



ADMINISTERED BY
UNIVERSITY OF MAINE SYSTEM
OFFICE OF STRATEGIC PROCUREMENT
REQUEST FOR BID (RFB)

VMTurbo License & Maintenance Services
RFB # 22-15
Issue Date: November 14, 2014

Bids Must Be Received By: November 19, 2014 4:00 PM

Deliver Bids To:
University of Maine System
Office of Strategic Procurement
Robinson Hall
46 University Drive
Augusta, Maine 04330
Attn: Robin Cyr, IT Sourcing Manager

Strategic Sourcing Manager: Robin Cyr
Email: robin.cvr@maine.edu Phone: (207) 621-3098

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Section 1

1.0 General Information

1.1 Purpose

The University of Maine System is seeking proposals for the provision of a VMTURBO License and Maintenance Services, as follows:

Enterprise Operations Manager License (Perpetual) - Operations Manager is the foundation of VMTurbo's unified control platform. Engineering and operations teams use it for capacity planning, workload reservation & deployment, and run-time performance assurance and efficiency.

- Continuously assure workload performance by preventatively realigning resources, before degradations occur.
- Maximize infrastructure utilization with performance-driven capacity management & planning.
- Reserve & deploy new workloads without disrupting existing apps.
- Agentless, self-contained virtual instance.

Storage Control Module License (Perpetual) - Storage Control Module extends VMTurbo's award winning unified control platform into NetApp, and EMC VNX.

- Corrects and prevents storage performance issues that stem from storage contention and bottlenecks.
- Maps end-to-end relationships from VMs to underlying storage – Volumes/LUNs, Aggregates/Storage Pools, physical disks/spindles and storage controllers/processors.
- Holistically optimizes the hypervisor, storage, and Cisco UCS platform for customers adopting Vblock, VCE, and FlexPod converged infrastructures.

University is seeking additional bids on optional information technology staff training on the product set.

This Request for Proposals (RFB) states the instructions for submitting proposals, the procedure and criteria by which a vendor may be selected and the contractual terms by which the University intends to govern the relationship between it and the selected vendor.

1.2 Definition of Parties

The University of Maine System will hereinafter be referred to as the "University." Respondents to the RFB shall be referred to as "Bidder(s)" or "bidder(s)". The Bidder to whom the Contract is awarded shall be referred to as the "Contractor."

1.3 Scope of Work

The scope of this bid is obtain the products and services provided in Appendix B, Exhibit 1 Tables 1 & 2 of this document.

1.4 Evaluation Criteria

Award will be made to the low bidder provided that all other requirements are satisfactorily met, as outlined in the Scope of Work and Sections 2 – 5 of this document.

1.5 Timeline of Key Events

| Reference Section | Event Name | Event Due Date and Time |
|-------------------|--|--|
| Section 1, 1.15 | Deadline for Bid Submission | 4:00 P.M. local time, November 19, 2014 |
| | Bid Award Announcement (subject to change) | November 21, 2014 |
| | Contract Negotiations (subject to change) | November 21, 2014 – November 29, 2014 |
| | Estimated Contract Start Date (subject to change) | December 1, 2014 |

1.6 Communication with the University

It is the responsibility of the bidder to inquire about any requirement of this RFB that is not understood. Responses to inquiries, if they change or clarify the RFB in a substantial manner, will be forwarded by addenda to all parties that have received a copy of the RFB. Addenda will also be posted on our web site, www.maine.edu/strategic/upcoming_bids.php. The University will not be bound by oral responses to inquiries or written responses other than addenda.

It is the responsibility of all bidders to check the web site before submitting a response to ensure that they have all pertinent documents. The University will not be bound by oral responses to inquiries or written responses other than addenda.

Inquiries must be made to:

**University of Maine System
Office of Strategic Procurement
Robinson Hall
46 University Drive
Augusta, Maine 04330
ATTN: Robin Cyr, IT Sourcing Manager**

Email: robin.cyr@maine.edu

Refer to table in **Section 1, 1.5 Timeline of Key Events** for deadline requirements.

1.7 Award

It is the intent of the University to award this bid all to one bidder. The University reserves the right to conduct any tests it may deem advisable and to make all evaluations. The University reserves the right to reject any or all bids, in whole or

in part and is not necessarily bound to accept the lowest bid if that bid is contrary to the best interests of the University. The University reserves the right to waive minor irregularities. Scholarships, donations, or gifts to the University will not be considered in the evaluation of bids. A bid may be rejected if it is in any way incomplete or irregular. When there are tie bids, there shall be a preference for “in-state bidders”. When tie bids are either in-state or both out-of-state, the award will be made to the bid that arrives **first** at the Office of Strategic Procurement.

1.8 Award Protest

Bidders may appeal the award decision by submitting a written protest to the Office of Strategic Procurement, Chief Procurement Officer within five (5) business days of the date of the award notice, with a copy of the protest to the successful bidder. The protest must contain a statement of the basis for the challenge.

1.9 Confidentiality

The information contained in bid submitted for the University's consideration will be held in confidence until all evaluations are concluded and a vendor selected (the successful bidder). At that time the University will issue bid award notice letters to all participating bidders and the successful bid may be made available to participating bidders upon request. After the protest period has passed and the contract is fully executed, the winning bid will be available for public inspection. Pricing and other information that is an integral part of the offer cannot be considered confidential after an award has been made. The University will honor requests for confidentiality for information of a proprietary nature to the extent allowed by law. Clearly mark any information considered confidential.

The University must adhere to the provisions of the Maine Freedom of Access Act (FOAA), 1 MRSA §401 et seq. As a condition of accepting a contract under this section, a contractor must accept that, to the extent required by the Maine FOAA, responses to this solicitation, and any ensuing contractual documents, are considered public records and therefore are subject to freedom of access requests.

1.10 Costs of Preparation

Bidder assumes all costs of preparation of the bid and any presentations necessary to the bid process.

