STATE OF MONTANA TERM CONTRACT

Department of Administration
State Procurement Bureau
165 Mitchell Building
PO Box 200135
Helena, MT 59620-0135
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http://gsd.mt.gov/

T.C. #: SPB07-1440R-B
Title: SYSTEMS COMPONENT FURNITURE
This is an exclusive contract.

CONTRACT TERM	FROM	July 1, 2012	CONTRACT STATUS	NEW ( )
	TO	June 30, 2013		RENEW (xx) 5th renewal, 6th year
VENDOR ADDRESS	KIMBALL OFFICE 1600 ROYAL STREET JASPER, IN 47549		ORDER ADDRESS	
ATTN:	Tonja Blackgrove		ATTN:	
PHONE:	812-482-8673		PHONE:	
FAX:	812-481-6273		FAX:	
E-MAIL:	Tonja.Blackgrove@Kimball.com		E-MAIL:	

PRICES: 70% off list

DELIVERY: 120 Days ARO Unless Negotiated

F.O.B.: Per Agency Request

TERMS: Net 30 Days

REMARKS: The University System has optional use of this contract. Effective May 10, 2012, the price list dated November 15, 2011 is now in effect. This is the fifth renewal, sixth year of the contract.

IFB/RFP No.: SPB07-1440R	Tia Snyder, CONTRACTS OFFICER Tia Snyder	DATE: May 11, 2012

AUTHORIZED SIGNATURE

TCtemplate
Revised 12/05

SYSTEMS COMPONENT FURNITURE
SPB07-1440R

OVERVIEW

The new Systems Component Furniture term contract SPB07-1440R is now available to agencies for the purchase of systems component furniture and services. Agencies may work directly with the liaison listed in this contract and issue their own purchase orders without contacting the State Procurement Bureau. Agencies are not required to re-compete among the authorized dealer(s) of a specific brand listed under the term contract, regardless of size of the project. Descriptive literature has been supplied and can be viewed by calling the State Procurement Bureau at 444-2575 or contacting the contract holder.

1. PARTIES

THIS CONTRACT, is entered into by and between the State of Montana, Department of Administration, State Procurement Bureau, (hereinafter referred to as "the State"), whose address and phone number are P.O. Box 200135, Helena, MT 59620-0135, (406) 444-2575, and Kimball Office Inc., (hereinafter referred to as the "Contractor"), whose address and phone number are 1600 Royal Street, Jasper, IN 47549 and 800-482-1616.

THE PARTIES AGREE AS FOLLOWS:

2. EFFECTIVE DATE, DURATION, AND RENEWAL

2.1 Contract Term. This contract took effect on April 9, 2007, (or upon contract execution) and terminate on June 30, 2008 unless terminated earlier in accordance with the terms of this contract. (Mont. Code Ann. § 18-4-313.) The term of this contract is from July 1, 2012 through June 30, 2013. This is the fifth renewal, sixth year of the contract.

2.2 Contract Renewal. This contract may, upon mutual agreement between the parties and according to the terms of the existing contract, be renewed in one-year intervals, or any interval that is advantageous to the State. This contract, including any renewals, may not exceed a total of seven years.

3. COOPERATIVE PURCHASING

Under Montana law, public procurement units, as defined in section 18-4-401, MCA, have the option of cooperatively purchasing with the State of Montana. Public procurement units are defined as local or state public procurement units of this or any other state, including an agency of the United States, or a tribal procurement unit. Unless the offeror objects, in writing, to the State Procurement Bureau prior to the award of this contract, the prices, terms, and conditions of this contract will be offered to these public procurement units. However, the State Procurement Bureau makes no guarantee of any public procurement unit participation in this contract.

4. EXCLUSIVE CONTRACT

The intent of this contract is to provide state agencies with an expedited means of procuring supplies and/or services. This contract is considered to be an "Exclusive" use contract and state agencies must obtain the specified product/service from the contract holder(s), unless the contract allows otherwise. However, the State Procurement Bureau does not guarantee any minimum usage totals and it is the individual agency's responsibility to comply with the terms of the contract.

