

State of Oklahoma

DEPARTMENT OF CENTRAL SERVICES

CENTRAL PURCHASING DIVISION

2401 N. LINCOLN BLVD., SUITE 116

WILL ROGERS BUILDING

OKLAHOMA CITY, OKLAHOMA 73105

40-521-2110

NOTICE OF CONTRACT

CONTRACT TITLE	Workstation and LAN Support Services
VENDOR:	Advancia Corporation
CONTRACT NUMBER	SW60717
PEOPLESOFT CONTRACT #	00000000000000000000000000755
CONTRACT PERIOD	January 17, 2006 through January 16, 2007
AGREEMENT PERIOD	January 17, 2006 through January 16, 2010
AUTHORIZED USERS	All State Agencies, Counties, School Districts, Local Municipalities, Higher Education, and Political Entities
WEB SITE ADDRESSES	DCS: www.dcs.state.ok.us Vendor: www.advancia.com

Contract Priority This contract is a mandatory competitive contract that is available to all state agencies and governmental entities.

Required Ordering Documents A Statement of Work – Form 050 must be completed by joint effort between the agency and vendor. The final approved statement of work must accompany the purchase order. OSF approval is required on any IT expenditure by submitted OSF Form 115 to OSF for approval.

Contract Terms and Conditions By using this contract, all end users agree to abide by the terms and conditions outlined in the agreement attached and agreed to by the State of Oklahoma.

Contract Pricing A maximum hourly rate and a “by the unit” is available on the DCS website.

Contract Performance It is important that all parties concerned view this contract in a professional manner. It is in the best interest of the State of Oklahoma that vendor performance is monitored by agencies and any infractions of the contract by either agency or vendor be reported to the Contracting Officer listed below.

Oral Agreements No oral statements of any personal shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to this contract are not effective unless acknowledged in writing by the referenced Contracting Officer or an authorized representative.

For questions concerning this contract, contact the following DCS Central Purchasing personnel.

Gary Rowland, Contracting Officer

DCS, Central Purchasing

405-521-2131

email: Gary_Rowland@dcs.state.ok.us

Vendor Information Sheet

Vendor Name: Advancia Corporation

Vendor Address: 655 Research Parkway, Suite 400, OKC, OK 73104

Contract Number: 000000000000000000000000755

Item ID Numbers:

09202029	Workstation and LAN Support Services by the hour
09202030	Workstation Support Services by the unit

Vendor FEI number: 73-1168246

Vendor Website Address: www.advancia.com

Vendor Sales Contact:

Name:	Mr. Chris Garcia – Director of Operations
Phone	405-996-3000 ext 149
Fax	405-996-3100
Email	Chris.Garcia@advancia.com

Vendor Remittance Address: Same

1 Specifications – Workstation and LAN Support Services

The services covered by this contract are to allow for:

- a) Workstation and LAN hardware parts and installation.
- b) Workstation and LAN hardware/software troubleshooting services.
- c) Workstation imaging services.
- d) Workstation Desktop Configuration and Installation services.
- e) Workstation relocation services.
- f) Network printer installation and troubleshooting services.
- g) Printer relocation services.
- h) LAN, server and network components, hardware/software, installation, configuration, and troubleshooting services.

1.1 Certification

Contractor's associates performing defined service(s), if applicable, are to be professionally certified i.e. Microsoft Certification, Novell CNE, CCNA, etc.

1.2 Hardware Configurations

- a) Workstation - The State of Oklahoma has standardized on Dell Workstation and laptop configuration, however, Dell workstation and laptops are for new purchases and the state still has numerous Intel-processor based workstations to be supported.
- b) Servers - LAN servers to be supported are Intel-processor based.
- c) Printers – LAN and workstation printers are primarily Hewlett Packard.

1.3 Usage

The intended usage of this contract is two-fold.

- a) Government entities can use to establish a Service Level Agreement (SLA) with the contractor(s), by issuance of a Statement of Work (SOW) and a purchase order defining the coverage needed or
- b) By issuing a SOW and purchase order against the contract to provide needed services for a specific project.

1.4 Parts

Parts are to be offered at a “percentage less than list” i.e. 20% off of list, plus the cost of shipping unless parts required are normally stored at contractor local facility.

1.5 Required Skill Sets

The contractor is to provide staff with knowledge and experience in the following skill sets:

1.5.1 Server Support

- a) Sever 2000 operating system and NT Server operating system.
- b) Connectivity of NT Servers, Active directory services, Server 2000, and SMS Server.
- c) Exchange Server Design and Implementation.
- d) Troubleshooting, problem determination, and resolution of NT Server, Server 2000, etc. in an enterprise environment that includes DHCP, WINS, DNS, SNA, and Domain Controllers.
- e) Microsoft Configuration Services.
- f) Server Backup and Restore Processes.
- g) WIN2000 engineering services.

