

INVITATION FOR BID
IFB C4A1LEG18
FOR
LEGACY 4 TELECOMMUNICATIONS VOICE AND DATA SERVICES

CALNET LEGACY 4

APPENDIX B

SPECIAL TERMS AND CONDITIONS - LEGACY

Addendum 7

June 21, 2018

Issued by:
STATE OF CALIFORNIA
California Department of Technology
Statewide Technology Procurement
PO Box 1810
Rancho Cordova, CA 95741

Disclaimer: The original PDF version and any subsequent addendums of the IFB released by the Procurement Official of this Bid remain the official version. In the event of any inconsistency between the Bidder's versions, articles, attachments, specifications or provisions which constitute the Contract, the official State version of the IFB in its entirety shall take precedence.

INTENTIONAL BLANK PAGE

TABLE OF CONTENTS

A. DEFINITIONS1
B. PURPOSE1
C. WARRANTY1
D. PRICE GUARANTEE PERIOD2
E. INVOICES AND PAYMENTS2
F. EXISTING EQUIPMENT3
G. PRICING AND SERVICE REVIEW3
H. SERVICE COSTS3
I. “MOST FAVORED NATION” STATUS3
J. REPORTS, DATA AND INVENTORY4
K. BENCHMARKING4
L. DE MINIMIS DELIVERABLE OR SERVICES REQUEST5
M. MIGRATION-OUT5
N. INDIVIDUAL PRICE REDUCTIONS (IPR)7
O. PROVISIONING OF DELIVERABLES AND SERVICES7
P. SEVERABILITY/SURVIVAL CLAUSE7
Q. LIMITATION OF MODIFICATIONS TO PMAC BY SPECIAL TERMS AND
CONDITIONS – LEGACY7
R. CONTRACT EFFECTIVE TERM7
S. SERVICE TAXES, FEES, SURCHARGES, AND SURCREDITS8
T. ORDER OF PRECEDENCE8

A. DEFINITIONS

Definitions specified in the Statement of Work Appendix A, Glossary, shall be the definitions applicable to these Special Terms and Conditions - Legacy.

B. PURPOSE

These Special Terms and Conditions - Agency are part of the Contract entered into as of the Effective Date of the agreement between the State and the Contractor.

C. WARRANTY

- a) The warranties in this subsection a) begin upon delivery of the goods and software in question and end one (1) year thereafter. The Contractor warrants that the goods and software furnished hereunder that are procured and owned by the State or its Customers will substantially conform to the requirements of this Contract (including without limitation all descriptions, specifications, and drawings identified in the Scope of Work), and the goods and software will be free from material defects in materials and workmanship. Where the parties have agreed to design specifications (such as a Detailed Design Document) and incorporated the same or equivalent in the Scope of Work directly or by reference, the Contractor will warrant that its goods and software provide all material functionality required thereby. In addition to the other warranties set forth herein, where the Contract calls for delivery of Commercial Software, the Contractor warrants that such Software will perform in accordance with its license and accompanying Documentation. The State's approval of designs or specifications furnished by the Contractor shall not relieve the Contractor of its obligations under this warranty.
- b) The Contractor warrants that goods and software furnished hereunder (i) will be free, at the time of delivery, of harmful code (i.e. computer viruses, worms, trap doors, time bombs, disabling code, or any similar malicious mechanism designed to interfere with the intended operation of, or cause damage to, computers, data, or Software); and (ii) will not infringe or violate any U.S. Intellectual Property Right. Without limiting the generality of the foregoing, if the State believes that harmful code may be present in any Commercial Software delivered hereunder, the Contractor will, upon the State's request, provide a master copy of the Software for comparison and correction.
- c) Unless otherwise specified in the Scope of Work:
 - (i) The Contractor does not warrant and will have no responsibility for a claim to the extent that it arises directly from (A) a modification made by the State, unless such modification is approved or directed by the Contractor, (B) use of Software in combination with or on products other than as specified by the Contractor, or (C) misuse by the State.
 - (ii) Where the Contractor resells Hardware or Software it purchased from a third party, and such third party offers additional or more advantageous warranties than those set forth herein, the Contractor will pass through any such warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will be supplemental to, and not relieve the Contractor from, Contractor's warranty obligations set forth above.
- d) All warranties, including special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, Customer agencies, and governmental users.
- e) Except as may be specifically provided in the Statement of Work or elsewhere in this Contract, for any breach of the warranties provided in this Section, the State's exclusive remedy and the Contractor's sole obligation will be limited to:
 - (i) re-performance, repair, or replacement of the nonconforming goods and software; or
 - (ii) should the State in its sole discretion consent, refund of all amounts paid by the State for the nonconforming goods and software and payment to the State of any additional amounts necessary to equal the State's Cost to Cover. "Cost to Cover" means the cost, properly mitigated, of procuring goods and software of equivalent capability, function, and performance. The payment obligation will not exceed the limits on the Contractor's liability set forth in the General Provisions – Telecommunications, Section 31, *Limitation of Liability*.