5. COST/PRICE ADJUSTMENTS

Price Adjustments Negotiated Based on Changes in Contractor's Costs. Price adjustments may be permitted at the time of contract renewal through a process of negotiation with the Contractor and the State. Any price increases must be based on demonstrated industry-wide or regional increases in the Contractor's

costs. Publications such as the Federal Bureau of Labor Statistics and the Consumer Price Index (CPI) for all Urban Consumers may be used to determine the increased value. The State will require the contractor to hold the initial pricing for the first two years of the contract. Price increases will be accepted on July 1st of the current contract year and the contractor must demonstrate proof an increase in the commercial market.

6. SERVICES AND/OR SUPPLIES

Contractor agrees to provide to the State the following:

A. General.

All panels and components shall be of a design material and workmanship to withstand hard, daily usage over an extended life with a minimum of maintenance and repair. All panels shall stand erect and rest firmly on their bases to assure safety, good appearances, and provide for a stationary work position. All panels shall be plumb and level including where the panels join (joints shall be tight). Panels and components shall have identical range of modularity so that they are interchangeable between workstations. The system shall be capable of being installed over finished flooring without penetration of demarcation or the use of floor fasteners so as to allow for reconfiguration without any floor patching.

B. Panels.

1) Panels shall be engineered and constructed of steel frame to provide a high degree of strength and durability and accept add on stackers of glass and fabric. The State will also accept a steel frame and/or steel connector that meets BIFMA standards.
2) Panels shall be available in a wide variety of widths and heights that provide great flexibility in designing a wide variety of workstation configurations within an existing floor plan.
3) Panels shall allow for a high degree of flexibility in the positioning of hanging components.
4) Panels shall be easy to adjust vertically to compensate for uneven floor conditions.
5) Panel thickness shall be 2” or 3” uniform thickness that provides adequate space for internal routing of cables and power. Internal routing meaning the ability to run data and electrical inside the panel out of view. This is a mandatory requirement.
6) Panel shall be capable of routing of voice, data and fiber optic cables in the top cap and base.
7) Panel selection shall provide flexibility in designing workstations, which typically include; acoustical, hard surface, glazed, open frame, powered, and non-powered.
8) Universal hinging devices that accommodate configurations including; straight, ”L”, “T”, “X”, “Y”, and infinite angles shall be available but not required for installs. A connector may be attached at any angle.
9) Panels shall be capable of supporting a minimum of two hanging components on each side and capable of supporting a minimum of 700 lbs.
10) Panel surfaces shall be removable and replaceable. Panel surfaces shall be available in a wide variety of colors, materials and styles. Wide variety to mean a minimum of seven or more.

C. Electrical.

1) Powered panels shall provide sufficient electrical capacity in both the number of circuits and total amperage to support multiple workstations on a single panel run.
2) Panels must provide a dedicated circuit. (A separate ground, neutral and hot).
3) Power panels shall meet all applicable Federal, State and Local standards for electrical wiring of system panels.
4) Panel system shall be designed and constructed to accommodate floor or ceiling power sources.
5) Electrical raceways and power poles shall be designed to minimize electrical interference with communication cables.
6) A communications raceway shall be available near the top of the panel and accommodate a minimum of 20 category 5 cables in a straight line.

7) Panels shall have the designed capacity to efficiently accommodate a sufficient quantity of voice, data and fiber optic cables to allow for a high degree of flexibility in the configuration of workstations in a large open space. Panels shall have the ability to provide desk height power and data cable access. Panel systems offered as an option power outlets, phone and data jack (ability to plug in the phone, PC and data cable) just above the worksurface height, to add convenience for the user, facilities and IT. This must be available as an option to the State.
8) Panel cable management must be capable of maintaining the minimum bend radius to accommodate fiber optic cable.
9) All electrical components shall be UL listed and meet the applicable requirements of the National Electrical Code.
10) All panels shall have a minimum of two knockouts on each side for electrical access and communications line access to provide adequate flexibility in designing workstations.

