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CHAPTER 7. SPECIAL ITEM 132-51: INFORMATION TECHNOLOGY PROFESSIONAL SERVICES

TERMS AND CONDITIONS

Note: These terms are in addition to those described in Chapter 1, General Information.

During the contract period, International Business Machines Corporation (IBM) and the Government agree that the following terms and conditions will apply to any order for IBM IT Professional Services that is placed by the Government under this Special Item. The term "Government" shall mean all Federal agencies (as defined in Paragraph (b) of 40 USC 472) the Senate, the House of Representatives, the Architect of the Capitol, and the Government of the District of Columbia, all of which are hereinafter referred to as the Government. The materials and services under this Special Item will be available to the Government within the United States, the District of Columbia and Puerto Rico. Such sales will be made to the Government within the United States, the District of Columbia and Puerto Rico. On a case-by-case basis IBM will deliver products and perform Services to overseas U.S. Government locations which are in support of national defense operations (including U.S. Embassies), and to locations which support the national interest of the United States.

7.1 SCOPE

- a. The prices, terms and conditions stated under Special Item Number 132-51 Information Technology Professional Services apply exclusively to IT Services within the scope of this Information Technology Schedule.
- b. The Contractor shall provide services at the Contractor's facility and/or at the ordering activity location, as agreed to by the Contractor and the ordering activity.

GSA has negotiated hourly service rates but ordering activities are responsible for any necessary statement of work, the reasonableness of the number of hours and the reasonableness of the labor mix between labor categories.

IBM provides the Government with several IT Support options under this SIN. Services include Technical and Consulting Services and Software Support; and IT professional rates may be found in Appendix C. The various offerings are identified below, and charges are outlined in Appendix D.

IBM is not responsible for failure to fulfill its obligations under this Special Item due to causes beyond its control.

The Government agrees that all of the terms and conditions of this Special Item applicable to restricted materials shall be applicable to materials, regardless of form, labeled "Restricted Materials of IBM" when distributed to the Government.



7.2 PERFORMANCE INCENTIVES

- A. Performance incentives may be agreed upon between the Contractor and the ordering activity on individual fixed price orders or Blanket Purchase Agreements under this contract in accordance with this clause.
- B. The ordering activity must establish a maximum performance incentive price for these services and/or total solutions on individual orders or Blanket Purchase Agreements.
- C. Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, ordering activities shall consider establishing incentives where performance is critical to the ordering activity's mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

7.3 ORDER

- A. Agencies may use written orders, Electronic Data Interchange (EDI) orders, funded blanket purchase agreements (BPA's), individual purchase orders, credit cards or task orders for ordering services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all services and delivery shall be made and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR 52.232-19 (Deviation-May 2003), Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available.
- B. All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence, except as may be otherwise agreed to by both IBM and the user agency with GSA's concurrence.

For Performance Based Services notwithstanding any other provisions in this contract including but not limited to paragraphs **7.3.(B)** and **1.24**, in the event of conflict between the unique terms, conditions and prices of each negotiated engagement and the GSA/IT Schedule terms, the Performance Based Service's task order shall govern.

Whenever the Government requires that service to be provided at a domestic location by persons with security clearances, the Government shall state that requirement in each order issued. IBM may, at its option, reject any such orders by written notice to the ordering office within 60 days of receipt. If a DD Form 254, DOD Contract Security Classification Specification is required for security purposes, Section 6.a of the DD Form 254 should show the same IBM address as on the delivery order for maintenance coverage.

7.4 PERFORMANCE OF SERVICES

- A. The Contractor shall commence performance of services on the date agreed to by the Contractor and the ordering activity.
- B. The Contractor agrees to render services only during normal working hours, unless otherwise agreed to by IBM and the ordering activity.

C. The ordering activity should include the criteria for satisfactory completion for each task in the Statement of Work or Delivery Order. Services shall be completed in a good and workmanlike manner.

D. Any Contractor travel required in the performance of IT Services must comply with the Federal Travel Regulations or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all contractor travel.

7.5 STOP WORK ORDER (FAR 52.242-15)(AUG 1989)

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either-

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

7.6 INSPECTION OF SERVICES

The Inspection of Services - Fixed Price (AUG 1996) (Deviation-May 2003) clause at FAR 52.246-4 applies to firm-fixed price orders placed under this contract. Since the IBM services performed under this contract are commercial items, they will be performed in accordance with IBM's standard warranty provision and acceptance criteria. The Inspection-Time-and-Materials and Labor-Hour (JAN 1986) (Deviation – May 2003) clause at FAR 52.246-6 applies to time-and-materials and labor-hour orders placed under this contract.

7.7 RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product of a task order is software, then FAR 52.227-14 (Deviation – May 2003) Rights in Data – General, may apply.

7.8 RESPONSIBILITIES OF THE ORDERING ACTIVITY

Subject to security regulations, the ordering activity shall permit Contractor access to all facilities necessary to perform the requisite IT Services.

7.9 INDEPENDENT CONTRACTOR

All IT Services performed by the Contractor or its subcontractors under the terms of this contract shall be as an independent Contractor, and not as an agent or employee of the Government.

7.10 ORGANIZATIONAL CONFLICTS OF INTEREST

A. Definitions

"Contractor" means the person, firm, unincorporated association, joint venture, partnership, or corporation that is a party to this contract.

"Contractor and its affiliates" and "Contractor or its affiliates" refers to the Contractor, its chief executives, directors, officers, subsidiaries, affiliates, subcontractors at any tier, and consultants and any joint venture involving the Contractor, any entity into or with which the Contractor subsequently merges or affiliates, or any other successor or assignee of the Contractor.

An "Organizational conflict of interest" exists when the nature of the work to be performed under a proposed Government contract, without some restriction on activities by the Contractor and its affiliates, may either (i) result in an unfair competitive advantage to the Contractor or its affiliates or (ii) impair the Contractor's or its affiliates' objectivity in performing contract work.

B. To avoid an organizational or financial conflict of interest and to avoid prejudicing the best interests of the Government, ordering offices may place restrictions on the Contractors, its affiliates, chief executives, directors, subsidiaries and subcontractors at any tier when placing orders against schedule contracts. Such restrictions shall be consistent with FAR 9.505 and shall be designed to avoid, neutralize, or mitigate organizational conflicts of interest that might

otherwise exist in situations related to individual orders placed against the schedule contract. Examples of situations, which may require restrictions, are provided at FAR 9.508.

7.11 INVOICING

The Contractor, upon completion of the work ordered, shall submit invoices for IT services. Progress payments may be authorized by the ordering activity, if appropriate, on individual orders. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring services performed during the preceding month.

In the event that a price increase occurs from the date of issuance of a delivery order (for a new service) to the date of receipt, the price shall be that which is indicated in IBM's quote or that which is agreed to in a statement of work (SOW), provided that the order is received within the timeframe specified. In the absence of an IBM quote or SOW, then the price shall be that which is in effect on the date of receipt by IBM.

