



TEXAS DEPARTMENT OF INFORMATION RESOURCES

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August 16, 2010

KAREN W. ROBINSON
Executive Director



DIR BOARD OF
DIRECTORS



Cynthia McLean
Vice President and Global Project Executive
International Business Machines Corporation
400 West 15th Street, 12th Floor
Austin, Texas 78701

Re: Notice to Cure Breaches of the Master Services Agreement

CHARLES BACARISSE
Chair

RAMÓN F. BAEZ

ROSEMARY R.
MARTINEZ

THE HONORABLE DEBRA
MCCARTT

RICHARD S. MOORE

P. KEITH MORROW

ROBERT E.
PICKERING, JR.

ADAM JONES
Ex Officio

BRAD LIVINGSTON
Ex Officio

CARTER SMITH
Ex Officio

Dear Cynthia:

On July 16, 2010, DIR delivered a letter (the "Notice to Cure Letter") to IBM specifying various breaches of the Master Services Agreement (the "MSA") entered into between the State of Texas, by and through the Department of Information Resources ("DIR"), and International Business Machines, Corp. ("IBM").

On August 13, 2010, IBM delivered a letter to DIR that mischaracterized the obligations of IBM and DIR under the MSA, was insufficient to cure the breaches identified in the Notice to Cure Letter, and was little more than a reiteration of inconsistent and incomplete ideas that IBM has previously expressed. During discussions over the past nine months, IBM suggested that DIR re-procure all or part of the services under the MSA. Given IBM's failure to cure the breaches set forth in the Notice to Cure Letter, IBM now leaves DIR no course but to pursue procurement.

In accordance with the terms of the MSA, the Notice to Cure Letter specified that IBM had thirty (30) days to cure each such breach. IBM has failed to cure the identified breaches. Accordingly, DIR has full legal right and authority to terminate the MSA for cause. DIR has determined that it is not in the best interests of the State to exercise that right at this time. DIR will proceed with procurement for all services required of IBM under the MSA. DIR requires IBM's full and compliant performance of its obligations under the MSA.

DIR expressly retains all rights with respect to termination of the MSA, and no delay in termination of the MSA shall be deemed a waiver of those rights.

Sincerely,

Karen Robinson

Cc: Mark Hicks