1.11 Debarment

Submission of a signed bid in response to this solicitation is certification that your firm (or any subcontractor) is not currently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any State or Federal department or agency. Submission is also agreement that the University will be notified of any change in this status.

1.12 Bid Understanding

By submitting a bid, the bidder agrees and assures that the specifications are adequate, and the bidder accepts the terms and conditions herein. Any exceptions should be noted in your response.

1.13 Bid Validity

Unless specified otherwise, all bids shall be valid for ninety (90) days from the due date of the bid.

1.14 Non-Responsive Bids

The University will not consider non-responsive bids or bids, i.e., those with material deficiencies, omissions, errors or inconsistencies.

1.15 Bid Submission

A **SIGNED** original and one virus-free electronic copy (e.g., CD, thumb drive) must be submitted to the **Office of Strategic Procurement, University of Maine System, Robinson Hall Room 126, 46 University Drive, Augusta, Maine 04330**, in a sealed envelope no later than **4:00 P.M. local time, November 19, 2014**, for a public opening. The bid must be date/time stamped by the Office of Strategic Procurement in order to be considered. Bidders are strongly encouraged to submit bids in advance of the due date/time to avoid the possibility of missing the 2:00 deadline due to unforeseen circumstances. Bidders assume the risk of the methods of dispatch chosen. The University assumes no responsibility for delays caused by any package or mail delivery service. A postmark on or before the due date WILL NOT substitute for receipt of bid. In the event of suspended University operations, the bid opening will be rescheduled for the next business day at the same time and location. Bidders may wish to call **(207) 621-3098** to determine if University operations have been suspended. Bids received after the due date and time will be returned unopened. Additional time will not be granted to any single bidder, however, additional time may be granted to all bidders when the University determines that circumstances require it.

FAXED OR E-MAIL BIDS WILL NOT BE ACCEPTED. The envelope must be **clearly** identified on the outside as follows:

**Name of Bidder
Address of Bidder
November 19, 2014
RFB # 22-15**

1.16 Authorization

Any contract or agreement for services that will, or may, result in the expenditure by the University of \$50,000 or more must be approved in writing by the Office of Strategic Procurement, Chief Procurement Officer and it is not approved, valid or effective until such written approval is granted.

1.17 Pre-Bid Conference

THIS ITEM IS INTENTIONALLY LEFT BLANK

1.18 Errors

Bids may be withdrawn or amended by bidders at any time prior to the bid opening. After the bid opening, bids may not be amended. If a significant mistake has been made by an apparent low bidder, the bidder will be given the option of selling at the price given or withdrawing the bid. If an extension error has been made, the unit price will prevail.

1.19 Specification Protest Process and Remedies

If a bidder feels that the specifications are written in a way that limits competition, a specification protest may be sent to the Office of Strategic Procurement. Specification Protests will be responded to within five (5) business days of receipt. Determination of protest validity is at the sole discretion of the University. The due date of the bid may be changed if necessary to allow consideration of the protest and issuance of any necessary addenda. Specification protests shall be presented to the University in writing as soon as identified, but no less than five (5) business days prior to the bid opening date and time. No protest against the award due to the specifications shall be considered after this deadline. Protests shall include the reason for the protest and any proposed changes to the specifications. Protests should be delivered to the Office of Strategic Procurement in sealed envelopes, clearly marked as follows:

SPECIFICATION PROTEST, RFB # 22-15.

Section 2

2.0 General Terms and Conditions

2.1 Contract Administration

The Office of the Chief Procurement Officer or its designee shall be the University's authorized representative in all matters pertaining to the administration of this Contract.

2.2 Contract Documents

If a separate contract is not written, the Contract entered into by the parties shall consist of the RFB, the signed bid submitted by the Contractor, the specifications including all modifications thereof, and a purchase order or letter of agreement requiring signatures of the University and the Contractor, all of which shall be referred to collectively as the Contract Documents.

2.3 Contract Modification and Amendment

The parties may adjust the specific terms of this Contract (except for pricing) where circumstances beyond the control of either party require modification or amendment. Any modification or amendment proposed by the Contractor must be in writing to the Contract Administrator. Any agreed upon modification or amendment must be in writing and signed by both parties.

2.4 Contract Term

The Contract term shall be for a period of five (5) years commencing upon the completion of implementation and acceptance by the University. With mutual written agreement of the parties this Contract may be extended for two additional one periods. The University will consider other contract terms at its discretion if proposed and in the best interest of the University.

2.5 Contract Quantities

The quantities shown on the bid form are approximate only. The contractor shall cover the actual needs of the University throughout the term of the contract regardless of whether they are more or less than the quantities shown.

2.6 Contract Data

The Contractor is required to provide the University with detailed data concerning the Contract at the completion of each contract year or at the request of the University at other times. The University reserves the right to audit the Contractor's records to verify the data.

2.7 Contract Validity

In the event one or more clauses of the Contract are declared invalid, void, unenforceable or illegal, that shall not affect the validity of the remaining portions of the Contract.

2.8 Non-Waiver of Defaults

Any failure of the University to enforce or require the strict keeping and performance of any of the terms and conditions of this Contract shall not constitute a waiver of such terms, conditions, or rights.

2.9 Cancellation/Termination

If the Contractor defaults in its agreement to provide personnel or equipment to the University's satisfaction, or in any other way fails to provide service in accordance with the contract terms, the University shall promptly notify the Contractor of such default and if adequate correction is not made within seventy-two (72) hours the University may take whatever action it deems necessary to provide alternate services and may, at its option, immediately cancel this Contract with written notice. Cancellation does not release the Contractor from its obligation to provide goods or services per the terms of the Contract during the notification period.

2.10 Employees

The Contractor shall employ only competent and satisfactory personnel and shall provide a sufficient number of employees to perform the required services efficiently and in a manner satisfactory to the University. If the Contract Administrator or designee, notifies the Contractor in writing that any person employed on this Contract is incompetent, disorderly, or otherwise unsatisfactory, such person shall not again be employed in the execution of this Contract without the prior written consent of the Contract Administrator.