7.12 PAYMENT

For firm-fixed price orders the ordering activity shall pay the Contractor, upon submission of proper invoices or vouchers, the prices stipulated in this contract for service rendered and accepted. Progress payments shall be made only when authorized by the order. For time-and-materials orders, the Payments under Time-and-Materials and Labor-Hour Contracts at FAR 52.212-4 (Feb 2007) (ALTERNATE I – Feb 2007) applies to time-and-materials orders placed under this contract. For labor-hour orders, the Payment under Time-and-Materials and Labor-Hour Contracts at FAR 52.212-4 (Feb 2007) (ALTERNATE I – Feb 2007) applies to labor-hour orders placed under this contract. 52.216-31(Feb 2007) Time-and-Materials/Labor-Hour Proposal Requirements—Commercial Item Acquisition. As prescribed in 16.601(e)(3), insert the following provision:

- (a) The Government contemplates award of a Time-and-Materials or Labor-Hour type of contract resulting from this solicitation.
- (b) The offeror must specify fixed hourly rates in its offer that include wages, overhead, general and administrative expenses, and profit. The offeror must specify whether the fixed hourly rate for each labor category applies to labor performed by—
 - (1) The offeror;
 - (2) Subcontractors; and/or
 - (3) Divisions, subsidiaries, or affiliates of the offeror under a common control.

IBM professional service rates, as specified in Appendix C shall apply to (b)(1), (2), and (3) above.

7.13 RESUME

Resumes shall be provided to the GSA Contracting Officer or the user agency upon request.

7.14 INCIDENTAL SUPPORT COSTS

Incidental support costs are available outside the scope of this contract, and will be considered a non-schedule item for purposes of including the costs on the delivery order. The costs will be negotiated separately with the ordering activity in accordance with the guidelines set forth in the FAR.

7.15 APPROVAL OF SUBCONTRACTS

The ordering activity may require that the Contractor receive, from the ordering activity's Contracting Officer, written consent before placing any subcontract for furnishing any of the work called for in a task order. Such written consent shall be provided to IBM with the issuance of the order to perform the service.

ADDITIONAL TERMS FOR IBM SERVICES

7.16 STATEMENT OF WORK

A separate Statement of Work will be signed by both IBM and the Government for services provided other than hourly assist services. Upon acceptance by IBM, IBM agrees to provide the Services described in the Statement of Work.

The Statement of Work includes, for example:

- A. IBM's responsibilities
- B. The Government's responsibilities
- C. The specific conditions (Completion Criteria), if any, that IBM is required to meet to fulfill its obligations
- D. A performance period for Services and an estimated schedule for planning purposes, and
- E. Applicable charges (not including taxes) and any other terms.
- F. Resumes shall be provided by IBM upon request.

If a Statement of Work contains an estimated schedule, both IBM and the Government agree to make reasonable efforts to carry out our respective responsibilities according to that Schedule. If the Statement of Work contains Completion Criteria, IBM will inform the Government when each criteria is met. The Government then has 10 days to inform IBM if the Government believes that IBM has not met the criteria. The project is complete when IBM meets the Completion Criteria.

Changes to Statements of Work

When both IBM and the Government agree to change a Statement of Work, IBM will prepare a written description of the agreed change which must be signed by both IBM and the Government. Any change in the Statement of Work may affect the charges, estimated schedule, or other terms. Depending on the extent and complexity of the requested changes, additional

charges may be required for analysis of the changes. Additional work will not commence until funded authorization is received from the Government.

7.17 ORDERS FOR SUPPORT SERVICES AND OPERATIONAL SUPPORT SERVICES

The Government's order shall contain a description of the specific service being requested.

7.18 REQUIRED CONSENTS

The Government is responsible for promptly obtaining and providing to IBM all Required Consents necessary for IBM to provide the Services described in a Statement of Work. A Required Consent means any consents or approvals required to give IBM or our subcontractors the right or license to access, use and/or modify (including creating derivative works) the hardware, software, firmware and other products, to enable IBM and our subcontractors to perform the Services set forth in the Statement of Work without infringing the ownership or license rights (including patent and copyright) of the providers or owners of such product. IBM will be relieved of the performance of any obligations that may be affected by your failure to promptly provide any Required Consents to IBM.

7.19 CONTROL AND SUPERVISION

IBM and the Government is each responsible for the supervision, direction, control, and compensation of their respective personnel.

The tasks on which assigned personnel assist shall remain the responsibility of the Government. Therefore, IBM does not guarantee that the Government's task will be accomplished under this contract, only that assistance shall be provided. No estimate made by IBM of the assistance to be provided to the Government is guaranteed to any extent or in any way.

7.20 PERSONNEL

In recognition of the fact that assigned personnel to the Government under this contract may perform similar services from time to time for others, this contract shall not prevent IBM from performing such similar services or restrict IBM from using the personnel provided to the Government under this contract. IBM reserves the sole right to determine the assignment of its employees.

Work schedules may be set forth in the Government's order. IBM will attempt to provide personnel in accordance with such schedules subject to circumstances beyond IBM's control. Should such personnel be unable to perform scheduled services under this contract because of illness, resignation, or other causes beyond IBM's reasonable control, IBM will attempt to replace such personnel within a reasonable time, but IBM shall not be liable for failure to replace such personnel within the schedule. All schedules may be revised by mutual agreement.

IT Professional Services may be performed by both IBM personnel and subcontracted non-IBM personnel. IBM will provide IT Professional Service personnel with the necessary technical skills.

Each party will assign personnel that are qualified to perform the tasks required of such party under this Agreement and is responsible for the supervision, direction, control, and compensation of its personnel. Subject to the foregoing, each party may determine the assignment of its personnel and its contractors.

IBM may engage subcontractors to provide or assist in providing Services, in which case IBM remains responsible for the fulfillment of its obligations under this Agreement and for the performance of the Services.

7.21 Customer Resources

If Customer is making available to IBM any facilities, software, hardware or other resources in connection with IBM's performance of Services, Customer agrees to obtain any licenses or approvals related to these resources that may be necessary for IBM to perform the Services and develop Materials. IBM will be relieved of its obligations that are adversely affected by Customer's failure to promptly obtain such licenses or approvals. Customer agrees to reimburse IBM for any reasonable costs and other amounts that IBM may incur from Customer's failure to obtain these licenses or approvals.

Unless otherwise agreed in an Attachment or Transaction Document, Customer is responsible for i) any data and the content of any database Customer makes available to IBM in connection with a Service under this Agreement, ii) the selection and implementation of procedures and controls regarding access, security, encryption, use, and transmission of data, and iii) backup and recovery of the database and any stored data.

7.22 ACCEPTANCE

- A. For items having Completion Criteria (in the statement of work), when IBM meets the Completion Criteria.
- B. For hourly service, upon completion of the service hours.