1.5.2 LAN Support

- a) Troubleshooting, problem determination, and resolution of LAN hardware and software.
- b) Planning, designing, analyzing, implementing, and supporting LAN/WAN environments.
- c) Wireless network peripheral installation and configuration services.

1.5.3 Workstation Support

- a) Installation of Microsoft Windows 2000 and XP operating systems.
- b) Setup of workstation network connectivity.
- c) New workstation agency configuration installation.
- d) Imaging services, both onsite and at contractors office.
- e) Workstation hardware and software installation and configuration.
- f) Workstation relocation.

1.5.4 Printer Support

- a) Network printer installation and configuration in a Microsoft NT or Microsoft 2000 environment.
- b) Troubleshooting network printer hardware and software problems.
- c) Network printers' relocation.

1.5.5 Future Technology – It is expected and the contractor(s) agrees to maintain staff skill sets in line

with, a) new Microsoft workstation operating systems and applications; b) new LAN technologies, as well as, c) Microsoft server operating systems and applications.

2 Rebates

As empowered by State Statute § 85.33 A & B, the Department of Central Services imposes, and Vendor agree to pay, a rebate in the sum of ½ of 1% of the combined total quarterly expenditures under this contract. This rebate amount is to be noted on the quarterly “Contract Usage Report” and paid by the Contractor, to DCS, Central Purchasing Division within 30 calendar days from the completion of the quarterly reporting period stated under the section titled “Contract Usage Reporting”.

The rebate check should be mailed to:

Department of Central Services
Central Purchasing Division
2401 N. Lincoln Blvd., Suite 116
P. O. Box 528803
Oklahoma City, Oklahoma 73152-8803
Attention: Gary Rowland

3 Performance Requirements

3.1 General Requirements

- 3.1.1 *The contractor shall provide Workstation and LAN Support services to any agency of the State of Oklahoma or government entity, in accordance with the terms and conditions defined herein.*
- 3.1.2 *The contractor shall provide all services on an as needed.*
- 3.1.3 *The State of Oklahoma shall not guarantee any minimum or maximum amount of the contractor services that may be required under this contract.*
- 3.1.4 *The resulting contract shall be a mandatory statewide contract, which means all state agencies should use the contract for the services specified herein, unless the ordering agency has received a written exception from the contracting officer. The State of Oklahoma reserves the right to conduct separate procurement process(es) to establish contract(s) for the same or similar services for any agency’s specific project.*
- 3.1.5 *All of the contractor’s associates providing services to the State of Oklahoma must be authorized to work in the United States in accordance with applicable federal and state laws and regulations.*
- 3.1.6 *No offshore services are provided for under the resulting contract.*
- 3.1.7 *The contractor’s repeated failure to provide defined services, without reasonable basis as determined by the State of Oklahoma, shall constitute a material breach of the contractor’s obligations, which may result in cancellation of the contract.*
- 3.1.8 *The contractor’s associates must adhere to the ordering agency policies pertaining to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations.*

It is up to the contractor to review and relate ordering agency policies covering the above to the consulting staff.

3.1.9 The contractor must function as the single point of contact for the ordering agency, regardless of any subcontract arrangements.

3.1.10 The contractor must notify both the requesting ordering agency and the Department of Central Services, Central Purchasing Division in writing when they are unable to offer services when a specific SOW is submitted to the contractor.

3.1.11 Subcontractors - The ordering agency and the DCS contracting officer shall approve the use of all subcontractors.

3.2 Specific Requirements

3.2.1 The contractor shall provide defined services awarded to the contractor.

3.2.2 Statement of Work - Contractor will follow the use of a Statement of Work as outlined in the section in this document titled "Statement of Work."

3.3 Reporting Requirements

3.3.1 Contract Usage Reporting - Contractor will provide quarterly usage reports, indicating purchase order within ordering agency, the dollar amounts sold to all entities through this contract, plus grand totals, that include but are not limited to State Agencies, Counties, Cities, Schools, Hospitals, Municipalities, or Political Subdivisions. The contractors awarded this contract will receive a "Sample Report" prior to the first quarter due date.

a) Reports shall be submitted quarterly regardless of quantity.

b) Usage Reports shall be delivered, by email to the contracting officer within 30 calendar days upon completion of the quarterly reporting period cited below.

c) Contract quarterly reporting periods shall be:

January 1 through March 31

April 1 through June 30

July 1 through September 30

October 1 through December 31

d) Failure to provide usage reports may result in cancellation or suspension of contract. It is the contractor's responsibility to notify the contracting officer of any delay in providing this report as defined.

