

**STATE OF MICHIGAN
 DEPARTMENT OF MANAGEMENT AND BUDGET
 ACQUISITION SERVICES
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933**

October 9, 2009

**CHANGE NOTICE NO. 5
 TO
 CONTRACT NO. 071B6200090**

**between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF VENDOR Codespear, LLC 370 E Maple St, Suite 350 Birmingham, MI 48009 BMARSH@codespear.com	TELEPHONE Bob Marsh (248) 644-1090 x 2218
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-0239 Jacque Kuch
Contract Compliance Inspector: Barb Suska SEOC CIMS A & N - MSP	
CONTRACT PERIOD: From: December 5, 2005 To: December 31, 2010	
TERMS <p align="center">N/A</p>	SHIPMENT <p align="center">N/A</p>
F.O.B. <p align="center">N/A</p>	SHIPPED FROM <p align="center">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p align="center">N/A</p>	

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT

NATURE OF CHANGE(S):

Per Executive Directive 2009-3, the vendor has offered the following price concessions to the State of Michigan:

Effective for FY 2010, the annual maintenance is reduced 5%. The total savings is \$1,687.50

AUTHORITY/REASON(S):

Per agreement between vendor and State of Michigan.

DECREASE: \$1,687.50

TOTAL REVISED ESTIMATED CONTRACT VALUE: \$408,312.50

**STATE OF MICHIGAN
 DEPARTMENT OF MANAGEMENT AND BUDGET
 ACQUISITION SERVICES
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933**

August 25, 2009

**CHANGE NOTICE NO. 4
 TO
 CONTRACT NO. 071B6200090**

**between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF VENDOR Codespear, LLC 370 E Maple St, Suite 350 Birmingham, MI 48009 BMARSH@codespear.com	TELEPHONE Bob Marsh (248) 644-1090 x 2218
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-0239 Jacque Kuch
Contract Compliance Inspector: Barb Suska SEOC CIMS A & N - MSP	
CONTRACT PERIOD: From: December 5, 2005 To: December 31, 2010	
TERMS <p align="center">N/A</p>	SHIPMENT <p align="center">N/A</p>
F.O.B. <p align="center">N/A</p>	SHIPPED FROM <p align="center">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p align="center">N/A</p>	

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT

NATURE OF CHANGE (S):

Effective immediately, this contract is **EXTENDED** to December 31, 2010.

AUTHORITY/REASON(S):

Per DMB and agency agreement.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$410,000.00

**STATE OF MICHIGAN
 DEPARTMENT OF MANAGEMENT AND BUDGET
 ACQUISITION SERVICES
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933**

August 13, 2009

**CHANGE NOTICE NO. 3
 TO
 CONTRACT NO. 071B6200090**

**between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF VENDOR Codespear, LLC 370 E Maple St, Suite 350 Birmingham, MI 48009 BMARSH@codespear.com	TELEPHONE Bob Marsh (248) 644-1090 x 2218
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-0239 Jacque Kuch
Contract Compliance Inspector: Barb Suska SEOC CIMS A & N - MSP	
CONTRACT PERIOD: From: December 5, 2005 To: December 31, 2009	
TERMS N/A	SHIPMENT N/A
F.O.B. N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT

NATURE OF CHANGE (S):

Effective immediately, this vendor contact for this contract is changed to:

**Bob Marsh
 Ph: (248) 644-1090 x 2218
 Email: BMARSH@codespear.com**

AUTHORITY/REASON(S):

Per vendor request.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$410,000.00

**STATE OF MICHIGAN
 DEPARTMENT OF MANAGEMENT AND BUDGET
 ACQUISITION SERVICES
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933**

October 7, 2008

**CHANGE NOTICE NO. 3
 TO
 CONTRACT NO. 071B6200090**

**between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF VENDOR Codespear, LLC 370 E Maple St, Suite 350 Birmingham, MI 48009 jkrueger@codespear.com	TELEPHONE Jim Krueger (248) 644-1090
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-0239 Jacque Kuch
Contract Compliance Inspector: Barb Suska SEOC CIMS A & N - MSP	
CONTRACT PERIOD: From: December 5, 2005 To: December 31, 2009	
TERMS <p align="center">N/A</p>	SHIPMENT <p align="center">N/A</p>
F.O.B. <p align="center">N/A</p>	SHIPPED FROM <p align="center">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p align="center">N/A</p>	

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT

NATURE OF CHANGE (S):

This Contract Change Notice exercises an option to renew the Contract for one-year period. All other terms, conditions, specifications and pricing remain unchanged.

AUTHORITY/REASON(S):

Per agency request, contractor agreement and DMB/Purchasing Operations approval.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$410,000.00

STATE OF MICHIGAN
 DEPARTMENT OF MANAGEMENT AND BUDGET
 ACQUISITION SERVICES
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

February 17, 2006

CHANGE NOTICE NO. 2
 TO
 CONTRACT NO. 071B6200090

between
 THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF VENDOR Codespear, LLC 370 E Maple St, Suite 350 Birmingham, MI 48009	TELEPHONE (248) 644-1090
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-0239 Jacque Kuch
Contract Compliance Inspector: Barb Suska SEOC CIMS A & N - MSP	
CONTRACT PERIOD: From: December 5, 2005 To: December 4, 2008	
TERMS N/A	SHIPMENT N/A
F.O.B. N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT

NATURE OF CHANGE (S):

Effective immediately, this Contract is hereby extended to use by local units of government.

All other terms, conditions, specifications and pricing remain unchanged.