7.23 WARRANTY FOR IBM SERVICES

For each IBM Service, IBM warrants that it will be performed:

- A. using reasonable care and skill; and
- B. according to a mutually agreeable Statement of Work or its current description, including any completion criteria.

Customer agrees to provide timely written notice of any failure to comply with this warranty so that IBM can take corrective action.

EXTENT OF WARRANTY/ITEMS NOT COVERED BY 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 herein will not apply to the extent there has been misuse, accident, modification, unsuitable physical or operating environment, operation in other than the Specified Operating Environment, improper maintenance by the Government, 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.

IBM does not warrant uninterrupted or error-free operation of a Product or Service or warrant that all defects will be corrected.

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 (IBM Programs licensed under a separate IBM license agreement, e.g., IBM International Program Licensing Agreement) and Non-IBM Programs (Programs licensed under a separate third party License agreement) may be found in their license agreements.

7.24 MATERIALS OWNERSHIP AND LICENSE

An Attachment or Transaction Document will specify Materials to be delivered to Customer and identify them as “Type I Materials,” “Type II Materials,” or otherwise as both parties agree. If not specified, Materials will be considered Type II Materials.

Customer will own the copyright in Materials created as part of a Service that are identified as “Type I Materials” and each such Material will constitute a “work made for hire” to the extent permissible under U.S. copyright law. If any such Materials are not works made for hire under applicable law, IBM assigns the ownership of copyrights in such Materials to Customer.

Customer grants IBM an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, sublicense, distribute, and prepare derivative works based on, Type I Materials.

IBM or its suppliers will own the copyright in Materials created as part of a Services transaction that are identified as Type II Materials. IBM grants Customer an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, and distribute (within Customer’s Enterprise only) copies of Type II Materials.

IBM or its suppliers retains ownership of the copyright in any of IBM’s or its suppliers’ works that pre-exist or were developed outside of this Agreement and any modifications or enhancements of such works that may be made under this Agreement. To the extent they are embedded in any Materials, such works are licensed in accordance with their separate licenses provided to Customer, if any, or otherwise as 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 under this item.

Any idea, concept, know-how, or technique which relates to the subject matter of a service and is developed or provided by either IBM or the Government, or jointly, in the performance of a



service may (subject to applicable patents and copyrights) be freely used by either the Government or IBM.

7.25 OFFERINGS

7.25.1 TECHNICAL AND CONSULTING SERVICES

For detailed skill descriptions and rates see Appendix C.

Services which may be provided under this Special Item Number include, but are not limited to:

- Conversion Support
- Database Planning and Design
- Data Records Management
- Information Technology Consulting
- Implementation Support
- Network/Communications
- Programming
- Project Management
- Resources and Facilities Management
- Systems Analyst/Design
- Systems Engineering
- Systems Installation
- Security
- Image System
- Independent Validation and Verification
- Software Testing
- System Testing
- Training

7.25.2 TRAVEL REIMBURSEMENT AND OTHER CHARGES

Contractor travel will be in accordance with the Federal Travel Regulation or Joint Travel Regulations, as applicable. Established Federal Government per diem rates will apply.

The Government agrees to pay charges for these services including Billable Travel Time, if applicable, described hereafter in accordance with the rates set forth below. A one-hour minimum charge applies.

Costs for transportation and per diem (lodging, meals and incidental expense) are directly reimbursable by the ordering agency. Not-to-Exceed (NTE) amounts will be negotiated with the agency prior to the acceptance of each delivery order as appropriate. Travel time, as defined below, is billable at the same hourly rates as set forth in the Services price list.

Billable Travel Time is travel time in excess of one hour spent in traveling to and one hour spent in traveling from the Government's location. Travel time will be calculated as the lesser of the actual travel time incurred, or the normal travel time from/to the nearest IBM Location to/from the Government's location, or the normal travel time from/to the individual's assigned IBM location.

In the event the Government requires a specific technical skill which is not available from the normal servicing IBM Location, Billable Travel Time means the actual travel time in excess of one hour spent in traveling to and one hour spent in traveling from the Government's location. In such event, the Government will be notified in advance and its authorization obtained when such billable travel time is to be incurred.

In addition to the charges laid out herein, there may be charges applicable to this contract for special or unusual expenses incurred by IBM which are necessary to perform these services. If applicable, these charges will be set out separately in the Government's order.

7.25.3 TECHNICAL AND CONSULTING SERVICES PROJECT TERMINATION

Either party (IBM or the Government) may terminate a project on written notice if the other party does not meet its obligations concerning the Statement of Work. Upon termination, IBM will stop work in an orderly manner as soon as practical.

The Government agrees to pay IBM for all Services provided and any Products and Materials delivered through the project's termination and any charges IBM incurs in terminating subcontracts, if any. The provisions of the Government's rights to Terminate for Convenience shall be in accordance with FAR 52.249-2.

7.26 PERFORMANCE BASED SERVICES

Performance Based Services include a wide variety of tailored services and may include service level objectives. Examples of such IT Solutions are: Web Hosting Services, Colocation Services, Seat Management Services and Managed Storage/Storage on Demand Services. These Performance Based Services may include elements in other SINs of GSA's IT Schedule. Offers are made in response to a SOW issued in accordance with the IT Professional Services ordering procedures as set forth in SIN 132-51 entitled "Ordering Procedures," and may include unique terms, conditions and prices. As opportunities are identified, each offering will be established with the Agency based on their unique requirements.

7.27 MOVEMENT OF EQUIPMENT (REINSTALLATION, DISCONTINUANCE, REARRANGEMENT)

IBM offers a wide range of services including Rearrangement, Discontinuance, and Reinstallation services under this GSA Schedule. In addition, IBM will customize the offering to

meet the Government's needs and may include other services such as cabling (bus and tag and/or fiber) or provide movers.

The Government shall notify IBM in writing at least 30 days prior to the rearrangement of equipment at the same installation site or movement to another location. Maintenance charges will be interrupted only for relocation of equipment, not for rearrangement within the same installation, and shall cease at the end of the day stated in the Government's notice. Maintenance charges shall be reinstated on the day following the first day the equipment is in place and in good operating condition at the new location.

IBM provides Movement of Equipment Services within the 48 contiguous states and the District of Columbia. On a case-by-case basis IBM may provide these services outside of these designated locations.

IBM's Responsibilities:

Discontinuance Services: IBM will prepare the Government's Machines, and identify the items normally shipped with them, for shipment in accordance with IBM's standard practice. IBM will identify and place appropriate service manuals, diagnostics, licensed internal code, and other items in shipping containers (provided by IBM). If requested, IBM will perform additional activities such as the retrieval and packing of cables (including channel interface cables or other cables the Government specifies), as well as other items which the Government may request, for shipment in containers which the Government supplies or which IBM may supply if requested. These additional activities and packing material will be priced separately and the terms and conditions included in the Statement of Work.

