

# IBM Customer Agreement

This IBM Customer Agreement (called the "Agreement") governs transactions by which you purchase Machines, license ICA Programs, obtain Program licenses, and acquire Services from International Business Machines Corporation ("IBM").

This Agreement and its applicable Attachments and Transaction Documents are the complete agreement regarding these transactions, and replace any prior oral or written communications between us.

By signing below for our respective Enterprises, both of us agree to the terms of this Agreement. Once signed, 1) any reproduction of this Agreement, an Attachment, or Transaction Document made by reliable means (for example, photocopy or facsimile) is considered an original and 2) all Products and Services ordered under this Agreement are subject to it.

Agreed to:  
School Board of Palm Beach County, Florida

Agreed to:  
International Business Machines Corporation

By \_\_\_\_\_  
Authorized signature

By Brenda H. Barker  
Authorized signature

Name (type or print):

Name (type or print):  Brenda H. Barker

Date:

Date:

Enterprise number:

Agreement number:  HW92460

Enterprise address:

IBM address:  12902 Federal Systems Park Dr.  
Fairfax, Va 22033

After signing, please return a copy of this Agreement to the "IBM address" shown above.

Kalish... 7/10/06  
**Reviewed and Approved  
as to Legal Sufficiency**

# IBM Customer Agreement

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# IBM Customer Agreement

## Part 1 - General

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### 1.1 Definitions

**Customer-set-up Machine** is an IBM Machine that you install according to IBM's instructions.

**Date of Installation** is the following:

1. for an IBM Machine that IBM is responsible for installing, the business day after the day IBM installs it or, if you defer installation, makes it available to you for subsequent installation by IBM;
2. for a Customer-set-up Machine and a non-IBM Machine, the second business day after the Machine's standard transit allowance period unless the quantity exceeds 30 Machines, in which case the Date of Installation shall be 10 business days from the transit allowance period; and
3. for a Program –
  - a. basic license, the later of the following:
    - (i) the day after its testing period ends; or
    - (ii) the second business day after the Program's standard transit allowance period, unless the quantity exceeds 30 licenses, in which case the Date of Installation shall be 10 business days from the transit allowance period;
  - b. copy, the date (specified in a Transaction Document) on which IBM authorizes you to make a copy of the Program, and
  - c. chargeable component; the date you distribute a copy of the chargeable component in support of your authorized use of the Program.

**Designated Machine** is either 1) the machine on which you will use an ICA Program for processing and which IBM requires you to identify to it by type/model and serial number, or 2) any machine on which you use the ICA Program if IBM does not require you to provide this identification.

**Enterprise** is any legal entity (such as a corporation) and the subsidiaries it owns by more than 50 percent. The term "Enterprise" applies only to the portion of the Enterprise located in the United States.

**ICA Program** is an IBM Program licensed under Part 4 of this Agreement.

**Licensed Internal Code** (called "LIC") is Machine Code used by certain Machines IBM specifies (called "Specific Machines").

**Machine** is a machine, its features, conversions, upgrades, elements, or accessories, or any combination of them. The term "Machine" includes an IBM Machine and any non-IBM Machine (including other equipment) that IBM may provide to you.

**Machine Code** is microcode, basic input/output system code (called "BIOS"), utility programs, device drivers, and diagnostics delivered with an IBM Machine.

**Materials** are literary works or other works of authorship (such as programs, program listings, programming tools, documentation, reports, drawings and similar works) that IBM may deliver to you as part of a Service. The term "Materials" does not include Programs, Machine Code, or LIC.

**Non-IBM Program** is a Program licensed under a separate third party license agreement.

**Other IBM Program** is an IBM Program licensed under a separate IBM license agreement, e.g., IBM International Program License Agreement.

**Product** is a Machine or a Program.

**Program** is the following, including the original and all whole or partial copies:

1. machine-readable instructions and data;
2. components;
3. audio-visual content (such as images, text, recordings, or pictures); and
4. related licensed materials.

The term "Program" includes any ICA Program, Other IBM Program, or Non-IBM Program that IBM may provide to you. The term does not include Machine Code, LIC, or Materials.

**Service** is performance of a task, provision of advice and counsel, assistance, support, or access to a resource (such as access to an information database) IBM makes available to you.

**Specifications** is a document that provides information specific to a Product. IBM provides an IBM Machine's Specifications in a document entitled "Official Published Specifications" and an ICA Program's Specifications in a document entitled "Licensed Program Specifications."

**Specified Operating Environment** is the Machines and programs with which an ICA Program is designed to operate, as described in the ICA Program's Specifications.

## 1.2 Agreement Structure

IBM provides additional terms for Products and Services in documents called "Attachments" and "Transaction Documents" which are also part of this Agreement. All transactions have one or more associated Transaction Documents (such as an invoice, supplement, schedule, exhibit, statement of work, change authorization, or addendum).

If there is a conflict among the terms in the various documents, those of an Attachment prevail over those of this Agreement. The terms of a Transaction Document prevail over those of both of these documents.

You accept the terms in Attachments and Transaction Documents by 1) signing them; 2) using the Product or Service, or allowing others to do so, or 3) making any payment for the Product or Service.

A Product or Service becomes subject to this Agreement when IBM accepts your order by 1) sending you a Transaction Document acceptable to customer, 2) shipping the Machine or making the Program available to you, or 3) providing the Service.

## 1.3 Delivery

IBM will try to meet your delivery requirements for Products and Services you order, and will inform you of their status. Transportation charges, if applicable, will be specified in a Transaction Document.

## 1.4 Charges and Payment

The amount payable for a Product or Service will be based on one or more of the following types of charges: one-time, recurring, time and materials, or fixed price. Additional charges may apply (such as special handling or travel related expenses). IBM will inform you in advance (prior to the final Transaction Document) whenever additional charges apply.

Recurring charges for a Product begin on its Date of Installation. Charges for Services are billed as IBM specifies and as accepted by Customer in writing which may be in advance, periodically during the performance of the Service, or after the Service is completed.

Services will not be prepaid.

### Charges

One-time and recurring charges may be based on measurements of actual or authorized use (for example, number of users or processor size for Programs, meter readings for maintenance Services or connect time for network Services). You agree to provide actual usage data if IBM specifies. If you make changes to your environment that impact use charges (for example, change processor size or configuration for Programs), you agree to promptly notify IBM and pay any applicable charges. Recurring charges will be adjusted (increased or decreased) accordingly. Unless IBM agrees otherwise, IBM does not give credits or refunds for charges already due or paid. In the event that IBM changes the basis of measurement, its terms for changing charges will apply.

You receive the benefit of a decrease in charges for amounts which become due on or after the effective date of the decrease.

IBM may increase recurring charges for Products and Services, as well as labor rates and minimums for Services provided under this Agreement, by giving you three months' written notice, provided however that any such increase will not apply to Products or Services subject to an existing Transaction Document. An increase applies on the first day of the invoice or charging period on or after the effective date IBM specifies in the notice.

IBM may increase one-time charges without notice provided that such increase is clearly set forth in any affected future Transaction Document (e.g, SOW). However, an increase to one-time charges does not apply to you if 1) IBM receives your order before the announcement date of the increase and 2) one of the following occurs within three months after IBM's receipt of your order:

1. IBM ships you the Machine or makes the Program available to you;
2. you make an authorized copy of a Program or distribute a chargeable component of a Program to another Machine; or
3. a Program's increased use charge becomes due.

### Payment

Amounts are due upon receipt of invoice and payable within thirty (30) days. You agree to pay accordingly.

If any authority imposes a duty, tax, levy, or fee, excluding those based on IBM's net income, upon any transaction under this Agreement, then you agree to pay that amount as specified in an invoice or supply exemption documentation. You are responsible for any personal property taxes for each Product from the date IBM ships it to you.