D. <u>Work Surfaces.</u>

1) 18, 24 and 30” by 2’6” to 5’ wide rectilinear work surfaces shall be available in a wide variety of widths and depths which maximize flexibility in configuring efficient and comfortable work stations.
2) Work surfaces shall be available in a variety of shapes that preferably include corners, D-shapes and curves.
3) The top surface shall be designed and constructed to provide strength, durability and easy maintenance and use high-pressure laminate.
4) Work surfaces shall be designed and constructed of steel to provide a stable and level work surface, in the event of a 200-pound center front point load, without excessive deflection. The State will not call out a mandatory percentage for steel requirements but the accessible load requirement must be met.
5) Edges shall be finished in a fashion that provides pleasing aesthetics, durability and safety.
6) Panel supported surfaces shall be available and interchangeable.
7) Work surfaces shall be flexible in usage and have the option of cantilever, panel support, or clear access end panel, “C” panel at the ends.
8) A minimum of 24 standard laminate choices must be available.

E. <u>Pedestals.</u>

1) Work surface mounted, freestanding and mobile pedestals shall be available.
2) Freestanding and mobile pedestals must be designed to allow use beneath a work surface without extending past work surface front.
3) Drawer types shall include a combination of personal drawers, box drawers and file drawers or center drawer.
4) Drawers shall be engineered for durability; extend fully, and operate quietly and smoothly.
5) Pedestal locks shall be available.
6) Pedestals shall be available in depths to accommodate all work surface depths.
7) Pedestals shall be non-handed.
8) Pedestals and drawers shall be constructed of steel or equivalent durable material that provides adequate strength, security and long service life. File should operate on steel ball bearing suspension.

F. <u>Overhead Storage.</u>

1) Shelf and door units shall be available in steel or an equal that meets BIFMA standards and be available in widths to match panel dimensions to provide great flexibility in configuring workstations.
2) Shall have a designed weight load capacity sufficient to safely allow the unit to be filled to volume capacity with reference books.
3) Door and shelf units shall have finished interior (i.e. no exposed edges).
4) Standard units shall have an inside min. 12” usable shelf depth which provides for efficient materials storage.
5) Optional front locks shall be available.

6) Doors shall be engineered and constructed to open and close with minimal effort, and shall not extend excessively beyond the face of the unit when in the fully opened position.
7) Under shelf task lights shall be designed and engineered to provide adequate illumination to the work surface, energy efficiency, long lamp life and not produce excessive heat, noise or electrical signal interference.
8) Overhead storage units must include a safety catch to prevent accidental dislodging.

G. Miscellaneous.

1) All furniture items shall be standard and modular.
2) It shall be possible to mount and dismount work surfaces and shelves to either side of panels without mounting or dismounting items on the other side.
3) All products must meet or exceed applicable ANSI and BIFMA standards.
4) Panel mounted paper management systems shall be available.
5) Articulated keyboard shelves that must mount under work surfaces shall be available.
6) Keyboard shelves shall be adequately adjustable to provide an ergonomic and comfortable positioning of the keyboard, while not interfering with the operation of doors or drawers.
7) Keyboard shelves shall provide adequate surface area for expanded feature or ergonomic keyboards as well as the use of a mouse on either side of the keyboard.
8) Fabric must meet NFPA standard 255 or ASTM E84-89a, and be a minimum of 15 oz per linear yard. The State will accept a frame and tile or monolithic. The fabric must be able to be replaced due to damage or re-fabric if necessary.
9) Acoustic shall meet GSA testing requirements for STC and NRC for Furniture Systems.
10) Steel shall have a powder coated, baked enamel paint or similar durable finish, with a minimum of 10 standard colors. Standard colors shall be able to be matched for 10 years after the purchase date.
11) Work surface, pedestals, overhead storage units, and file cabinets shall have the ability to be keyed alike.

6.1 Warranty. Products shall be free from defects in design, materials, or workmanship. Any product, part, or component, which fails under normal use as a result of such defect, shall be repaired or replaced with comparable product (free of charge). Warranty must include a minimum of 10 years, 24/7 use, parts and labor included. The warranty must cover all parts and pieces that make up your standard office furniture products, including electrical components, casters, pneumatic cylinders, tilts, and all moving mechanisms.

6.2 Furniture Selection And Layout (Designer Service). Contractor(s) shall provide the State at the rate proposed on an as required basis, the necessary engineering, design and layout services required by the State when requesting a proposal against this contract. If design/CAD services are required to provide a quotation, the State shall be notified of design/CAD charges and approve prior to contractor beginning the quote and design services.