Rearrangement Services: IBM will disassemble and reassemble Machines in accordance with our standard practice for rearrangement of Machines within the same room. Cables, terminators, and other items will be repositioned as required. Such a move does not include complete discontinuance and reinstallation services. IBM will identify the items which are normally moved with the Machine. IBM will test the Machines to conform with their Specifications after reinstallation, including active IBM features.

Reinstallation Services: IBM will reassemble the Machines, including the removal of any internal packing materials and the interconnection of required IBM cables to support the reinstallation activities. Interconnection is defined as the attachment of cables that are in place and labeled to the Machine(s) being reinstalled. Cabling also includes the connection of all inter-frame cables. If requested, IBM will perform additional cabling activities such as the reinstallation of interface cables and network cables for an additional fee. IBM will test the Machines to conform to their Specifications, including active IBM features, and install or reconfigure the Machine diagnostics.

Government Responsibilities:

The Government is responsible to do the following:

A. Inform each designated Location(s) of the work to be done and the estimated schedule for such Location;

- B. Provide the information and requirement necessary for IBM to perform the Services in a timely manner;
- C. Ensure the Machines are functional and conform to their Specifications, including active IBM features prior to the start of the Services;
- D. Make back-up copies of any relevant program and data;
- E. Provide appropriate security clearances for IBM personnel; and
- F. Obtain all approvals, as necessary, for access to the building.

The Government must notify IBM if non-IBM personnel will be used to lay, remove, connect, or disconnect the interconnecting cables between the Machines. Any repair, delays or other costs resulting from such non-IBM activity will be an additional charge to the Government.

The Government is responsible for charges for repairs to:

- A. Correct Machine malfunctions, unless such repairs are covered by an existing IBM agreement;
- B. Correct the results of repair or reconfiguration work done by others;
- C. Correct the results of warehouse damage or visible transit damage occurring while the Machines are not under IBM's control; and
- D. Replace missing parts or parts IBM did not furnish for the Machine that require replacement.

Damage:

IBM will be responsible for physical damage to the machines during disassembly and/or reassembly of the machines only while the machines are under the control of IBM or IBM-selected independent contractors. The Government is responsible for reporting physical loss or damage to the Machines. IBM must receive such notification in writing within 10 working days after the service is performed. IBM's responsibility for damage as stated above is contingent upon IBM's receipt of such notice. In no event will IBM be liable for damage caused during shipment, including invisible transit damage.

Prices:

Prices for Reinstallation, Discontinuance and Rearrangement services are based on rates listed in Appendix C of this schedule. Other charges associated with the service per the agency's unique requirements will be priced separately, these may include: packing material, movers, rigging, physical planning, cabling, replacement value coverage.

A Project Manager will be required for services that include movers, rigging or other coordination activities. The charge for a Project Manager will be based on the rates identified in Appendix C of this Schedule.

Orders:

Delivery orders for these services must include:

- A. Type/serials of all machines which Machine Movement Services are requested,

- B. Relevant addresses,
- C. Identification of the type of service required
- D. A requested time frame in which the service is to be performed,
- E. The Government's designated point of contact: name and telephone number.

7.28 SUPPORT SERVICES

Charges for these Services are found in Appendix D.

7.28.1 SYSTEM Z SOFTWARE SERVICES

7.28.1.1 ALERT

IBM provides the following for selected System z Products:

- A. Automatic electronic notification of High Impact and Pervasive Authorized Program Analysis Reports (called "HIPER APARS") and any Program Temporary Fixes ("PTFs") IBM discovers to be defective (called "PE PTFs")
- B. Information regarding the installation of new releases of eligible Products or installation of preventive service packages;
- C. Access to Eligible Product cross-reference information;
- D. The ability to order PTFs and request their electronic delivery
- E with unique user IDs authorized for the Service; and
- F. The ability to order some preventive service packages.

7.28.1.2 RESOLVE

Provides electronic Services to assist the Government in identifying and resolving problems with the operation of your Eligible Products installed on them

IBM will provide:

- A. Tracking of Authorized Program Analysis Reports (called "APARs") and Program Temporary Fixes (called "PTFs");
- B. The ability to electronically report code-related problems to the IBM support center and receive an electronic response;
- C. Access to Eligible Product cross-reference information;
- D. Access to information on the maintenance of Eligible Products and diagnostic information on non-IBM problems;

- E. Access to Eligible Program technical information data bases, including a questions and answer library;
- F. The ability to order PTF's electronically and request electronic delivery;
- G. with unique user IDs authorized for this Service; and
- H. Information regarding the installation of new releases of Eligible Products or installation of PTFs.

7.28.1.3 SOFTWARE XCEL ENTERPRISE EDITION FOR SYSTEM Z

This offering provides the Government with the following package of Services:

1. remote assistance with the operation of eligible Supported Products

Definitions

The following definitions apply for this assistance:

Disaster Recovery Machines – are those machines used to maintain business continuity, which are not part of your production, test or development machines.

Full Shift - is 24 hours a day, seven days a week, including national holidays.

Off Shift - is all hours outside of Prime Shift.

Prime Shift - is 8:00 a.m. to 5:00 p.m. in the local time zone where you receive the assistance, Monday through Friday (excluding national holidays).

Supported Products – are identified in the Supported Product List located at IBM's Internet address at www.ibm.com/services/supline/products/ or as otherwise provided by IBM. The Supported Product List will change periodically to reflect Supported Product additions (for example, adding new products) or deletions (for example, deleting products at their end of currency date). IBM may withdraw support for products on the Supported Product List at any time without written notice to you.

IBM Responsibilities

IBM will provide you remote assistance (via an electronic submission capability) for the following requests related to Supported Products:

- a. basic, short duration installation, usage, and configuration questions;
- b. questions regarding IBM Supported Product publications; and
- c. provide you with unique user IDs authorized for this Service.

Response Criteria

IBM will use commercially reasonable efforts to provide a response to each of your requests as follows:

- a. for other than code-related problems,
 - i. within two hours of electronic receipt during Prime Shift and if received during Off Shift, within two hours of the start of Prime Shift on the next business day (IBM is not responsible for delays in response delivery caused by systems and network problems), and



- ii. if you order the telephone support upgrade, within two hours of telephone receipt during Prime Shift and if you order Full Shift telephone coverage, within two hours of telephone receipt during Off Shift for those requests which you specify to be Customer Critical Problems and within four hours of telephone receipt during Off-Shift for all other requests. Customer Critical Problem means a problem for which you have no known work around resulting in a critical disruption in your business operations; and
 - b. for code-related problems, within one hour of electronic or telephone receipt during available support hours when premium response is requested. Available support hours within the contiguous United States and Puerto Rico are during Prime Shift. Available support hours within Alaska and Hawaii are during the hours of 11:00 a.m. to 8:00 p.m., Eastern Time, Monday through Friday (excluding national holidays).