3.3.2 Ordering Agency Status Reports - Contractor will provide project status reports to the ordering agency, if requested, of all projects that exceed one week. Such reports will be at a frequency and with a content agreed to between Contractor and the ordering agency.

4 Statement of Work

4.1 Guidelines

- a) See DCS website for a copy of the Statement of Work form to be used.
- b) On all projects the contractor shall understand and agree the ordering agency shall utilize a Statement of Work (SOW) as the means (1) to identify the specific tasks to be performed and (2) to mutually agree upon the total price to be paid to the contractor upon completion of the specified tasks.
- c) At it's own discretion, ordering agencies will submit a Statement of Work to one, two, or all three Contractors requesting a written proposal addressing the Statement of Work.
- d) Selection of the contractor(s) to perform the Statement of Work is at the sole discretion of the ordering agency and is not necessarily based upon lowest bid.
- e) The contractor and the ordering agency's designated Project Manager must indicate mutual acceptance of the SOW by signing and dating the final SOW. The ordering agency's designated Project Manager (1) must retain one signed copy; (2) must forward the other copy, plus a copy of the Purchase Order, to the Department of Central Service, Central Purchasing Division for inclusion in the contract file and (3) must send one copy to the contractor's Project Coordinator.
- f) An approved SOW alone does not constitute an authorization to proceed with the project. The contractor must receive an authorized Purchase Order before proceeding.
- g) The contractor's response to the SOW must be within the scope of the contract and must not change any provision of the contract.
- h) The ordering agency's designated Project Manager shall have the right to terminate the SOW at any time, for the convenience of the ordering agency, without penalty or recourse, by giving written notice to the contractor at least five working days prior to the effective date of such termination.

4.2 Requirements

- 4.2.1 *Changes to the Statement of Work required under this contract must be bilaterally made. Any change to a Statement of Work that alters the deliverables, rates used, or completion schedule must be approved in writing by a revised Statement of Work (Schedule A), signed by the authorized personnel of each party. If necessary, in accordance with State or ordering agency's purchasing procedures, a change order will be issued.*
- 4.2.2 *If the Statement of Work contains an estimated schedule, each party agrees to make reasonable efforts to carry out respective responsibilities according to that schedule. The ordering agency will notify Contractor within 5 working days when they believe there is a scheduling problem compared to the criteria outlined in the Statement of Work.*
- 4.2.3 *Each party will designate a coordinator who will represent each party in all matters concerning the services provided and will be responsible for the supervision, direction and control of its respective personnel.*
- 4.2.4 *Contractor will try to honor the ordering agency request for specific Contractor personnel. However, Contractor reserves the right to determine the assignment of its personnel. Contractor understands the ordering agency's right to reject Contractor personnel or subcontractors assigned by Contractor, if such a rejection is supplied with a written reason for the rejection.*

4.2.5 *Subcontractors must be approved by the ordering agency and Central Purchasing Division prior to performing services outlined in this agreement. Subcontracted work will be specified in the Statement of Work.*

Subcontractors must be at least as qualified as personnel Contractor would employ to do the same work. After it determines that a prospective subcontractor is qualified, Contractor will submit the subcontractor's name and address to the Central Purchasing Division's Contracting Officer for approval; the Contracting Officer will provide a written reason for any disapproval.

4.3 Completion of Work

- a) Upon the completion of the requirements under each Statement of Work, the Contractor will obtain a Certificate of Completion And Acceptance from the DCS website, to show satisfactory performance and final completion of each order.
- b) Acceptance of the work by certification shall be final and conclusive.
- c) Unless otherwise required by the Statement of Work, acceptance shall also be final and conclusive at close of business on the 10th working day after the date that Contractor notifies the ordering agency of its completion of the work and tenders an Attachment B for the ordering agency's signature. The Attachment B is considered final regardless of whether or not the ordering agency signs Attachment B, unless, within this period, the ordering agency identifies to Contractor valid corrections necessary to a specific portion or portions of the work.
- d) To be valid, corrections identified must be: (1) to work, in which no portion of it has been changed by the ordering agency; (2) due to Contractor independent work performance that fails to conform to the Statement of Work, or due to Contractor failure to follow specific work direction given by the ordering agency; and (3) reasonably verifiable by Contractor.
- e) Work performed specifically to the ordering agency's direction or modifications to the work by the ordering agency, following Contractor completion, shall not qualify for an exception to final acceptance within the 10 working days as described above. For example, where specific changes are directed to a software configuration by the ordering agency, Contractor performed those specific changes accordingly, and the software then failed to perform as the ordering agency expected, consequent changes that must be made shall be the responsibility of the ordering agency, and acceptance shall still be final and conclusive within 10 working days.
- f) Similarly, where the ordering agency changes Contractor work on its software configuration or changes another portion of such software configuration and the software then fails to perform as expected, acceptance shall still be final and conclusive within 10 working days.
- g) Following final acceptance of the work, as specified herein, payment shall be due in accordance with the terms of this contract, and any further services will require a new SOW and purchase order or modification of the existing one(s) to incorporate changed work and add funds to pay for such work.