2.11 Clarification of Responsibilities

If the Contractor needs clarification of or deviation from the terms of the Contract, it is the Contractor's responsibility to obtain written clarification or approval from the Contract Administrator.

2.12 Litigation

This Contract and the rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Maine without reference to its conflicts of laws principles. The Contractor agrees that any litigation, action or proceeding arising out of this Contract, shall be instituted in a state court located in the State of Maine.

2.13 Assignment

Neither party of the Contract shall assign the Contract without the prior written consent of the other, nor shall the Contractor assign any money due or to become due without the prior written consent of the University.

2.14 Equal Opportunity

In the execution of the Contract, the Contractor and all subcontractors agree, consistent with University policy, not to discriminate on the grounds of race, color, religion, sex, sexual orientation, including transgender status or gender expression, national origin or citizenship status, age, disability, genetic information, or veteran's status and to provide reasonable accommodations to qualified individuals with disabilities upon request. The University encourages the employment of individuals with disabilities.

2.15 Independent Contractor

Whether the Contractor is a corporation, partnership, other legal entity, or an individual, the Contractor is an independent contractor. If the Contractor is an individual, the Contractor's duties will be performed with the understanding that the Contractor is a self-employed person, has special expertise as to the services which the Contractor is to perform and is customarily engaged in the independent performance of the same or similar services for others. The manner in which the services are performed shall be controlled by the Contractor; however, the nature of the services and the results to be achieved shall be specified by the University. The Contractor is not to be deemed an employee or agent of the University and has no authority to make any binding commitments or obligations on behalf of the University except as expressly provided herein. The University has prepared specific guidelines to be used for contractual agreements with individuals (not corporations or partnerships) who are not considered employees of the University.

2.16 Contractor's Liability Insurance

During the term of this agreement, the Contractor shall maintain the following insurance:

| <u>Insurance Type</u> | <u>Coverage Limit</u> |
|--|---|
| 1. Commercial General Liability (Written on an Occurrence-based form) | \$1,000,000 per occurrence or more (Bodily Injury and Property Damage) |
| 2. Automobile Liability (Including Hired & Non-Owned) | \$1,000,000 per occurrence or more (Bodily Injury and Property Damage) |
| 3. Workers Compensation | Required for all personnel (In Compliance with State Law) |

The **University of Maine System** shall be named as Additional Insured on the Commercial General Liability insurance and as additional insured and certificate holder.

Certificates shall be filed prior to the date of performance under this Agreement. Said certificates, in addition to proof of coverage, shall contain the standard statement pertaining to written notification in the event of cancellation, with a thirty (30) day notification period.

Certificates of Insurance for all of the above insurance shall be filed with:
University of Maine System
Risk Manager
16 Central Street
Bangor, Maine 04401

2.17 Indemnification

The Contractor agrees to be responsible for, and to protect, save harmless, and indemnify the University and its employees from and against all loss, damage, cost and expense (including attorney's fees) suffered or sustained by the University or for which the University may be held or become liable by reason of injury (including

death) to persons or property or other causes whatsoever, in connection with the operations of the Contractor or any subcontractor under this agreement.

2.18 Payments

Payment will be upon submittal of an invoice to the address shown on the purchase order by the Contractor on a Net 30 basis unless discount terms are offered. Invoices must include a purchase order number. The University is using several, preferred methods of payment: Bank of America's ePayables and PayMode electronic payment systems. Please indicate your ability to accept payment via any or all of these methods.

2.19 Order Status Information

A monthly status/tracking report will be required from the Contractor(s). Evidence of the manufacturer's scheduled ship dates must be submitted to the University on a timely basis. Please submit a sample report with your bid.

2.20 Gramm Leach Bliley (GLB) Act (Confidentiality of Information)

The Contractor shall comply with all aspects of the GLB Act regarding safeguarding confidential information.

2.21 Sexual Harassment

The University is committed to providing a positive environment for all students and staff. Sexual harassment, whether intentional or not, undermines the quality of this educational and working climate. The University thus has a legal and ethical responsibility to ensure that all students and employees can learn and work in an environment free of sexual harassment. Consistent with the state and federal law, this right to freedom from sexual harassment was defined as University policy by the Board of Trustees. Failure to comply with this policy could result in termination of this Contract without advanced notice.

2.22 Smoking Policy

The University must comply with the "Workplace Smoking Act of 1985" and M.R.S.A. title 22, § 1541 et seq "Smoking Prohibited in Public Places." In compliance with this law, the University has prohibited smoking in all University System buildings except in designated smoking areas. This rule must also apply to all contractors and workers in existing University System buildings. The Contractor shall be responsible for the implementation and enforcement of this requirement within existing buildings.

2.23 Furnish and Install

THIS ITEM IS INTENTIONALLY LEFT BLANK

Section 3

3.0 Submission Requirements

This section contains instructions for Bidders to use in preparing their responses. Bidders shall ensure that all information required herein is submitted with their response. All information provided should be verifiable by documentation requested by the University. Failure to provide all information, inaccuracy or misstatement may be sufficient cause for rejection of the response or rescission of an award. Bidders are encouraged to provide any additional information describing operational abilities.

Responses to each requirement below should be in order and clearly marked with the section number to which they respond.