IBM's initial response may result in resolution of your request or it will form the basis for determining what additional actions may be required to achieve technical resolution of your request.

Your Added Responsibilities

You agree to:

- a. ensure you are properly licensed to all Eligible Products for which you request assistance;
 - b. retrieve and review a current Supported Product List on a regular basis to verify whether there have been any additions or deletions of products within your product groups;
 - c. provide IBM with written notice of changes to your processor inventory within one month after the change occurs, this includes any modifications/or changes to your Disaster Recovery Machines. Such changes may cause a revision to your charges for this Service;
 - d. upon receipt of a price change based on inventory adjustments, provide IBM within 60 days written notification of any discrepancies with inventory or pricing changes;
 - e. meet the prerequisites IBM specifies for electronic access;
 - f. provide IBM with all relevant and available diagnostic information (including product or system information) pertaining to problems you request assistance with; and
 - g. provide IBM with appropriate remote access to your system to assist you in isolating the problem cause. You will remain responsible for adequately protecting your system and all data contained therein whenever IBM remotely accesses it with your permission. If you decline providing remote access to your system by IBM, IBM may be limited in its ability to fully provide the Services necessary to resolve the problem and if IBM is unable to do so, IBM will notify you and close out the service call.
2. Alert which provides electronic notification of and information about, potential problems with selected IBM Products. IBM provides you:
 - a. automatic electronic notification of High Impact and Pervasive Authorized Program Analysis Reports (HIPER APARs) and any Program Temporary Fixes ("PTFs") IBM discovers to be defective (PE PTFs),
 - b. information regarding the installation of new releases of Eligible Products or installation of preventive service packages,

- c. access to Eligible Product cross-reference information,
 - d. the ability to order PTFs and request their electronic or physical delivery, and
 - e. the ability to order some preventive service packages.
3. Resolve which provides electronic Services to assist you in identifying and resolving problems with the operation of your Eligible Products installed on them. IBM provides you:
- a. tracking of Authorized Program Analysis Reports (APARs) and PTFs,
 - b. the ability to electronically report code-related problems to the IBM support center and receive an electronic response,
 - c. access to Eligible Product cross-reference information,
 - d. access to information on the maintenance of Eligible Products and diagnostic information on non-IBM problems,
 - e. access to Eligible Product technical information databases, including a question and answer library,
 - f. the ability to order PTFs electronically and request electronic or physical delivery, and
 - g. information regarding the installation of new releases of Eligible Products or installation of PTFs.
4. monthly status report; and
5. the capability to have IBM and you concurrently view your code-related data problems.

Note: Charges for SoftwareXcel enterprise edition for System z are based on the largest processor and each additional processor, at each of your Specified Locations, with installed Eligible Products for which you order this Service. All processors at your Specified Locations must be covered under this Service.

In addition to your responsibilities you also agree to the following:

- a. The Government must provide IBM with written notice of changes to their processor inventory within one-month after change occurs; this includes any machine adds, removals, physical location changes or Disaster Recovery Machine designation. Such changes may cause revision to charges for this Service; and
- b. Should there be a price increase as a result of an inventory change, it is the Government's responsibility to promptly submit a modification to your existing delivery order to authorize funding for the changes in inventory per IBM's new price quote.

If IBM detects inventory changes at your Specified Locations, during IBM's normal customer inventory validation processes, IBM will provide the Government with a new quote to add or remove the machine(s) and update your service based on the date the machine(s) were installed or removed from productive use. It is the Government's responsibility to promptly submit a modification to your existing delivery order to authorize funding for the changes in inventory.

7.28.1.4 SOFTWARE XCEL BASIC EDITION FOR SYSTEM Z PROVIDES THE FOLLOWING FOR THE SYSTEM Z PLATFORM:

1. remote assistance with questions regarding the operation of eligible Supported Products;

Definitions

The following definitions apply for this assistance:

Off Shift - all hours outside of Prime Shift.

Prime Shift - is 8:00 a.m. to 5:00 p.m. in the local time zone where you receive the assistance, Monday through Friday (excluding national holidays).

Supported Products - are identified in the Supported Product List located at IBM's Internet address at www.ibm.com/services/supline/products/ or as otherwise provided by IBM. The Supported Product List will change periodically to reflect Supported Product additions (for example, adding new products) or deletions (for example, deleting products at their end of currency date). IBM may withdraw support for products on the Supported Product List at any time without written notice to you.

IBM Responsibilities

IBM will provide you remote assistance (via an electronic submission capability) for the following requests related to Supported Products:

- a. basic, short duration installation, usage, and configuration questions;
- b. questions regarding IBM Supported Product publications; and
- c. provide you with unique user IDs authorized for this Service.

Response Criteria

IBM will use commercially reasonable efforts to provide a response to each of your requests for other than code-related problems, within two hours of electronic receipt during Prime Shift and if received during Off Shift, within two hours of the start of Prime Shift on the next business day. IBM is not responsible for delays in response delivery caused by systems and network problems.

IBM's initial response may result in resolution of your request or it will form the basis for determining what additional actions may be required to achieve technical resolution of your request.

Your Added Responsibilities

You agree to:

- a. ensure you are properly licensed to all Eligible Products for which you request assistance;
- b. retrieve and review a current Supported Product List on a regular basis to verify whether there have been any additions or deletions of products within your product groups;
- c. meet the prerequisites IBM specifies for electronic access;
- d. ensure that only the end user authorized for a particular user ID uses the user ID; and
- e. provide IBM with all relevant and available diagnostic information (including product or system information) pertaining to problems you request assistance with.

2. Resolve which provides electronic Services to assist you in identifying and resolving problems with the operation of your Eligible Products installed on them. IBM provides you:
 - a. tracking of Authorized Program Analysis Reports (APARs) and Program Temporary Fixes (“PTFs”),
 - b. the ability to electronically report code-related problems to the IBM support center and receive an electronic response,
 - c. access to Eligible Product cross-reference information,
 - d. access to information on the maintenance of Eligible Products and diagnostic information on non-IBM problems,
 - e. access to Eligible Product technical information databases, including a question and answer library,
 - f. the ability to order PTF’s electronically and request electronic delivery, and
 - g. information regarding the installation of new releases of Eligible Products or installation of PTFs

7.28.2 pSERIES SOFTWARE SERVICES

Alert for pSeries

Alert for pSeries provides automatic daily notification of the following for selected IBM Products: 1) High Impact and Pervasive Authorized Program Analysis Reports (call "HIPER APARS"), 2) any Program Temporary Fixes IBM discovers to be defective (called "PE PTFs"), 3) latest available fixes, and 4) security advisories. IBM provides notification via e-mail for up to three different addresses of your choice.