- f) EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED IN THIS SECTION, THE CONTRACTOR MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

D. PRICE GUARANTEE PERIOD

The Contractor shall guarantee all pricing must be at or below market value for the entire Contract Term. Any adjustment or amendment to the original contract will not be effective unless a written amendment is approved by the State and the Contractor. The State will be given the immediate benefit of any decrease in the market, product set, or allowable discount.

E. INVOICES AND PAYMENTS

a) Invoices

Any approved service taxes, fees, surcharges, and surcredits may be separately identified on each invoice as applicable. In addition, each invoice shall be in the form specified by the State (including whether issued as a single, aggregate invoice or separate invoices for different services or entities) and shall (i) comply with all applicable legal, regulatory and accounting requirements, (ii) allow the State to validate volumes and charges, (iii) permit the State to chargeback internally, and (iv) meet the State's billing requirements in accordance with the Statement of Work. Invoices with a name other than that established in the original Contract (including approved subcontractors or Affiliates) cannot be paid prior to execution of a Contract Amendment. The data underlying each invoice shall also be delivered to the State electronically in a form and format specified in the Statement of Work but also the format shall be compatible with all other applicable State's accounting systems as necessary.

b) Budget Contingency Clause

This contract is valid and enforceable only if: (a) sufficient funds are made available by the State Budget Act of the appropriate State Fiscal Year(s) covered by this Agreement for the purposes of this program; and/or (b) sufficient funds are made available to the State by the United States Government for the Fiscal Year(s) covered by this contract for the purposes of this program.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State other than as contained herein, or offer an Agreement amendment to the Contractor to reflect the reduced amount.

c) Recoup Cost Clause

For purpose and clarity and avoidance of confusion under this contract, the State is granted the limited right to resell services contemplated herein to a) other State of California governmental entities and b) other municipal or local governments within the state of California. The State shall be authorized to establish a fee-based access to applications, data, documentation or services provided under this contract, provided that the fees are established on a cost recovery basis and not for profit.

d) Acceptance Payments

Acceptance procedures to initiate payments will be as set forth in the Customer's Scope of Work and/or Ordering Documents. The State shall be deemed to have accepted each service either (i) upon its issuance of written notice of such acceptance or (ii) 30 calendar days after the Installation Date or acceptance testing period (collectively Acceptance), unless otherwise stated in the Scope of Work or at or before the time the State gives the Contractor written notice of rejection or requests additional time. No payment will be due before Acceptance thereof, except to the extent required by progress payment terms and/or progress payment requirements in the Scope of Work, if applicable. Any notice of rejection will explain how the deliverable or service fails to substantially conform to the functional and performance specifications of the Statement of Work and the Customer's Scope of Work. The Contractor will, upon receipt of such notice, investigate the

reported deficiency and exercise reasonable best efforts to remedy it promptly. The State, in its sole discretion, will have the option to re-perform the acceptance test. If the Contractor is unable to remedy the deficiency within 30 calendar days of notice of rejection, the State shall have the option of terminating for default the portion of the Contract that relates to such deliverable or service, or terminating this Contract in its entirety for default; and/or the State or the Customer shall have the option of terminating the service order or accepting substitute deliverables or service.