## 1.5 Changes to the Agreement Terms

In order to maintain flexibility in our business relationship, IBM may change the terms of this Agreement by giving you three months' written notice. However, these changes are not retroactive. They apply, as of the effective date IBM specifies in the notice, only to new orders, renewals, and on-going transactions that do not expire. You may request that IBM defer the change effective date until the end of the current contract period if 1) the change affects your current contract period and 2) you consider the change unfavorable. Changes to charges will be implemented as described in the Charges and Payment section above.

Otherwise, for a change to be valid, both of us must sign it. Additional or different terms in any written communication from you (such as an order) are void.

## 1.6 IBM Business Partners

IBM has signed agreements with certain organizations (called "IBM Business Partners") to promote, market, and support certain Products and Services. When you order IBM Products or Services (marketed to you, but not provided, by IBM Business Partners) under this Agreement, IBM confirms that it is responsible for providing the Products or Services to you under the warranties and other terms of this Agreement. IBM is not responsible for 1) the actions of IBM Business Partners, 2) any additional obligations they have to you, or 3) any products or services that they supply to you under their agreements.

## 1.7 Patents and Copyrights

For purposes of this section, the term "Product" includes Materials, Machine Code and LIC.

If a third party claims that a Product IBM provides to you infringes that party's patent or copyright, IBM will defend you against that claim at its expense and pay all costs, damages, and attorney's fees that a court finally awards or that are included in a settlement approved by IBM, provided that you:

1. promptly notify IBM in writing of the claim; and
2. allow IBM to control, and cooperate with IBM in the defense and any related settlement negotiations provided that such cooperation is at no cost or expense to Customer.

### Remedies

If such a claim is made or appears likely to be made, you agree to permit IBM to enable you to continue to use the Product, or to modify it, or replace it with one that is at least functionally equivalent. If IBM determines that none of these alternatives is reasonably available, you agree to return the Product to IBM on its written request. IBM will then give you a credit equal to:

1. for a Machine, your net book value provided you have followed generally-accepted accounting principles;
2. for an ICA Program, the amount paid by you or 12 months' charges (whichever is less); and
3. for Materials, the amount you paid IBM for the creation of the Materials.

This is IBM's entire obligation to you regarding any claim of infringement.

### Claims for Which IBM is Not Responsible

IBM has no obligation regarding any claim based on any of the following:

1. anything you provide which is incorporated into a Product or IBM's compliance with any designs, specifications, or instructions provided by you or by a third party on your behalf;
2. your modification of a Product, or an ICA Program's use in other than its Specified Operating Environment;
3. the combination, operation, or use of a Product with other products not provided by IBM as a system, or the combination, operation or use of a Product with any product, data, apparatus, or business method that IBM did not provide, or the distribution, operation or use of a Product for the benefit of a third party outside your Enterprise; or
4. infringement by a non-IBM Product or an Other IBM Program alone.

## 1.8 Limitation of Liability

Circumstances may arise where, because of a default on IBM's part or other liability, you are entitled to recover damages from IBM. In each such instance, regardless of the basis on which you are entitled to claim damages from IBM (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), IBM is liable for no more than:

1. payments referred to in the Patents and Copyrights section above;
2. damages for bodily injury (including death) and damage to real property and tangible personal property; and
3. the amount of any other actual direct damages up to the greater of \$100,000 or the charges (if recurring, 12 months' charges apply) for the Product or Service that is the subject of the claim. For purposes of this item, the term "Product" includes Materials, Machine Code, and LIC. For purposes of this item, the term "actual direct damages" shall include, to the extent finally found by a court of competent jurisdiction, any cost incurred by Customer for the recovery and/or reproduction of data lost due to the fault or failure of IBM and/or any software provided pursuant to this Agreement to the extent that a Transaction Document requires IBM to provide data back-up and/or recovery.

This limit also applies to any of IBM's subcontractors and Program developers. It is the maximum for which IBM and its subcontractors and Program developers are collectively responsible.

### Items for Which IBM is Not Liable

Under no circumstances is IBM, its subcontractors, or Program developers liable for any of the following even if informed of their possibility:

1. loss of, or damage to, data;
2. special, incidental, or indirect damages or for any economic consequential damages; or
3. lost profits, business, revenue, goodwill, or anticipated savings.

## 1.9 General Principles of Our Relationship

1. Neither of us grants the other the right to use its (or any of its Enterprise's) trademarks, trade names, or other designations in any promotion or publication without prior written consent.
2. All information exchanged is nonconfidential. If either of us requires the exchange of confidential information, it will be made under a signed confidentiality agreement in compliance with Florida law.
3. Each of us is free to enter into similar agreements with others.

4. Each of us grants the other only the licenses and rights specified. No other licenses or rights (including licenses or rights under patents) are granted.
5. Each of us may communicate with the other by electronic means and such communication is acceptable as a signed writing. An identification code (called a "user ID") contained in an electronic document is sufficient to verify the sender's identity and the document's authenticity.
6. Each of us will allow the other reasonable opportunity to comply before it claims that the other has not met its obligations.
7. Neither of us is responsible for failure to fulfill any obligations due to causes beyond its control.
8. Neither of us may assign this Agreement, in whole or in part, without the prior written consent of the other. Any attempt to do so is void. Neither of us will unreasonably withhold such consent.
9. You agree not to resell any Service without IBM's prior written consent. Any attempt to do so is void.
10. You agree that this Agreement will not create any right or cause of action for any third party, nor will IBM be responsible for any third party claims against you except as described in the Patents and Copyrights section above or as permitted by the Limitation of Liability section above for bodily injury (including death) or damage to real or tangible personal property for which IBM is legally liable.
11. You agree to acquire Machines with the intent to use them within your Enterprise and not for reselling, leasing, or transferring to a third party, unless one of the following applies:
  1. you are arranging lease-back financing for the Machines; or 2. you purchase them without any discount or allowance, and do not remarket them in competition with IBM's authorized remarketers; or 3. equipment which you donate to educational or charitable institutions for use by or on behalf of economically disadvantaged students.
12. You agree to allow IBM to install mandatory engineering changes (such as those required for safety) on a Machine per a mutually agreed upon schedule. Any parts IBM removes become IBM's property provided that they have been replaced at IBM's expense. You represent that you have the permission from the owner and any lien holders to transfer ownership and possession of removed parts to IBM.
13. Except as included in the Statement of Work, you agree that you are responsible for the results obtained from the use of the Products and Services. IBM is responsible for complying with all specifications of the Products and Services we provide, but only the Customer is in a position to identify the business results it wishes to achieve and to identify which Products and Services it believes will achieve such results.
14. You agree to provide IBM with sufficient, free, and safe access to your facilities and systems for IBM to fulfill its obligations.
15. You agree to allow International Business Machines Corporation and its subsidiaries to store and use your contact information, including names, phone numbers, and e-mail addresses, anywhere they do business. Such information will be processed and used in connection with our business relationship, and may be provided to contractors, Business Partners, and assignees of International Business Machines Corporation and its subsidiaries for uses consistent with the needs of this Agreement.
16. You agree to comply with all applicable export and import laws and regulations.

#### **1.10 Agreement Termination**

Either of us may terminate this Agreement on written notice to the other following the expiration or termination of the terminating party's obligations or as otherwise provided in this Agreement.

Either of us may terminate this Agreement if the other does not comply with any of its terms, provided the one who is not complying is given written notice and at least thirty (30) days or a greater period of time as mutually agreed by the parties to cure the noncompliance.

Any terms of this Agreement which by their nature extend beyond the Agreement termination remain in effect until fulfilled, and apply to both of our respective successors and assignees.

#### **1.11 Geographic Scope and Governing Law**

The rights, duties, and obligations of each of us are valid only in the United States except that all licenses are valid as specifically granted.

Both you and IBM consent to the application of the laws of the State of Florida to govern, interpret, and enforce all of your and IBM's rights, duties, and obligations arising from, or relating in any manner to, the subject matter of this Agreement, without regard to conflict of law principles.

