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IN THE IOWA DISTRICT COURT FOR POLK COUNTY

State of Iowa and the Iowa Department of Human Services,)	
)	
Plaintiffs,)	NO. <u>CL88163</u>
)	
vs.)	
)	
InfoSys Inc.)	PETITION AT LAW
)	
Defendant.)	
)	

CLERK DISTRICT COURT
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 POLK COUNTY IA
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Plaintiffs, State of Iowa and the Iowa Department of Human Services, for their Petition against InfoSys Inc., state and allege as follows:

THE PARTIES

1. The Iowa Department of Human Services (referred to as the "Department") is an administrative agency of the State of Iowa.
2. InfoSys Inc. is a foreign corporation doing business in Iowa with its principal offices in the State of Illinois.

FACTUAL BACKGROUND

3. On December 1, 1999, the Department issued a Request for Proposal titled "Facilities and Waivers System Development Request for Proposal (RFP) for an Information Technology Contractor."

4. After receiving and reviewing proposals in response to the RFP, the Department received proposals and entered into a written contract with Analysts International Corporation (referred to as "AIC"), a Minnesota corporation, on April 4, 1999.

5. Pursuant to the contract, AIC would either develop a custom computer software system or acquire appropriate software that would operate as an accounts receivable system that the Department could implement for accounts payable to the Department by Iowa counties for services to county residents covered by the Title XIX Medicaid program and for services provided by one of the Department's mental health institutes.

6. Paragraph 24 of the contract required AIC to give the Department written notice of the planned use of subcontractors and reserved for the Department the right to either approve or disapprove of any subcontracts used by AIC.

7. Paragraph 24 of the contract provided that, "[a]ll restrictions, obligations, and responsibilities that apply to the principal Contractor [AIC] shall also apply to the subcontractors."

8. Paragraph 30 of the contract provided the following regarding governing law and forum:

This contract shall be construed and governed in accordance with the laws of the State of Iowa. The Contractor [AIC] consents to the personal jurisdiction of and agrees to venue in the state and federal courts located in Des Moines, Iowa for proceedings arising out of this Contract, and hereby waives any objection it may have thereto.

9. In lieu of developing custom software for the Department, AIC elected to acquire appropriate software. AIC entered into a subcontract with InfoSys Inc., on or about July 9, 1999. Pursuant to the subcontract, InfoSys Inc. granted AIC a license to possess and use a software system known as MedSys Management System (referred to as the "Software System").

10. Further, AIC and InfoSys Inc. agreed that AIC would assign all of AIC's rights and obligations under the subcontract to the State of Iowa and the Department. The subcontract stated in numbered paragraph 1 the following:

Grant of License(s). The Vendor hereby grants to A.I.C., subject to the following terms and conditions, one or more perpetual, non exclusive, non transferable and non-assignable licenses, the number of which are specified in Addendum A which is attached to this Agreement. AiC is a prime contractor to the State of Iowa Department of Human Services (the "State") pursuant to the Contract between the State of Iowa, Department of Human Services and Analysts International Corporation of Minnesota for Applications Software and Training Development (Facilities and Waivers System and Accounts Receivable System) (the "State Agreement"). Accordingly, the Vendor and AiC further agree as follows: (a) AiC shall assign to the State all of AiC's rights and obligations under this Agreement effective as the date of this Agreement, and after giving effect to that assignment, the State and not AiC shall have the right to use the Medsys software under the license in the Agreement, (b) AiC assumes no responsibility or liability for the performance of the software or services as delivered to the State, (c) AiC shall have no obligations or liability to the Vendor for the breach of this Agreement by the State or Vendor, and AiC does not guarantee the performance of this Agreement by the State, (d) except as otherwise provided in any other written agreement between Vendor and AiC, to the extent that AiC has access to the software under this Agreement, AiC shall comply with the restrictions on use and confidentiality of the software described in this Agreement, (e) promptly upon each payment by the State to AiC of the fees and any other payments described in this Agreement, AiC shall remit an pay such fees to the Vendor after receipt of an acceptable invoice from the Vendor.

11. The Department agreed to the assignment of the subcontract on July 9, 1999.

12. The assignment stated:

Analysts International Corporation (AiC") hereby assigns to the State of Iowa Department of Human Services (the "State") all of AiC's rights and obligations under the License Agreement for the Implementation of Medsys Management System dated _____, 1999 ("License Agreement") between InfoSys, Inc. and AiC, effective as of the effective date of the License Agreement. The State hereby: (a) accepts and agrees to the assignment of the

License Agreement by AiC to the State for the use of the Medsys Management System by the State as described in the License Agreement, pursuant to the Contract between the State of Iowa, Department of Human Services and Analysts International Corporation of Minnesota for Applications Software and Training Development (Facilities and Waivers System and Accounts Receivable System) and AiC (the "State Agreement"); (b) agrees to comply with all of the obligations of AiC under the Agreement; and (c) agrees that AiC shall have no liability to the State for any act or omission of InfoSys, Inc., provided however that nothing herein shall revlieve [sic] AiC. [sic] of any obligations under State Agreement referenced in paragraph 1 of the License Agreement.