STATE OF MICHIGAN
 DEPARTMENT OF MANAGEMENT AND BUDGET
 ACQUISITION SERVICES
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

January 18, 2006

CHANGE NOTICE NO. 1
 TO
 CONTRACT NO. 071B6200090

between
 THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF VENDOR Codespear, LLC 370 E Maple St, Suite 350 Birmingham, MI 48009	TELEPHONE (248) 644-1090
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-0239 Jacque Kuch
Contract Compliance Inspector: Barb Suska SEOC CIMS A & N - MSP	
CONTRACT PERIOD: From: December 5, 2005 To: December 4, 2008	
TERMS N/A	SHIPMENT N/A
F.O.B. N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	

NATURE OF CHANGE (S):

Change 1.104 WORK AND DELIVERABLE for Phase I, II & III to read as follows:

- Phase I must be completed no later than February 4, 2006.**
- A minimum of three classes must be completed by February 21, 2006.**
- The remaining classes in Phase II must be completed by March 10, 2006.**
- Phase III begins no later than March 13, 2006.**
- Phase III must be completed no later than May 14, 2006.**

STATE OF MICHIGAN
 DEPARTMENT OF MANAGEMENT AND BUDGET
 ACQUISITION SERVICES
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

December 8, 2005

NOTICE
 OF
 CONTRACT NO. 071B6200090

between
 THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF VENDOR Codespear, LLC 370 E Maple St, Suite 350 Birmingham, MI 48009	TELEPHONE (248) 644-1090
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-0239 Jacque Kuch
Contract Compliance Inspector: Barb Suska SEOC CIMS A & N - MSP	
CONTRACT PERIOD: From: December 5, 2005 To: December 4, 2008	
TERMS N/A	SHIPMENT N/A
F.O.B. N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	

The terms and conditions of this Contract are those of [ITB #07115200385](#), this Contract Agreement and the vendor's quote. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence. [Please refer to Pricing Sheet for price breakdown.](#)

STATE OF MICHIGAN
 DEPARTMENT OF MANAGEMENT AND BUDGET
 ACQUISITION SERVICES
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

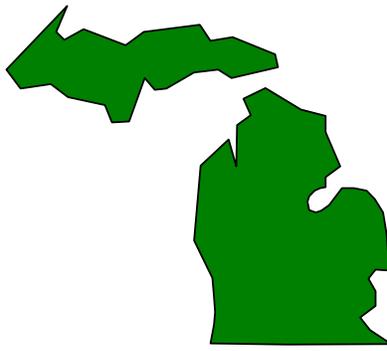
CONTRACT NO. 071B6200090
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR Codespear, LLC 370 E Maple St, Suite 350 Birmingham, MI 48009 gseaman@codespear.com	TELEPHONE 248-644-1090 VENDOR NUMBER/MAIL CODE BUYER/CA (517) 241-0239 Jacque Kuch
Contract Compliance Inspector: Barb Suska SEOC CIMS A & N – Michigan State Police	
CONTRACT PERIOD: From: December 5, 2005 To: December 4, 2008	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION: The terms and conditions of this Contract are those of ITB #071I5200385, this Contract Agreement and the vendor's quote. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence. Estimated Contract Value: \$410,000.00	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the [ITB No..071I5200385](#). Orders for delivery of equipment will be issued directly by the [Department of Michigan State Police](#) through the issuance of a Purchase Order Form.

All terms and conditions of the invitation to bid are made a part hereof.

FOR THE VENDOR: _____ <p style="text-align: center;">Codespear, LLC</p> _____ <p style="text-align: center;">Firm Name</p> _____ <p style="text-align: center;">Authorized Agent Signature</p> _____ <p style="text-align: center;">Authorized Agent (Print or Type)</p> _____ <p style="text-align: center;">Date</p>	FOR THE STATE: _____ <p style="text-align: center;">Signature</p> <p style="text-align: center;">Greg Faremouth</p> _____ <p style="text-align: center;">Name/Title</p> <p style="text-align: center;">IT Division, Acquisition Services</p> _____ <p style="text-align: center;">Division</p> _____ <p style="text-align: center;">Date</p>
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**STATE OF MICHIGAN
Department of Management and Budget
Acquisition Services**

Contract No.071B6200090
[SEOC CIMS A & N-](#)
[Michigan State Police](#)

Buyer Name: [Jacque Kuch](#)
Telephone Number: [\(517\)241-0239](#)
E-Mail Address: Kuchj@michigan.gov

Table of Contents

- 1.0 Project Identification..... 14
 - 1.001 PROJECT REQUEST 14
 - 1.02 BACKGROUND 14
- 1.1 Scope of Work and Deliverables..... 14
 - 1.101 IN SCOPE – PROJECT REQUIREMENTS 14
 - 1.102 OUT OF SCOPE 25
 - 1.103 TECHNICAL ENVIRONMENT 25
 - 1.104 WORK AND DELIVERABLE* 25
 - 1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES..... 26
 - 1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES 26
 - 1.203 OTHER ROLES AND RESPONSIBILITIES..... 26
- 1.3 Project Plan..... 26
 - 1.301 PROJECT PLAN MANAGEMENT 26
 - 1.302 REPORTS..... 27
- 1.4 Project Management..... 28
 - 1.401 ISSUE MANAGEMENT..... 28
 - 1.402 RISK MANAGEMENT 28
 - 1.403 CHANGE MANAGEMENT 28
- 1.5 Acceptance 29
 - 1.501 CRITERIA 29
 - 1.502 FINAL ACCEPTANCE 29
- 1.6 Compensation and Payment..... 29
 - 1.601 COMPENSATION AND PAYMENT 29
- 1.7 Additional Terms and Conditions Specific to this SOW 30
 - 1.701 ADDITIONAL TERMS AND CONDITIONS SPECIFIC TO THIS SOW 30
 - ARTICLE 1B – EVALUATION INFORMATION 31
- 1B.100 Vendor Information..... 31
 - 1B.101 VENDOR NAME AND ADDRESS 31
 - 1B.102 LOCATION ADDRESS 31
 - 1B.103 ORGANIZATION AND YEAR 31
 - 1B.104 RFP CONTACT..... 31
- 1B.200 Qualifications 32
 - 1B.201 PRIOR EXPERIENCE..... 32
 - 1B.202 STAFFING 32
 - 1B.203 PAST PERFORMANCE..... 32
 - 1B.204 CONTRACT PERFORMANCE 32
- 1B.300 Disclosures..... 33
 - 1B.301 DISCLOSURE OF LITIGATION..... 33
 - 1B.302 DISCLOSURE OF RFP ASSISTANCE..... 33
 - 1B.303 MIDEAL - EXTENDED PURCHASING (SEE ARTICLE 2, SECTION 2.320) 34
- Article 1, Attachment A 36
- 2.010 Contract Structure and Administration 40
 - 2.011 Definitions 40
 - 2.012 Attachments and Exhibits..... 40
 - 2.013 Statements of Work..... 40
 - 2.014 Issuing Office 41
 - 2.015 Contract Compliance Inspector..... 41
- 2.020 Contract Objectives/Scope/Background 42
 - 2.021 Background..... 42
 - 2.022 Purpose..... 42
 - 2.023 Objectives and Scope 42
 - 2.024 Interpretation..... 42
 - 2.025 Form, Function and Utility 42
- 2.030 Legal Effect and Term..... 42
 - 2.031 Legal Effect 42
 - 2.032 Contract Term 42