3.1 Format

- 3.1.1 Bids are to be prepared on standard 8-1/2" x 11" paper. Foldouts containing charts, spreadsheets, and oversize exhibits are permissible. The pages should be placed in a binder with tabs separating the sections of the bid. Manuals and other reference documentation may be bound separately.
- 3.1.2 All pages should be numbered consecutively beginning with number 1 on the first page of the narrative (this does not include the cover page or table of contents pages) through to the end, including all forms and attachments. For clarity, the Bidder's name should appear on every page, including Rs. Each Attachment must reference the section or subsection number to which it corresponds.
- 3.1.3 The Bidder may not provide additional attachments beyond those specified in the RFB for the purpose of extending their response. Any material exceeding the bid limit will not be considered in rating the bid and will not be returned. Bidders shall not include brochures or other promotional material with their bid. Additional materials will not be considered part of the bid and will not be evaluated.
- 3.1.4 Include any forms provided in the application package or reproduce those forms as closely as possible. All information should be presented in the same order and format as described in the RFB.
- 3.1.5 Bidders should complete and submit the bid cover page provided in **Appendix A** of this RFB and provide it with the Bidder's bid. The cover page must be the first page of the bid. It is important that the cover page show the specific information requested, including Bidder address(es) and other details listed. The bid cover page shall be dated and signed by a person authorized to enter into contracts on behalf of the Bidder.
- 3.1.6 Contents
The bid shall be submitted under the same cover at the same time, in the three (3) distinct sections noted below:

Section I Organization Qualifications and Experience

1. Appendix A – University of Maine System Bid Cover Page and table of contents.
2. Provide responses for each requirement in Section 4:
 - 4.3 Additional Performance Clauses
3. Attach a certificate of insurance on a standard Acord form (or the equivalent) evidencing the Bidder's general liability, professional liability and any other relevant liability insurance policies that might be associated with this contract. See 2.17 Contractor's Liability Insurance.

Section II Pricing

1. Provide responses for each requirement in Section 5:
 - 5.2 Bid Pricing
 - Appendix B, Exhibit 1 (Table 1)

Section III Attachments

1. Any remaining attachments required as part of the response.

Section 4

4.0 PERFORMANCE TERMS AND CONDITIONS

4.1 Contract Administration

The Office of Strategic Procurement or its designee shall be the University's authorized representative in all matters pertaining to the administration of this Contract.

4.2 Employees

The Contractor shall employ only competent and satisfactory personnel and shall provide a sufficient number of employees to perform the required services efficiently and in a manner satisfactory to the University. If the Contract Administrator or designee, notifies the Contractor in writing that any person employed on this Contract is incompetent, disorderly, or otherwise unsatisfactory, such person shall not again be employed in the execution of this Contract without the prior written consent of the Contract Administrator.

4.3 Additional Performance Clauses

- 4.3.1 Include a statement that you understand that the agreement is for all University of Maine Institutions including the University of Maine System Office. The Contractor agrees to further provide the products and services, with all the same terms and conditions applicable, to any additional University institutions formed during the term of this agreement and to additional entities, such as, the University College a division of University of Maine at Augusta.
- 4.3.2 Include a statement that you understand that the agreement will provide the services outlined in 1.3 Scope of Work.
- 4.3.3 Bidder must be an approved reseller of VMTurbo, having signed the partner agreement terms with VMTurbo. Provide a statement that your company is an approved reseller of VMTurbo, having signed the partner agreement terms with VMTurbo.
- 4.3.4 The winning Bidder must enter into a formal University of Maine System Contract for Services, which is attached to this proposal, **Appendix C, University of Maine, Contract for Services**. The award will be for a one (1) to three (3) year term with option for extensions. Include a statement that notes your acceptance to the conditions stated in the University of Maine System Contract for Services and in particular to the items listed directly below. Include as required as part of your response:
- 4.3.5 Include **Contractor Terms and Conditions** as required to support the contract negotiations process.

Section 5

5.0 Financial Stability and Bid Pricing

5.1 Financial Stability

No financial statements are required to be submitted with your proposals, however, prior to an award the University may request financial statements from your company, credit reports and letters from your bank and suppliers.

5.2 Bid Pricing

5.2.1 General Instructions:

5.2.1.1 The Bidder must submit a bid that covers the entire period of the contract, including any optional renewal periods. Please use the expected contract start date of **December 1, 2014** in preparing this section.

5.2.1.2 The bid shall include the costs necessary for the Bidder to fully comply with the contract terms and conditions and RFB requirements.

5.2.1.3 Failure to provide the requested information and to follow the required bid format provided in Appendix B may result in the exclusion of the bid from consideration, at the discretion of the University.

5.2.1.4 No costs related to the preparation of the bid for this RFB or to the negotiation of the contract with the University may be included in the bid. Only costs to be incurred after the contract effective date that are specifically related to the implementation or operation of contracted services may be included.

5.2.2 Bid Form Instructions – Appendix B

5.2.2.1 The Bidder **MUST** fill out **Exhibit 1** referenced in **Appendix B**, following the instructions detailed in Appendix B. For a copy of the excel version of Exhibit 1 contact Robin Cyr at robin.cyr@maine.edu.

Section 6

6.0 List of Appendices and Related Documents

This section lists documents which are included in the RFB.

6.1 Appendix A – University of Maine System Bid Cover Page

6.2 Appendix B – Bid Pricing Form

6.3 Exhibit 1 – Table1 and Table 2

6.4 Appendix C - University of Maine System Contract for Services

Section 7

7.0 APPENDICES

Appendix A - University of Maine System Bid Cover Page

**University of Maine System
BID COVER PAGE**

**RFB # 22-15
(VMTurbo License & Maintenance Services)**

| | | |
|--|------|---------|
| Bidder's Organization Name: | | |
| Chief Executive - Name/Title: | | |
| Tel: | Fax: | E-mail: |
| Headquarters Street Address: | | |
| Headquarters City/State/Zip: | | |
| <i>(provide information requested below if different from above)</i> | | |
| Lead Point of Contact for Bid - Name/Title: | | |
| Tel: | Fax: | E-mail: |
| Street Address: | | |
| City/State/Zip: | | |

| | |
|---|--|
| Proposed Cost: | |
| <i>The proposed cost listed above is for reference purposes only, not evaluation purposes. In the event that the cost noted above does not match the Bidder's detailed cost bid documents, then the information on the cost bid documents will take precedence.</i> | |

- This bid and the pricing structure contained herein will remain firm for a period of 180 days from the date and time of the bid opening.
- No personnel currently employed by the University or any other University agency participated, either directly or indirectly, in any activities relating to the preparation of the Bidder's bid.
- No attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not to submit a bid.
- The undersigned is authorized to enter into contractual obligations on behalf of the above-named organization.