IBM Responsibilities

IBM will provide you Alert notifications regarding each of your specified pSeries systems based on the parameters you choose when setting up this Service. If you implement IBM Service Agent, IBM will tailor the maintenance information that it provides to you for your specific environment.

Your Responsibilities

If you do not currently have an IBM Registration ID, you agree to obtain one at <https://www.ibm.com/account/profile/us?page=reg>. The IBM Registration ID must be used to 1) access the Alert Web site, 2) set up your preferences for Alert notifications, and 3) indicate which type of notifications you choose to receive.

7.28.3 iSERIES SOFTWARE SERVICES

Alert

Alert provides automatic weekly notification of the following for selected IBM Products of 1) High Impact and Pervasive Authorized Program Analysis Reports (called "HIPER APARS") and



2) any Program Temporary Fixes we discover to be defective (called "PE PTFs"). IBM provides notification via the Government's choice of available delivery methods.

IBM Responsibilities

IBM will provide you Alert notifications regarding each of your specified iSeries systems based on the parameters you choose when setting up this Service. If you implement IBM Service Agent, IBM will tailor the maintenance information that it provides to you for your specific environment.

Your Responsibilities

If you do not currently have an IBM Registration ID, you agree to obtain one at <https://www.ibm.com/account/profile/us?page=reg>. The IBM Registration ID must be used to 1) access the Alert Web site, 2) set up your preferences for Alert notifications, and 3) indicate which type of notifications you choose to receive.

7.29 OPERATIONAL SUPPORT SERVICES

Charges for these Services are found in Appendix D.

Definitions

Customer Critical Problem: A problem for which the Government has no known work around resulting in a critical disruption in business operations.

Full Shift: 24 hours a day, seven days a week, including national holidays.

Off Shift: All hours outside of Prime Shift.

Prime Shift: 8 am to 5 pm in the local time zone where service is received, Monday through Friday (excluding holidays).

Enterprise: Is the Department or Agency under contract for Enterprise Support Services.

Supported Products - products and system environments. The Supported Product list is located on IBM's Internet address <http://www.ibm.com.services/sl/products, or as otherwise provided by IBM>. The Supported Product List will identify the products and system environments within specified support groups that are eligible for this Service. The Supported Product List will change periodically to reflect Supported Product additions (for example, adding new products) or deletions (for example, deleting products at their end of currency date).

Delivery Orders will only be accepted for products up to and including the product's currency end date. Should products be withdrawn during the fiscal year in which a delivery order has already been received by IBM, the Product will continue to be supported until the end of the fiscal year. Renewal orders will not be accepted once a product has been withdrawn, or has reached its end of currency date.

7.29.1 SUPPORT LINE

Service Description

IBM will provide the Government remote assistance (“Service”) with the operation of supported products and system environments. In addition, the Government may order certain optional features which are enhancements to this Service. These terms also apply for each of these optional features unless IBM specifies otherwise.

Definitions

Eligible Machines and Programs – are those software and hardware machines and programs eligible for this Service as identified at IBM’s Internet address:

www.ibm.com/services/supline/products/Refer to the Support Line offering for Eligible Machines and Programs. Eligible Machines and programs for servers are grouped by Operating System (“OS”) and the server types on which the OS is installed. Eligible Machines and Programs for storage devices are grouped by IBM storage classification. IBM’s pricelist for the offerings available under the GSA Schedule for Support Line services is provided in Appendix D.

Full Shift - is 24 hours a day, seven days a week, including national holidays.

Off Shift - is all hours outside of Prime Shift.

Primary Technical Contact (“PTC”) – is your U.S. based representative to whom IBM may direct general technical information pertaining to the Service. The PTC must have sufficient technical knowledge of the Eligible Machines and Programs within your environment in order to enable effective communication with the IBM support center.

Prime Shift - is 8:00 a.m. to 5:00 p.m. in the local time zone where you receive the Service, Monday through Friday (excluding national holidays).

Response Time – is the elapsed time between receipt by IBM technical support of your submission, and the acknowledgement of the submission. Please refer to the IBM Software Support Handbook for call handling process by severity at: <http://www-304.ibm.com/support/customer/sas/f/handbook/home.html>

Server Location – is the physical location of the Eligible Machines supported under this Service. All Eligible Machines must be physically located within the U.S.

IBM Responsibilities

This assistance is not available to your end users. IBM will provide the Government remote assistance (via telephone from IBM’s support center or via an electronic search and questioning capability), in response to the Government's requests pertaining to the following:

For all Eligible Machines and Programs in your covered support groups:

1. Basic, short duration installation, usage, and configuration questions; and
2. Questions regarding IBM Supported Product publications.

For all IBM software Eligible Programs in the Government's covered support groups:

1. Code-related problem questions;
2. Diagnostic information review to assist in isolation of a problem cause (for example, assistance interpreting traces and dumps for installation and code related problems); and

3. For known defects, available corrective service information and program fixes which you are entitled to receive under the terms of the IBM license.

When the Government reports a problem with covered Eligible Machine or Programs, IBM will provide a primary point of contact for all support requests. IBM will assist you by providing level 1 and level 2 support, which includes assistance for installation usage and configuration questions and provide general guidance on product documentation. IBM will also assist with isolating the problem cause and provide you recovery information, if available, from the vendor. For known defects, IBM will provide corrective service information and program fixes, if available and IBM is authorized to provide to you. If a new (unknown) defect is identified, IBM will report it to the appropriate vendor and notify the Government of the action taken. At this point IBM will consider its support requirement fulfilled since resolution of these defects is the responsibility of the vendor.

For the Linux support groups, IBM may make available new fixes to the Red Hat and SUSE Enterprise releases of the Linux operating system open source components for IBM supported Linux distributions. IBM may make available emergency source code fixes as new defects are reported. IBM is not a Linux distributor and does not distribute patches, maintenance updates or refreshes. You must receive maintenance updates and refreshes directly from the Linux distributor under the terms of their license. IBM will make these new source code fixes available to the Linux distributor and the open source maintainer for inclusion and distribution as errata updates and patches. IBM will support and maintain these new source code fixes until such time that the Linux distributor or open source maintainer incorporates them or develops an alternate fix and distributes as errata update or patch. At such point IBM will consider its support requirement fulfilled.

This Service is solely for servers that are located within the U.S. For calls that originate from outside of the U.S.: 1) toll free telephone access is not available, 2) “8:00 a.m. to 5:00 p.m. in the local time zone” is defined as the time zone where your designated U.S. based PTC resides, Monday through Friday (excluding national holidays), 3) replies or other return communication to the caller will be via electronic means only, 4) software “traps” or other tools that may be necessary to diagnose problems will be sent only to the U.S. Server Location, 5) the diagnosis and repair of data encryption will be discussed only with personnel at the U.S. Server Location and 6) all support will be provided in the English language.