2.040	Contractor Personnel	43
2.041	Contractor Personnel	43
2.042	Contractor Identification	45
2.043	Cooperation with Third Parties.....	45
2.044	Subcontracting by Contractor.....	45
2.045	Contractor Responsibility for Personnel.....	46
2.050	State Standards	46
2.051	Existing Technology Standards.....	46
2.052	PM Methodology Standards.....	46
2.053	Adherence to Portal Technology Tools.....	46
2.054	Acceptable Use Policy	46
2.060	Deliverables	47
2.061	Ordering	47
2.062	Software.....	47
2.063	Hardware	47
2.064	Equipment to be New and Prohibited Products	47
2.070	Performance	47
2.071	Performance, In General.....	47
2.072	Time of Performance.....	47
2.073	Liquidated Damages	48
2.074	Bankruptcy	48
2.075	Time is of the Essence.....	48
2.080	Delivery and Acceptance of Deliverables.....	49
2.081	Delivery Responsibilities	49
2.082	Delivery of Deliverables	49
2.083	Testing	49
2.084	Approval of Deliverables, In General	49
2.085	Process For Approval of Written Deliverables	50
2.086	Process for Approval of Services.....	51
2.087	Process for Approval of Physical Deliverables.....	51
2.088	Final Acceptance	51
2.080	Delivery and Acceptance of Deliverables.....	51
2.081	Delivery of Deliverables	51
2.082	Contractor System Testing.....	52
2.083	Approval of Deliverables, In General	52
2.084	Process for Approval of Written Deliverables.....	53
2.085	Process for Approval of Custom Software Deliverables	53
2.086	Final Acceptance	54
2.090	Financial.....	54
2.091	Pricing	54
2.092	Invoicing and Payment Procedures and Terms	55
2.093	State Funding Obligation.....	56
2.094	Holdback	56
2.095	Electronic Payment Availability	56
2.100	Contract Management.....	56
2.101	Contract Management Responsibility	56
2.102	Problem and Contract Management Procedures.....	56
2.104	System Changes.....	57
2.105	Reserved.....	57
2.106	Change Requests	57
2.110	Records and Inspections.....	58
2.111b	Records and Inspections.....	58
2.112	Errors	59
2.120	State Responsibilities.....	59
2.121	State Performance Obligations	59
2.130	Security	59
2.131	Background Checks.....	59
2.140	Reserved.....	60

2.150	Confidentiality	60
2.151	Freedom of Information.....	60
2.152	Confidentiality	60
2.153	Protection of Confidential Information.....	60
2.154	Exclusions.....	60
2.155	No Implied Rights.....	61
2.156	Remedies.....	61
2.157	Security Breach Notification.....	61
2.158	Survival.....	61
2.159	Destruction of Confidential Information.....	61
2.160	Proprietary Rights	61
2.163	Rights in Data	63
2.164	Ownership of Materials	63
2.165	Standard Software	63
2.166	Pre-existing Materials for Custom Software Deliverables.....	63
2.167	General Skills.....	63
2.170	Warranties And Representations	64
2.171	Warranties and Representations.....	64
2.175b	Standard Warranties	66
2.176	Consequences For Breach	67
2.180	Insurance	67
2.181	Liability Insurance	67
2.190	Indemnification.....	69
2.191	Indemnification.....	69
2.192	Continuation of Indemnification Obligations.....	70
2.193	Indemnification Procedures.....	70
2.200	Limits of Liability and Excusable Failure	71
2.201	Limits of Liability.....	71
2.202	Excusable Failure.....	71
2.203	Disaster Recovery.....	72
2.210	Termination/Cancellation by the State	72
2.211	Termination for Cause.....	72
2.212	Termination for Convenience	73
2.213	Non-Appropriation.....	73
2.214	Criminal Conviction	73
2.216	Rights and Obligations Upon Termination	74
2.217	Reservation of Rights.....	74
2.218	Contractor Transition Responsibilities.....	74
2.219	State Transition Responsibilities	75
2.220	Termination by Contractor.....	75
2.221	Termination by Contractor.....	75
2.230	Stop Work	75
2.231	Stop Work Orders	75
2.232	Cancellation or Expiration of Stop Work Order	76
2.233	Allowance of Contractor Costs.....	76
2.240	Reserved.....	76
2.250	Dispute Resolution.....	76
2.251	In General	76
2.252	Informal Dispute Resolution.....	76
2.253	Injunctive Relief.....	77
2.254	Continued Performance	77
2.260	Federal and State Contract Requirements.....	77
2.261	Nondiscrimination.....	77
2.262	Unfair Labor Practices.....	77
2.263	Workplace Safety and Discriminatory Harassment.....	77
2.270	Litigation.....	78
2.271	Disclosure of Litigation.....	78
2.272	Governing Law	78

2.273	Compliance with Laws	78
2.274	Jurisdiction	79
2.280	Environmental Provision	79
2.281	Environmental Provision	79
2.290	General	80
2.291	Amendments.....	80
2.292	Assignment	80
2.293	Entire Contract; Order of Precedence.....	80
2.294	Headings.....	80
2.295	Relationship of the Parties (Independent Contractor Relationship)	80
2.296	Notices	80
2.297	Media Releases and Contract Distribution.....	81
2.298	Reformation and Severability	81
2.299	Consents and Approvals	81
2.300	No Waiver of Default.....	81
2.301	Survival	82
2.302	Covenant of Good Faith	82
2.303	Permits	82
2.304	Website Incorporation	82
2.305	Taxes	82
2.306	Prevailing Wage.....	82
2.307	Call Center Disclosure	82
2.308	Future Bidding Preclusion	82
2.310	Reserved.....	82
2.320	Extended Purchasing.....	82
2.321	MiDEAL	83
2.330	Federal Grant Requirements.....	83
2.331	Federal Grant Requirements.....	83
	Exhibit A.....	84
	Exhibit B.....	99