5 TERMS AND CONDITIONS

5.1 Limitation of Liability

5.1.1 *Contractor shall be liable for any damages resulting from, arising out of, or relating to the*

services provided through this agreement. Contractor's liability for all programs, including software products owned or distributed by the Contractor, program documentation, and any program updates acquired through technical support shall be limited to the Contractor's warranty.

5.1.2 Any limitation of liability submitted by the contractor does not apply to the extent a court of competent jurisdiction (including any appellate court of final review) determines such limitation of liability violates Oklahoma law, in which case the specific limitation that the court determines is in violation of Oklahoma law shall be void.

5.2 Licensed Software

5.2.1 Under no circumstances will the Contractor be required to install or maintain software packages that it has reason to believe are not properly licensed.

5.2.2 All software/software licensing installed is the responsibility of the ordering agency. Software used by the Contractor in performance of this contract is the responsibility of the Contractor.

5.3 Governing Law/Choice of Venue

a) The resulting contract will be governed in all respects by the laws of the State of Oklahoma. In the event any litigation shall occur concerning the terms and conditions of this contract or the rights and duties of the parties, the parties agree that such suit shall be maintained in the District Courts of the State of Oklahoma. To the extent that a provision of the contract is contrary to the Constitution or law of this State, or of the United States, the provision shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties.

b) All Contracts with the State of Oklahoma are governed by the laws of Oklahoma. Venue for any action or claim shall be Oklahoma County, Oklahoma.

5.4 Mutual Responsibilities

The State and Contractor agree that under this Agreement:

5.4.1 Neither party grants the other the right to use any trademarks, trade names, or other designations in any promotion or publication without express written consent by the other party;

5.4.2 This is a non-exclusive agreement and each party is free to enter into similar agreements with others;

5.4.3 Each party grants the other only the licenses and rights specified. No other licenses or rights (including licenses or rights under patents) are granted;

5.4.4 This Section applies to those agencies subject to the Central Purchasing Act, as well as, state agencies not subject to the Act and who are using this Agreement, such as universities, counties, and school districts.

5.5 Independent Contractor

This contract does not create an employment relationship. Individuals performing services required by the contract are not employees of the State nor the requesting Department or ordering agency. Contractor's employees shall not be considered employees of the State or the requesting

Department or ordering agency for any purpose and as such shall not be eligible for benefits accruing to state employees.

5.6 No-Solicitation/Non-Hire

During the term of this Agreement, and for a period of one (1) year following the expiration date (the last date for which Services are billed) of any applicable SOW, unless otherwise agreed to by the Parties in writing, the State agrees not to employ, or solicit the employment of, any current or former employee of Contractor (including contracted consultants) involved in the performance of professional, development or consulting work for Customer.

5.7 Warranty

- 5.7.1 *Contractor warrants that it will perform each service in accordance to the agreed upon Statement of Work.*
- 5.7.2 *Contractor warrants and represents full ownership, clear title free of all liens, and/or that contractor has obtained on behalf of Ordering Agency perpetual license rights set forth herein to use the Product for the purposes stated in the Statement of Work. Contractor shall indemnify Ordering Agency and the State of Oklahoma from any loss, damages, or actions arising from a breach of this warranty without limitation. Ordering Agency may require Contractor to furnish appropriate written documentation establishing the above rights and interests as a condition of payment. Ordering Agency's request or failure to request such documentation shall not relieve Contractor of liability under this warranty.*
- 5.7.3 *Contractor warrants and represents that all Products or deliverables specified and furnished by or through Contractor under the Statement of Work meet the completion criteria set forth in the Statement of Work and any subsequent statement(s) of work, and that services will be provided in a workmanlike manner in accordance with industry standards.*
- 5.7.4 *Contractor further warrants and represents that Products or deliverables specified and furnished by or through the Contractor under the Statement of Work shall individually, and where specified by Contractor to perform as a system, be substantially uninterrupted and error-free in operation and guaranteed against faulty material and workmanship for a warranty period stated in the Statement of Work, or for a minimum of ninety (90) days from the date of acceptance, whichever period is longer. During the warranty period, defects in the products or deliverables specified and furnished by or through the Contractor shall be repaired or replaced by Contractor at no cost or expense to the Ordering Agency.*