Pursuant to the assignment, the State of Iowa and the Department and not AIC would have the right to use the Software System under the license in the subcontract.

13. By letter dated June 6, 2000, the Department notified InfoSys Inc. that its Software System was unacceptable, described six deficiencies, requested a corrective action plan that assured that the Software System would be fully functional by June 30, 2000, and informed that if the Software System was not fully functional by June 30, 2000, the Department would exercise its right to terminate the subcontract.

14. InfoSys Inc. did not cure the deficiencies of the Software System.

15. By letter dated June 30, 2000, the Department terminated the subcontract with InfoSys Inc.

16. By letter dated July 19, 2000, the Department informed that it was returning under cover of its letter all Software System components, and informed that it irretrievably destroyed all electronic copies of components of the InfoSys Software System in compliance with paragraph 11 of the subcontract.

17. The parties to the subcontract agreed that InfoSys Inc. would refund to the Department all fees, except for training fees, and expenses for reasonable travel, paid by the

Department within fifteen (15) days after receiving all Software System components from the

Department. Numbered paragraph eleven (11) of the subcontract stated the following:

Acceptance of the Software System. A.I.C. shall have ninety- (90) days from installation of the Software System to review and accept the software system. The software system may be rejected for one of two reasons: a) The failure of the Vendor to provide all software components licensed by A.I.C. on any Addendum to this Agreement, or b) The failure of the Software System to comply with the limited warranty set forth in the previous section of this Agreement. A.I.C. shall notify the Vendor in writing of its acceptance or rejection of the Software System within such ninety- (90) day period. Expiration of such ninety- (90)-day period with no written notification from A.I.C. shall be deemed acceptance of the Software System. In the event that A.I.C. rejects the Software System, A.I.C. shall provide the Vendor in writing with reasonable specificity the reasons why A.I.C. has rejected the Software System. Upon receipt of A.I.C.'s written statement of specific deficiencies, the Vendor shall use reasonable efforts to correct said deficiencies at no additional cost to A.I.C.[sic]. Upon correction of the specific deficiencies, the Vendor will resubmit the Software System to A.I.C. for acceptance. A.I.C. shall have fifteen (15) days thereafter to review and accept the software System. If the vendor, with all reasonable assistance from A.I.C., has not been able to correct the specific deficiencies of which it was notified by A.I.C., then A.I.C. will have the option of terminating this Agreement. *If A.I.C. exercises this option to terminate the Agreement, then within 15 days of receiving all Software System components from A.I.C. as specified in Section 13 of this Agreement, the Vendor will refund all fees paid by A.I.C. except for any fees for training which has already taken place and any reasonable and necessary travel and related expenses incurred by the Vendor after this Agreement is signed.* (emphasis added).

18. InfoSys Inc. has failed to refund fees to the Department.
19. InfoSys Inc.'s failure to perform its obligation to refund fees under the subcontract has damaged the State of Iowa and the Department.
20. All conditions precedent have been performed or have occurred.
21. The amount in controversy exceeds the court's minimal jurisdiction.

CAUSE OF ACTION AGAINST INFOSYS FOR BREACH OF CONTRACT

22. The Plaintiffs reallege each and every allegation set forth in paragraphs 1 through 21 above. The subcontract and the assignment are written.

23. The State of Iowa and the Department have performed all of its obligations and conditions imposed on them under the subcontract.

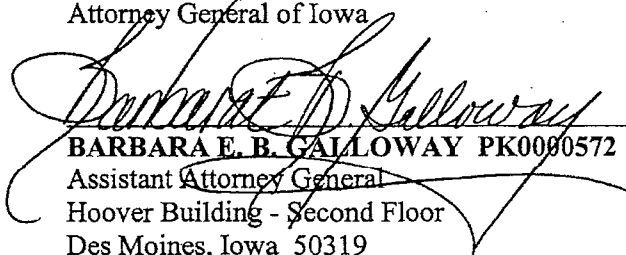
24. InfoSys Inc. breached the parties' subcontract by failing to return fees paid by the Department after the Department terminated the parties' subcontract and returned all Software System components to InfoSys Inc. and destroyed all electronic copies of components of InfoSys Inc.'s Software System.

25. InfoSys Inc.'s breach of subcontract was a proximate and direct cause of the State of Iowa and Department's damages.

26. As a result of InfoSys Inc.'s breach of subcontract, the State of Iowa and the Department have incurred damages in the amount of the fees that InfoSys Inc. failed to refund in accordance with the subcontract.

WHEREFORE, Plaintiffs pray for a judgment against Defendant InfoSys Inc. for actual damages sufficient to compensate it for its losses, interest, the costs of this action and such other relief as the Court deems just and equitable under the circumstances.

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