On large or complex projects, the design/CAD services operator shall be available for on site State meetings, as required by the State at no additional cost. Large or complex projects shall be mutually defined by the contractor and the State on a case-by-case basis.

The State prefers fabric, paint, and finishes available on compact disc or other electronic means so the information can be incorporated into CAD drawings to aid the selection of color choices. Options of having drawings and/or specifications should be available to the State.

If the contractor prepares the drawing for the State, the contractor will be responsible for overages and/or shortages resulting from orders based on the drawing(s), even when the State formally accepts the drawing. Offerors shall submit details of this program with their proposal.

6.3 Delivery. The State has various locations where goods are to be shipped; therefore, the contractor(s) should anticipate that they will be required to ship to any location throughout the state upon

request at no additional cost. The State will not accept multiple discounts for dockside delivery, inside delivery and quickship. In addition, the State will not accept the contractor's standard freight included policy, which may include an extra charge for unloading product or other charges that are not standard delivery for most transporters.

All deliveries shall be made during regular working hours – 8:00 a.m. to 5:00 p.m. Monday through Friday. Contractor shall:

- **Deliver standard orders within 120 days after receipt of order, unless agreed upon otherwise.**
- Offer a quick ship program, including commonly ordered components available for delivery within 30 days after receipt of order, at no additional charge.
- Not deliver before or after regular working hours without permission of the ordering agency.
- Provide inside delivery to the exact location requested by the State.
- Notify the ordering agency 24 hours prior to delivery.
- Coordinate delivery with original organizer.
- Be responsible for all delivery, unloading, staging, and storage of furniture, furnishing and equipment.
- Not proceed with delivery and installation until they have been given approval to commence delivery.

6.4 Loading Dock Deliveries. All goods are to be removed from the delivery vehicle by the contractor and placed on the loading dock, unless inside delivery has been requested. Under no circumstances are State personnel to assist contractor in unloading vehicle. If contractor refuses to unload, shipment will be rejected at the contractor's expense.

If no loading dock is available or if loading dock is not of adequate size to handle shipment, the State must identify on the order or in writing that no loading dock is available. In the absence of appropriate notification, however, the State may be charged inside delivery charges. All goods are to be removed from the delivery vehicle by the contractor and placed at the nearest safe approach, which is defined as inside the doors of the building or lobby. In no event are shipments to be left outside of the building. This is not considered inside delivery; therefore no additional charges shall be applied for this type of delivery.

6.5 Inside Delivery. The contractor(s) will be required to provide inside delivery as requested on an as needed basis by the State, at an additional cost (as identified on the price sheet). Inside delivery is identified as the person(s) delivering the goods shall deliver the item(s) to the exact location requested whether it may be on the first or the tenth floor, etc. Inside delivery shall also include removal/disposal of packaging materials, assembly, placement, and testing (as applicable). Any orders requiring this service shall be clearly documented to so indicate.

6.6 Partial Shipments. Partial shipments are acceptable unless the State indicates otherwise on the purchase order document or by subsequent written faxed communication, however payment may not be made until the entire order is received, at the discretion and approval by the ordering agency.

6.7 Telephone Contact Prior To Delivery. As problems may occasionally arise at the time of delivery, the State must identify a contact person and their telephone number on the order. If telephone notification prior to delivery is required (usually 24 hours prior), the order must clearly so state and the name and telephone number of the contact person provided. Telephone contact or email shall be construed as direct communication with the contact person or appropriate agency representative (voice mail is unacceptable notification).

If the contractor neglects to provide telephone notification prior to delivery when requested, the State may refuse delivery. If this occurs, the goods shall be delivered as mutually agreed with the State or no later than the next scheduled delivery route.

6.8 Late Delivery. The acceptance of late delivery with or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the requirements for the timely performance of any obligations remaining to be performed by the contractor. However, the State procurement officer reserves the right to waive the requirements, as applicable. If delivery is delayed more than 10 calendar days beyond the contract delivery date, the State may impose a penalty of 3% per week, for every week that delivery is delayed (penalty will be assessed on the first day of each week when penalties begin). The contractor's invoice shall reflect late delivery penalties, if applicable; otherwise, the State will automatically credit the contractor's delivery penalties against the amount owing on the invoice when it submits payment. Or, the State may choose to cancel the order, without penalty, and purchase the goods elsewhere, (any additional costs may be charged back to the contractor as "damages"). If delivery is refused by the State, a delivery and storage fee may be imposed onto the State with sufficient justification.

