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PURCHASING MEMORANDUM

GENERAL INFORMATION BULLETIN

NUMBER: CL-595
(Supersedes CL-595, dated August 23, 2004)

DATE: January 23, 2014

GROUP: Software Licensing for Hardware and
Software Contracts

PLEASE ADDRESS INQUIRIES TO:

STATE AGENCIES

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OTHER AUTHORIZED USERS

Customer Services
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**SUBJECT: IMPORTANT NOTICE - SOFTWARE LICENSES
AGREEMENTS (INCLUDING 3rd PARTY SOFTWARE)**

TO ALL STATE AGENCIES AND OTHERS AUTHORIZED TO USE STATE CONTRACTS:

OGS customers should note that many OGS technology contracts permit the acquisition of specified software licenses, either independently or as integrated with the hardware products. Almost all software involves a software license agreement, setting forth the terms and conditions of use. There are two distinct ways that software licenses are addressed under the centralized contracts.

For certain contracts, OGS has negotiated or approved license agreements for the offered software. For example, those software licenses acquired under Group 76000 (Proprietary Software) have been reviewed and approved as part of the OGS centralized contract. Centralized contracts for Proprietary Software & Related Services and Telecommunications Contracts, (such as CTS, CTES, Security, and Radio), do not allow the Contractor to impose “click through” or “shrink wrap” terms and conditions for software offered under such contracts. Such software licenses are acquired based on the terms and conditions in the centralized contract.

OGS customers should note, however, there is another grouping of contracts where OGS has NOT reviewed or approved the software licenses. In these cases, the software license is offered with “click through”, “shrink wrap” or other pass-through terms and conditions.

Software offered through the Miscellaneous Software Reseller contracts, Group 79518, (except the reseller’s own proprietary products), Miscellaneous Technology Group 795XX and various Hardware contracts (e.g. Microcomputer, IT Support Equipment, Printers, Enterprise Systems, and Storage) are generally offered with “click through”, “shrink wrap” or other pass-through terms and conditions. **OGS has NOT reviewed or approved these “click through”, “shrink wrap” or other pass-through terms and conditions.** A customer looking to acquire software under these contracts must review the contractual terms and conditions. The customer must ask if “click through”, “shrink wrap” or other pass-through terms and conditions are present, and if so, the customer is responsible for having its agency counsel review and approve such terms and conditions prior to ordering the software. If the terms and conditions are not acceptable to agency counsel, it is the responsibility of such agency counsel to negotiate any needed amendments.

If you have any questions concerning this bulletin, please do not hesitate to contact the Contract Manager as noted above.