To the best of my knowledge all information provided in the enclosed bid, both programmatic and financial, is complete and accurate at the time of submission.

Authorized Signature

Date

Name and Title (Typed)

Appendix B – Bid Pricing Form

University of Maine System BID PRICING FORM

RFB # 22-15 (VMTurbo License & Maintenance Services)

Bidder's Organization Name:

GENERAL INSTRUCTIONS:

Identify all costs by year to be charged for performing the services necessary to accomplish the objectives of the contract. Once the bids are reviewed the University will determine the term of the agreement and choose the pricing most appropriate.

Note regarding total cost of ownership: This “cost” will encompass the entire solution pricing along with all services and necessary customizations. If there are additional components or modules that are not included in the offering, they must be identified and itemized as “optional” and include all software, maintenance/support, hosting services, professional services, integration, and customization costs, as applicable. All items identified in the bid (including third party items required) will be considered free add-ons to the proposed solution at the prices included in this RFB response unless expressly stated otherwise.

Indicate all options available for licensing including (if applicable) named licenses, concurrent users, unlimited, etc. Make note of any multi-campus or other discounts as appropriate.

The Bidder is to submit a fully detailed budget, to include number of estimated hours and their associated hourly rate which shall be inclusive of staff costs, administrative costs, travel costs, and any other expenses necessary to accomplish the tasks and to produce the deliverables under the contract.

This budget should include pricing for any customization, change request pricing, licensing and maintenance agreement pricing, and growth and enhancement pricing.

IMPORTANT – Please do NOT change any formatting on the response sheet in any manner (such as merged cells). You can add rows required to insert additional information. If a particular cost table is not required as part of your bid simply leave it blank.

**INSTRUCTIONS FOR – Exhibit 1 (Table 1) - Licensing and Maintenance Agreement
Pricing for One (1) Year**

The University needs to understand the associated lifecycle costs for your proposed system or service. For solution bid that leverage the University's existing hardware and software investments, the Bidder must provide which licenses and maintenance agreements the University needs to maintain. For solution bid that do not leverage the University's existing hardware and software investments, the Bidder must provide what additional equipment, licenses, and maintenance agreements we would need to purchase.

Description –Brief description of the component.

Product Code - Product or service vendor number.

List Price - Price per unit for the contract period, and anticipated future rates.

Discount - Discount offered by the bidder.

Sales price – Price per unit minus bidder per unit discount for the contract period, and anticipated future rates.

Qty – Quantity provided by the University.

Year 1 – Sales price times quantity.

Total All licensing and maintenance agreement pricing should include rates during the contract period, and anticipated future rates.

Exhibit 1 (Table 1) –Bidders will use this attachment, specifically Table 1 to record all costs associated with this section.

For a copy of the excel version of Exhibit 1 contact Robin Cyr at robin.cyr@maine.edu

**INSTRUCTIONS FOR – Exhibit 1 (Table 1) - Licensing and Maintenance Agreement
Pricing for Three (3) Years**

The University needs to understand the associated lifecycle costs for your proposed system or service. For solution bid that leverage the University's existing hardware and software investments, the Bidder must provide which licenses and maintenance agreements the University needs to maintain. For solution bid that do not leverage the University's existing hardware and software investments, the Bidder must provide what additional equipment, licenses, and maintenance agreements we would need to purchase.

Description –Brief description of the component.

Product Code - Product or service vendor number.

List Price - Price per unit for the contract period, and anticipated future rates.

Discount - Discount offered by the bidder.

Sales price – Price per unit minus bidder per unit discount for the contract period, and anticipated future rates.

Qty – Quantity provided by the University.

Year 1 – Sales price times quantity for Year 1 only.

Year 2 – Sales price times quantity for Year 2 only.

Year 3 – Sales price times quantity for Year 3 only.

Total All licensing and maintenance agreement pricing should include rates during the contract period, and anticipated future rates.

Exhibit 1 (Table 2) –Bidders will use this attachment, specifically Table 2 to record all costs associated with this section.

For a copy of the excel version of Exhibit 1 contact Robin Cyr at robin.cyr@maine.edu

Appendix C - UNIVERSITY OF MAINE SYSTEM CONTRACT FOR SERVICES

This Contract entered into this ____ day of _____, _____, by and between the **University of Maine System**, hereinafter referred to as the "**University**", and _____, hereinafter referred to as "**Contractor**".

WITNESSETH, that for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the University, the Contractor hereby agrees with the University to provide the products and services described in this agreement, and the following riders, hereby incorporated into this Agreement and made part of it by reference:

Rider A - Specifications of Work to be Performed

Rider A-1 – Pricing

Rider B-1 – Insurance Requirements

Rider B-2 – Substitute Form W-9 - Taxpayer Identification Number Request & Certification

Contract Amendments as required

Request for Bid #<<insert #>> Dated <<insert date>> Titled VMTurbo License & Maintenance Services

Contractor's Bid in Response to Request for Bid #<<insert #>> Dated <<insert date>> Titled VMTurbo License & Maintenance Services

WHEREAS, the University desires to enter into a contract for professional services, and the Contractor represents itself as competent and qualified to accomplish the specific requirements of this Contract to the satisfaction of the University;

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

This Agreement, along with any documents identified, which are incorporated by reference, constitutes the entire Agreement between the parties, and there are no other or further written or oral understandings or agreements with respect thereto.

1. **Specifications of Work**: The Contractor agrees to perform the Specifications of Work as described in **Rider A**, hereby incorporated by reference.
2. **Term**: This Contract shall commence on _____ and shall terminate on _____, unless terminated earlier as provided in this Contract with option for <<enter renewals as appropriate>> upon the parties' mutual agreement.
3. **Payment**:
 - A. "**Payment**" shall be made upon submittal of an electronic invoice to the University by the Contractor on a net 30 basis unless discount terms are offered. In the event there is a discrepancy with the invoice, payment terms shall be effective starting on the date the discrepancy is resolved, for only that portion of the invoice that is disputed. Invoices must include a purchase order number.