5.8 Confidentiality

- 5.8.1 *All information exchanged is non-confidential. If either party requires the exchange of confidential information, it will be made under a signed confidentiality agreement and in accordance with applicable Oklahoma law.*
- 5.8.2 *In connection with this Agreement, each party may disclose or otherwise make available certain data or information to the other party, which data or information the disclosing party considers being confidential and proprietary. It is recognized that any information contained in this written agreement is deemed non-confidential and is hereby-public information. As used herein, "Confidential Information," means any non-public information, not included in this written*

document that may include Contractor lists, business plans and proposals, financial information, marketing information, problem solving methods, implementation steps, know-how, technology, trade secrets and drawings and renderings related to each party's ongoing and proposed businesses, products and services which is being provided or which has been provided to the State party by the disclosing party, or which is obtained by the receiving party from its meetings and contacts with Contractor, or any information derived by the State from information so provided or obtained. Confidential Information includes all written or electronically recorded materials identified and marked as confidential or proprietary or which on their face appear to be confidential or proprietary, and oral disclosures of Confidential Information by the disclosing party which are identified as confidential or proprietary at the time of such oral disclosure.

5.8.3 Confidential Information does not include any of the following: (a) information that is in or becomes part of the public domain without violation of this Agreement by the State or Contractor; (b) information that was known to or in the possession of the State or Contractor on a non-confidential basis prior to the disclosure to the State by Contractor; (c) information that was developed independently by the State's or Contractor employees, which employees have had no access to the Confidential Information; (d) information that is disclosed to the State or Contractor by a third party under no obligation of confidentiality to the disclosing party and without violation of this Agreement by the State or Contractor; or (e) is authorized by Contractor or the State in writing for disclosure.

5.8.4 The parties agree: (a) to treat and keep as confidential and proprietary all Confidential Information disclosed by the other party; (b) to advise each employee to whom any Confidential Information is to be made available of the confidential nature of such Confidential Information; (c) to promptly return to the disclosing party (or its designees), upon the disclosing party's request, all Confidential Information and all copies thereof and to delete from electronic memory such Confidential Information.

5.9 Compliance with Security Requirements

The ordering agency will provide, in advance, a written list of all policies and procedures to the Contractor. The Contractor agrees to abide by all policies and procedures of the ordering agency provided and to comply with all security requirements of the ordering agency particularly in its use of computer facilities and shall not provide access to third parties. Contractor shall inform its employees of the requirements of this paragraph and shall enforce compliance with these requirements by its employees, partners, or subcontractors. The ordering agency may impose security requirements depending on the nature of the individual Statement of Work initiated under this contract.

5.10 FORCE MAJEURE

Unless otherwise modified by the SOW, neither party shall be liable for delays in performance or failure to perform this agreement or any obligations hereunder, which are attributable to causes beyond its reasonable control, including but not limited to, obstruction, fire, flood, epidemic, earthquake, acts of God, lightning, public or private power failure or surge, explosion, strike or other labor dispute, riot or civil disturbance, war or armed conflict, or any other similar occurrence not within its control an event of Force Majeure, provided however, that upon the occurrence of an event of Force Majeure, the delayed party shall notify the other party.

5.11 Agreement Termination

- 5.11.1 *Compliance - Either party may terminate this Agreement if the other party does not comply with any of its terms, provided the one who is not complying is given written notice as provided in paragraphs below and fails to comply within 30 days of receipt of such notice. In the event of termination, the ordering agency will pay Contractor for all products, services, labor or materials provided or delivered prior to the effective date of termination.*
- 5.11.2 *Just Cause - Either party may cancel this contract for just cause with a 30 day written notice and upon written approval from Central Purchasing. Any outstanding purchase order will be honored and services rendered unless mutually agreed upon by both parties to cancel.*
- 5.11.3 *Violation - Immediate cancellation shall be administered when violations are found to be an impediment to the function of the ordering agency and detrimental to its cause, or when conditions preclude the 30 day notice.*
- 5.11.4 *Suspension - The Department of Central Services, Central Purchasing Division, in its sole discretion, reserves the right to suspend any or all such activities under this contract, at any time, in the best interest of the State. In the event of suspension, the Contractor will be given formal written notice outlining the particulars of such suspension. Examples of reason for such suspension include, but are not limited to, a budget freeze on State spending, declaration of emergency, or other such circumstances. Upon issuance of such suspension of work, the contractor is not to accept any purchase orders. Activity may resume at such time as the Department of Central Services, Central Purchasing Division issues a formal written notice authorizing a resumption of work; provided, however, that if such suspension lasts more than ten (10) business days, Contractor's obligation to resume the project is subject to the Contractor's reasonable ability to re-establish the project team or an equivalent project team acceptable to the Ordering Agency.*
- 5.11.5 *Payment - If this contract is terminated for any reason, the State shall be liable only for payment under the payment provisions of this contract for supplies and/or services rendered before the effective date of termination.*