Optional Feature Support:

In addition to IBM Support Line for storage only, you may purchase IBM's Support via USA Citizens feature, which provides standard IBM software support managed exclusively by USA Citizens who are located in the continental U.S. IBM Support via USA Citizens is available via voice support only. Each time you call IBM, this feature's process will be engaged only after you identify yourself as a Support via USA Citizens customer and IBM verifies your entitlement for this feature.

Response Criteria

IBM provides Severity 1 assistance 24 hours a day, every day of the year. A 24x7 (every day of the year) all severity option is available for an extra charge.* During Prime Shift, IBM's response time objective is two hours for voice and electronic problem submissions. For voice problem submissions during other than Prime Shift hours, IBM's response time objective for (Severity 1) is two hours and if available, and you select the 24x7 all severity option, four hours

for non-critical problems. For electronic problem submissions during other than Prime Shift, IBM's response time objective is within two hours of the start of Prime Shift on the next business day. IBM's initial response (either voice or electronic) may result in resolution of your problem or it will form the basis for determining what additional actions may be required to achieve technical resolution of your problem. IBM is not responsible for delays in electronic response delivery caused by systems and network problems.

Your Responsibilities

The Government agrees to:

1. Ensure you are properly licensed to all software and have a current subscription (where required) for the Eligible Programs for which you request assistance;
2. Retrieve and review the latest Eligible Machines and Programs on a regular basis to verify whether there have been any additions or deletions within the Government's covered support groups;
3. Ensure that any access codes IBM provides to you are used only by your authorized personnel;
4. Designate a technically qualified representative ("Primary Technical Contact") who will be your focal point to whom IBM may direct general technical information pertaining to your Eligible Machines and Programs;
5. Provide IBM with all relevant and available diagnostic information (including product or system information) pertaining to software problems the Government requests assistance with;
6. If necessary, provide IBM with appropriate remote access to the Government's system to assist you in isolating the software problem cause. The Government will remain responsible for adequately protecting your system and all data contained therein whenever IBM remotely accesses it with the Government's permission. If you decline providing remote access to your system by IBM, IBM may be limited in its ability to fully provide the Services necessary to resolve the problem and if IBM is unable to do so, IBM will notify you and close out the service call; and
7. Provide IBM with written notice of changes to the Government's machine inventory within one month after the change occurs. Such changes may cause a revision to your charges for this service. (Service Note: This responsibility does not apply for Enterprise Support.)

Enterprise Support (This section applies only for sales through IBM.)

If the Government selects Enterprise Support you will receive Support Line Service coverage, as described above, for all Eligible Machines and Programs that are part of your business systems environment. The Government agrees to provide IBM an initial inventory of your Eligible Machines and Programs, including the machines on which they are installed, and inform IBM of inventory changes (additions/removals) prior to each yearly anniversary of the start of the transaction contract period. Your Eligible Machines and Programs install base at the start of each contract year will be used to determine charges for that year.

Termination

The Government may terminate Support Line for any support group or any optional feature on one month's written notice to IBM. Should the Government terminate service during the first

fiscal year after initially acquiring the service, except as otherwise stated above, the Government is required to pay IBM a termination charge equal to the amount of payments remaining until the end of the fiscal year. The Government may not terminate Support Line if the Government has elected to continue feature support.

IBM may withdraw Service for a support group on the Eligible Machines and Programs list on three months' written notice to the Government. Other changes to the Eligible Machines and Programs list (for example, addition of new products or deletion of products at their end of currency date) will be posted to the list at: <http://www.ibm.com/services/sl/products> as they occur.

If IBM withdraws or either of us terminate a Support Line service or any optional feature as provided herein, and it is a service or feature for which you have prepaid and IBM has not yet fully provided to you, upon your request you will be provided a prorated credit.* This will apply if IBM withdraws support for an entire support group but not if IBM simply withdraws support for individual products.

7.29.2 IBM SOFTWARE SUPPORT SERVICES – ACCOUNT ADVOCATE

IBM Software Support Services – Account Advocate (hereinafter referred to as “AA” or “Service”) support comprises of three Enhanced Service Modules: Priority Access, Priority Response, and Priority Handling, that will provide you with premium remote voice and electronic entry into and handling within IBM’s product support structure.

A prerequisite under AA is a valid hardware and software base technical support services contract on all Eligible Machines and Programs for which you select AA coverage. Unless changed in this service description, the provisions of all other hardware and software contracts remain in effect. This specific AA service is based on your Eligible Machines and Programs Location.

Definitions

Account Advocate - is a member of the Priority Support Team that is responsible for ensuring the provision of all aspects of the AA Service.

Eligible Machines and Programs - are those IBM software and hardware products eligible under AA as identified at IBM’s Internet address: [: www.ibm.com/services/supline/products/](http://www.ibm.com/services/supline/products/), refer to the Enhanced Technical Support Service for Eligible Machines and Programs.

Eligible Machines and Programs for servers are grouped by Operating System (“OS”) and the server types on which the OS is installed; Eligible Machines and Programs for storage devices are grouped by IBM storage classification.

Eligible Machines and Programs Location – is the physical location of the Eligible Machines and Programs supported under this Service. All Eligible Machines and Programs must be physically located within the United States (“U.S.”).

Enhanced Service Modules - is collectively Priority Access, Priority Response and Priority Handling.

Full Shift - is all hours inclusive of Prime Shift and Off Shift.

Off Shift - is all hours outside of Prime Shift.

Primary Technical Contact (“PTC”) - is your U.S. representative to whom IBM may direct general technical information pertaining to the Services. The PTC must have sufficient technical knowledge of Eligible Machines and Programs within your environment in order to enable effective communication with IBM's support center.

Prime Shift - is 8:00 a.m. to 5:00 p.m. in the local time zone where your designated PTD is physically located Monday through Friday (excluding national holidays).

Priority Access - is a set of services described under the heading of “Priority Access” below. It is the process by which you report problems to the Priority Support Team relating to your Eligible Machines and Programs and other associated IBM products.

Priority Handling - is a set of services described under the heading “Priority Handling” below. It is for those covered Eligible Machines and Programs, the process by which the Priority Support Team will engage and coordinate all the appropriate resources to resolve your reported problems.

Priority Response - is a set of services described under the heading of “Priority Response” below which outlines the Response Time objectives included under this AA Service.

Priority Support Team (“PST”) - is the group of Account Advocates who are responsible for activities set out in the Priority Access, Priority Response, and Priority handling sections of this Service description.

Response Time - is the elapsed time between receipt by the PST of a problem submission, and the acknowledgement of the submission. IBM's initial response may result in technical resolution of your problem or it may form the basis for determining what additional actions are required.

Server Location – is the physical location of the eligible Machines supported under this Service. All eligible Machines must be physically located within the United States.