- B. **“Additional Services”** The University will have the option to purchase additional services under this Agreement.
- C. **“Multi-Institution Capabilities”** The University will have the option to include products and services under this Agreement to additional University institutions, any additional University institutions formed during the term of this agreement and to additional entities, such as, the University College a division of University of Maine at Augusta. Exercising this option will require an amendment to this Agreement in accordance with University of Maine System Procurement rules.
4. **Termination**: This Contract may be terminated by mutual agreement of the parties or by either party upon thirty (30) days prior written notice to the other. If at any time the Contractor fails to comply with the provisions of this Contract, the University shall have the right to terminate this Contract immediately with written notice. Termination does not release the Contractor from its obligations to provide services per the terms of the Contract during the notification period.
 5. **Obligations Upon Termination**: Any materials produced in performance of this agreement are the property of the University and shall be turned over to the University upon request. The University shall pay the Contractor for all services performed to the effective date of termination subject to offset of sums owed by the Contractor to the University.
 6. **Non-Appropriation**: Notwithstanding any other provision of this Agreement, if the University is not appropriated sufficient funds to pay for the work to be performed under this Agreement or if funds are de-appropriated, then the University is not obligated to make payment under this Agreement.
 7. **Conflict of Interest**: No officer or employee of the University shall participate in any decision relating to this contract which affects his or her personal interest in any entity in which he or she directly or indirectly has interest. No employee of the University shall have any interest, direct or indirect, in this contract or proceeds thereof.
 8. **Modification**: This Contract may be modified or amended only in a writing signed by both parties.
 9. **Assignment**: This Contract, or any part thereof, may not be assigned, transferred or subcontracted by the Contractor without the prior written consent of the University.
 10. **Applicable Law**: This Contract shall be governed and interpreted according to the laws of the State of Maine.
 11. **Administration**: **Jeffrey Letourneau** shall be the University's authorized representative in all matters pertaining to the administration of the terms and conditions of this Contract and to whom all notices must be sent.
 12. **Non-Discrimination**: In the execution of the contract, the Contractor shall not discriminate on the basis of race, color, religion, sex, sexual orientation, transgender status or gender expression, national origin or citizenship status, age, disability, genetic information, or veteran status and shall provide reasonable accommodations to qualified individuals with disabilities upon request. The university encourages the employment of qualified individuals with disabilities.

13. **Indemnification:** The Contractor shall comply with all applicable federal, state and local laws, rules, regulations, ordinances and orders relating to the services provided under this Contract. Contractor shall indemnify, defend and hold the University, its Trustees, officers, employees, and agents, harmless from and against any and all loss, liability, claims, damages, actions, lawsuits, judgments and costs, including reasonable attorney's fees, that the University may become liable to pay or defend arising from or attributable to any acts or omissions of the Contractor, its agents, employees or subcontractors, in performing its obligations under this Contract, including, without limitation, for violation of proprietary rights, copyrights, or rights of privacy, arising out of a publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under the Contract or based on any libelous or other unlawful matter contained in such data.
14. **Contract Validity:** In the event one or more clauses of this Contract are declared invalid, void, unenforceable or illegal, that shall not affect the validity of the remaining portions of this Contract.
15. **Independent Contractor:** Contractor is an independent contractor of the University, not a partner, agent or joint venture of the University and neither Party shall hold itself out contrary to these terms by advertising or otherwise, nor shall either party be bound by any representation, act or omission whatsoever of the other. For U.S. entities, Contractor, its employees and subcontractors if any, is/are independent contractors for whom no Federal or State Income Tax will be deducted by the University, and for whom no retirement benefits, social security benefits, group health or life insurance, vacation and sick leave, Worker's Compensation and similar benefits available to University's employees will accrue. The parties further understand that annual information returns as required by the Internal Revenue Code and Maine Income Tax Law will be filed by the University with copies sent to Contractor. Contractor will be responsible for compliance with all applicable laws, rules and regulations involving but not limited to, employment, labor, Workers Compensation, hours of work, working conditions, payment of wages, and payment of taxes, such as unemployment, social security and other payroll taxes, including other applicable contributions from such persons when required by law.
16. **Intellectual Property:** Any information and/or materials, finished or unfinished, produced in performance of this Contract, and all of the rights pertaining thereto, are the property of the University and shall be turned over to the University upon request.
17. **Entire Contract:** This Contract sets forth the entire agreement between the parties on the subject matter hereof and replaces and supersedes all prior agreements on the subject, whether oral or written, express or implied.
18. **Licensing:** Contractor shall secure in its name and at its expense all federal, state, and local licenses and permits required for operation under this Contract. Contractor shall provide proof of such licensure or permit to the University prior to commencing work under this Contract.
19. **Record Keeping, Audit and Inspection of Records:** The Contractor shall maintain books, records and other compilations of data pertaining to the requirements of the Contract to the extent and in such detail as shall properly substantiate claims for payment under the Contract. All such records shall be kept for a period of seven years or for such longer period as specified herein. All retention periods start on the first day after the final payment of the Contract. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until

completion of the action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later. The University, the grantor agency (if any), or any of their authorized representatives shall have the right at reasonable times and upon reasonable notice, to examine and copy the books, records and other compilations of data of the Contractor pertaining to this Contract. Such access shall include on-site audits.

20. Publicity, Publication, Reproduction and use of Contract's Products or Materials:

Unless otherwise provided by law or the University, title and possession of all data, reports, programs, software, equipment, furnishings and any other documentation or product paid for with University funds shall vest with the University. The Contractor shall at all times obtain the prior written approval of the University before it, any of its officers, agents, employees or subcontractors, either during or after termination of the Contract, makes any statement bearing on the work performed or data collected under this Contract to the press or issues any material for publication through any medium of communication. If the Contractor or any of its subcontractors publishes a work dealing with any aspect of performance under the Contract, or of the results and accomplishments attained in such performance, the University shall have a royalty free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use the publication.

21. Confidentiality: The contractor shall comply with all laws and regulations relating to confidentiality and privacy including but not limited to any rules or regulations of the University.