Article 1 – Statement of Work (SOW)

1.0 Project Identification

1.001 PROJECT REQUEST

This Contract is for a commercial off-the-shelf (COTS) alerting and notification software solution to integrate into the existing E Team Critical Incident Management System (CIMS), including existing technical architecture and hardware, within the Michigan State Police (MSP) Emergency Management Division (EMD). This project will include implementation and integration, training, and maintenance. The Contract will meet the identified requirements specified for an Alert Notification System. This Contract will be implemented within EMD's existing system.

1.02 BACKGROUND

The Emergency Management Division (EMD) is the sole state agency responsible for the preparation, maintenance and training necessary to keep the State Emergency Operations Center (SEOC) in a 7/24 ready mode. This project is part of the Homeland Security response activities to provide the CIMS for emergency / disaster response and scheduled exercises of same. The CIMS project encompasses State agencies, counties, cities, townships and commissions who all have access to the E Team application to manage emergencies and disasters.

The Michigan State Police (MSP) Emergency Management Division (EMD) requires a commercial off-the-shelf (COTS) alerting and notification software solution to integrate into the existing E Team Critical Incident Management System (CIMS).

MSP EMD has been using E Team since 2002. MSP EMD has a Government E Team enterprise license for 25 servers, unlimited users per server. E Team's present messaging capabilities are limited at this time to unsecured text email messaging, also known as "notification" through a SMTP gateway.

1.1 Scope of Work and Deliverables

1.101 IN SCOPE – PROJECT REQUIREMENTS

This Contract will provide the following requirements:

1. Be fully functional under the time-phased requirements enumerated below. TIME IS OF IS OF THE ESSENCE.
 - Contractor will adhere to all timelines and deliverables. ***Please refer to Appendix A, "Section V, #7. Recommended Installation, Implementation & Training Approach"***
2. Contractor will provide a single, secure, integrated software solution for the E Team messaging enhancements that will provide EMD with a scalable, redundant and load balancing system with an automated fail over / fall back solution that places less reliance on proprietary hardware and equipment (e.g., hardware failure in one location/server does not render the system unusable, but rather another location/server takes over the load automatically.) The solution will be self-hosted at the SEOC facility in Lansing, Michigan.
 - Contractor will provide an application that is built upon a software based distributed and redundant model, with automated fail-over support. The application will operate on distributed portable, or stationary computers, with sufficient battery power and allow for the transmission of alert communication over "hard-wired" and/or wireless network connections, like 802.11b/g Cellular (via PC "Air" Cards), Microwave and Satellite based Internet connections. The application will support the deployment of software in a self-hosted configuration.
 - Contractor will utilize XML to provide integrated messaging between the application and Eteam.



3. Contractor will provide the ability to accurately and concurrently disseminate and record the communication of alerts (events, incidents, and security threats) to an unlimited number of users and devices without delay.
 - Contractor will provide a multi-network, multi-channel and multi-device urgent notification, messaging, and collaboration application, which integrates Voice/VoIP, IP/Data and Text-Based communication.
 - Contractor will provide the ability to send instant alert notifications, within seconds to computers, laptops, wireless PDA's, SMS & WAP based cellular phones, text pagers, dispatch radios, external E-mail addresses and digital display boards.
 - Contractor will support the execution of a single alert over multiple networks including Voice, Radio, WAN, Wireless 802.11b/g LAN, CDPD, Cellular, and Satellite carriers.
 - Contractor will provide an application that has a real-time response log within the messaging server. This log will be utilized to escalate non-responses to alternate devices and to track the date, time, and actual response value for all message alerts that are responded to by personnel, thru various devices. All forms of recipient response acknowledgement, including number of attempts and type of message left will be tracked and reported. The application's message server log maintains a secure and encrypted history of all alerts sent and corresponding acknowledgement status by user.

4. Contractor will provide the ability to broadcast and communicate regardless of the device, media type (text, voice, video, audio), language, or frequency to include, but not limited to: PBX, IP Based, cellular and satellite phones, PC's, laptops, notebooks, PDAs, mobile data terminals, wireless handheld devices, pagers, walkie-talkies, 2-way radios and Voice over IP services.
 - Contractor will provide the ability to send simultaneous Mixed-Mode Alerts, whereby; both Text (SMS & E-Mail) and Voice Based (Phone, Radio, Nextel Push-to-Talk, & PA System) communication are staged on distributed and redundant servers. This architecture will allow for "Thread" SMS Pagers, SMS Cell Phones, Network based Alerts, and Voice based Calls VIA the VoIP SIP Dialing Module on separate Servers.
 - Contractor's application will support the implementation of "Alert Escalation Waves", whereby Mixed-Mode Alerts can be initiated in the following order:
 - Network Connected PC's (wired, or wireless) – Completed within Seconds.
 - Two-Way Radio's & Push-to-Talk Cell Phone Talk Group – Completed within Seconds.
 - SMS Pagers, SMS Cell Phones, Blackberry PDA's and E-Mails – Completed at a Rate of 1,000 Text Messages – Per Minute / Per Server(s) Designated to Send.
 - Voice Calls - Initiated within Seconds, depending on User Profile Escalation Rules.
 - This message alerting capability provides the ability for users to acknowledge alerts VIA their PC's and Text Messaging Devices within seconds depending on the User Profile Escalation rules. Voice Calls will only be necessary to those user recipients who do not have PC's or text devices, or who have not responded to their PC or text based message in a pre-determined length of escalation time as defined in their User Profile.