F. EXISTING EQUIPMENT

The incumbent Contractor agrees to accommodate the State and its Customers that currently utilize existing equipment specific to the incumbent Contractor, the Contractor's replacement agreement with the proposed services shall accommodate by (a) supporting the use of such existing Customer equipment, or (b) modifying or replacing such existing equipment at no cost to the State or the Customers during Transition. Any replacement or modification to existing equipment shall require approval from the State or the affected Customer and shall be of similar or better quality that will function the same as, or better than, the existing equipment.

a) The non-incumbent Contractor agrees to accommodate the State and its Customers which currently utilize existing equipment by providing proposed services that could be used to support the use of such existing equipment.

G. PRICING AND SERVICE REVIEW

For the purpose of maintaining competitiveness throughout the Term, the Contractor agrees to a joint review of its pricing and service functionality at the State's request, to ensure the State and its Customers will receive cost-competitive and technologically competitive services. The State shall notify the Contractor in writing of any pricing adjustments and service related issues as a result of the analysis. The Contractor shall have 15 calendar days to confirm and respond to the State's request for pricing reductions or other service related changes. The effective date for the mutually agreed rate(s) shall be 15 calendar days from written notification by the State. Once an amendment has been issued, the Contractor shall issue rebates or billing credits back to the effective date of the new rate(s). The Contractor agrees that requests for amendments to this Contract to reduce statewide rates may be submitted throughout the term.

H. SERVICE COSTS

Any Contractor's list of service and product descriptions accepted by the State shall correlate the service to the associated Contract rates as applicable under this Contract. All costs will include all monthly recurring and usage charges, volume discounts, and non-recurring charges as applicable. Listed pricing will include all elements necessary to configure an instance of working service (planning, application design, engineering, testing, wiring, termination, installation, and training). Any no-cost items will be clearly identified and any service elements without associated pricing will be considered no charge items.

I. "MOST FAVORED NATION" STATUS

The Contractor agrees to give the State and Authorized Users of this Contract "Most Favored Nation" status, in that the Contractor agrees that no other similarly situated public Customer of the Contractor or any of its Affiliates will receive rates for a substantially similar service, or suite of services, offered under substantially similar terms and conditions that are lower than the statewide rates provided hereunder when the volume of business from the other public Customer is equal to or less than the volume of business the State delivers under this Contract. The Contractor agrees to promptly bring to the State's attention instances in which other public Customers of the Contractor or any of its Affiliates may receive lower rates for substantially similar services. For comparison purpose, all rates used for comparison shall not include administrative fees equivalent to those of General Provisions – Telecommunications, Section 69, Administrative Fee, or Special Terms and Conditions - Legacy, Section S, *Service Taxes, Fees, Surcharges, and Surcredits*. If the Contractor or its Affiliates offer lower rates to any other public Customer for the same or a substantially similar service, or suite of services, offered under substantially

similar terms and conditions, the Contractor shall adjust the State's rates prospectively to match or beat such rates. If the Contractor offers a bundled package of deliverables and/or services under substantially similar terms and conditions to other public Customers at a rate lower than the rate(s) charged to the State for such deliverables and/or services provided under this Contract, the State reserves the right to amend the Contract to add a similarly bundled package of deliverables and/or services at such lower rate. At the end of each Contract year, an executive level officer with authority to represent the Contractor shall certify in writing to the State that the Contractor has complied with this provision. If the Contractor is not in compliance with this Section, the Contractor and the State shall make adjustments and/or payment as necessary and described in General Provisions - Telecommunications, Section 59, *Performance Deficiency Charges*, and/or Special Terms and Conditions – Legacy, Section G, *Pricing and Service Review*, as applicable. Nothing herein shall be construed to require the Contractor to offer, provision, or sell services in a manner that conflict with applicable laws or regulations.

