

State of Texas
Department of Information Resources
Leadership for Texas Government Technology



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for Purchase and Lease of Xerox Multifunction Products

Xerox Corporation, Vendor ID 116-046-8020-401, offers Xerox multifunction products to Texas governmental and public educational entities at discounted prices through DIR's [Go DIRect Program](#).

Available Equipment

- Network Multifunction Products
- Printer Supplies
- Printer Options and Accessories

Product and Pricing Information

- For product and pricing information and a quote form, visit the [Xerox website](#) or call the vendor representative at 512-343-5646.

How to Order

- Generate a purchase order, made payable to **Xerox Corporation**. **Note:** You must reference **Contract Number DIR-SDD-515** on your purchase order.
- Submit your purchase order directly to Xerox.
- Fax the quote form and purchase order to Xerox at 512-343-5629.

Contract Information

To view PDF files, use the free [Adobe Acrobat Reader](#).

- Contract [DIR-SDD-515](#), expires 05/13/2008 (60 KB)
- [Appendix A](#), Standard Terms and Conditions (165 KB)
- [Appendix B](#), HUB Subcontracting Plan (79 KB)
- [Appendix C](#), Master Lease Agreement (93 KB)

Contacts

Product Information

Lisa Sowell

Phone: 512-343-5646

Fax: 512-343-5705

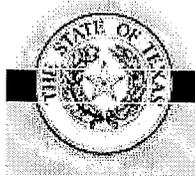
DIR Customer Service

Phone: 800-464-1215 or 512-305-9713

DIR Contract Information

Joanne Severn

Phone: 512-475-0517



Department of Information Resources

300 West 15th St., Suite 1300

Austin, TX 78701 ([Map & Directions](#))

1-512-475-4700

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[DIR Contacts](#) | dirinfo@dir.state.tx.us

Last updated December 4, 2007

STATE OF TEXAS
DEPARTMENT OF INFORMATION RESOURCES

CONTRACT FOR PRODUCTS AND RELATED SERVICES

XEROX CORPORATION

1. Introduction

A. Parties

This Contract for products and related services is entered into between the State of Texas, acting by and through the Department of Information Resources (hereinafter "DIR") with its principal place of business at 300 West 15th Street, Suite 1300, Austin, Texas 78701, and Xerox Corporation (hereinafter "Vendor" or "Manufacturer"), with its principal place of business at 6836 Austin Center Blvd., Suite 300, Austin, TX 78731.

B. Compliance with Procurement Laws

This Contract is the result of compliance with applicable procurement laws of the State of Texas. DIR issued a solicitation on the Texas Building and Procurement Commission's Electronic State Business Daily, Request for Offer (RFO) DIR-SDD-TMP-083, on August 1, 2006, for Printer Products and Related Services. Upon execution of this Contract, a notice of award for RFO DIR-SDD-TMP-083 shall be posted by DIR on the Electronic State Business Daily.

C. Order of Precedence

This Contract; Appendix A, Standard Terms and Conditions For Products and Related Services Contracts; Appendix B, Vendor's Historically Underutilized Businesses Subcontracting Plan; Appendix C, Master Lease Agreement; Exhibit 1, Vendor's Response to RFO DIR-SDD-TMP-083, including all addenda; and Exhibit 2, RFO DIR-SDD-TMP-083, including all addenda; are incorporated by reference and constitute the entire agreement between DIR and Vendor. In the event of a conflict between the documents listed in this paragraph, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C, then Exhibit 1, and finally Exhibit 2. In the event and to the extent any provisions contained in multiple documents address the same or substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded earlier provisions.

2. Term of Contract

The term of this Contract shall be one (1) year commencing on the last date of approval by DIR and Vendor. Prior to expiration of the original term, DIR and Vendor may extend the Contract, upon mutual agreement, for up to three (3) optional one-year terms.

3. Product and Service Offerings

A. Products

Products available under this Contract are limited to Xerox branded printer products, including multifunction products and high speed production publishing equipment, manufactured and produced by the Vendor. Vendor may incorporate changes to their product offering; however, any changes must be within the scope of products awarded based on the posting described in Section 1.B above.