5.12 Electronic and Information Technology Accessibility

Electronic and Information Technology Accessibility in accordance with Section 508 of the Rehabilitation Act of 1998, as amended. (Pursuant to Title 74, Section 85.7d)

- a) The Contractor shall provide products and services that can be enhanced to meet the needs of users with visual, hearing, and motor impairments to ensure that all users are provided the required accessibility to electronic information and data.
- b) The Contractor shall include provisions for substituting accommodation hardware, firmware, and/or software, which represent advancement in technology with respect to that originally offered. All substitutions must be certified by the State as a suitable replacement for or addition to the appropriate accommodation hardware, firmware, and/or software.
- c) Any single enhancement or combination of enhancements, when enabled, must be compatible with all system operations and procedures that are available when the enhancements are not enabled.

d) The Contractor shall offer accommodation hardware, firmware, and/or software that become available after contract award, which offer improvements in technology, which better provide for the needs of users with disabilities. If the State elects to do so, it may evaluate the offer, and accept for substitution of equipment covered in the contract, but not yet delivered. Any such offer should contain the general information required by the clause entitled "Engineering Changes."

5.13 Technology and Engineering Changes

a. During the life of the contract, and under its terms and conditions, the Central Purchasing Division will solicit and the contractor is encouraged to propose independently, technology/engineering changes to computer hardware, hardware specifications, or other requirements of this contract. It is further understood by the parties of this contract that this clause envisages engineering changes related to the general type of hardware covered by the scope of this contract.

b. These changes may be proposed to save money, to improve performance, to save energy, or to satisfy increased data processing requirements. However, if proposed changes relating to improved performance are necessary to meet increased data processing requirements of the user, those requirements shall not exceed the contract requirements by more than 10 percent over the life of the contract. If the proposed changes are acceptable to both parties (the Contractor and Central Purchasing), the Contractor shall submit a price change proposal to the Contracting Officer for evaluation. Those proposed engineering changes that are acceptable to the State of Oklahoma will be processed as modifications to the contract.

c. It is understood by the State of Oklahoma, that the computer industry issues "new technology" and discontinues "old technology." This discontinued technology may be in stock and still available for a short period. Contractors must detail the availability and price reduction of the discontinued computer technology with their "technology/engineering change proposal." If discontinued product is still available, that item (at its reduced price) will be left on the contract along with the "new" technology/engineering product. If a product becomes a discontinued item, the contractor must notify the Contracting Officer for contract modification and that product will not be replaced by new technology until the modification is issued.

d. The technology/engineering changes covered by this clause must meet the following criteria:

1. Be representative of a technological advancement, which became readily available commercially after contract award;
2. Have been sold to the general public in substantial quantities before substitution under this clause;
3. Meet or exceed all mandatory requirements of this contract;
4. Be judged technically acceptable in writing by the Contract Administrator.

e. This clause applies only to those proposed changes identified by the Contractor as a proposal submitted pursuant to the provisions of this clause. As a minimum, the following information shall be submitted by the Contractor with each proposal:

1. A description between the existing contract requirement and the proposed change, and the comparative advantages and disadvantages of each;

2. Itemized requirement of the contract that must be changed if the proposal is adopted, and the proposed revisions to the contract for each such change;
 3. An estimate of the change in performance and cost, if any, that will result from adoption of the proposal;
 4. An evaluation of the effects the proposed change would have on the collateral costs to the State of Oklahoma such as costs of maintenance and operation;
 5. Also, any effect on the contract completion time or delivery schedule shall be identified.
- f. Technology/Engineering change proposal submitted to the Contracting Officer shall be processed expeditiously. The State of Oklahoma shall not be liable for proposal preparation costs or any delay in acting upon any proposal submitted pursuant to this clause. The Contractor has the right to withdraw, in whole or in part, any technology/engineering change proposal not accepted by the Central Purchasing Division within the period specified in the engineering change proposal. The decision of the Contracting Officer as to the acceptance of any such proposal under this contract shall be final and shall not be subject to appeal or protest.

The Contracting Officer may accept any technology/engineering change proposal submitted pursuant to this clause by giving the Contractor written notice thereof. This written notice may be given by the issuance of a modification to this contract. Unless and until a modification is executed to incorporate an engineering change proposal under this contract, the Contractor shall remain obligated to perform in accordance with the terms of the existing contract.

If a technology/engineering change proposal submitted pursuant to this clause is accepted and applied to this contract, an equitable adjustment in the contract price and in any other affected provisions of this contract shall be made in accordance with this clause and other applicable clauses of this contract. When the cost of performance of this contract is increased or decreased as a result of the change, the equitable adjustment increasing or decreasing the contract price shall be made in accordance with the "Changes" clause rather than under this clause, but the resulting contract modification shall state that it is made pursuant to this clause.