J. **REPORTS, DATA AND INVENTORY**

The Contractor shall provide all reports required by this Contract or otherwise requested by the State. Upon the State's request, at intervals and for any reason related to the Contract and services provided under the Contract, during the Contract Term, the Contractor shall: (a) provide to the State all data and documentation and all other information as requested by the State; and (b) the Contractor shall provide to the State a complete and accurate inventory of all deliverables, requirements, and services provided under the Contract, including software, data, equipment, materials, third party licenses, third party leases, and third party contracts used to provide the services, as well as the location thereof, entities serviced under this Contract by such items, and such other information regarding such items as the State requests. The export data formats and storage media type will be defined by the State.

K. **BENCHMARKING**

Beginning twelve (12) months after the Effective Date and no more frequently than annually thereafter until any termination or expiration, the State may engage an independent third party (a "Benchmarking Process"), to benchmark service(s), suite(s) of services, Service Level Agreements, and/or the charges hereunder. Benchmarking shall not apply to Individual Price Reductions (IPR). The cost for such benchmarking shall be shared and mutually agreed upon, in writing, by the State and the Contractor. The selection of the Benchmarking Process shall be made by the State, subject to the Contractor's approval, such approval not to be unreasonably withheld. In addition to the annual benchmarking activity, the State shall have the right to engage, at the State's own expense, a Benchmarking Process to conduct additional benchmarking activities prior to any termination or expiration of the Contract, provided that each such additional benchmarking activity is conducted no sooner than six (6) months after the annual benchmarking activity. The State and the Contractor will discuss and determine in advance the scope, methodology, relative comparisons and execution for each benchmarking process (the "Benchmarking Process"). Each Benchmarking Process will be conducted, and the results documented, by the Benchmarking Process in a commercially reasonable manner and in accordance with the applicable Benchmarking Process. The State and the Contractor will review the results of each benchmark and determine if such benchmark results show that the charges for the benchmarked service(s) are less favorable than the most favorable of the prices charged by any other service provider examined by the Benchmarking Process for similarly situated service(s) or a similar suite of services (the "Benchmarking Standard"). In comparing charges, the charges under this Contract shall be considered exclusive of the Administrative Fee. If the benchmark results show a variance between the charges for the benchmarked service(s) charged by the Contractor hereunder and the Benchmarking Standard by greater than five percent (5%), then Contractor shall reduce its charges hereunder such that the Contractor's total charges for the benchmarked service(s) are within five percent (5%) of the Benchmarking Standard. Notwithstanding the foregoing, Special Terms and Conditions - Legacy, Section I, *Most Favored Nation Status*, the parties agree that in no event shall the results of a benchmarking result in the increase of the Contractor's charges.

L. DE MINIMIS DELIVERABLE OR SERVICES REQUEST

At any time during the term, if the State determines that such deliverables or services requested were not provided with the required items/services for the deliverable or service to perform in accordance with the intended specification and parties cannot agree as to whether such deliverables or services are included as part of the deliverables and services offered by the Contractor and the financial impact on the Contractor of satisfying such request is less than Twenty-Five Thousand Dollars (\$25,000.00) and to the extent that the cumulative and aggregate amount of all such deliverables or services provided does not result in a financial impact on the Contractor in excess of the General Provisions – Telecommunications, Section 31, *Limitation of Liability*, during any contract year, such failure to agree shall (1) not be deemed a disagreement; (2) such request shall be deemed a request for services; and (3) all such services, products, or resources shall be provided to the State by the Contractor at no cost in accordance with the terms of this Contract.

M. MIGRATION-OUT

a) Term Migration-Out shall be synonymous with Disentanglement. The Migration-Out shall begin on the earlier of the following dates, as applicable, the “Migration-Out Commencement Date”: (1) as elected by the State, up to 60 calendar days prior to the end of the Category Contract Term that the State has not elected to extend pursuant to General Provisions – Telecommunications, Section 85, *Offer; Term*, or has already extended fully as permitted under this Section; or (2) the date a Notice of Termination is delivered pursuant to General Provisions – Telecommunications, Section 26, *Termination for the Convenience of the State*, or General Provisions – Telecommunications, Section 27, *Termination for Default*, or (3) the State’s election pursuant to General Provisions – Telecommunications, Section 66, Non-Exclusive Agreement, to obtain any portion, component, subset or all of the services offered under the terms and conditions of this Contract, or any other services (analogous, similar, comparable or otherwise) from third parties, including other Category Contractors, or to provide the same to itself. The Contractor shall provide Migration-Out services until it has completed the obligations of this Section.