B. Services

Services available under this Contract are limited to installation, maintenance, support services, and warranty. Maintenance on digital printers, multifunctional devices, and high speed production publishing equipment is provided per the terms and conditions of this agreement. The maintenance services commence upon installation. There is no free maintenance service included in the quoted purchase prices. **This contract does not include managed print services.**

Vendor may incorporate changes to their service offering; however, any changes must be within the scope of services awarded based on the posting described in Section 1.B above.

4. Pricing

A. Manufacturer's Suggested Retail Price (MSRP)

MSRP is defined as the product sales price suggested by the manufacturer or publisher of a product.

B. Customer Discount

The minimum Customer discount for all products and services will be the GSA price in effect at the time of order.

C. Customer Price

1) Customers purchasing products and services under this Contract may negotiate more advantageous pricing or participate in special promotional offers. In such event, a copy of such better offerings shall be furnished to DIR upon request.

2) If pricing for products or services available under this Contract are provided at a lower price to: (i) an eligible Customer who is not purchasing those products or services under this Contract or (ii) any other entity or consortia authorized by Texas law to sell said products and services to eligible Customers, then the available Customer Price in this Contract shall be adjusted to that lower price, providing the lower price was based on like quantities and procured under similar terms and conditions. This Contract shall be amended within ten (10) business days to reflect the lower price. Any such reductions shall only apply to orders received after the effective date of the price adjustment.

3) Manufacturer's best government published price list for the multifunction products is the GSA Multiple Award Schedule Contract, #GS-25F-0062 L. Manufacturer certifies that the prices offered under this contract will be no greater than the single unit prices offered to the Federal Government under the applicable GSA Multiple Award Schedule in effect at the time of the order. Prices will be no greater than the applicable GSA prices.

D. DIR Administrative Fee

The administrative fee specified in Section 5 below shall not be broken out as a separate line item when pricing or invoice is provided to Customer.

E. Shipping and Handling Fees

The price to the Customer under this Contract shall include all shipping and handling fees. Shipments will be Free On Board Customer's destination. No additional fees shall be charged to the Customer for standard shipping and handling. If the Customer requests expedited delivery, Customer will be responsible for any charges for expedited delivery.

F. Tax-Exempt

As per Section 151.309, Texas Tax Code, Customers under this Contract are exempt from the assessment of State sales, use and excise taxes. Further, Customers under this Contract are exempt from Federal Excise Taxes, 26 United States Code Sections 4253(i) and (j).

G. Travel Expense Reimbursement

Pricing for services provided under this Contract are exclusive of any travel expenses that may be incurred in the performance of those services. Travel expense reimbursement may include personal vehicle mileage or commercial coach transportation, hotel accommodations, parking and meals; provided, however, the amount of reimbursement by Customers shall not exceed the amounts authorized by the current State Travel Regulations. Travel time may not be included as part of the amounts payable by Customer for any services rendered under this Contract. The DIR administrative fee specified in Section 5 below is not applicable to travel expense reimbursement. Anticipated travel expenses must be pre-approved in writing by Customer.

H. Changes to Prices

Vendor may change the price of any product or service at any time, based upon changes to the MSRP, but discount levels shall remain consistent with the discount levels specified in this Contract. Price decreases shall take effect automatically during the term of this Contract and shall be passed onto the Customer immediately.

5. DIR Administrative Fee

A) The administrative fee to be paid by the Vendor to DIR based on the dollar value of all sales to Customers pursuant to this Contract is two percent (2%). The fee for

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purchased and leased equipment will be based on the equipment purchase prices only and will be a fixed amount that is equal to 2.00% of the GSA net price. Payment will be calculated for all sales, net of returns and credits. For example, the administrative fee for sales totaling \$100,000 shall be \$2,000.