5. Contractor will provide automated multi-lingual alert notifications and real-time language translations.
 - Contractor will provide a language translation module, which provides for the text-based broadcast of multi-lingual alert notifications and the real-time translation of secure and encrypted chat in disparate languages. Contractor will provide support for real-time translation between 13 languages including, English, French, German, Spanish, Portuguese, Italian, Dutch, Greek, Simplified Chinese, Traditional Chinese, Japanese, Korean, Russian, and Arabic (Late 2005).
 - Contractor will provide standard support for English utilizing 3rd Party Speech Algorithms (AT&T Natural Labs, Acapela Group), foreign language based text message streams can be spoken in foreign languages. This option will be available through this contract at no additional charge to the State of Michigan/MSP should it be requested.



6. Contactor will provide the ability to send alerts automatically based on system error and critical time function parameters (e.g., detection of a physical system failure causes alerts to be initiated without user intervention).
 - Contractor will provide an Automated System Events (e.g. National Weather Service Feed, or New Incident Row Entered in E Team), or Sensors (e.g. Motion Activated Sensors, or Panic/Duress Buttons) that will pass pre-defined message codes, or ad-hoc message streams to the application for immediate alerting (via IP based Appliance/Device, 900Mhz Key Fob Signaling Device, XML, HTML, or SQL based API's).
7. Contractor will provide the ability to communicate, extract and record information from existing alerting capabilities such as Amber Alert and the National Weather Service (NWS).
 - Contractor will provide Automated System Events, Sensors, or Message Streams which will pass pre-defined message codes, or ad-hoc message streams to the application for immediate alerting. The mapping of structure messages from NWS, or a National/Local Amber Alert will be a standard supported function of the Messaging Interface.
8. Contractor will allow alerts and messages to be prioritized or tiered.
 - Contractor will provide and support Individual Messages that have separate properties, including priority, time-to-live expiration, sound, graphics, and attachments. Message priority and individual User Device Profiles will determine the actual tiering and escalation of alert notifications.
 - Contractor will provide and support Text Based Alert Messages sent to Network Connected and Wireless IP Network based devices will have a customized look and feel to denote their priority. The customization will be determined in collaboration between MSP and the contractor. Message text and multi-media based attachments will detail procedures for specific types of emergencies.
9. Contractor will allow for automatic routing and escalation of messages to both a user's devices and back-up personnel in the event of a coverage / back-up scenario.
 - Contractor's application User/Device Profile will provide for the Definition of Text and Voice based devices, escalation order & rules (waiting time/priority) for each device, time of day & day of week restrictions for each device, and escalation to other back-up personnel in the event of non-acknowledgement of a user on every defined device in his/her profile. The profiles customization will be determined in collaboration between MSP and the Contractor.
10. Contractor will allow for selectable, pre-defined message configurations that can include message content, recipient lists, and priority or classification information.
 - Contractor, in collaboration with MSP, will develop and support the creation of Scenarios/Templates, which will have pre-defined message content, attachments, priority, security, recipient/group, web page links, network file share links, sounds, text-to-speech, and custom response/survey attributes.
11. Contractor will allow flexibility in the types of responses that are required from recipients.
 - Contractor will, in collaboration with MSP, develop and support the use of Simple, or Detailed Custom Responses/Survey Options to support the needs of the State of Michigan (e.g. ETA to Incident Site Requests, Blood Supply & Open Bed Inquiries between the SEOC and Hospitals, and Personnel Overtime Requests).
 - Contractor will, in collaboration with MSP, support Alert Notifications to PC's, Push-to-Talk Cell Phones, Two-Way Radios, SMS & Voice Capable Cell Phones, Land-Line Phones, Pagers, PocketPC's, PocketPC Phones, Smart Phones, Blackberry's (PDA's & Phone/PDA Models), E-Mail Addresses, Satellite Phones (Voice & SMS), IP based Tonal Alert Systems and Digital Display Boards.
 - Real-Time Acknowledgement Tracking will be supported on all the above devices, except for Two-Way Radios (without DTMF Keypads), IP Based Tonal Alert Systems and IP based Digital Display Boards.
12. Contractor will allow authorized remote caller (without internet, network or computer access) to initiate a message or alert notification.



- Contractor will support the use of Pocket PC Phones, SmartPhones, and Blackberry PDA Phones to use wireless network connection capabilities to initiate an alert message.
 - Customization, in collaboration with MSP, will be required to add a Phone Based IVR Voice Command Front-End to the application at no additional cost to the State of Michigan.
 - Development is currently underway for an “IVR” (Integrated Voice Response) voice based interface, which will allow for system control and customized touch-tone (DTMF) survey responses from any voice-based phone. This capability is presently planned to be available no later than March 2006. Contractor will provide this capability as part of a future supported release, at no-charge to the State of Michigan.
13. Contractor will provide messaging which must be full featured, and allow graphics, audio, file attachments, file links, web links, and conference bridge links
- Contractor will provide File Attachments, Graphics, Web Site Links, Network File Share Links, Audio, Whiteboarding, File Sharing, and Chat Links (Text, Voice & Video) are supported through the application’s Pop-Up Based Network Alerts (i.e. “IP” connected Devices). External E-Mail’s sent through the application’s Alert support Attachments and Web Site Links.
14. Contractor will use LDAP and Windows Active Directory, or comparable and acceptable means, for import and maintenance of user and information, as well as providing single network sign-on for user authentication (i.e. encrypted username and password.). This capability stores user names and passwords securely. Contractor will identify the standard(s) they are using and how they meet that standard.
- Contractor will provide an Active Directory/LDAP Module, providing integration with Microsoft Active Directory & LDAP Compliant Services. This module of the application provides for a single sign-on network authentication, which passes user rights to the application automatically upon signing-on to the Network. User “Presence” (Off-Line, On-Line, Busy, or Away) will be automatically tracked real-time.
 - This Active Directory/LDAP application module will provide an automatic synchronization of Users and Group Lists; and supports the Import of profile information from SQL or Flat-File data sources.
 - Contractor will provide a built-in FIPS-Level 1 (128 bit) encryption algorithm for both network traffic and stored application data; and support 3rd Party Encryption Applications.
15. Allow contact information for each person in the database to include multiple devices, including phone numbers, cell phone SMS addresses, pager SMS addresses, E-Mail addresses, and wireless handheld devices.
- Contractor will allow for an unlimited definition of user contact devices, with automated support for nationwide and international area codes, IP Phone extensions, Cellular provider SMS & E-Mail Gateways, Paging provider Gateways, wireless handheld devices, and individual user Escalation Rules by Device.
16. Ability to confirm recipients’ identity prior to message delivery.
- Contractor will, in collaboration with MSP, customize the application for Two-Way SMS, and E-Mail based communication to allow for a PIN Code authorization to be transmitted back to the application’s Server, prior to any transmission of a text based message at no additional cost to the State of Michigan.
17. Ability to import / export data to file and to other devices using agreed upon protocol.
- Contractor will provide, in collaboration with MSP, an intelligent directory and user profile that will be integrated with LDAP/Active Directory for single sign-on and the synchronization of valid personnel. In addition, the Contractor supports the set-up of contact profiles thru SQL and Comma Delimited format, which will be capable of importing to MS Excel and other desktop applications. An XML Interface is also provided. These will be standard tools requiring no programming customizations.