The Contractor’s obligation to continue to provide the affected services shall continue until the earlier of (i) completion of a migration to a new service provider as provided in this Section, or (ii) 48 months after the effective date of any termination or expiration. During Migration-Out, the Contractor shall continue to provide service(s) in a manner consistent with the Contractor’s provision and performance of such service(s) during the period such service(s) were provided to the State hereunder.

b) Subject to the performance by the State and any subsequent provider of services similar to the services of all actions reasonably expected of each party in connection with the conversion, at the request of the State, the Contractor shall cooperate fully with the State and third parties and shall take all actions requested by the State or as necessary to accomplish a smooth, complete conversion of responsibility for the services being terminated from the Contractor to the State, or to any replacement provider designated by the State (a “Migration-Out”), with no material interruption of, or adverse impact on, the State in any way, including on the services. In the event the State elects to terminate any service (but not all services in the aggregate) pursuant to the terms hereof, the Contractor shall perform its Migration-Out obligations hereunder to the extent applicable to the service or services being terminated. The Contractor’s obligations hereunder regarding the collection and payment to the State of administrative fees shall continue throughout Migration-Out.

- c) If the State determines that the Contractor has not complied, or is unlikely to comply, with Migration-Out requirements identified in the Migration-Out Plan, and such non-compliance was a direct result of the Contractor, subcontractor or supplier, and not due to any third party or situations outside the control of the Contractor, the State may give written notice to the Contractor of non-compliance. After such notice, the Contractor shall provide to the State all necessary additional Contractor personnel to accelerate performance as may be required or necessary to timely achieve compliance or, if the Contractor has already failed to comply, achieve compliance within a re-adjusted time frame established by the State. The Contractor shall have seven (7) calendar days, or longer if agreed to by the State in writing, to achieve compliance.
- For each material Migration-Out requirement not completed after the notice of non-compliance period, the State shall be entitled to invoice the Contractor for up to \$2,000 per day for each Customer affected by a material deficiency not to exceed \$10,000 per day for all deficiencies until the Contractor is in material compliance with the requirements of the Migration-Out Plan. The Contractor may exercise its dispute rights under General Provisions – Telecommunications, Section 46, *Disputes*, in the event that the Contractor disagrees with the State's application of this Section; however, pending final resolution of any dispute, the Contractor shall diligently proceed without disruption or delay with the performance of the Migration-Out Plan.
- d) All Migration-Out services performed by the Contractor during the conversion shall be performed by the Contractor at no additional cost to the State beyond what the State would pay for the services.
- e) The Contractor shall provide to the State all State data and documentation and other information reasonably requested by the State in connection with the conversion that is sufficient to enable the State, or another reasonably competent service provider, to fully assume the provision of any terminated services. Except as the Contractor is otherwise required to retain such data under this Contract or by law, the Contractor shall destroy all copies of the State's data not turned over to the State.
- The Contractor shall export all artifacts and data to the requesting agency. The State reserves the right to define export data formats, storage media type, locations to which data is to be delivered, and other special criteria deemed necessary for successful Migration-Out.
- f) To the extent applicable to the services provided by the Contractor hereunder, the Contractor shall provide to the State as complete and accurate an inventory as is reasonably practicable of all software, data, equipment, materials, third party licenses, third party leases, and third party contracts used to provide the services, as well as the location thereof, entities serviced under this Contract by such items, and such other information regarding such items as the State reasonably requests and is necessary for Migration-Out of services.
- g) Effective as of the date of termination, the Contractor shall use commercially reasonable efforts to convey to the State (or its designee) such physical assets as the State may, in its sole discretion, select from among those assets that are onsite CPE and substructure not already fully paid for by the State and used by the Contractor solely in or for the provision of services to the State, excluding those assets expressly agreed upon by the parties in writing from time to time, at a price consisting of the aggregate net book value of such selected assets at that time, less the amount(s) already paid by the State for such assets.
- h) Effective as of the date of notice of termination, the Contractor, at its expense, shall use commercially reasonable efforts to convey or assign to the State (or its designee) such leases, licenses, and other contracts as the State may, in its sole discretion, select from among those directly associated with the use of properties, software, or other goods or services by the Contractor that were specifically obtained, licensed or purchased in order for the State to obtain services.
- Notwithstanding anything to the contrary in this Contract, the Contractor shall be responsible for the satisfaction and performance of all obligations (including all financial obligations) under any

such leases, licenses, and other contracts that may be assigned or conveyed to the State (or its designee) with respect to periods prior to the date of any such conveyance or assignment.