B) All prices quoted to Customers shall include the administrative fee. DIR reserves the right to change this fee upwards or downwards during the term of this Contract, upon written notice to Vendor. Any change in the administrative fee shall be incorporated in the price to the Customer.

6. Notification

All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:

Sherri Parks, Service Delivery Division
Department of Information Resources
300 W. 15th St., Suite 1300
Austin, Texas 78701
Phone: (512) 475-4700
Facsimile: (512) 475-4759
Email: sherri.parks@dir.state.tx.us

If sent to the Vendor:

Michael Masters
Xerox Corporation
6836 Austin Center Blvd. Suite 300
Austin, TX 78731
Phone: (512) 794-3416
Facsimile: (512) 343-5629
Email: Michael.masters@xerox.com

7. Lease Agreement

Leasing services provided under this Contract shall be in accordance with the Master Lease Agreement as set forth in Appendix C of this Contract. No changes to the Master Lease Agreement terms and conditions may be made unless previously agreed to by Vendor and DIR.

8. Authorized Exceptions to Appendix A, Standard Terms and Conditions for Product and Related Services Contracts.

A. **Section 9. Vendor Responsibilities, A. Indemnification, 1) Acts or Omissions,** is hereby replaced in its entirety as follows:

1) Vendor shall indemnify and hold the DIR and Customer, its officers, agents and employees harmless from and against all third party claims, damages, losses or causes of action for personal injury (including death) or damage to tangible property to the extent such injury or damage was found by a court or administrative agency of competent jurisdiction to have been approximately caused by Vendor's performance pursuant to this Contract. The foregoing indemnity is contingent upon DIR and/or Customer giving Vendor written notice, by registered mail, promptly after it becomes aware of any claim to be indemnified hereunder and permits Vendor to control the defense of any such

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claim or action at Vendor's own expense. Notice shall be sent to "Corporate Risk, Xerox Corporation, Long Ridge Road, Stamford, Connecticut 06904." Customer agrees that Vendor may employ attorneys of its own choice to appear and defend the claim or action and that Customer shall do nothing to compromise the defense of such claim or action or any settlement thereof and shall provide Vendor with all reasonable assistance which Vendor may require. For DIR and state agency customers, Vendor agrees to coordinate defense and settlement matters with the Office of the Attorney General for the State of Texas.

B. Section 10. Contract Enforcement, B. Termination, 1) Termination of Non-Appropriation is hereby replaced in its entirety as follows:

Customer may terminate Purchase Orders if funds sufficient to pay its obligations under the Contract are not appropriated by the governing body on behalf of local governments, or by the Texas legislature on behalf of state agencies. In the event of non-appropriation, Vendor and/or Order Fulfiller will be provided ten (10) calendar days written notice of intent to terminate. Notwithstanding the foregoing, if a Customer issues a Purchase Order and has accepted delivery of the product or services, they are obligated to pay for the product or services or they may return the product and discontinue using services under any return provisions that Vendor offers. Lease fund-outs will be governed by Section 7. Appropriation of Funds of Appendix C, Master Lease Agreement.

C. Section 10. Contract Enforcement, C. Force Majeure is hereby replaced in its entirety as follows:

DIR, Customer, or Order Fulfiller may be excused from performance under the Contract for any period when performance is prevented as the result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party experiencing the event of Force Majeure has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance and to shorten the duration of the event of Force Majeure. The party suffering an event of Force Majeure shall provide notice of the event to the other parties when commercially reasonable. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination. However, a Customer may terminate a Purchase Order if it is determined by the Customer that Order Fulfiller will not be able to deliver product or services in a timely manner to meet the business needs of the Customer. Cancellation of purchase orders pursuant to this provision shall only apply to those undeliverable services, and shall not relieve a Customer of its obligation to make payments due for services delivered prior to the termination date.

D. New Section 13. Equipment Status is hereby added as follows:

For Multifunction Products, equipment will be Newly Manufactured or "Factory Produced New Model", which is manufactured and newly serialized at a Manufacturer factory, adds functions and features to a product previously

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disassembled to a Manufacturer predetermined standard, and contains both new components and recycled components that are reconditioned.