In the event that litigation arises out of the Agreement, venue shall lie in Palm Beach County, Florida.

In the event that any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement remain in full force and effect.

Nothing in this Agreement affects any statutory rights of consumers that cannot be waived or limited by contract.

## **Part 2 - Warranties**

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### **2.1 The IBM Warranties**

#### **Warranty for IBM Machines**

IBM warrants that each IBM Machine is free from defects in materials and workmanship and conforms to its Specifications.

The warranty period for a Machine is a specified, fixed period commencing on its Date of Installation. During the warranty period, IBM provides repair and exchange Service for the Machine, without charge, under the type of Service IBM designates for the Machine (unless IBM and Customer agree in a Transaction Document that Customer has qualified and will serve as an IBM Certified Warranty Provider in accordance with the terms and conditions of that IBM program and Customer will be reimbursed at the rate specified in such Transaction Document). If a Machine does not function as warranted during the warranty period and IBM is unable to either 1) make it do so or 2) replace it with one that is at least functionally equivalent, you may return it to IBM and your money will be refunded.

Additional terms regarding Service for Machines during and after the warranty period are contained in Part 5.

#### **Warranty for ICA Programs**

IBM warrants that each warranted ICA Program, when used in the Specified Operating Environment, will conform to its Specifications.

The warranty period for an ICA Program expires when its Program Services are no longer available. During the warranty period, IBM provides defect-related Program Services without charge. Program Services are available for a warranted ICA Program for at least one year following its general availability.

If an ICA Program does not function as warranted during the first year after you obtain your license and IBM is unable to make it do so, you may return the ICA Program and your money will be refunded. To be eligible, you must have obtained your license while Program Services (regardless of the remaining duration) were available for it. Additional terms regarding Program Services are contained in Part 4.

#### **Warranty for IBM Services**

IBM warrants that it performs each IBM Service using reasonable care and skill and according to its current description (including any completion criteria) contained in this Agreement, an Attachment, or a Transaction Document.

#### **Warranty for Systems**

Where IBM provides Products to you as a system, IBM warrants that they are compatible and will operate with one another. This warranty is in addition to IBM's other applicable warranties.

### **2.2 Extent of Warranty**

If a Machine is subject to federal or state consumer warranty laws, IBM's statement of limited warranty included with the Machine applies in place of these Machine warranties.

The warranties stated above will not apply to the extent that there has been misuse (including but not limited to use of any Machine capacity or capability, other than that authorized by IBM in writing), accident, modification, unsuitable physical or operating environment, operation in other than the Specified Operating Environment, improper maintenance by you, or failure caused by a product for which IBM is not responsible. With respect to Machines, the warranty is voided by removal or alteration of Machine or parts identification labels.

**THESE WARRANTIES ARE YOUR EXCLUSIVE WARRANTIES AND REPLACE ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

#### **Items Not Covered by Warranty**

IBM does not warrant uninterrupted or error-free operation of a Product or Service or that IBM will correct all defects, except that defects and warranties may be specifically addressed in a Transaction Document.

Unless IBM specifies otherwise, it provides Materials, non-IBM Products, and non-IBM Services **WITHOUT WARRANTIES OF ANY KIND**. However, non-IBM manufacturers, developers, suppliers, or publishers may provide their own warranties to you. Warranties, if any, for Other IBM Programs and Non-IBM Programs may be found in their license agreements. Nothing herein shall relieve IBM of its responsibilities for achieving compliance with all specifications in a Transaction Document accompanying this Agreement.

## **Part 3 - Machines**

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### **3.1 Production Status**

Each IBM Machine is manufactured from parts that may be new or used. In some cases, a Machine may not be new and may have been previously installed. Regardless, IBM's appropriate warranty terms apply.

### **3.2 Title and Risk of Loss**

When IBM accepts your order, IBM agrees to sell you the Machine described in a Transaction Document. IBM transfers title to you or, if you choose, your lessor when IBM ships the Machine. However, IBM reserves a purchase money security interest in the Machine until IBM receives the amounts due. For a feature, conversion, or upgrade involving the removal of parts which become IBM's property, IBM reserves a security interest until IBM receives payment of all the amounts due and the removed parts. You authorize IBM to file appropriate documents to permit IBM to perfect its purchase money security interest.

For each machine, IBM bears the risk of loss or damage up to the time it is delivered to the IBM-designated carrier for shipment to you or your designated location. Thereafter, you assume the risk. Each Machine will be covered by insurance, arranged and paid for by IBM for you, covering the period until it is delivered to you or your designated loca-

tion. For any loss or damage, you must 1) report the loss or damage in writing to IBM within 10 business days of delivery and 2) follow the applicable claim procedure.

### 3.3 Installation

You agree to provide an environment meeting the specified requirements for the Machine.

IBM has standard installation procedures. IBM will successfully complete these procedures and have them accepted by Customer before it considers an IBM Machine (other than a Machine for which you defer installation or a Customer-set-up Machine) installed. Your acceptance will be deemed to have been provided X business days after installation if you have not notified IBM of your acceptance in writing within that time period.

You are responsible for installing a Customer-set-up Machine and, unless IBM agrees otherwise, a non-IBM Machine, however, when readily available, IBM will furnish its recommended set-up process and procedure for IBM Machines to Customer.

#### **Machine Features, Conversions and Upgrades**

IBM sells features, conversions and upgrades for installation on Machines, and, in certain instances, only for installation on a designated, serial-numbered Machine. Many of these transactions involve the removal of parts and their return to IBM or to the Customer based upon the specifications of the relevant feature, conversion or upgrade. As applicable, you represent that you have the permission from the owner and any lien holders to 1) install features, conversions, and upgrades and 2) transfer ownership and possession of removed parts (which become IBM's property) to IBM. You further represent that all removed parts are genuine, unaltered, and in good working order. A part that replaces a removed part will assume the warranty or maintenance Service status of the replaced part. You agree to allow IBM to install the feature, conversion, or upgrade within 30 days of its delivery. Otherwise, IBM may terminate the transaction and you must return the feature, conversion, or upgrade to IBM at your expense.

### 3.4 Machine Code and LIC

Machine Code is licensed under the terms of the agreement provided with the Machine Code. Machine Code is licensed only for use to enable a Machine to function in accordance with its Specifications and only for the capacity and capability for which you are authorized by IBM in writing and for which payment is received by IBM.

Certain Machines IBM specifies (called "Specific Machines") use LIC. IBM will identify Specific Machines in a Transaction Document. International Business Machines Corporation, one of its subsidiaries, or a third party owns LIC including all copyrights in LIC and all copies of LIC (this includes the original LIC, copies of the original LIC, and copies made from copies). LIC is copyrighted and licensed (not sold). LIC is licensed under the terms of the agreement provided with the LIC. LIC is licensed only for use to enable a Machine to function in accordance with its Specifications and only for the capacity and capability for which you are authorized by IBM in writing and for which payment is received by IBM.

## **Part 4 - ICA Programs**

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### 4.1 License

When IBM accepts your order, IBM grants you a nonexclusive, nontransferable license to use the ICA Program in the United States. ICA Programs are owned by International Business Machines Corporation, one of its subsidiaries, or a third party and are copyrighted and licensed (not sold).

#### **Authorized Use**

Under each license, IBM authorizes you to:

1. use the ICA Program's machine-readable portion on only the Designated Machine. If the Designated Machine is inoperable, you may use another machine temporarily. If the Designated Machine cannot assemble or compile the ICA Program, you may assemble or compile the ICA Program on another machine.
2. If you change a Designated Machine previously identified to IBM, you agree to notify IBM of the change and its effective date;
3. use the ICA Program to the extent of authorizations you have obtained;
4. make and install copies of the ICA Program, to support the level of use authorized, provided you reproduce the copyright notices and any other legends of ownership on each copy or partial copy, and
5. use any portion of the ICA Program IBM 1) provides in source form, or 2) marks restricted (for example, "Restricted Materials of IBM") only to --
  - a. resolve problems related to the use of the ICA Program, and
  - b. modify the ICA Program so that it will work together with other products.