- i) Except as otherwise provided herein, the Contractor shall use commercially reasonable efforts to assign or license to the State (or its designee) whatever rights the Contractor possesses at the time of Migration-Out with regard to software, materials and other items that are needed in order to allow the State (or its designee) to continue to perform and receive the benefit of the services. To the extent allowed by the applicable owner or licensor and to the extent the following are accessible by the Contractor, the Contractor shall provide the State with a full and complete copy of each such item that constitutes software, in such forms and media as reasonably requested by the State, together with all object code, source code, and then-available documentation thereto.

N. INDIVIDUAL PRICE REDUCTIONS (IPR)

The Contractor may enter into negotiations with Customers resulting in an Individual Price Reductions (IPR). IPRs can result in a price reduction only or price reduction for a limited duration commitment. At no time will any other Contract term and condition be modified. IPRs commitments shall not exceed the Contract Term. Refer to the SOW Business Requirements, Section L.9, *Individual Pricing Reductions (IPR)*.

O. PROVISIONING OF DELIVERABLES AND SERVICES

The State and Authorized Users may order Deliverables and services under this Contract by issuing the appropriate Ordering Document form(s) in accordance with the CALNET Legacy 4 User Instructions. The Contractor will not commence provisioning Deliverables or services for a given State or non-State Agency until the Contractor receives a complete, signed, accepted, and accurate STD Form 20 *Telecommunications Service Request*. The STD Form 20 may be accompanied by an Authorization to Order (ATO), a STD 65, Purchasing Authority Purchase Order, and/or a Work Authorization as applicable.

P. SEVERABILITY/SURVIVAL CLAUSE

Contracts awarded as a result of IFB C4A1LEG18 shall automatically incorporate by reference all of the General Provisions – Telecommunications contract terms and conditions of the Contractor's Prequalified Multiple Award Contract (PMAC) awarded as a result of the State's CALNET Request for Qualifications Proposal (RFQP 12-001). The PMAC General Provisions shall apply through the duration of the PMAC awards (and beyond as specified in the Statement of Work or the Customer's Scope of Work), and shall survive the expiration of the Contractor's PMAC when the Contractor's PMAC terminates prior to the termination of the contracts awarded and/or extended from this Contract.

Q. LIMITATION OF MODIFICATIONS TO PMAC BY SPECIAL TERMS AND CONDITIONS – LEGACY

To the extent that these Special Terms and Conditions – Legacy modify the Contractor's PMAC General Provisions as may be allowed in those General Provisions, such modifications shall only apply to the Category Contracts awarded as a result of this solicitation.

R. CONTRACT EFFECTIVE TERM

Awarded Contracts signed by the Contractor shall not become effective until signed by the California Department of Technology. An awarded Contractor shall not begin implementation, i.e., selling services or accepting Customer orders until the CALNET CMO authorizes the Contractor in writing to do so, and naming a specific implementation start date for such activities. The CALNET CMO reserves the right to delay a Contractor's implementation of sales and services of an awarded contract to the extent determined by the CALNET CMO to be in the State's interest.

S. SERVICE TAXES, FEES, SURCHARGES, AND SURCREDITS

State government users of this Contract shall be subject to service taxes, fees, surcharges, and surcredits that are mandated by the government of the State of California (including the California Public Utilities Commission) and the federal government (including the Federal Communications Commission), as applicable. Non-State users shall be subject to service taxes, fees, surcharges and surcredits mandated by the State and federal governments, and also as mandated by California local government jurisdictions and political subdivisions, as applicable. Mandates in effect at the time of award and as hereafter mandated may be recovered from end users of the applicable service.