5.14 Non Appropriation

5.14.1 Notwithstanding any language to the contrary in this agreement or in any purchase order or other document, an ordering agency may terminate its obligations under this agreement if sufficient appropriations are not made by the governing entity. The ordering agency's decisions as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final and binding.

5.14.2 An ordering agency shall provide thirty (30) days written notice of its intent to terminate this contract for non-appropriation. The Contractor will be paid by the ordering agency for all services rendered before the effective date of termination.

5.15 State and Federal Taxes

Purchases by the State and/or political subdivisions are not subject to any sales tax or Federal excise tax. Exemption certificates will be furnished upon request, by the ordering agency..

5.16 Invoices

- 5.16.1 *Contractor shall be paid upon submission of proper invoice(s) to the ordering agency at the prices stipulated on the contract or statement of work. Invoices shall contain the contract number and purchase order number. Failure to follow these instructions may result in delay of processing invoices for payment.*
- 5.16.2 *Invoicing shall be made in accordance with instructions by ordering agency issuing the purchase order.*
- 5.16.3 *If Contractor is paid more than 45 days after submitting a proper invoice, they may be entitled to claim an interest penalty. Contact the Office of State Finance for a copy of the regulations.*
- 5.16.4 *Contractor will invoice in arrears for services. Ordering agencies, upon receipt of a proper invoice from Contractor, shall pay such invoices in accordance with applicable State statutes and, if applicable, the SOW.*
- 5.16.5 *Contractor will bill for hourly services based on "15" minute increments.*

For example, fifteen minutes will be billed as .25 hours; 30 minutes will be billed as .50 hours; and, 45 minutes will be billed as .75 hours. Therefore, if we work 4 hours and 15 minutes, the time recorded on the time sheet and accordingly billed to the ordering agency will be shown as 4.25 hours.

5.17 Audit and Records

- 5.17.1 *As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. On forming any contract with the State, the successful bidder agrees any pertinent State or Federal agency will have the right to examine and audit all records relevant to execution of the resultant contract.*
- 5.17.2 *The Contractor is required to retain all records relative to this contract for the duration of the contract term and for a period of three years following completion and/or termination of the contract.*
- 5.17.3 *If an audit, litigation, or other action involving such records are started before the end of the three-year period, the records are required to be maintained for three years from the date that all issues arising out of the action are resolved or until the end of three-year retention period, whichever is later.*

5.18 Conflict of Interest

This statewide contract hereunder is subject to the provisions of the Oklahoma Statutes. Contractor must disclose the name of any officer, director of agency, who is also an employee of the State of Oklahoma or any of its agencies. Further, Contractor must disclose the name of any State Employee who owns, directly or indirectly, an interest of five percent (5%) or more in the suppliers firm or any of its branches.

5.19 Patents and Royalties

Contractor without exception, shall indemnify and save harmless the State of Oklahoma and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or un-patented invention, process, or article manufactured or used in the performance of the contract. If the supplier uses any design, device or materials covered by letters, patent copyright, it is mutually agreed and understood without exception that the prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work.

5.19.1 Ownership Rights

- a) It is understood and agreed that the Software is being developed by the Contractor for the sole and exclusive use of the State. Moreover, the State shall be deemed the sole and exclusive owner of all right, title, and interest therein, including all copyright and proprietary rights relating thereto.
- b) All work performed by Contractor of Software and any supporting documentation therefore shall be considered as Works for Hire (as such are defined under the U.S. Copyright Laws) and, as such, shall be opened by and for the benefit of State of Oklahoma. In accordance with Title 62.41.5u State Agency Acquisition of customized computer software, “No state agency, as defined by Section 250.3 of Title 75 of the Oklahoma Statutes, nor the Purchasing Division of the Department of Central Services, unless otherwise provided by federal law, shall enter into a contract for the acquisition of customized computer software developed or modified exclusively for the ordering agency or the state, unless the vendor agrees to provide to the ordering agency or the state the source code for the software and/or modifications.”

5.19.2 Right of Use

- a) The State has the right to use or not use the Software and to use, reproduce, re-use, alter, modify, edit, or change the software as it sees fit and for any purpose.
- b) In the event that it should be determined that any of such software or supporting documentation does not qualify as a “Work Made for Hire”, Contractor will and hereby does assign to the State for no additional consideration, all right, title, and interest that it may possess in such software and documentation including, but not limited to, all copyright and proprietary rights relating thereto. Upon request, Contractor will take such steps as are necessary to enable the State to record such assignment at its own cost and expense.
- c) Contractor will sign, upon request, any documents needed to confirm that the Software or any portion thereof is a “Work Made for Hire” and to effectuate the assignment of its rights to the State.
- d) Contractor will assist the State and its Agents, upon request, in preparing U.S. and foreign copyright, trademark, and/or patent applications covering Software. Contractor will sign any such applications, upon request, and deliver them to the State. The State of Oklahoma will bear all expenses that it causes to be incurred in connection with such copyright, trademark, and/or patent protection.

