of the project, the contract cost and the customer reference (including name, address, and current telephone number).

50.160 BUSINESS RESOURCE CAPACITY

This section **IS VERY IMPORTANT** and shall contain information about the business resource capacity of the Consultant. This information shall include the corporate financial position; corporate administrative practices and controls; ability to manage inventory. The Consultant shall provide a statement certifying that the firm has the financial stability and corporate capacity to enter into a contract of this scope with the Cabinet. The Consultant shall provide bank references including name, address, and current telephone number of the given bank. The Consultant shall provide in the proposal information concerning the financial status of the company and other pertinent facts relating to corporate and financial stability. These items must include the following:

- A list of other major projects currently being undertaken by the Consultant including the time remaining to implementation and the costs involved;

- A discussion of how this project is to be financed both short term and long term (Emphasis is to be placed on cash flow from incurrence until payment is made to all parties);
- A list of other large recently completed projects and how they were financed;
- A discussion of credit rating for the last three (3) years. If bonds or debt have been rated, include name of rating agency and criteria used in the rating;
- An explanation of any outstanding lines of credit including the terms and the name of the lending institution(s); and
- A complete listing of any external consultants or partners that will be involved in submitting the proposal must be provided along with comparable financial information for each as requested above.

50.170 BUSINESS APPROACH

The Consultant shall describe in detail the business approach to managing the System Integration Project and the system components, including the critical success factors in implementing your approach. Identify and rank significant areas of risk that could result in failure of your approach. Explain how these risks can be managed or mitigated with your approach. Identify any hard-to-resource skills associated with the delivery of your approach. Explain how your approach addresses this issue. Discuss the key dependencies and requirements of your approach on other parties; including other vendors and the Cabinet. Discuss any assumptions and constraints on which you have based your approach. Discuss any creative funding alternatives or approaches that should be considered. State your commitment to abide by all ITS Standards that apply to the Contract.

50.180 SUMMARY OF PROPOSAL MATERIAL FROM OTHER SECTIONS

This section describes the required material for proposal submittal listed in other sections of this Request for Proposal. The section containing the description of each item is listed immediately after.

- Campaign Finance Law Statement pursuant to KRS 45A.110 and KRS 45A.115
- Prior violations of KRS Chapters 136, 139, 141, 337, 38, 341, and 342
- Startup schedule

Selection Committee Members

1. Wayne Bates, User Division
2. Leon Walden, User Division
3. Tom Schomaker, Secretary's Pool
4. Shari Greenwell, Secretary's Pool
5. Howard Cruse, Governor's Pool