If the State requests a delay in delivery of more than 10 calendar days beyond contract delivery terms, the State may be charged warehousing costs as identified on the Price Sheets and must be submitted to the State Procurement Bureau along with the purchasing agency.

6.9 Installation Services. The contractor shall provide the following installation service, at the State's option:

- Shall be responsible for all receiving, uncrating, assembly and installation of all furniture at site.
- Work shall be performed and completed during the work schedule developed with the State. Standard working hours = 8:00 a.m. to 5:00 p.m., non-standard working hours includes time other than standard working hours, weekends, and state holidays. Installation rates shall be proposed for standard and non-standard hours.
- The contractor shall supervise, direct the work, and be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the work under the contract.
- The contractor shall employ a full-time competent supervisor and necessary foremen and assistants, who shall be in attendance on the project site during progress of the work.

The contractor shall at all times during the progress of the work keep the premises and the job site free from the accumulation of all refuse, rubbish, scrap materials and debris caused by their operations. At all times the premises and site shall present neat, orderly and workmanlike appearance. This is to be accomplished as frequently as is necessary by the removal of such material, debris, etc. from the site and the State's premises. Loading cartage, hauling, and dumping will be at the contractor's expense. Trash materials and debris shall be removed on a daily basis. State dumpsters are not to be used for this purpose.

Should the contractor not promptly and properly discharge this obligation relating to cleaning and final clean up, the State shall have the right to employ others and to charge the cost thereof to the contractor after first having given the contractor a three working day written notice of such intent. Further, final payment will be withheld until area is deemed acceptable by the State.

When installation is requested by the State, all products to be installed shall be delivered all at once, including hardware. Delivery of products for installation is the contractor's responsibility. Freestanding components (chairs, file cabinets, desks, etc.) will not be subject to installation charges, but subject to inside delivery. Installation shall begin simultaneously with delivery of products that are subject to installation, unless otherwise requested by the State. If installation does not occur as scheduled with the State, the late penalties will apply (penalties to begin the first day of non-installation).

Installation will not include electrical power connections, which require a licensed electrician to perform the work and will be subject to prevailing wage rates. However, the State shall have the option to hire a separate contractor to do the electrical connections or may request the contractor to sub-contract such work and pass the charge through the State as a separate line item on the invoice.
The State also reserves the right to install items with their own personnel or other third party (ies). The State

shall first receive prior approval from the contractor before using an outside third party for installation. The contractor(s) shall provide detailed installation instructions. Improper installations by others void manufacturer's warranty.

6.10 Receipt Of Damaged/Incorrect Merchandise. Any time damaged or defective merchandise is discovered it should be brought to the immediate attention of the contractor. Such inspection shall not be construed as final acceptance or as acceptance of the materials or equipment if materials or equipment do not conform to contractual requirements.

When damage is identified at the time of delivery it should immediately be brought to the attention of the delivery driver and noted on the receiving report. Concealed damage or shortages are to be reported within 15 calendar days of receipt of merchandise or date of installation. The State should retain the carton and locate a copy of the signed freight bill to facilitate inspection.

The contractor shall expeditiously take the following steps, at no cost to State:

- Investigate extent of the damage.
- Arrange for repair whether at the State's or contractor's location.
- Pick up merchandise to be repaired or replaced after freight inspection.
- If repair is not practical, order placement merchandise on an expedited manufacture and shipment basis (within 30 calendar days, otherwise the State may choose to purchase elsewhere).
- Prepare and submit all reports or claims to the carrier as necessary.
- Coordinate fully with the State on steps being taken and time frame for problem resolution.

6.11 Receipt Of Incorrect Merchandise. Prior to reporting receipt of incorrect merchandise, the State should check delivery document against order initially submitted. Such inspection shall not be construed as final acceptance of the materials or equipment if materials or equipment do not conform to contractual requirements. Any time receipt of incorrect merchandise is discovered it should be brought to the immediate attention of the contractor.