22. Force Majeure: Neither party shall be liable to the other or be deemed to be in breach of this Contract for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or of a public enemy, fires, flood, epidemics, strikes, embargoes or unusually severe weather. Dates or time of performance shall be extended to the extent of delays excused by this section provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

23. Notices: Unless otherwise specified in a rider hereto, any notice hereunder shall be in writing and addressed to the persons and addresses below.

To the University:

University of Maine System
16 Central Street
Bangor, Maine 04401

Attn: **Jeffrey Letourneau**

To Contractor:

Company Name:
Contact Name:
Address:
Phone Number:
Fax Number:

24. **Invoices:** Unless otherwise specified in an rider hereto, invoices and questions regarding invoices will be directed to:

Accounts Payable Shared Services
5765 Service Bldg
Orono ME 04469

Phone: [207-581-2692](tel:207-581-2692) Donita Gallant
Fax: [207-581-2698](tel:207-581-2698)
eMail: UMAP@maine.edu

25. **Order of Precedence:** In the event of any conflict among the documents in this agreement, the following order of precedence shall apply:

- A. **Terms and conditions of this Agreement**
- B. **Rider A** – Specifications of Work to be Performed
- C. **Rider A-1** - Pricing
- D. **Rider B-1** – Insurance Requirements
- E. **Rider B-2** – Substitute Form W-9 - Taxpayer Identification Number Request & Certification
- F. **Rider C** – University of Maine System Standards for Safeguarding Information
- G. **Request for Bid #<<insert #>>**Dated <<insert date>> Titled **VMTurbo License & Maintenance Services**
- H. **Contractor's Bid in Response to Request for Bid #<<insert #>>**Dated <<insert date>> Titled **VMTurbo License & Maintenance Services**

26. Multi-Institution Capabilities This agreement is for all University of Maine Institutions including the University of Maine System Office. The Contractor agrees to further provide the products and services, with all the same terms and conditions applicable, to any additional University institutions formed during the term of this agreement and to additional entities, such as, the University College a division of University of Maine at Augusta. Exercising this option will require an amendment to this Agreement in accordance with University of Maine System Procurement rules.

The Community College System and Maine Maritime Academy, both public higher education institutions in the state, shall be permitted to piggyback off of the University's contract if they should so desire. The Contractor agrees to further provide the products and services, with all the same terms and conditions applicable, to these additional entities.

27. Signatures

FOR THE UNIVERSITY OF MAINE
SYSTEM:

BY: _____
(signature)

Name: _____
(print or type)

Title: _____

Address: _____

Telephone: _____

Fax: _____

Date: _____

FOR THE CONTRACTOR:

LEGAL NAME: _____
BY: _____
(signature)

Name: _____
(print or type)

Title: _____

Address: _____

Telephone: _____

Fax: _____

Date: _____

Tax ID #: _____

Per University policy, "Any contract or agreement for services that will, or may, result in the expenditure by the University of \$50,000 or more must be approved in writing by the Chief Procurement Officer, or designee, and it is not approved, valid or effective until such written approval is granted."

BY: _____

Title: _____
Chief Procurement Officer or designee

Date: _____

RIDER A SPECIFICATIONS OF WORK TO BE PERFORMED

The Contractor agrees to the **Specifications of Work to be Performed** as follows:

INTENT AND PURPOSE

The University of Maine System sought proposals for specific VMTurbo License & Maintenance Services. The purpose of this service is to manage the University of Maine System' (UMS) VMware environments with the provision of VMTURBO License and Maintenance Services as follows:

Enterprise Operations Manager License (Perpetual) - Operations Manager is the foundation of VMTurbo's unified control platform. Engineering and operations teams use it for capacity planning, workload reservation & deployment, and run-time performance assurance and efficiency.

- Continuously assure workload performance by preventatively realigning resources, before degradations occur.
- Maximize infrastructure utilization with performance-driven capacity management & planning.
- Reserve & deploy new workloads without disrupting existing apps.
- Agentless, self-contained virtual instance.

Storage Control Module License (Perpetual) - Storage Control Module extends VMTurbo's award winning unified control platform into NetApp, and EMC VNX.

- Corrects and prevents storage performance issues that stem from storage contention and bottlenecks.
- Maps end-to-end relationships from VMs to underlying storage – Volumes/LUNs, Aggregates/Storage Pools, physical disks/spindles and storage controllers/processors.
- Holistically optimizes the hypervisor, storage, and Cisco UCS platform for customers adopting Vblock, VCE, and FlexPod converged infrastructures.

PRODUCT SCOPE OF WORK:

<<ENTER PRODUCT SOW DESCRIPTION>>

Additional Scope: The Contractor shall permit product and services not covered herein to be added by mutual agreement, without voiding the provisions of the existing contract. The

Contractor, for additional consideration, shall furnish additional such products and services to the University.

PRICING: Refer to Rider A-1

PERFORMANCE TERMS AND CONDITIONS

1. **Employees:** The Contractor shall employ only competent and satisfactory personnel and shall provide a sufficient number of employees to perform the required services efficiently and in a manner satisfactory to the University. If the University Contract Administrator notifies the Contractor in writing that any person employed on this Contract is incompetent, disorderly, or otherwise unsatisfactory, such person shall not again be utilized in the execution of this Contract without the prior written consent of the Contract Administrator.
2. **Campus Visits:** The Contractor agrees to maintain good relations with the University. The Contractor shall make campus visits "as needed" on three days' notice. The Contractor will coordinate campus visits with the University Services Information and Technology Department to ensure proper communication and sharing of information related to customer projects.
3. **Toll-Free Access:** The Contractor shall provide to the University, toll-free telephone access to technical support. The University prefers a unique toll-free telephone number just for the University. The Contractor shall provide an escalated support feature to ensure that unresolved support issues can be elevated to upper level management.
4. **VMTurbo Approved Reseller:** Contractor must be an approved reseller in good standing of VMTurbo, having signed the partner agreement terms with VMTurbo.