#### **Your Additional Obligations**

For each ICA Program, you agree to:

1. comply with any additional terms in its Specifications or a Transaction Document;
2. ensure that anyone who uses it (accessed either locally or remotely) does so only for your authorized use and complies with IBM's terms regarding ICA Programs; and
3. maintain a record of all copies and provide it to IBM at its request.

#### **Actions You May Not Take**

You agree not to:

1. reverse assemble, reverse compile, or otherwise translate the ICA Program unless expressly permitted by applicable law without the possibility of contractual waiver; or
2. sublicense, assign, rent, or lease the ICA Program.



#### **4.2 Program Components Not Used on the Designated Machine**

Some ICA Programs have components that are designed for use on machines other than the Designated Machine on which the ICA Program is used. You may make copies of a component and its documentation in support of your authorized use of the ICA Program. For a chargeable component, you agree to notify IBM of its Date of Installation.

#### **4.3 Distributed System License Option**

For some ICA Programs, you may make a copy under a Distributed System License Option (called a "DSLO" copy). IBM charges less for a DSLO copy than for the original license (called the "Basic" license). In return for the lesser charge, you agree to do the following while licensed under a DSLO:

1. have a Basic license for the ICA Program;
2. provide problem documentation and receive Program Services (if any) only through the location of the Basic license; and
3. distribute to, and install on, the DSLO's Designated Machine, any release, correction, or bypass that IBM provides for the Basic license.

#### **4.4 Program Testing**

IBM provides a testing period for certain ICA Programs to help you evaluate if they meet your needs. If IBM offers a testing period, it will start 1) the second business day after the ICA Program's standard transit allowance period, or 2) on another date specified in a Transaction Document. IBM will inform you of the duration of the ICA Program's testing period.

IBM does not provide testing periods for DSLO copies.

#### **4.5 Program Services**

IBM provides Program Services for warranted ICA Programs. If IBM can reproduce your reported problem in the Specified Operating Environment, IBM will issue defect correction information, a restriction, or a bypass. IBM provides Program Services for only the unmodified portion of a current release of an ICA Program.

IBM provides Program Services 1) on an on-going basis (with at least six months' written notice before IBM terminates Program Services), 2) until the date IBM specifies, or 3) for a period IBM specifies.

#### **4.6 License Termination**

You may terminate the license for an ICA Program on one month's written notice, or at any time during the ICA Program's testing period.

Licenses for certain replacement ICA Programs may be obtained for an upgrade charge. When you obtain licenses for these replacement ICA Programs, you agree to terminate the license of the replaced ICA Programs when charges become due, unless IBM specifies otherwise.

IBM may terminate your license if you fail to comply with the license terms. If IBM does so, your authorization to use the ICA Program is also terminated.

### **Part 5 - Services**

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#### **5.1 Personnel**

Each of us is responsible for the supervision, direction, control, and compensation of our respective personnel.

IBM reserves the right to determine the assignment of its personnel.

IBM may subcontract a Service, or any part of it, to subcontractors selected by IBM.

Customer has the right to cause IBM to remove any employee of representative who is non-productive, disruptive or acts in a manner non-conducive to the work progress or environment. In that event, IBM will provide within a commercially reasonable time such personnel as are required to perform the functions of the person(s) being removed.

#### **5.2 Materials Ownership and License**

IBM will specify Materials to be delivered to you. IBM will identify them as being "Type I Materials," "Type II Materials," or otherwise as we both agree. If not specified, Materials will be considered Type II Materials.

Type I Materials are those, created during the Service performance period, in which you will have all right, title, and interest (including ownership of copyright). IBM will retain one copy of the Materials. You grant IBM 1) an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, distribute (internally and externally) copies of, and prepare derivative works based on, Type I Materials and 2) the right to authorize others to do any of the former.

Type II Materials are those, created during the Service performance period or otherwise (such as those that preexist the Service), in which IBM or third parties have all right, title, and interest (including ownership of copyright). IBM will deliver one copy of the specified Materials to you. IBM grants you an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, and distribute, within your Enterprise only, copies of Type II Materials.

Each of us agrees to reproduce the copyright notice and any other legend of ownership on any copies made under the licenses granted in this section.

### 5.3 Service for Machines (during and after warranty)

IBM provides certain types of Service to keep Machines in, or restore them to, conformance with their Specifications. IBM will inform you of the available types of Service for a Machine. At its discretion, IBM will 1) either repair or exchange the failing Machine and 2) provide the Service either at your location or a service center.

When the type of Service requires that you deliver the failing Machine to IBM, you agree to ship it suitably packaged (prepaid unless IBM specifies otherwise) to a location IBM designates. After IBM has repaired or exchanged the Machine, IBM will return it to you at its expense unless IBM specifies otherwise. IBM is responsible for loss of, or damage to, your Machine while it is 1) in IBM's possession or 2) in transit in those cases where IBM is responsible for the transportation charges.

Any feature, conversion, or upgrade IBM services must be installed on a Machine which is 1) for certain Machines, the designated, serial-numbered Machine and 2) at an engineering-change level compatible with the feature, conversion, or upgrade. IBM will obtain the written approval of Customer prior to any such installation, in order to avert any compatibility problem.

IBM manages and installs selected engineering changes that apply to IBM Machines and may also perform preventive maintenance. IBM will obtain the approval of Customer prior to any such installation, in order to avert any compatibility problem.

You agree to:

1. obtain authorization from the owner to have IBM service a Machine that you do not own; and
2. where applicable, before IBM provides Service --
  - a. follow the problem determination, problem analysis, and service request procedures that IBM provides,
  - b. secure all programs, data, and funds contained in a Machine, and
  - c. inform IBM of changes in a Machine's location

#### Replacements

When Service involves the exchange of a Machine or part, the item IBM replaces becomes its property and the replacement becomes yours. You represent that all removed items are the same as provided by IBM and unaltered. The replacement may not be new, but will be in good working order and at least functionally equivalent to the item replaced. The replacement assumes the warranty or maintenance Service status of the replaced item. Before IBM exchanges a Machine or part, you agree to remove all features, parts, options, alterations, and attachments not under IBM's service. You also agree to ensure that the item is free of any legal obligations or restrictions that prevent its exchange.

Some parts of IBM Machines are designated as Customer Replaceable Units (called, "CRUs"), e.g., keyboards, memory, or hard disk drives. IBM provides CRUs to you for replacement by you. You must return all defective CRUs to IBM within 30 days of your receipt of the replacement CRU. You are responsible for downloading designated Machine Code and LIC updates from an IBM Internet Web site or from other electronic media, and following the instructions that IBM provides.

#### Items Not Covered

Repair and exchange Services do not cover:

1. accessories, supply items, and certain parts, such as batteries, frames, and covers;
2. Machines damaged by misuse, accident, modification, unsuitable physical or operating environment, or improper maintenance by you;
3. Machines with removed or altered Machine or parts identification labels;
4. failures caused by a product for which IBM is not responsible;
5. service of Machine alterations; or
6. Service of a Machine on which you are using capacity or capability, other than that authorized by IBM in writing.

#### Warranty Service Upgrade

For certain Machines, you may select a Service upgrade from the standard type of warranty Service for the Machine. IBM charges for the Service upgrade during the warranty period.

Except as otherwise provided in this Agreement, you may not terminate the Service upgrade or transfer it to another Machine during the warranty period. When the warranty period ends, the Machine will convert to maintenance Service at the same type of Service you selected for warranty Service upgrade.