18. Ability for each user to define the type of message (template, scenarios, text, speech or both), teams/groups, their devices, preferred method, and times of communications based on the specific availability of the user.
 - Contractor will, in collaboration with MSP, provide, depending on the Message Type, Message Priority, User Profile, and an individual User's Device Notification & Escalation Rules, that any Alert Notification Message can be directed to User Devices in a pre-defined sequence (based on a User's Profile), or all available communication devices can receive an Alert Notification simultaneously. In addition, the Contractor will provide the capability for any user's individual communication devices, within their profile will have mutually exclusive escalation rules, time of day, and day of week contact preferences.
 - Contractor will provide an application which provides a distributed, redundant, multi-network application, with an intelligent directory that will take a single alert notification message and have it directed to individual users, based on their unique profiles and device notification rules as pre-determined through collaboration between MSP and the Contractor.
19. Maintain transaction and historical data reporting in a standard format.
 - Contractor will provide a real-time response log within the messaging server. The response log will have the capability to escalate all non-responses to alternate devices and track the date, time, and actual response value for all message alerts that are responded to by personnel, through various devices. All forms of recipient response acknowledgement, including number of attempts and type of message left will be tracked and reported.
 - Contractor will provide a secure and encrypted application message server log which will be maintained on-line and archived for any specific time period as determined by MSP based on user-administrator configured settings. The message server log must have the ability to be exported to external database applications, including MS Access & SQL Server.
20. Provide automated text-to-voice conversion to provide communications across multiple voice and text messaging channels.
 - Contractor will provide a Text to Speech Module, which will allow for the "plug-in" of industry Standard Text to Speech Engines on the Server(s) performing Text to Speech Functions.
 - The Contractor will provide a built-in Text to Speech Engine (based on Microsoft offering) at no additional cost to the State of Michigan. Additional 3rd party text to speech software modules are supported in by the application.
 - Contractor will provide a higher quality Voice Algorithm to EMD at at no additional cost to the State of Michigan.
21. Provide a radio interoperability multi-channel module that can communicate through the Michigan Public Safety Communications System (MPSCS) and other regional and local governmental radio systems that supports multiple radio manufacturers over multiple bands/frequencies and pre-defined talk groups within the State, County Sheriff operations and first responders including Municipal Fire, Police, EMS teams and volunteer personnel.
 - Contractor will provide communications interoperability on the State's 800 MHz Digital MPSCS System, as well as other Local Government Agencies, utilizing Analog Radio Networks. The Contractor's application will allow for "Docking" of varying model Radios, Base Stations and Push-to-Talk Cell Phones into the Radio Interoperability Module using the respective vendor's radio model headset/microphone accessories, or Base Station Serial Interface.
 - Contractor will provide, though Voice over IP capabilities, Docked Radio and Cell Phone Talk Groups, which are converted to digital voice packets (as pure IP data) for communication through the distributed messaging server network.
 - The Contractor's application will allow for a single alert notification to be transmitted to network based PC's & PDA's, Two-Way Radios, Push-to-Talk Capable Cell Phones, Cell Phones, Land-Line Phones, SMS Capable Text Messaging Devices, and IP based Digital Display Boards.
 - The Contractor's application will support Text & Voice Based Chat, which allows on-demand two-way communication between Radios, Phones, and Computers. The Contractor's application employs VoIP technology to enable communication between disparate devices.



22. Provide a seamless integration with the E Team that can also be used in a stand-alone web-browser module unrelated to E Team with minimal client software. Users will not be required to open or interact with another application. Client software installation cannot overwrite existing software code.
- Contractor will provide a seamless integration with the E Team that can also be used in a stand-alone web-browser module unrelated to E Team with minimal client software. The Contractor will provide synchronization of data and transmission of messages, based on the creation of incident transactions in E Team. Personnel Profiles and Groups will be synchronized between the two applications and the entering of an Incident (or update of such) in E Team will send an Alert Notification to the application for transmission.
 - Contractor will provide an HTML based Web Browser Module, which allows for User/Client Access to Profile Settings and Alert Notification Sending (based on security privileges as defined in user's profile).
23. Provide user authentication (encrypted username and password) through E Team, a secured government portal or separately in a stand-alone mode.
- Contractor will provide single sign-on capabilities through multiple access points, depending on the user, their agency affiliation and the location they are accessing the system from.
24. Provide a secure 128-bit data encryption, real-time, 7/24, mobile/portable, wireless and redundant solution that provides full continuity of operations in the event of a disruption in the State's operations infrastructure.
- Contractor will provide a built-in FIPS-Level 1 (128 bit) encryption algorithm for both network traffic and stored application data. The Contractor will support 3rd Party Encryption Applications.
 - Contractor and the underlying architecture of application will support the hybrid implementation of secure and redundant messaging servers, both behind the State of Michigan's firewall, and outside the State of Michigan's firewall at an external site(s).
 - The Contractor's application will provide a distributed software messaging architecture, which will allow for the system to be implemented with scalability, redundancy and automated fail-over, with no single point of failure. The Contractor's application will have the capability for multiple servers to be set up in multiple locations and provide alerts through multiple mediums.
 - The Contractor will support multiple communication protocols and methods to provide continuity of operations support, in the event of disruptions to network and/or public infrastructure. The Contractor's application will support the deployment over multiple networks including, but not limited to:
 - Voice
 - LAN
 - 802.11b/g Wireless LAN
 - VoIP / SIP
 - Cell Carrier (CDMA/CDPD/GSM)
 - Microwave or IP/Internet Satellite based Connections
25. Provide a secure solution that can operate behind the State's firewalls with Windows 2000/2003 server and wirelessly.
- Contractor will support the hybrid implementation of secure and redundant messaging servers, both behind the State of Michigan's firewall, and outside the State of Michigan's firewall at external site(s).
 - Contractor will provide both the Server and Client Software components which have been certified to run on hard-wired network connections, 802.11b/g wireless connections, or Carrier wireless data connections (Cellular, or Satellite)
26. Provide administrative and client capabilities for on-screen color-coded activation, real-time status viewing, reporting, printing, faxing and file attachments.