The CALNET Contract Management Office (CMO) reserves the right to verify, and if necessary challenge the Contractor and the applicable regulatory authority, the application by the Contractor of service taxes, fees, surcharges, and surcredits. Should the CALNET CMO consider the application of such items to be inappropriate, the CALNET CMO and the Contractor shall meet and confer regarding the applicability of such items. If thereafter a dispute exists regarding the proper application of such items, the parties may resolve such disputes in accordance with General Provisions – Telecommunications, Section 46, *Disputes*. Either party may seek guidance or clarification from the applicable regulatory authority regarding the appropriate application of such items. If the application of such items is deemed inappropriate by the regulatory authority, the Contractor shall cease and/or revise the application of such items and, if appropriate, issue retroactive credits to the impacted Customer(s). All charges under this Contract are exclusive of applicable federal, state and local sales, use, excise, utility, and gross receipt taxes, other similar tax-like charges and surcharges. The Contractor will provide the CALNET CMO the exemption certificates that comply with the requirements of the Internal Revenue Code and Regulations (e.g., see Internal Revenue Regulations section 49.4253-11 and IRS Publication 510 or their current equivalent versions). The Contractor agrees to exempt the State and all State Agencies from all federal taxes as of the date the Contractor receives a duly authorized and valid exemption certificate. The Contractor agrees, for the purpose of federal exemption, that the CALNET CMO will act as the authorized agent for this Contract in submitting a single exemption request on behalf of all State agencies. The CALNET CMO will make available the certification form to authorized local government users. Local government entities will be responsible for submitting exemption requests to the Contractor.

The State of California government entities are exempt from service taxes, fees, surcharges, or surcredits imposed by local government and political subdivision entities, as applicable. The Contractor shall not apply service taxes, fees or surcharges imposed by local governments and political subdivisions to the State as applicable. The State shall not be required to submit certificates of exemption in order to claim or confirm local government and political subdivision exemptions.

T. ORDER OF PRECEDENCE

In the event of any inconsistency between the articles, attachments, specifications or provisions which constitute this Contract, the following order of precedence shall apply:

1. The PMAC *STD 213 Standard Agreement*, and any amendments thereto.
2. The PMAC *General Provisions – Telecommunications* and any amendments thereto, (unless otherwise specified in the Contract whereas replacing paragraphs via the Contract shall take precedence over the replaced PMAC General Provision paragraphs).
3. The *STD 213 Standard Agreement*, and any amendments thereto, issued as a result of IFB C4A1LEG18.
4. IFB C4A1LEG18's Statement of Work (SOW) including, in the following order of precedence:
 - a. This Appendix B, *Special Terms and Conditions – Legacy*.
 - b. The specifications and requirements contained in the solicitation documentation (i.e., IFB C4A1LEG18 and its Statement of Work (SOW) including the Business and Technical Requirements, and Appendix A, *Glossary*).

- c. The State approved Catalog A and any amendments thereto, as identified in IFB C4A1LEGa8 Part 1, Section 3.3.2.6, *Catalog A (with Costs) – Final Bids Only*.
 - d. The Contractor's response to meet or exceed the specifications and requirements in the solicitation as stated in their Bid or Proposal. (The parties acknowledge and agree that silence in the Bid or Proposal with respect to a particular solicitation specification or requirement equals consent by the Contractor.)
5. All other documents incorporated in the Contract by reference.
 6. All regulatory filings made pursuant to the terms and conditions of this Contract.
 7. *Authorization to Order* (Refer to Bidders' Library) form for services to local government jurisdictions.
 8. The Scope of Work as may be issued by authorized Customers, including in the following order of precedence:
 - a. The specifications and requirements contained in the solicitation documentation.
 - b. The Contractor's response to meet or exceed the specifications and requirements in the solicitation as stated in their offer. (The parties acknowledge and agree that silence in the offer with respect to a particular solicitation specification or requirement equals consent by the Contractor.)
 9. The service order form, *STD 20 Telecommunications Service Request*, and related ordering documents such as STD 65 and Work Authorizations.