6.12 Notification. Once the contractor is notified of receipt of damaged or incorrect merchandise, the contractor shall notify the State within three working days of corrective action being taken and time frame, which is mutually agreed upon.

6.13 Restocking. There will be no restocking charge for items ordered due to contractor error. Contractor will accept returns of standard items if new, unused, in original packaging and shipped within 30 days of receipt, regardless of the size of the order. However, if an item ordered was due to the State's error and the State wishes to return it, it would be at the contractor's option to accept and in such cases, restocking charge will not exceed 35%.

7. CONSIDERATION/PAYMENT

7.1 Payment Schedule. In consideration for systems component furniture to be provided, the State shall pay according to the following schedule: 70% OFF LIST PRICE REGARLESS OF THE SIZE OF THE ORDER.

7.2 Withholding of Payment. The State may withhold payments to the Contractor if the Contractor has not performed in accordance with this contract. Such withholding cannot be greater than the additional costs to the State caused by the lack of performance.

7.3 Purchasing Card. The State of Montana has a Purchasing Card Program in place that gives agencies the ability to charge purchases made from these contracts. The State of Montana prefers this method of payment.

8. TERM CONTRACT REPORTING

Term contract holder(s) shall furnish annual reports of term contract usage. Each report shall contain the product description, total quantity sold of each item, total dollars expended, and the name of the agency purchasing the item. The first report for this term contract will be due July 15, 2010. The State reserves the right to require electronic submission of usage information through a web based reporting tool at no cost to the contractor.

Reported volumes and dollar totals may be checked by the State Procurement Bureau against State records for verification. Failure to provide timely or accurate reports is justification for cancellation of the contract and/or justification for removal from consideration for award of contracts by the State.

9. ACCESS AND RETENTION OF RECORDS

9.1 Access to Records. The Contractor agrees to provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine contract compliance. (Mont. Code Ann. § 18-1-118.)

9.2 Retention Period. The Contractor agrees to create and retain records supporting systems component furniture (delivered or installed) for a period of three years after either the completion date of this contract or the conclusion of any claim, litigation or exception relating to this contract taken by the State of Montana or a third party.

10. ASSIGNMENT, TRANSFER AND SUBCONTRACTING

The Contractor shall not assign, transfer or subcontract any portion of this contract without the express written consent of the State. (Mont. Code Ann. § 18-4-141.) The Contractor shall be responsible to the State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the Contractor. No contractual relationships exist between any subcontractor and the State.

11. HOLD HARMLESS/INDEMNIFICATION

The Contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

12. REQUIRED INSURANCE

12.1 General Requirements. The Contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

12.2 Primary Insurance. The Contractor's insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

12.3 Specific Requirements for Commercial General Liability. The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of $1,000,000 per occurrence and $2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

12.4 Additional Insured Status. The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds; for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations; premises owned, leased, occupied, or used.

12.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, or volunteers; or (2) at the expense of the Contractor, the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

12.6 Certificate of Insurance/Endorsements. A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages, has been received by the State Procurement Bureau, PO Box 200135, Helena, MT 59620. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

13. COMPLIANCE WITH WORKERS' COMPENSATION ACT

Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with the 2005 Montana Laws, chapter 448, section 1, 39-71-401, and 39-71-405, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the contractor nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the contract. A renewal document must be sent to the State Procurement Bureau, PO Box 200135, Helena, MT 59620, upon expiration.

14. COMPLIANCE WITH LAWS

The Contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

15. INTELLECTUAL PROPERTY

All patent and other legal rights in or to inventions created in whole or in part under this contract must be available to the State for royalty-free and nonexclusive licensing. Both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under this contract.

16. PATENT AND COPYRIGHT PROTECTION

16.1 Third Party Claim. In the event of any claim by any third party against the State that the

products furnished under this contract infringe upon or violate any patent or copyright, the State shall promptly notify Contractor. Contractor shall defend such claim, in the State's name or its own name, as appropriate, but at Contractor's expense. Contractor will indemnify the State against all costs, damages and attorney's fees that accrue as a result of such claim. If the State reasonably concludes that its interests are not being properly protected, or if principles of governmental or public law are involved, it may enter any action.