- Contractor will provide a graphical user interface with on-screen color-coding, real-time user status viewing, real-time message status viewing, reporting, printing, faxing, and support for all types of multi-media attachments, as well as network file share links and web page links.
 - The Contractor’s application will have the capability to be configured to support a Fax Server application directly, or an Electronic E-Mail Fax based interface.
 - Contractor will provide an application with the capability for In-Bound Faxes to be captured electronically, OCR Scanned (Text) through standard PC Tools and transmitted to the application as Text (XML Module), or included as file attachments to Alerts Messages.
27. Provide an integrated solution based on current and emerging standards: TCP/IP, VoIP, SIP, SMS, XML, WML, JAVA, EDXL and CAP (Common Alerting Protocol) as well as Lightweight Directory Access Protocol/Internet Message Access Protocol (LDAP/IMAP) compatible with Commercial off the Shelf (COTS) Email applications’ directory schema.
- Contractor will provide API integration through a modular approach. The Contractor will provide support for the following standard application programming interfaces (API’s) and message protocols:
 - SQL
 - HTML
 - XML
 - TCP/IP
 - VoIP
 - SIP
 - SMS
 - WML
 - EDXL
 - LDAP/IMAP
 - JAVA
 - Active Directory/LDAP
 - CAP Protocol (XML based)
 - EDXL Protocol (XML based)
 - The Voice over IP technology (VoIP) will provide support for the Session Initiated Protocol Standard (SIP).
28. Provide capabilities to customize audible sounds and graphic display templates.
- Contractor will include an invasive “Pop-Up” Alerting function on networked devices, including PC’s, which runs in the Windows System Tray area. Alerts will have audible sounds and varying graphical designs to accommodate an unlimited variety of graphical alert formats.
29. Provide functionality for the administrator to prohibit word or phrases from being sent inside an alert or notification message.
- Contractor will support a “Word Ban” Library, where social or politically sensitive words will be prohibited from use. This word ban verification will be performed real-time, before an alert is transmitted. The user will receive a system error message, and if left uncorrected, the offending words will be deleted by “XXXXX’s”.
30. Provide a remote administrative tool for scheduling backups and for adding/removing servers.
- Contractor will provide a security authorized “Administrator” Tool, which will provide all system administration functions. The application will not require scheduling of back-ups, since the distributed and the redundant model has constant replication across multiple servers.
31. Provide chat capabilities independent of an e-mail application, message broadcasting, web conferencing with virtual white board capabilities, directory services, file attachments (unlimited size or format) audio/video streaming, message templates, and alert/message scheduling, alert/message prioritization, and alert/message expiration, audio/video streaming, message



templates, and alert/message scheduling, alert/message prioritization, and alert/message expiration.

- Contractor will support a secure and encrypted Text, Voice & Video based “Chat”, which will allow on-demand two-way communication between Radios, Phones, Supported PDA’s and Computers. The application will employ VoIP technology to provide communication between disparate devices (e.g. Text Based devices can have typed entries spoken VIA text-to-speech on radios, phones and PC’s).
- In addition to one-to-one and one-to-many party chatting, the application, Chat Client will support secure File-Sharing, White Boarding, Video Conferencing (wireless connections are supported for Video Chat), audio/video streaming, message templates, and alert/message scheduling, alert/message prioritization, and alert/message expiration.

32. Provide flexible group definition capabilities (including radio and/or cell phone talk groups) that can hold any number of recipients which can be selected for notification with simple key strokes, mouse clicks, or automated events, activated from automated system codes or sensors.

- Contractor will provide an Alert Notification with the capability to be sent to locate a Single User, Group(s), Talk Groups, Computer Workstations, Server(s), or Devices. “One Action” will be as simple as hitting a wireless panic button, function key on a keyboard, mouse clicks, voice command, or simply hitting the send button on a pre-defined message type / template or automated system codes or sensors.
- Contractor’s application will provide the ability for Groups (Departments, Teams, Task Forces, Locations) to be made-up of an unlimited number of Users, (County Personnel, First Responder Volunteers, Municipality Personnel), Other Groups, Computer Workstations, Servers, and Devices. Both Text based and Voice based Devices will be supported, including Two-Way Radio and Push-to-Talk Cell Phone Groups.
- Contractor will provide an intelligent directory function with integration to LDAP / Active Directory. Users and Groups will have the ability to be imported from LDAP / Active Directory, Imported from other file **stheces**, or Set-Up manually VIA the graphical user interface.
- Contractor’s application will provide an Automated System Events, or Sensors to pass pre-defined message codes, or ad-hoc message streams to the application for immediate alerting (via IP based Appliance, XML, HTML, or SQL based API’s).

33. Provide popup messages and/or sounds to computers that cannot be ignored, i.e., requires user interaction.

- Contractor will include an invasive Multi-Media Enabled “Pop-Up” Alerting function on networked devices, including PC’s and PocketPC’s, which will run in the Windows System Tray area. At the administrator’s option, the recipient user will not be able to ignore a pop-up graphical “Skin”, but may have the ability to “Snooze” the alert for a set interval.

