



October 19, 2018

The Honorable Daniel Kim
Director
California Department of General Services
707 3rd Street
West Sacramento, CA 95605

The Honorable Amy Tong
Director and State Chief Information Officer
California Department of Technology
1325 J Street, Suite 1600
Sacramento, CA 95814

Re: Formal Comments on Proposed Changes to Cloud Computing – Software as a Service (SaaS) General Provisions Contract Terms


Dear Director Kim and Director Tong,

The Information Technology Alliance for Public Sector (ITAPS)¹, on behalf of its member companies, appreciates the opportunity to participate in the State’s efforts to revise California’s Software as a Service (SaaS) General Provisions Contract Terms². We commend the State for its ongoing efforts to engage the vendor community and look forward to providing additional feedback in the near future. We remain concerned, however, that given the limited time frame for comment and lack of clarity from the State on the application of these terms in the broader procurement process, that we will be unable to provide the substantive and meaningful comments we feel this process deserves. ITAPS has eagerly awaited the opportunity to provide informed feedback on this topic since we were made aware of the State’s plans to revise the SaaS terms earlier this year, and we remain committed to doing so. As such, we respectfully request that the State extend this comment period to allow for a more informed and iterative process. This extra time will allow industry to work with the State to better understand how the SaaS General Provisions are intended to interact with the SaaS Special Provisions and larger 401-IT framework, and in turn provide us with the context necessary to prepare an informed set of comments on specific terms and provisions.

The public forum scheduled for October 25, 2018, would be an ideal setting for the State to clarify the intended relationship between the SaaS General Provisions, SaaS Special Provisions, and 401-IT language. For instance, the SaaS Special Provisions provide some leeway for additional negotiation by including the language “unless otherwise stated in the Statement of Work.” This language does not appear in the SaaS General Provisions and could, depending on how the two provisions operate together, make it more difficult for the State to access the full range of SaaS solutions (e.g. hybrid cloud architectures, services requiring different data permissions or protections). There is also some confusion about whether the General Provisions would apply only to SaaS Providers or encompass the larger community of integrators, and whether the General Provisions are intended to replace professional services terms appearing in other contexts such as the Software Licensing Program (SLP).

¹**About ITAPS.** ITAPS, a division of the [Information Technology Industry Council](#) (ITI), is an alliance of leading technology [companies](#) offering the latest innovations and solutions to public sector markets. With a focus on the federal, state, and local levels of government, as well as on educational institutions, ITAPS advocates for improved procurement policies and practices, while identifying business development opportunities and sharing market intelligence with our industry participants.

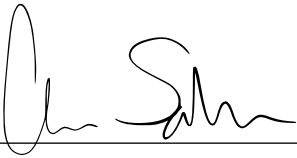
²*Request for Comments on the State’s Draft Cloud Computing – Software as a Service (SaaS) General Provisions and invitation to participate in the associated Public Forum” (Sept. 27, 2018).*



Ultimately, our ability to provide meaningful insights on specific SaaS terms and conditions depends on how the State interprets the precedence, scope, and general operation of these three documents. Without further clarification, the overlap and redundancies between these documents will create confusion and may add additional layers of complexity to the purchasing process. As such, we strongly urge the State to avoid concluding this revision process without first considering and offering clarification on these larger structural questions. While we may be able to provide limited feedback on select issues at this time, it is our belief that extending this process to accommodate additional due diligence and foundational clarity will not only yield more informed vendor feedback but lead to more commercially acceptable SaaS terms and conditions that will allow the State to access a wider range of cloud solutions.

In closing, we look forward to an ongoing dialogue on these issues and remain committed to helping the State leverage the best available technology for the people of California. Should you have any questions prior to the public forum, please contact Clare Şahin at csahin@itic.org.

Respectfully submitted,



Clare Şahin
Manager, State & Local
IT Alliance for Public Sector

Cc: Ms. Angela Shell, Deputy Director, Procurement Division, Department of General Services
Mr. Chris Cruz, Chief Deputy Director, Department of Technology
Mr. Marlon Paulo, Deputy Director for Procurement, Department of Technology