### 5.4 Maintenance Coverage

Whenever you order maintenance Service for Machines, IBM will inform you of the date on which maintenance Service will begin. IBM may inspect the Machine within one month following that date. If the Machine is not in an acceptable condition for service, you may have IBM restore it for a charge. Alternatively, you may withdraw your request for maintenance Service. However, you will be charged for any maintenance Service which IBM has performed at your request.

### 5.5 Automatic Service Renewal

Renewable Services shall renew at the end of the contract period only upon written notification (at least one month prior to the end of the current contract period) from the customer of its decision to renew.

## 5.6 Termination and Withdrawal of a Service

Either of us may terminate a Service if the other does not meet its obligations concerning the Service.

You may terminate a Service, on notice to IBM provided you have met all minimum requirements and paid any adjustment charges specified in the applicable Attachments and Transaction Documents. For a maintenance Service, you may terminate without adjustment charge provided any of the following circumstances occur:

1. you permanently remove the eligible Product, for which the Service is provided, from productive use within your Enterprise;
2. the eligible location, for which the Service is provided, is no longer controlled by you (for example, because of sale or closing of the facility); or
3. the Machine has been under maintenance Service for at least six months and you give IBM one month's written notice prior to terminating the maintenance Service.

You agree to pay IBM for 1) all Services IBM provides and any Products and Materials IBM delivers through Service termination, 2) all expenses IBM incurs through Service termination, and 3) any charges IBM incurs in terminating the Service.

Subject to the terms of the SOW, IBM may withdraw a Service or support for an eligible Product on three months' written notice to you. If IBM withdraws a Service for which you have prepaid and IBM has not yet fully provided it to you, IBM will give you a prorated refund.

Any terms which by their nature extend beyond termination or withdrawal remain in effect until fulfilled and apply to respective successors and assignees.



**IBM WebSphere Extend 5.1 Pilot  
Statement of Work  
June 27, 2006**

**Prepared for:**

**School Board of Palm Beach County**

The information in this Statement of Work (SOW) shall not be disclosed outside Palm Beach County School District and shall not be duplicated, used or disclosed in whole or in part for any purpose other than to evaluate the SOW, provided that if a contract is awarded to IBM Global Services as a result of or in connection with the submission of this proposal, School Board of Palm Beach County shall have the right to duplicate, use or disclose the information to the extent provided by the contract. This restriction does not limit the right of School Board of Palm Beach County to use information contained in the SOW if it is obtained from another source without restriction. IBM understands that the contract provides for disclosure, subject to Section 119.07, Florida Statutes, and that nothing shall be construed to preclude compliance with applicable law.



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## 1 Overview and Approach

International Business Machines Corporation (“IBM”) is pleased to present this Statement of Work (“SOW”) that describes our services in support of the School Board of Palm Beach County (Palm Beach County School District) WebSphere Extend v5.1 Pilot Portal implementation (Portal Pilot) and deployment.

When fully implemented in subsequent project phases, the Palm Beach County School District Enterprise Portal program initiative will support the business and technology goals of the School District through implementation of an enterprise portal framework, which is a technology and system enabler to increase efficiency while specifically improving communication, access to information, and business transactions for users.

The Portal Pilot is intended to demonstrate the value of an enterprise portal to a subset of Palm Beach County School District user stakeholders through a limited scope pilot solution using delivered WebSphere Extend v5.1 portal capabilities and portal capabilities previously developed by IBM during the initial portal proof-of-concept.

The Portal Pilot is the first step in developing a role-based enterprise portal for Palm Beach County School District. The Portal Pilot will provide an opportunity to demonstrate the value of enterprise portal capabilities to key Palm Beach County School District stakeholders and will provide input and feedback for a future full-scale enterprise portal implementation program.

The estimated duration of this project is twelve (12) weeks.

## 2 Objectives

- Transition portal capabilities developed during the IBM proof-of-concept activities to a pilot production environment for up to 30 targeted Palm Beach County School District end users to help users understand the value an enterprise portal and to gain feedback and input for planning a subsequent full-scale portal solution.
- Install/configure a clustered portal environment which can be expanded over time with the user base.
- Transform TERMS panels as-is and support Palm Beach County School District to develop more complex HATS application.
- Integrate with the following external applications in order by priority as feasible within the budgeted costs and timeframe: Learning Village, HATS, Microsoft Exchange (email), Edline, Cognos
- Leverage Teachers Workbench alerting assets to provide grade and attendance alerts.
- Configure a centralized web content management solution to create/manage content for the portal

- Help Palm Beach County School District IT and business personnel to better understand best practice approaches and critical success factors for successfully implementing an enterprise portal solution through observation and informal knowledge sharing.
- Gather input and feedback from pilot end users and other key stakeholder groups to identify high-level functional requirements and potential areas an enterprise portal can deliver high-value to Palm Beach County School District.

### **3 Statement of Work**

This Statement of Work (SOW) describes the work to be undertaken by IBM (“Services”) under the terms and conditions of the attached IBM Customer Agreement number HW 92460 (Agreement). Described within this SOW is the project, which consists of the Deliverable Materials to be provided by IBM, and the IBM responsibilities and related Palm Beach County School District responsibilities to be provided in accordance with the terms of this SOW.

Changes to this SOW will be processed in accordance with the procedure described in Appendix C-1 Project Change Control Procedure. The investigation and the implementation of changes may result in modifications to the Estimated Schedule, Charges, and other terms of this SOW and/or the Agreement.

The following are incorporated in and made part of this SOW:

- Appendix A - Deliverable Material Guidelines
- Appendix B – Escalation Procedure
- Appendix C – Project Change Control Procedure

To the extent there is any contradiction, inconsistency or ambiguity between the terms of this SOW and the Agreement, this SOW will govern. This SOW, its Appendices, and the Agreement represent the entire agreement between the parties regarding the subject matter and replace any prior oral or written communications.

#### **3.1 Scope**

IBM will use the installed WebSphere Portal Extend v5.1 software and hardware from the portal proof-of-concept (POC) as the development environment to support the Portal Pilot implementation for up to 30 end users. IBM will leverage delivered WebSphere v5.1 capabilities and capabilities developed during an initial POC to establish the Portal Pilot solution. The Portal Pilot will include a single user group: Teachers

IBM will improve upon the POC developed look and feel for the pilot and will develop the specific capabilities summarized in the following sub-sections.

IBM will facilitate targeted sessions with Portal Pilot end users and other key stakeholder groups to solicit feedback and input on initial pilot capabilities and to



identify additional high-level requirements and high-value focus areas that will provide input for subsequent strategy and planning activities for a full-scale enterprise portal implementation.

IBM will produce the Deliverable Materials identified in Section 3.6 – Deliverable Materials.

### **3.1.1 Users**

We will load up to 30 users in the targeted role of Teacher. Users will be authenticated through a portal account. Where possible we will use the WebSphere Portal Extend 5.1 credential vault so that they can get seamless pass-through to integrated applications.

### **3.1.2 Pages**

Each portal page contains a set of portlets that provide a specific type of information or help to a teacher as that teacher performs their work. IBM will create up to 5 pages

### **3.1.3 Portlets**

IBM will make use of delivered “out of box” WebSphere Portal Extend v5.1 capabilities and portlets to meet content display needs.

IBM will leverage the application integration portlets that were developed during the initial POC.

IBM will configure and integrate the Teachers Workplace Alerting portlets.

IBM will develop portlets which display content managed through the portal. IBM will configure portlets to facilitate managing content through the portal.

IBM will integrate as many of the following applications as time/budget allows

- Learning Village
- HATS
- Microsoft Exchange (email)
- Edline
- Cognos
  - Using out of the box Cognos portlets OR
  - Creating portlets which list reports that when clicked launch within the Cognos environment

### **3.1.4 Content**

We will help Palm Beach County School District identify, map, and load up to 100 pieces of content into the pilot system





We will create 1 workflow and 3 content templates through which Palm Beach County School District can manage their own content.

