Company Name: State of North Dakota Statewide ERP Procurement

Approver: HQAPP

New Approval:

1. 93.8% overall discount on License and Support.
2. Flatline Support, no escalation %, for years 2 through 5.

Note that the following were approved by HQAPP April 4, 2001. These approvals were sought in conjunction with a response to an RFP; we are now in final BAFO.

Previously Approved by HQAPP (4/4/01), and reviewed (then) by Legal, Sr. Contracts, and Risk Management:

1. Annual Update Rights and Product Support to be priced at 20% of Net License Fees and support increase capped at not to exceed 5% for years 2 - 4.

2. OAI membership for 11 North Dakota University System Campuses to be included at no charge.

3. $700k License Revenue for the Oracle Student System not to be paid by the State of North Dakota until the State "accepts" the Oracle Student System. Oracle Student System "acceptance" is defined as having the OSS in production (approximately 24 months) at the State, at which time, the State will pay Oracle the $700k. It is understood that this $700k will not be recognized until the acceptance period has expired. **Note that the fee for the Student Information System is now at $249,550 and that it is no longer subject to acceptance.**

4. Publicity and News Releases - The respondent or its representatives shall not make any announcements or news releases pertaining to this solicitation of proposals, this project, the selection of proposal or the award of any contract without the prior written approval of the State. (Legal and Senior Contracts approve) (HQAPP approved provided that this was mutual).

5. Insurance - Use the following standard language (Legal, Senior Contracts and Risk Mgt. approve) *Oracle shall take out and maintain the following minimum insurance at its expense for the duration of this Agreement covering locations where Oracle is to perform work on Customer's premises:*

(a) Workmen's Compensation--Statutory;
(b) Employer's Liability--$500,000 each occurrence;
(c) Comprehensive General Liability Insurance affording coverage for bodily injury and property damage liability, including contractual liability coverage--$1,000,000 each occurrence bodily injury and property damage combined; and
(d) Automobile Liability Insurance affording coverage for bodily injury and property damage liability, including coverage for all non-owned, hired and rented automotive equipment--$500,000 each occurrence, bodily injury and property damage combined.

Nothing in this Agreement shall be deemed to preclude Oracle from selecting a new insurance carrier or carriers or obtaining new or amended policies at any time, as long as the above insurance coverage is maintained.

7. Performance Bond - The Successful Vendor will be expected to provide a performance bond. The amount of the bond will be determined during contract negotiations. This will be requested through Risk Management once we

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are determined the successful Vendor. (Approved by David Cisneros in Risk Management)

8. Non-Assignment of Contract - The contract to be awarded and any amounts to be paid thereunder shall not be transferred, pledged or assigned without the prior written approval of the State. (Acceptable to Legal).

9. Database Ownership - All records or data input into the proposed system remain the property of the State, without any transfer or reservation of ownership or other rights to the respondent. (Legal and Sr. Contracts approve)

10. Source Code Rights (Legal approves use of this Oracle language) - *The escrowed material shall be maintained under an agreement which provides that if Oracle ceases to be in the business of supporting the Programs, the escrow agent shall furnish Customer with a copy of the escrowed material that has become unsupported. Customer shall pay the escrow agent a nominal fee sufficient to cover the cost of reproduction and distribution of source materials, including reasonable administrative expenses thereto. Any escrowed material furnished under this provision shall be considered licensed subject to the terms of this Agreement and shall be used solely to maintain the Programs*

11. Contractor Charges - (Legal approved as to the language) The Successful Vendor shall maintain documentation for all charges against the State under this Contract. The books, records and documents of the Successful Vendor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment, and shall be subject to audit, at any reasonable time. The State must give Successful Vendor prior written notice of an audit. Such audit must be conducted during normal business hours and not more than once annually.

12. 89.8% discount L&S

Legal Approval:

Use Standard Infringement language option (Approved by Legal and follows)

If someone makes a claim against you that our programs infringe their intellectual property rights, we will indemnify you if you do the following. To obtain this protection, you must: notify the General Counsel, Legal Department promptly in writing, not later than 30 days after you receive notice of the claim, or sooner if required by applicable law; give us sole control of the defense and any settlement negotiations; and give us the information, authority, and assistance we need to defend against or settle the claim.

If we believe that any of our programs may have violated someone else's intellectual property rights, we may choose to either modify the programs or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, we may end the license for the applicable program and refund any license fees you have paid for it. We will not indemnify you if you alter a program outside the scope of use provided in the documentation or if you use a program version which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the program. This section provides your exclusive remedy for any infringement claims or damages.