IBM Responsibilities

Account Advocate Service Modules

For calls that originate from outside of the U.S.: 1) toll free telephone access is not available, 2) “8:00 a.m. to 5:00 p.m. in the local time zone” is defined as the time zone where your designated point of contact resides, Monday through Friday (excluding national holidays)”, 3) replies or other return communication to the caller will be via electronic means or a U.S. telephone number provided by you, 4) software “traps” or other tools that may be necessary to diagnose problems will be sent only to the U.S. Eligible Machines and Programs Location, 5) the diagnosis and repair of data encryption will be discussed only with personnel at the U.S. Eligible Machines and Programs Location, and 6) all support will be provided in the English language only.

Priority Access

IBM will provide you with direct access to a team of skilled resources known as the Priority Support Team (“PST”) who will provide an initial point of contact for your problem submissions related to your Eligible Machines and Programs and other IBM products associated with servers and or storage devices for which you have purchased support under this Service. You may submit problem management records (via remote voice or electronic problem reporting). Your remote voice response support is achieved using your Direct Access Code (“DAC”) when you submit a problem.

Priority Response

Your problem submissions to the PST for Eligible Machines and Programs will receive enhanced Response Time objectives as detailed below if reported to IBM using your DAC. These Response Times detail how quickly the PST will respond based on the Severity of the problem and the time that you report it. Response Times for Off Shift problem submissions are only valid if you have contracted for coverage during Off Shift under the AA services.

For telephone assistance:

- All Severity Calls – 30 minutes Response Time during Prime Shift and 30 minutes during Off Shift.
- Sev 1 Calls are defined as a system down situation. You are unable to use the product which has a critical impact on operations. No backup is available.
- Sev 2 Calls – One hour Response Time during Prime Shift and two hours during Off Shift.
- Sev 2 Calls are defined as you are able to use the product, but operations are severely restricted by the problem.
- Sev 3 and Sev 4 Calls – Two hours Response Time during Prime Shift and four hours during Off Shift.
- Sev 3 Calls are defined as you are able to use the product with some restrictions on the function that is available. These restrictions do have an impact on overall operation.
- Sev 4 Calls are defined as problems that cause little or no impact to the operations. A way to circumvent the problem has been found.

For electronic assistance:

- All Sev levels - Two hour Response Time for submissions received during Prime Shift. For submissions received during Off Shift, Response Time is within two hours after the start of Prime Shift on the next business day. IBM is not responsible for delays caused by systems and network problems.

Priority Handling

The PST will provide Priority Handling of your reported problems related to Eligible Machines and Programs for which you have contracted this AA Service.

The PST will, for Eligible Programs:

3. perform initial problem determination and problem source identification and will attempt to resolve the reported issue directly;
4. take their next action based on the identified source of the reported problem, if the PST is unable to resolve the issue directly;
5. engage the appropriate specialist support resources when required;
6. monitor the progress of your problem submissions for Eligible Machines and Programs;
7. coordinate service resources as necessary;
8. ensure provision of follow-up status that is appropriate to the severity level assigned to the submitted problem. This includes invoking IBM's predefined escalation guidelines until the problem is resolved. Target status update intervals are as follows:
 - Sev 1: Follow up with the customer every four hours, or as mutually agreed.
 - Sev 2: Follow up with the customer (during Prime Shift) daily or as mutually agreed.

- Sev 3 and Sev 4: Follow up with the customer (during Prime Shift) when progress has been made; and
9. act as an escalation focal point when requested for problem submission submitted through your DAC.

The PST will, for hardware issues on Eligible Machines and non-eligible IBM Programs running on an Eligible Machine:

1. validate your entitlement for hardware and software that is not part of the operating system. If a technical support base hardware or software contract entitlement cannot be found, the PST will advise you that you need to engage your sales resource;
2. engage the appropriate specialist team on your behalf and transfer ownership of the problem and any data already collected to that specialist support team;
3. ensure the specialist support team will provide continued support based on the terms and conditions of your technical support base hardware or software support contracts for the products;
4. advise you when the transfer is complete; and
5. act as an escalation focal point when requested for problem submission submitted using your DAC.

Account Advocate

IBM will provide an Account Advocate who is a member of the PST, who will work with your designated Primary Technical Contact (“PTC”) to establish and maintain a framework for technical communications and support activities for your Eligible Machines and Programs.

The Account Advocate will:

1. create an Operational Support Plan;
2. review the Operational Support Plan, and any other applicable documentation as part of a welcome call, which consists of:
 - h. reviewing your Eligible Machines and Programs under the Service;
 - i. reviewing the primary escalation path for your Eligible Machines and Programs; and
 - j. scheduling quarterly conference calls to review service status of your AA Services with your designated PTC.

Your Responsibilities

You agree to:

1. maintain, for the duration of this Service, the appropriate technical support base hardware and software support contracts (including coverage hours) for all Eligible Machines and Programs to be covered by this Service. If you terminate any of your technical support base hardware and software support contracts (or change the coverage hours), your AA Service may no longer be valid for affected Eligible Machines and Programs;
2. ensure you are properly licensed for all Eligible Machines and Programs for which you request this Service;



3. designate a U.S. based PTC who will be the focal point for all communication with IBM's Account Advocate relative to this Service and who will have the authority to act on your behalf in matters regarding this Service. Your PTC will:
 - a. participate in the Account Advocate welcome call;
 - b. inform IBM of any hardware or software changes to your Eligible Machines and Programs within 30 days of the change occurring. Failure to provide timely updates may result in Service delays or lack of coverage; and
 - c. provide IBM with all relevant and available diagnostic information (including product or system information), decisions and approvals pertaining to problems with Eligible Machines and Programs for which you request assistance within three business days of IBM's request, unless both parties mutually agree to an extended response time.
4. utilize the established Account Advocate procedures for problem submissions, as detailed in the Operational Support Plan, for all AA service requests. You may submit problem requests using the procedures based on your prerequisite technical base hardware and/or software support contracts. If you do so, the Priority Access, Priority Handling and Priority Response Time objectives under AA will not apply to such problem submissions;
5. ensure the appropriate personnel for activities, described in this Service, are made available by your organization. This includes your being able to help resolve issues via escalation within your organization; and
6. review on a regular basis, the product listings at www.ibm.com/services/supline/products/ to determine whether there have been any additions or deletions (for example, products removed at their end of currency date) that may impact the product support you are receiving under this Service. Any questions regarding such changes should be directed to your Account Advocate.

Termination

You may terminate this Service on one month written notice to IBM after the initial contract year. Termination of this Service does not terminate or modify any of your prerequisite technical base hardware and/or software support contracts.

Reports

IBM grants you an irrevocable, nonexclusive, worldwide paid up license to use, execute, reproduce, display, perform and distribute within your department or agency only copies of the Operational Support Plan, and other reports ("Materials") that will be delivered. IBM or its suppliers will own all right, title and interest including ownership of the copyright in the Materials. All of your pre-existing materials remain your sole property.