5.20 Source Code Escrow

When warranted by the Statement of Work the Contractor will warrant that a machine-readable copy of the source code is in the custody of an independent escrow agent (the "Escrow Agent"). Contractor will provide documentation suitable to State of Oklahoma of this escrow agreement. The most recent revision of the source code shall be deposited with the Escrow Agent annually.

Contractor shall register State of Oklahoma as a qualified recipient of the source code entitled to receive a copy of the source code only if all of the following conditions occur: a) Contractor or any successor to all or substantially all of Contractor's business becomes dissolved and ceases to do business; b) State of Oklahoma has a current license to use the Software; and c) State of Oklahoma has signed a Source Code Release Agreement limiting transferability and assignment rights of the State of Oklahoma for the source code. In these circumstances, Contractor shall be deemed to have granted State of Oklahoma a nonexclusive, nontransferable license to use the machine-readable copy of the source code to support its internal use of the Software under the provisions of this Agreement..

5.21 Insurance and Indemnification

The Contractor is hereby required to carry liability insurance in accordance with Title 51, Oklahoma Statute, Supplement 1986, Section 151 to adequately compensate persons for injury to their person or property occasioned by an act of negligence by the Contractor, its agents, employees or the like. The Contractor must be able to supply evidence of such insurance upon request. The Contractor shall agree to indemnify and hold harmless the State against any and all bodily injury and property damage, deficiencies or liabilities resulting from any negligence on the part of the Contractor or non-fulfillment of any term or condition of this contract. The Contractor shall indemnify and hold harmless the State under this contract from any and all assessments, judgments, costs, legal, and other reasonable expenses incidental to any of the foregoing.

5.22 Equal Opportunity and Discrimination

The Contractor is an Equal Opportunity Employer, a provider of services and/or assistance, and is in compliance with the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended and Executive Orders 11246 and 11375. The provider assures compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336), all amendments to, and all requirements imposed by the regulations issued pursuant to this act.

5.23 Lobbying

The Contractor certifies compliance with the Anti-Lobbying law, Section 1325, Title 31 of the U.S. Code, and implemented at 45 CFR Part 93, for persons entering into a grant or cooperative agreement over \$100,000.00 as defined at 45 CFR 93, Section 93.105 and 93.110.

5.24 Drug-Free Workplace

The Contractor certifies compliance in providing or continuing to provide a drug-free workplace in accordance with the Drug-Free Workplace Act of 1988, and implemented at 45 CFR part 76, Subpart F, for grantees, as defined at 45 CFR Part 76, Sections 76.605 and 76.610.

5.25 Environmental Protection

If the payments pursuant to the contract are expected to exceed \$100,000.00, then the Contractor must comply with the Section 306 of the Clean Air Act (42 U.S.C. 1857 (L)), Section 508 of the Clean Water Act (33 U.S.C. 1638), Executive Order 11738, and Environmental Protection Agency Regulations (40 C.F.R Part 15), which prohibit the use under nonexempt Federal contract, grant or loans of facilities included on the EPA List of Violating Facilities.

5.26 Contract Changes

No oral statement, amendments, facsimile, mail or other notification issued by Contractor shall modify or otherwise effect the terms, conditions, or specifications stated in this purchase order unless accepted in writing by the State of Oklahoma.

5.27 Assignment

Contractor’s obligations under this contract may not be assigned or transferred to any other person, firm, or corporation without the prior written consent of the Department of Central Services, Central Purchasing Division.

5.28 Emerging Technologies

The State of Oklahoma reserves the right to modify the terms of this contract at any time to allow for technologies not identified elsewhere under this document. If there are repeated requests for an “emerging technology” and the Department of Central Services, Central Purchasing Division feels it is warranted to add such technologies to the list of skill sets, Central Purchasing reserves the right to include such technology hereunder or to issue a formal modification or amendment to the Contract.

5.29 Severability

If any provision of this contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

5.30 Order of Precedence

When there is a conflict between the Statewide Contract, the Statement of Work, the Agency Purchase Order and the Oklahoma State Statutes, the order of precedence is as follows: the Oklahoma State Statutes, then the Statewide Contract, then the Statement of Work, and last the Agency Purchase Order.

The Statewide Contract and the Advancia Corporations response to the RFP constitutes the total agreement between Advancia Corporation and the State of Oklahoma. Advancia Corporation agrees that this agreement has been read and is signed by a duly authorized representative.

Advancia Corporation

Signature: _____

Printed Name: _____

Printed Title: _____

Signature Date: _____