- E. **New Section 14. Cartridges** is hereby added as follows:
For Multifunction Products, Cartridges packed with equipment and replacement cartridges may be new, remanufactured, or reprocessed. Remanufactured and reprocessed cartridges meet Manufacturer's new cartridge performance standards and contain new and/or reprocessed components. To enhance print quality, the cartridge(s) for many models of equipment have been designed to cease functioning at a predetermined point. In addition, many equipment models are designed to function only with cartridges that are newly manufactured original Manufacturer cartridges or with cartridges intended for use in the United States. Equipment configuration that permits use of non-newly manufactured original Manufacturer cartridges may be available from Manufacturer at an additional charge. Cartridges sold as Environmental Partnership ("EP") cartridges remain the property of the Manufacturer. Customer agrees to return all EP cartridges and may return other cartridges to Manufacturer, at Manufacturer's expense when using Manufacturer-supplied shipping labels, for remanufacturing once such cartridges cease functioning.
- F. **New Section 15. Covenants** is hereby added as follows:
For Multifunction Products, each party agrees that it will promptly notify the other party in writing, if it relocates its principal place of business.
- G. **New Section 16. Software License** is hereby added as follows:
For Multifunction Products, the following terms apply to copyrighted software and the accompanying documentation, including, but not limited to, operating system software, provided with or within the Manufacturer-brand equipment acquired hereunder ("Base Software") as well as software specifically set out as "Application Software" on the face of this Contract. This license does not apply to any Diagnostic Software or to any software and accompanying documentation made subject to a separate license agreement.
- i. Manufacturer grants Customer a non-exclusive, non-transferable license to use the Base Software within the United States, its territories, and possessions (the "United States") only on or with the equipment with which (or within which) it was delivered. For Application Software, Manufacturer grants the Customer a non-exclusive, non-transferable license to use this software within the United States on any single unit of equipment for as long as the Customer is current in the payment of any indicated software license fees (including any Annual Renewal Fees). Customer has no other rights to the Base or Application Software and, in particular, may not: (1) distribute, copy, modify, create derivatives of, decompile, or reverse engineer this software; (2) activate any software delivered with or within the equipment in an unactivated state; or, (3) allow others to engage in same. Title to the Base and Application

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Software and all copyrights and other intellectual property rights in it shall at all times reside solely with the Manufacturer and/or its licensors (who shall be considered third-party beneficiaries of this Contract's software and limitation of liability provisions). Base and Application Software may contain, or be modified to contain, computer code capable of automatically disabling proper operation or functioning of the equipment. Such disabling code may be activated if: (a) Manufacturer is denied access to the Base or Application Software to periodically reset such code; (b) Customer otherwise breaches any term of this Contract; or, (c) Customer's license is terminated or expires.

- ii. Manufacturer may terminate Customer's license for any Base Software (1) immediately if Customer no longer uses or possesses the equipment or are a Manufacturer of the equipment and Customer's first Customer no longer uses or possesses it, or (2) upon termination of any agreement under which Customer has rented or leased the equipment.
- iii. If Customer transfers possession of the equipment after Customer obtains title to it, Manufacturer will offer the transferee a license to use the Base Software within the United States on or with it, subject to Manufacturer's then-applicable terms and license fees, if any, and provided the transfer is not in violation of Manufacturer's rights.
- iv. Manufacturer warrants that the Base and application Software will perform in material conformity with its user documentation for a ninety (90) day period from the date it is delivered or, for software installed by Manufacturer, the date of software installation. Neither Manufacturer nor its licensors warrant that the Base or Application Software will be free from errors or that its operation will be uninterrupted.