### **3.2 Key Assumptions**

IBM's estimates are based on the following key assumptions. Deviations that arise during the proposed project will be managed through the procedure described in Appendix C Project Change Control Procedure, and may result in adjustments to the Project Scope, Estimated Schedule, Charges and other terms.

These adjustments may include charges on a time and materials basis using IBM's standard rates in effect at such time for any resulting additional work or waiting time. Any change which results in an increase in cost will be subject to approval by The School Board of Palm Beach County, Fl. If an assumption deviation is not resolved through Appendix C Project Change Control Procedure within {5} business days then the issue will be resolved in accordance with Appendix B Escalation Procedure.

- The IBM and Palm Beach County School District Project Managers may adjust the level of detail for the Portal Pilot deliverables that are planned to be prepared in draft to accommodate the required timeline and Pilot Phase project budget.
- IBM's activities are bounded by the resources that are assigned and the 12 week schedule that has been proposed. The level of detail and depth of deliverables will be adjusted as necessary to be delivered within the proposed level of effort and schedule.
- IBM will perform work under this SOW at the Palm Beach County School District facility in West Palm Beach, FL except for any project related activity which IBM determines would be best performed on IBM premises in order to complete its obligations and responsibilities under this SOW.
- IBM will provide the Services under this SOW during normal business hours, 8:00 AM to 6:00 PM Monday through Thursday, except national holidays. Out-of-town personnel may work hours other than those defined as normal business hours to accommodate their travel schedules.

### **3.3 Scope of Activities**

#### **3.3.1 Manage the Engagement**

##### **IBM Responsibilities:**

IBM will provide project management oversight and status tracking for the IBM responsibilities identified in this proposal

**Key Tasks:**

- Review project tasks, schedules, and resources and make changes or additions, as appropriate.
- Review the IBM standard invoice format and billing procedure to be used on the project, with the Palm Beach County School District Project Manager.
- Work with the Palm Beach County School District Project Manager to address and resolve issues
- Prepare and submit a bullet summary of project activities completed, activities planned, and project issues bi-weekly to Palm Beach County School District Project Manager.
- Administer the Project Change Control Procedure with the Palm Beach County School District Project Manager.

**Work Products:**

- Bi-Weekly Status Report
- MS Project Work plan

**Completion Criteria:**

The Project Management function will be considered complete when IBM has fulfilled its obligations under this scope of work as defined in Section 3.7 Project Completion Criteria and deliverables are accepted as defined in Section 5.2 Review and Approval Procedure.

**Schedule:**

Status reports will be delivered during the entire project. The MS Project Work plan will be delivered during the first week of the project with revisions as needed.

**3.3.2 Define****IBM Responsibilities:**

IBM will validate pilot portal requirements and will assess application integration requirements in order to determine a level of effort (LOE) assessment to integrate the applications into the portal. IBM will review and confirm the scope of portal requirements and application integration that can be completed within the estimated budget with the Palm Beach County School District Project Manager. IBM will revise the project plan as necessary to reflect the agreed upon scope and requirements.

**Key Tasks:**

- Confirm pilot functional scope and identify Portal Pilot users
- Analyze application integration requirements
- Assess level of effort to integrate applications
- Document high-level requirements

- Update project plan as necessary

**Work Products:**

Requirements Documentation to include:

- Pilot Users
- User Groups & assignment of users to groups
- Pages
- Portlets required for each page
- Content templates
- Application integration requirements

**Completion Criteria:**

This activity will be completed when the tasks have been performed and the Work Products listed above have been delivered to the Palm Beach County School District Project Manager and are accepted as defined in Section 5.2 Review and Approval Procedure.

**Schedule:**

Delivery of the Requirements Document will be during the first two weeks of the project and will be finalized during the first 4 weeks of the project.

**Palm Beach County School District Responsibilities:**

- Create a list of pilot users
- Identify which users are appropriate to help generate requirements
- Help to set-up interviews with pilot users
- Provide information about desired integration requirements
- Provide information about portal requirements
- Provide technical information about applications to be integrated
- Approve requirements and pilot scope

### 3.3.3 Design

**IBM Responsibilities:**

IBM will design the overall look and feel and specific capabilities of the Portal Pilot solution to address the requirements confirmed during the Define activity.

**Key Tasks:**

- Design Page structure
- Determine portlets required
- Map content portlets to pages
- Map application portlets to pages
- Create Technical Design for any integration required
- Determine access model for each page and portlet
- Design content management workflow

- Design content templates

**Work Products:**

Portal Pilot Design Document that will include:

- Portal Object Design (pages, portlets, templates, etc.)
- Technical Design for integration

**Completion Criteria:**

This activity will be completed when the tasks have been performed and the Work Products listed above have been delivered to the Palm Beach County School District Project Manager and are accepted as defined in Section 5.2 Review and Approval Procedure.

**Schedule:**

The design phase is anticipated to run through weeks 4-6 of the project subject to delivery of the project plan.

**Palm Beach County School District Responsibilities:**

- Identify content types required for pilot
- Confirm portlet to page mapping
- Provide input on content management workflow requirements
- Confirm content management template designs

### 3.3.4 HATS Application Development

**IBM Responsibilities:**

- Install/configure HATS
- Perform transformations for up to 50 panels
- Integrate HATS portlet into portal
- Mentor Palm Beach County School District to create standards/processes for HATS development
- Mentor Palm Beach County School District for more complex HATS transformations

**Key Tasks:**

- Establish application development standards and procedures
- Develop HATS application
- Install/configure HATS portlet
- Integrate the portal authentication client class invocation into a HATS application

**Work Products:**

None

**Completion Criteria:**

This activity will be completed when the tasks have been performed and are accepted as defined in Section 5.2 Review and Approval Procedure.

**Schedule:**

The HATS application phase is anticipated to run through weeks 1-5 of the project subject to delivery of the project plan.

**Palm Beach County School District Responsibilities:**

- Perform HATS development beyond standard transformations
- Establish standards and procedures for HATS development

### 3.3.5 Install/Configure Clustered Portal Environment

This is the creation of the pilot environment of the workplace. Configuration changes made to the web server, Application Server and Portal Server will be tracked in a spreadsheet.

**IBM Responsibilities:**

1. IBM will perform the installation of WebSphere Portal Extend in the pilot environments
2. Configure WebSphere Application Server to work with LDAP server
3. Configure WebSphere Application Server to work with database server
4. Configure WebSphere Application Server to work with the web servers
5. Transfer installation/configuration knowledge to Palm Beach County School District staff as described in the Requirements documentation

**Key Tasks:**

- “Transfer of knowledge” to appropriate Palm Beach County School District staff.
- Install WebSphere Studio Application Developer on developer workstations or laptops
- Configure Portal with Database
- Install and Configure Production Environment
  - Create necessary LDAP, Unix, and db accounts
  - Install Web, Portal/App, Database Servers
  - Configure Web, Portal/App, and Database Servers
  - Configure Portal with LDAP
  - Configure Portal with Database



- Tune WebSphere App Server
- Migrate Proof of Concept portal objects to Pilot

**Work Products:**

- Portal Installation Guide

**Completion Criteria:**

This task will be complete upon deployment of hardware and software for the production environment supporting the Palm Beach County School District portal application in accordance with Section 5.2 Review and Approval Procedures.

**Schedule:**

The Install/Configure clustered portal environment phase is anticipated to run through weeks 1-6 of the project subject to delivery of the project plan.

**Palm Beach County School District Responsibilities:**

1. Set-up hardware on network with operating system configured
2. Provide IBM consultants with necessary physical and virtual access to facilities to complete build-out of development, test and production environments.
3. Provide necessary technical support staff to facilitate successful installation within Palm Beach County School District network infrastructure.
4. Provide required network address credentials for configuration of server(s) within Palm Beach County School District network infrastructure.
5. Provide for adequate systems access (where appropriate) for IBM consultants to successfully deploy workplace functions (search, authentication, etc) within Palm Beach County School District network infrastructure.