**RIDER A-1
PRICING**

<<ENTER PRICING AGREEMENT HERE>>

**RIDER B-1
INSURANCE REQUIREMENTS**

**<<INSERT CONTRACTOR'S LIABILITY INSURANCE FORM HERE – REMOVE TEXT
BELOW>>**

Contractor's Liability Insurance: During the term of this agreement, the Contractor shall maintain the following insurance:

| <u>Insurance Type</u> | <u>Coverage Limit</u> |
|--|---|
| 1. Commercial General Liability (Written on an Occurrence-based form) | \$1,000,000 per occurrence or more (Bodily Injury and Property Damage) |
| 2. Vehicle Liability (Including Hired & Non-Owned) | \$1,000,000 per occurrence or more (Bodily Injury and Property Damage) |
| 3. Workers Compensation (In Compliance with Maine Law) | Required for all personnel |

Coverage limit requirements can be met with a single underlying insurance policy or through the combination of an underlying insurance policy plus an Umbrella insurance policy.

The University of Maine System shall be named as Additional Insured on the Commercial General Liability insurance.

Certificates of Insurance for all of the above insurance shall be filed with:
Office of Strategic Procurement
University of Maine System
16 Central Street
Bangor, Maine 04401

Certificates shall be filed prior to the date of performance under this Agreement. Said certificates, in addition to proof of coverage, shall contain the standard statement pertaining to written notification in the event of cancellation, with a thirty (30) day notification period.

The University reserves the right to change the insurance requirement or to approve alternative insurances or limits, at the University's discretion.

RIDER B-2

Substitute Form W-9 - Taxpayer Identification Number Request & Certification

Please complete the following information. We are required by law to obtain this information from you when making a reportable payment to you. If you do not provide us with this information, your payments may be subject to federal income tax backup withholding. Use this form only if you are a U.S. person (including US. resident alien.). If you are a foreign person, use the appropriate Form W-8.

Part 1 Tax Status:

Print Name: _____

Address (number, street, and apt. or suite no.): _____

City: _____ State: _____ Zip: _____

Phone: (____) _____

Complete One:

[] Individual/Sole Proprietor Business Name, if different from above _____

Social Security Number ____ - ____ - _____

- or - Business EIN ____ - _____

[] Partnership EIN ____ - _____

[] Corporation EIN ____ - _____

Please answer questions below if you are a corporation:

1. Corporation providing legal services? Y N

2. Corporation providing medical services? Y N

[] Limited Liability Company EIN ____ - _____

[] Tax-Exempt or Not-for-Profit under § 501(C)(3) EIN ____ - _____

[] Government Entity EIN ____ - _____

[] Estate or Trust EIN ____ - _____

[] All other Entities EIN ____ - _____

Part 2 Exemption: If exempt from Form 1099 reporting, check here: []

and circle your qualifying exemption reason below

- 1. An organization exempt from tax under IRC section 501(a)
2. The United States or any of its agencies or instrumentalities
3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities
5. An international organization or any of its agencies or instrumentalities
6. Other: _____

Part 3 Certification:

Under penalties of perjury, I certify that:

- 1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding,
and
3. I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return.

Signature of U.S. person: _____ Date: _____

VMTurbo Licenses - Bid Pricing Form (1 Year)

Exhibit 1 (Table 1)

| # | Description | Product Code | List Price | Discount | Sales Price | Qty | Year 1 |
|---|---|--------------|------------|----------|-------------|-----|-------------|
| 1 | Enterprise Operations Manager License (Perpetual) | EOM-PERM | | | | 68 | |
| 2 | Support & Maintenance for Enterprise Operations Manager (1 Year) | EOM-SNM-1YR | | | | 68 | |
| | Storage Control Module License (Perpetual) | SCM-PERM | | | | 68 | |
| 4 | Support & Maintenance for Storage Control Module (1 Year) | SCM-SNM-1YR | | | | 68 | |
| 5 | User & Admin Training (Remote Private Session – 4 Hours) - This will be exercised at the University's discretion. | PSO-UAT-RE | | | | 1 | |
| 6 | Pricing for Additional User & Admin Training (Per Session) - This will be exercised at the University's discretion. | PSO-UAT-RE | | | | 1 | |
| Total | | | | | | | 0.00 |
| Include additional explanation of costs and list assumptions that could influence the cost of licensing and maintenance pricing. | | | | | | | |
| List explanations and assumptions here: | | | | | | | |
| - | | | | | | | |
| - | | | | | | | |
| - | | | | | | | |
| - | | | | | | | |
| - | | | | | | | |
| - | | | | | | | |

VMTurbo Licenses - Bid Pricing Form (3 Years)

Exhibit 1 (Table 2)

| # | Description | Product Code | List Price | Discount | Sales Price | Qty | Year 1 | Year 2 | Year 3 |
|---|---|--------------|------------|----------|-------------|-----|-------------|-------------|-------------|
| 1 | Enterprise Operations Manager License (Perpetual) | EOM-PERM | | | | 68 | | | |
| 2 | Support & Maintenance for Enterprise Operations Manager (3 Years) | EOM-SNM-3YR | | | | 68 | | | |
| | Storage Control Module License (Perpetual) | SCM-PERM | | | | 68 | | | |
| 4 | Support & Maintenance for Storage Control Module (3 Years) | SCM-SNM-3YR | | | | 68 | | | |
| 5 | User & Admin Training (Remote Private Session – 4 Hours) - This will be exercised at the University's discretion. | PSO-UAT-RE | | | | 1 | | | |
| 6 | Pricing for Additional User & Admin Training (Per Session) - This will be exercised at the University's discretion. | PSO-UAT-RE | | | | 1 | | | |
| Total | | | | | | | 0.00 | 0.00 | 0.00 |
| Include additional explanation of costs and list assumptions that could influence the cost of licensing and maintenance pricing. | | | | | | | | | |
| List explanations and assumptions here: | | | | | | | | | |
| - | | | | | | | | | |
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