16.2 Product Subject of Claim. If any product furnished is likely to or does become the subject of a claim of infringement of a patent or copyright, then Contractor may, at its option, procure for the State the right to continue using the alleged infringing product, or modify the product so that it becomes non-infringing. If none of the above options can be accomplished, or if the use of such product by the State shall be prevented by injunction, the State will determine if the Contract has been breached.

17. CONTRACT TERMINATION

17.1 Termination for Cause with Notice to Cure Requirement. The State may terminate this contract for failure of the Contractor to perform any of the services, duties, or conditions contained in this contract after giving the Contractor written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than **15 days**. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

17.2 Reduction of Funding. The State, at its sole discretion, may terminate or reduce the scope of this contract if available funding is reduced for any reason. (See Mont. Code Ann. § 18-4-313(3).)

18. LIAISONS AND SERVICE OF NOTICES

All project management and coordination on behalf of the State shall be through a single point of contact designated as the State's liaison. Contractor shall designate a liaison that will provide the single point of contact for management and coordination of Contractor's work. All work performed pursuant to this contract shall be coordinated between the State's liaison and the Contractor's liaison.

Tia Snyder will be the liaison for the State.
PO Box 200135
125 N Roberts, Mitchell Building Room 165
Helena, MT 59620
406-444-3315
406-444-2529
tsnyder@mt.gov

Jeffrey L. Fenwick will be the liaison for the Contractor.
1600 Royal Street
Jasper, IN 47549
800-482-8310
812-481-6800

The State's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints will first be directed to the liaison.

19. MEETINGS

The Contractor is required to meet with the State's personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of the contract or to discuss the progress made by Contractor and the State in the performance of their respective obligations, at no additional cost to the

State. Meetings will occur as problems arise and will be coordinated by the State. The Contractor will be given a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired. However, at the Contractor's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution meetings, two consecutive missed or rescheduled meetings, or to make a good faith effort to resolve problems, may result in termination of the contract.

20. CONTRACTOR PERFORMANCE ASSESSMENTS

The State may do assessments of the Contractor's performance. This contract may be terminated for one or more poor performance assessments. Contractors will have the opportunity to respond to poor performance assessments. The State will make any final decision to terminate this contract based on the assessment and any related information, the Contractor's response and the severity of any negative performance assessment. The Contractor will be notified with a justification of contract termination. Performance assessments may be considered in future solicitations.

21. TRANSITION ASSISTANCE

If this contract is not renewed at the end of this term, or is terminated prior to the completion of a project, or if the work on a project is terminated, for any reason, the Contractor must provide for a reasonable period of time after the expiration or termination of this project or contract, all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the contract. If there are no established contract rates, then the rate shall be mutually agreed upon. If the State terminates a project or this contract for cause, then the State will be entitled to offset the cost of paying the Contractor for the additional resources the Contractor utilized in providing transition assistance with any damages the State may have otherwise accrued as a result of said termination.

22. CHOICE OF LAW AND VENUE

This contract is governed by the laws of Montana. The parties agree that any litigation concerning this proposal or subsequent contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana and each party shall pay its own costs and attorney fees. (See Mont. Code Ann. § 18-1-401.)

23. SCOPE, AMENDMENT AND INTERPRETATION

23.1 Contract. This contract consists of **13** numbered pages, any Attachments as required, RFP #SPB07-1440R**,** as amended and the Contractor's RFP response as amended. In the case of dispute or ambiguity about the minimum levels of performance by the Contractor the order of precedence of document interpretation is in the same order.

23.2 Entire Agreement. These documents contain the entire agreement of the parties. Any enlargement, alteration or modification requires a written amendment signed by both parties.

24. EXECUTION

The parties through their authorized agents have executed this contract on the dates set out below.

DEPARTMENT OF ADMINISTRATION
STATE PROCUREMENT BUREAU
PO BOX 200135
HELENA MT 59620-0135

BY: _____
(Name/Title)

BY: _____
(Signature)

DATE:_____

KIMBALL OFFICE
a division of Kimball International Marketing Inc
1600 ROYAL STREET
JASPER, IN 47549

BY: _____
(Name/Title)

BY: _____
(Signature)

DATE: _____