H. **New Section 17. Software Support** is hereby added as follows:

For Multifunction Products, during the period that the Manufacturer (or a designated servicer) provides Basic Services for the equipment but in no event longer than five (5) years after the Manufacturer stops taking orders from customers for their acquisition of the subject model of equipment, the Manufacturer (or a designated servicer) will also provide software support for the Base Software under the following terms. For Application Software licensed pursuant to this Contract, the Manufacturer will provide software support under the following terms provided the Customer is current in the payment of all Initial License and Annual Renewal Fees (or, for programs not requiring Annual Renewal Fees, the payment of the Initial License Fee and the annual "Support Only" Fees).

- i. Manufacturer will assure that Base and Application Software performs in material conformity with its user documentation and will maintain a toll-free hotline during standard business hours to answer related questions.

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- ii. Manufacturer may make available new releases of the Base or Application Software that primarily incorporate coding error fixes and are designated as "Maintenance releases". Maintenance Releases are provided at no charge and must be implemented within six (6) months after being made available to the Customer. Each new Maintenance Release shall be considered Base or Application Software governed by these Software Terms. New releases of the Base or Application Software that are not Maintenance Releases, if any, may be subject to additional license fees at Manufacturer's then-current pricing and shall be considered Base or Application Software governed by these Software Terms (unless otherwise noted). Manufacturer will not be in breach of its software support obligations hereunder if, in order to implement, in whole or in part, a new release of Base or Application Software provided or made available to you by the Manufacturer, Customer must procure, at Customer's expense, additional hardware and/or software from Manufacturer or any other entity. Customer agrees to return or destroy all prior releases.
- iii. Manufacturer will use reasonable efforts, either directly and/or with its vendors, to resolve coding errors or provide workarounds or patches, provided the Customer reports problems as specified by the Manufacturer.
- iv. Manufacturer shall not be obligated (1) to support any Base or Application Software that is two or more releases older than the Manufacturer's most current release or (2) to remedy coding errors if Customer has modified the Base or Application Software.
- v. For Application Software, Manufacturer may annually increase the Annual renewal and Support-Only Fees, each such increase not to exceed 10%. (For state and local-government customers, this adjustment shall take place at the commencement of each of the Customer's annual contract cycles.)

I. **New Section 18. Diagnostic Software** is hereby added as follows:

For Multifunction Products, Software used to maintain the equipment and/or diagnose its failures or substandard performance (collectively "Diagnostic Software") is embedded in, resides on, or may be loaded onto the equipment. The Diagnostic Software and method of entry or access to it constitute valuable trade secrets of the Manufacturer. Title to the Diagnostic Software shall at all times remain solely with Manufacturer and/or the Manufacturer's licensors. Customer agrees that (a) Customer's acquisition of the equipment does not grant a license or right to use the Diagnostic Software in any manner, and (b) that unless separately licensed by the Manufacturer to do so, Customer will not use, reproduce, distribute, or disclose the Diagnostic Software for any purpose (or allow third parties to do so). Customer agrees at all times (including subsequent to the expiration of this Contract) to allow Manufacturer to access, monitor, and otherwise take steps to prevent unauthorized use or reproduction of the Diagnostic Software.

J. **New Section 19. Basic Services** is hereby added as follows:
For Multifunction Products, Manufacturer (or a designated reseller) will provide the following Basic Services under this Contract (unless Customer is acquiring Equipment for which Manufacturer does not offer Basic Services; such Equipment to be designated as "No Svc."):

- i. **Repairs and Parts.** Manufacturer will make repairs and adjustments necessary to keep equipment in good working order (including such repairs or adjustments required during initial installation). Parts required for repair may be new, reprocessed, or recovered.
- ii. **Hours and Exclusions.** Unless otherwise stated, Basic Services will be provided during Manufacturer's standard working hours (excluding Manufacturer-recognized holidays) in areas within the United States, its territories, and possessions open for repair service for the equipment at issue. Customer agrees to give Manufacturer reasonable access to the equipment. Basic Services shall cover repairs and adjustments required as a result of normal wear and tear or defects in materials or workmanship (and shall exclude repairs or adjustments Manufacturer determines to relate to or be affected by the use of options, accessories, or other connected products not serviced by Manufacturer, as well as any non-Manufacturer alterations, relocation, service, supplies, or consumables). Customer agrees to use equipment in accordance with, and to perform all operator maintenance procedures for equipment as set forth in the applicable manuals provided by Manufacturer.