Deal Summary:

Deal Summary	
Product Mix:	Oracle DB Technology plus Options, Development Tools, CRM Applications, Financial Applications, Purchasing Applications, Project Applications, HR/Payroll Applications and Public Sector/University Applications.
License Discount	93.8%
Support Discount	93.8%

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Support Options/Holds	Flatline Support, no escalation %, for years 2 through 5
Price Holds	None
List License	**$48,190,910**
List Support	**$10,602,000**
Net License	**$2,987,839**
Net Support	**$657,325**
Net Price	**$3,645,164**
Price List Used	**January 11, 2002**

Justification:

Oracle and Peoplesoft are competing for the Statewide ERP Selection in North Dakota. The second and final BAFO is due Friday January 18th. We are currently involved in a week long conference table pilot with the State (in North Dakota), which culminates in BAFO on Friday. If we are in a position where we have tied or won the demo, we would like to officially submit this approval. However, since we won't have a good feel for the outcome until Thursday, we want to float this up for review now. In the event that we do not feel as if we are at least tied with PSFT coming out of the demo we do not feel that it would be appropriate to request adjustment of pricing, given the current discount level. While we have not received any official weighting as to how the RFP award will be determined, we do know that the award will be determined first on the functional response and demo results, followed closely by price, and then by whatever kind of positive economic impact we can show will result from award. Since our hands are fairly tied on this last criteria, we feel that closing the price gap will be imperative to getting the win here. We are comfortable that we are well positioned with respect to relationships with the decision makers and that if our pricing and functionality are materially equivalent with PSFT's, we will win this opportunity.

Factors:

1.) This would be Oracle's first statewide ERP selection. This ERP selection includes all State of North Dakota Agencies of Government, as well as 11 North Dakota Higher Education Institutions. Oracle needs to win this contract and get a foothold in North Dakota to pave the way for other statewide opportunities. An Oracle loss in this here would obviously have a negative impact on our future opportunities in the State.

2.) Peoplesoft has submitted a bid to North Dakota to offer their entire ERP/SIS solution for only $3M license based on unlimited user counts. In this proposal, Peoplesoft also submitted a 10 year TCO projection using their 18% maintenance stream and a fixed 0% maintenance escalation for the first 5 years. This 10 year TCO strategy showed the Peoplesoft software licenses and maintenance stream at several million less than Oracle over 10 years. Our request to flatline support for the first five years eliminates a portion of Peoplesoft's advantage on the TCO.

3.) If Peoplesoft is awarded this business, the State of North Dakota would almost certainly run the ERP on SQL Server since Microsoft owns Great Plains and they are a North Dakota based company and a major employer in the state of North Dakota. We have been asked to submit specifications and TCO statements in comparison of Oracle to SQL Server and we are certain the database would not be awarded to Oracle if Peoplesoft is selected as their ERP Vendor.

4.) Maximus Consulting has a very strong relationship with the State of North Dakota and has submitted a proposal to implement the Peoplesoft Applications at approximately $5M less than Oracle Consulting's implementation plan for Oracle Applications. Although revised pricing for Oracle's Consulting bid is being addressed, we believe the positive relationship with Maximus and the State of North Dakota is influencing the software selection.

Context:

Primarily on the basis of lower pricing, PSFT has won a number of significant state wide ERP deals (e.g., Texas). We also compete against a PSFT student information system that is perceived as being more robust (at least until the next version of our system comes out in the summer) and also one which has more installs. These factors weigh heavily against us in the Higher Ed market, and will only partially be addressed with the release of the next version of Oracle's

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student information system. We feel that our positioning with the decision makers in North Dakota will allow us to overcome these obstacles with this opportunity provided that our pricing is not materially higher than PSFT's and that we are relatively successfully in our demonstration.

Due to North Dakota's small size and the resulting limited revenue opportunity cost, we view North Dakota as an ideal battleground to take the initiative away from PSFT on statewide deals, in light of the extremely high discount needed to match PSFT. Our opportunity cost on downstream ERP revenue within this small state is limited in any event, and matching PSFT pricing here may cause them to rethink their current strategy of using low price to bludgeon their way into dominance in the ERP marketplace at the state level. A win here at these discount levels may cause PSFT to move away from pricing as their main selling point, looking more towards relationships and functionality as the selling points; we view relationships and functionality (particularly with the next release) as Oracle's competitive sweet spot.

Please also consider that within the state marketplace, it is crucial that Oracle gets its nose inside the tent. Winning and succeeding in North Dakota will act as a major springboard in other states in that it gives us a solid reference customer at the state level, and provides a public win for Oracle.

In summary, we feel that the discount requested here provides us with the ability to win this opportunity (again, pending results of demonstration). By way of background, our understanding is that the consulting bid is approximately $14M, at a 40% discount (see Consulting approval for final numbers), and that they are comfortable that the risks here are within the norms.

Recommendation: (leave blank)

Submitted By: Chris Brown (303-809-2224)

R: (leave blank)
C: (leave blank)
L: (leave blank)
A: (leave blank)
BP: (leave blank)

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