### **3.3.6 Develop/Test**

**IBM Responsibilities:**

IBM will develop and test the pilot portal capabilities.

**Key Tasks:**

- Instantiate all portal objects (pages, portlets, users, access rights, etc.)
- Create content management templates
- Instantiate content portlets
- Develop application integration portlets
- Test Portal Pilot capabilities

**Work Products:**

- Portal Pilot System

**Completion Criteria:**

This activity will be completed when the tasks have been performed and the Work Products listed above have been delivered to the Palm Beach County School District Project Manager and are accepted as defined in Section 5.2 Review and Approval Procedure.

**Schedule:**

The develop/test phase is anticipated to run through weeks 6-10 of the project subject to delivery of the project plan.

**Palm Beach County School District Responsibilities:**

User Acceptance Testing

**3.3.7 Deploy****IBM Responsibilities:**

- Deploy the Portal Pilot in a production environment
- Provide tech support for 2 weeks with one resource on-site post-launch
- Help Palm Beach County School District with user follow-up during the 2 weeks post-launch

**Key Tasks:**

- Launch Pilot Portal to targeted users
- Provide post-launch support for 2 weeks onsite with 1 resource following go-live
- Gather feedback and input from Pilot Portal users
- Facilitate working sessions or interviews with portal stakeholders to obtain input on high-level requirements and potential portal value areas

**Deliverables:**

- Documented User and Stakeholder Feedback and Input

**Completion Criteria:**

This activity will be completed when the tasks have been performed and the Deliverables listed above have been delivered to the Palm Beach County School District Project Manager and are accepted as defined in Section 5.2 Review and Approval Procedure.

**Schedule:**

The deploy phase is anticipated to run through weeks 10-12 of the project subject to delivery of the project plan.

**Palm Beach County School District Responsibilities:**

- Support Portal Pilot production environment after the 2 week period
- Provide input and feedback on Portal Pilot



- Portal stakeholders share their thoughts about approach for longer term enterprise portal

### **3.4 IBM Resources**

IBM will provide resources with the necessary skills and experience in project management, portal architecture, design, development, and implementation planning to perform the Portal Pilot activities identified in Section 3.3.

The IBM resources that will be assigned to this project are depicted below—subject to availability at time of contract award. IBM may unilaterally adjust this plan in order to attain timely, effective completion of its responsibilities.

<b>Resources</b>
• WebSphere Product Specialist
• WebSphere Portal Integrator
• WebSphere Portal Developer
• HATS implementation Subject Matter Expert
• Project Manager/Portal Strategy and Business Consultant

### **3.5 Client Responsibilities**

#### **3.5.1 Palm Beach County School District Project Manager**

Prior to the start of this project, Palm Beach County School District shall designate an individual, the Palm Beach County School District Project Manager, to whom all formal IBM communications will be addressed and who has the authority to act for Palm Beach County School District in all aspects of the contract. The responsibilities of the Palm Beach County School District Project Manager include:

- Serve as the liaison between the IBM project team, Palm Beach County School District team members and stakeholders, and Palm Beach County School District groups/units participating in this project
- With the IBM Project Manager, administer Project Change Control
- Resolve deviations from project plans that may be caused by Palm Beach County School District
- Help resolve project issues and escalate issues within Palm Beach County School District as necessary
- Provide and coordinate Palm Beach County School District business and technical resources as necessary

#### **3.5.2 Access**

Palm Beach County School District will provide IBM personnel access to its facilities, systems, and personnel with functional and business expertise





required to perform the tasks outlined herein. IBM personnel going on school campuses will be required to be fingerprinted and cleared by School Police in accordance with the Jessica Lunsford Act. Additionally, Palm Beach County School District will provide timely access to information required to perform the tasks.

### **3.5.3 Facilities**

Palm Beach County School District will provide office space, conference room facilities, telephones, and Internet access/modem hook-ups to facilitate completion of project activities for up to four IBM team members who will be working on-site at Palm Beach County School District.

### **3.5.4 Subject Matter Experts (SMEs)**

Palm Beach County School District SMEs will be made available for IBM consultation. The client SMEs will have sufficient background and experience, and expertise to validate the business, technical, and functional requirements for the employee portal. All contractual information requests will be coordinated with the Palm Beach County School District Project Manager or other designated point of contact. Anticipated subject matter experts needed will include, but not be limited to:

- Experts in each application to be integrated
- Microsoft Active Directory administrator
- Content owners
- End user representatives

### **3.5.5 Additional Responsibilities**

- Palm Beach County School District will provide/create and load all content
- Palm Beach County School District will maintain the Portal Pilot environment after the conclusion of the IBM support period described in this document
- Palm Beach County School District is responsible for any desired performance testing
- Palm Beach County School District is responsible for any desired 508 compliance requirements/design/development/testing

## **3.6 Work Products and Final Deliverable Materials**

IBM will deliver one copy of each of the following Work Products:



- Bi-weekly Status Report
- MS Project Workplan
- Requirements Document
- Design Document
- Portal Pilot System

IBM will deliver one copy of each of the following Type II Deliverable Materials as defined in the IBM Customer Agreement:

- Pilot Feedback and Recommendations for Full Implementation

The content of each Work Product and Deliverable Material is described in Appendix A - Work Product and Deliverable Materials Guidelines.

### 3.7 Project Completion Criteria

IBM shall have fulfilled its obligations under this SOW when any one of the following first occurs:

- IBM completes the tasks described as IBM responsibilities in Section 3.3 or
- The ending date of the estimated schedule specified in Section 3.8, or the span of 12 weeks of services have been provided, or
- Palm Beach County School District or IBM terminates the project in accordance with the provisions of the Agreement.

### 3.8 Estimated Schedule

The estimated schedule for this work included in this proposal spans twelve (12) weeks from July 17, 2006 to October 6, 2006. The anticipated project start date may be adjusted based on mutual agreement between IBM and Palm Beach County School District. The high-level schedule of engagement activities to be performed during the Portal Pilot is depicted below. The IBM and Palm Beach County School District Project Manager will confirm the timeline during the initial kick-off meeting.

Activity	Weeks											
	1	2	3	4	5	6	7	8	9	10	11	12
Manage Engagement												
Install/Configure Production												
Define												
Design												
Develop/Test												
Deploy												

### 3.9 Charges

This project will be conducted on a fixed price basis. The fixed price for performing the Services defined in the SOW will be \$ 485,000. This fixed price is exclusive of any applicable taxes.

IBM will invoice Palm Beach School District for the Services performed according to the payment schedule in the table below and in accordance with the estimated schedule of activities in section 3.8:

	July	August	Sept	Oct
Payment	\$100,000	\$250,000	\$100,000	\$35,000

Payment is due 30 days after receipt of invoice.

Palm Beach County School District agrees to pay by electronic funds transfer or other means acceptable to IBM to an account specified by IBM. In the event of late payment, IBM reserves the right to suspend the provision of Services and to charge interest on amounts overdue.

### 3.10 Additional Terms and Conditions

#### 3.10.1 Termination

Either party may terminate this Statement of Work by giving the other party not less than 30 days' written notice. Upon termination, Palm Beach County School District will pay IBM for 1) all Services IBM provided and any Products and Materials IBM delivers through termination, 2) all expenses IBM incurs through termination, and 3) any charges IBM incurs in terminating the Services.

#### 3.10.2 Laws, Regulations and Statutes

Palm Beach County School District is responsible for the identification of, interpretation of, and compliance with, any applicable laws, regulations and statutes that affect Palm Beach County School District's applications or business.

#### 3.10.3 Data File Content and Security

Palm Beach County School District is responsible for the actual content of any data file, selection and implementation of controls on its access and use, and security of the stored data.