Manufacturer's recognized holidays include:

New Years Day
Memorial Day
Independence Day
Labor Day
Thanksgiving Day (includes Friday after Thanksgiving)
Christmas Day (includes Christmas Eve)

Actual holiday dates are published each year by the Manufacturer and may be obtained from the Manufacturer.

- iii. **Installation Site and Meter Readings.** The equipment installation site must conform to Manufacturer's published requirements throughout the term of this Contract. If applicable, Customer agrees to provide meter readings in the manner prescribed by Manufacturer. If Customer does not provide Manufacturer with meter readings as required, Manufacturer may estimate them and bill Customer accordingly.

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- iv. **Equipment Replacement.** If Manufacturer is unable to maintain the equipment as described above, Manufacturer will, as Customer's exclusive remedy for Manufacturer's failure to provide Basic Services, replace the equipment with an identical product or, at Manufacturer's option, another product of equal or greater capabilities.
- v. **Cartridge Products.** If Manufacturer is providing Basic Services for equipment utilizing cartridges designated by Manufacturer as customer replaceable units, including copy/print cartridges and xerographic modules or fuser modules ("Cartridges"), Customer agrees to use only unmodified cartridges purchased directly from Manufacturer or its authorized resellers in the United States and the failure to use such cartridges shall void any warranty applicable to such equipment.
- vi. **PC/Workstation Requirements.** In order to receive Basic Services and/or software support for equipment requiring connection to a PC or workstation, Customer must utilize a Pc or workstation that either (1) has been provided by Manufacturer or (2) meets Manufacturer's published specifications.
- vii. **Delivery and Removal.** Manufacturer will be responsible for all standard delivery and removal charges. Customer will be responsible for any non-standard delivery or removal charges incurred.

K. New Section 20. Supplies included in Base/Print Charges is hereby added as follows:

For Multifunction Products, if this option has been selected, Manufacturer (or a designated servicer) will provide Customer with black toner (excluding highlight color toner), black developer, copy cartridges, and, if applicable, fuser ("Consumable Supplies") throughout the term of this Contract. For full color equipment, consumable supplies shall also include, as applicable, color toner and developer. Customer agrees that the consumable supplies are the Manufacturer's property until used by Customer, that Customer will use them only with the equipment, that Customer will return all cartridges to Manufacturer for remanufacturing once they have been run to their cease-function point (at Manufacturer's expense when using Manufacturer-supplied shipping labels), and that at the end of the term of this Contract either (a) Customer will return any unused consumable supplies to Manufacturer (at Manufacturer's expense when using Manufacturer-supplied shipping labels or (b) destroy them in a manner permitted by applicable law. Should Customer's use of consumable supplies exceed Manufacturer's published yields for these items by more than 10%, Customer agrees that Manufacturer shall have the right to charge Customer for any such excess usage. When requested by the Manufacturer, Customer agrees to provide meter readings and inventory of consumable supplies in Customer's possession.

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- L. **New Section 21. Extended Service Hours** is hereby added as follows:
For Multifunction Products, if this option has been selected, Manufacturer will provide Basic Services during the hours indicated, with the first number establishing the number of eight-hour shifts covered and the second establishing the days of the week (e.g., 2 x 6 would provide service from 8:00 A.M. to 11:59 P.M., Central Time. Monday through Saturday). The cost of this enhanced service coverage will be billed separately and, as such, is not included in Customer's minimum lease payment or print charges.

This Contract is executed to be effective as of the date of last signature.

XEROX CORPORATION

**The State of Texas, acting by and through the
Department of Information Resources**

Authorized By: Signature on File

Authorized By: Signature on File

Name: Tom Mandell

Name: Cindy Reed

Title: Major Acct Contract Manager

Title: Interim Director of Service Delivery

Date: 05/10/07

Date: 05/14/07

Legal: Signature on File 05/11/07