#### **3.10.4 Required Consents**

Palm Beach County School District is responsible for promptly obtaining and providing to IBM all Required Consents necessary for IBM to provide the services described in this proposal. A Required Consent means any consents or approvals required to give IBM and its subcontractors the right or license to access, use and/or modify (including creating derivative works) the hardware, software, firmware and other products Palm Beach County School District uses, without infringing the ownership or license rights (including patent and copyright) of the providers or owners of such products.

IBM will be relieved of the performance of any obligations that may be affected by Palm Beach County School District's failure to promptly provide any Required Consents to IBM

#### **3.10.5 Business Contact Information**

Palm Beach County School District agrees to allow International Business Machines Corporation and its subsidiaries to store and use Palm Beach County School District's business contact information, including names, business phone numbers, and business e-mail addresses, anywhere they do business. Such information will be processed and used in connection with our business relationship, and may be provided to contractors acting on IBM's behalf, IBM business partners who promote, market, and support certain IBM products and services, and assignees of International Business Machines Corporation and its subsidiaries for uses consistent with our business relationship.



## 4 Signature Document

An authorized signature on this page by Palm Beach County School District indicates acceptance of this Statement of Work. This statement of work expires on July 31, 2006.

Each of us agrees that the complete agreement between us about this transaction consists of 1) this Statement of Work and its Appendices (IBM WebSphere Extend 5.1 Pilot dated June 27, 2006 and 2) the referenced Agreement identified below.

Agreed to:	Agreed to:
<b>School Board of Palm Beach County</b>	<b>International Business Machines Corporation</b>
By:	By: <i>Brenda H. Barker</i>
Authorized signature	Authorized signature <i>Brenda H. Barker</i>
Name (type or print):	Name (type or print):
Date:	Date:
Customer number: 6875530	Referenced Agreement Name IBM Customer Agreement #HW92460
Customer address:	IBM Office Address:
3300 Forest Hill Blvd. West Palm Beach, FL 33406	12902 Federal Systems Park Dr Fairfax, VA 22033
Project Name: Palm Beach WebSphere Portal Pilot	

## **5 Appendix A – Work Products and Final Deliverable Materials**

### **5.1 Work Products and Final Deliverables**

#### **A-1: Bi-Weekly Status Report**

IBM will provide Bi-Weekly Status Reports advising the Palm Beach County School District Project Manager of the progress and status of IBM activities worked on during that period. Significant accomplishments, milestones, and problems will be identified.

Content: The report, estimated to be up to 2 pages long in an e-mail format, will consist of the following, as appropriate:

- Activities performed during the current reporting period
- Activities planned for the next reporting period
- Estimated remaining hours
- Project change control summary
- Problems, concerns, and recommendations
- Other items of importance

Delivery: IBM will deliver one copy of this document in electronic e-mail format.

#### **A-2: Pilot Phase Workplan**

IBM will provide a workplan in MS Project that identifies the key activities, milestones, and responsibilities during the Pilot phase. The Pilot Phase workplan will be up to 2-3 pages in MS Project format that will include:

- Project activities with duration, starting and ending dates, and dependencies
- Key milestones
- Key deliverables

Delivery: IBM will deliver one copy of this document in electronic format.

#### **A-3: Requirements Document**

The requirements document will contain the specifications that are necessary to complete design and then the subsequent build. The document will be an estimated 10 pages delivered in MS Word format. It will likely contain

- A list of Pilot Users
- A list of User Groups
- An assignment of users to groups
- A list of Portal Sections
- An assignment of user groups to Portal Sections

- A list of applications
- A list of Content Templates
- A list of Content elements
- An assignment of content to Portal Sections
- An assignment of applications to Portal Sections
- Look/Feel/Branding Requirements

Delivery: IBM will deliver one copy of this document in electronic format.

#### **A-4: Design Document**

The Design Document will contain the specifications required to configure the portal and build the necessary portal objects. It will be an estimated 20 pages and will be delivered in MS Word format. It will likely contain:

- A page structure for each Portal Section
- A list of portlets required
- A mapping of portlet instances (content & application) to pages
- A mapping of content to portlet instances
- Technical Design for any integration required
- The user access model for each page and portlet
- The content management workflow
- Design specs for input and presentation templates (content management)

Delivery: IBM will deliver one copy of this document in electronic format.

#### **A-5: Pilot Portal System**

IBM will modify the existing POC portal to meet the design created for the pilot. The system will be delivered as a piece of configured software. It will include:

- Portal objects created: pages, portlets, skin, groups, users
- All users loaded into portal
- All user access set as designed
- Capability for Palm Beach County School District to load required content

#### **A-6: Final Deliverable**

##### **Pilot Feedback and Recommendations for Full Implementation**

IBM will document findings from interviews with Pilot users about what they like and don't like in the pilot environment. IBM will also document results from portal stakeholder group sessions designed to jumpstart ideas for a full portal implementation.

This document will be delivered in MS PowerPoint format and will likely be 5-10 pages

Delivery: IBM will deliver one copy of this document in electronic format.

## **5.2 Review and Approval Procedure**

Deliverable Materials and Work Products noted in Section 3.6 will require approval by the Palm Beach County School District Project Manager. The Deliverable Materials and Work Products will be accompanied by a Deliverable Material or Work Product Transmittal Document, which will be the vehicle for communication concerning the status of the deliverable.

To keep the project on schedule, and to surface issues as quickly possible, Palm Beach County School District will either accept or, in the event that changes or revisions are required to conform the Work Products or Deliverable Materials to IBM obligations under this SOW, return the Deliverable Materials or Work Products with a written summary of such recommended changes or revisions. The turnaround time for Palm Beach County School District to prepare this written summary and return each Deliverable Material or Work Product will be three (3) business days. If Palm Beach County School District does not respond within the turnaround time, IBM will deem the Deliverable Material or Work Product to be approved by Palm Beach County School District. Any changes received after this turnaround time will be handled in accordance with Appendix C, *Project Change Control Procedure*.

If changes or revisions are required to match the Deliverable Materials or Work Products with IBM's obligations under this SOW, IBM will perform a single edit to produce the final deliverable document. Delivery of the final Deliverable Material or Work Product will constitute completion of the task or deliverable.



## **6 Appendix B – Escalation Procedure**

The following procedure provides a detailed process to follow if resolution to a conflict arising during the providing of services to this Statement of Work is required.

Whenever a conflict arises between Palm Beach County School District and IBM, the project team member(s) will strive to work out the problem internally.

Level 1: If the project team cannot resolve the conflict within three (3) business days, the Palm Beach County School District Project Manager and the IBM Project Manager will meet to resolve the issue.

Level 2: If the conflict is not resolved within three (3) business days after being escalated to Level 1, the Palm Beach County School District Executive Sponsor will meet with the IBM Project Executive to resolve the issue where a decision will be forthcoming within two (2) business days.

During any conflict resolution, IBM agrees to provide services relating to items not in dispute, and only to the extent practicable pending resolution of the conflict. Palm Beach County School District agrees to pay bills per the terms and conditions specified in the contract.

## **7 Appendix C – Project Change Control Procedure**

The following provides a detailed process to follow if a change to this Statement of Work is required.

- A Project Change Request (PCR) will be the vehicle for communicating change. The PCR must describe the change; the rationale for the change and the effect the change will have on the project.
- The designated Project Manager of the requesting party will review the proposed change and determine whether to submit the request to the other party.
- Both Project Managers will review the proposed change and approve it for further investigation or reject it. IBM will specify any charges for such investigation. If the investigation is authorized, the Project Managers will sign the PCR, which will constitute approval for the investigation charges. IBM will invoice Palm Beach County School District for any such charges. The investigation will determine the effect that the implementation of the PCR will have on estimated charges, estimated schedule, and other terms and conditions of the Agreement.

A written Change Authorization and/or PCR must be signed by both parties to authorize implementation of the investigated changes.