34. Provide real-time data synchronization between remote locations.

- Contractor will provide the application’s distributed and redundant server architecture for real-time synchronization between messaging servers.

35. Provide message logging where all messages are logged and will have the capability to be configured to archive on a recurring basis.

- Contractor will provide Message Logs for all sent message Alerts (all “Chat” activity can also be logged in a secure and encrypted manner). The application will provide User-Defined settings govern automated message archiving rules.

36. Provide real-time audit reporting reflecting: 1) Notification content, 2)List of recipients / groups, 3) Device transmit times for each recipient, 4) Number of attempts and results of each attempt, 5) Option(s) chosen by the recipient in response to the notification, 6) Summary of responses and time notification was closed.

- Contractor will support a real-time response log within the messaging server. This log will be utilized to escalate non-responses to alternate devices and to track the date, time, and actual



response value for all message alerts that are responded to by personnel, thru various devices. All forms of recipient response acknowledgement, including number of attempts and type of message left will be tracked and reported. The real-time audit reporting will provide:

- Notification content
- List of recipients / groups
- Device transmit times for each recipient
- Number of attempts and results of each attempt
- Option(s) chosen by the recipient in response to the notification
- Summary of responses and time notification was closed

37. Provide user "presence" or status information to indicate whether a user is currently available (i.e. online, offline, away or busy).

- Contractor's application will automatically track a user's presence on the system, based on their network, or remote sign-on status and a user's keystroke, or mouse activity when on their connected (wired, or wireless) PC. Presence Status levels are:
 - Off-Line
 - On-Line
 - On-Line / Busy or Away

38. Provide a secure, on-line administrator tool with the ability, as a minimum:

- Includes all the functionality of the user tool
 - Create users, user passwords and groups
 - Assign user and group access rights (read, write, edit, create) & security setting.
 - Add, remove and edit servers, devices, users and groups
 - Unlock users and password changes
 - Add and edit user device information
 - View user and server connections
 - View activity logs
 - View system configuration graphically
 - General alerts and notification templates including graphics
 - Create and send alerts and notification
 - To manage global settings of all users, servers and security.
 - To add/maintain links to external and internal systems and data sources
 - To administer system remotely
- Contractor will provide an intelligent directory function with integration to LDAP / Active Directory. Users and Groups can be imported from LDAP / Active Directory, Imported from other file stheces, or Set-Up manually VIA the graphical user interface. As a minimum:
 - Includes all the functionality of the user tool
 - Create users, user passwords and groups
 - Assign user and group access rights (read, write, edit, create) & security setting.
 - Add, remove and edit servers, devices, users and groups
 - Unlock users and password changes
 - Add and edit user device information
 - View user and server connections
 - View activity logs
 - View system configuration graphically
 - General alerts and notification templates including graphics
 - Create and send alerts and notification
 - To manage global settings of all users, servers and security.
 - To add/maintain links to external and internal systems and data sources
 - To administer system remotely



39. Provide an encrypted, auto-synchronized database that stores all information pertinent to the system including, but not limited to, licensing, messages, current status information, and configuration information.
- Contractor will provide an encrypted, auto-synchronized database that stores all information pertinent to the system including, but not limited to, licensing, messages, current status information, and configuration information.
40. Solution does not rely on E-Mail infrastructure, but can initiate an E-Mail message as required.
- Contractor's application will send SMTP, SMS, and E-Mail Messages internally VIA the messaging infrastructure; the application can use external SMTP Servers and also send to external E-Mail systems.
41. Solution should not require trunk based switched PBX systems for outbound calling, but appropriate information supporting PB use will be considered provided the vendor explains how it will be done, who are the responsible parties, and what processes will be used. The vendor must identify how much the PBX option will cost on an annual and monthly basis including all cost associated with using a service provider's (i.e. SBC, AT&T, Sprint, etc) resources including the service providers one time set-up costs.

As a result of the VoIP / SIP capabilities within SmartMSG, the application does not specifically require any on-site PBX equipment. However, if it is a requirement that this equipment be utilized for phone dialing, then there are 3rd party equipment providers (like Brook Trout Technologies or Dialogic/Intel (not "DCC"), which will allow for the connection of VoIP and SIP based Voice services to traditional "T1", "T3" and "DS3" voice lines (Please refer to ITB Response "Section 5. – Point 6. Optional Services – Voice Phone Calling & Remote Hosted Redundant Server" for additional supporting information).

42. Solution is able to get automatic updates on system patches and known vulnerabilities via a secure internet link with solution application vendor.
- Contractor will provide a secure and encrypted Auto-Update function, which allows for system fixes, documentation updates, and enhanced functionality to be downloaded by the State of Michigan on-demand.
 - Contractor will provide automated software distribution, which will transparently update Server, Administrator and Client Software components, once the State of Michigan approves the release of a new version.
 - The Auto-Update process is completely controlled by the State of Michigan ("Pull" Mechanism).
43. Solution requires no additional networking and equipment racking hardware and maximum of one firewall opening for incoming and outgoing communications. Usage of existing E Team firewall ports is preferred.
- Contractor will operate optimally on the SEOC's current Server and Network Infrastructure. Only one Firewall Port will be required to be open for communication to external Contractor's application Servers (i.e. Other Contractor application User Agencies, like Wayne County) and external access by City and County Users, or State Users accessing the Contractor's application remotely, without using DIT provided VPN services.
 - The Contractor's application will completely support the deployment of Server, Administration, and Client software behind the State of Michigan's or Regional County/City Firewalls. In addition, technical configuration will support the secure and encrypted access of application functions from outside the County's Firewall (thru VPN or secure sign-on). The application will be configured to use the same Port as E Team, with the understanding that the only restriction will be that both Applications can not be loaded on the same Physical Server.
44. Contractor will provide the following:
- SEOC site license to include 10 SEOC and a maximum of 10 regional servers with radio operability capabilities.



- Refer to “Section 5. Proposal Cost Schedules & Options Section.”
- Site license must provide for 500 users per server with unlimited user devices.
 - 1,000 Users Per Server Allowance Provided. Refer to “Section 5. Proposal Cost Schedules & Options Section.”
- First year and annual year (up to 5 years) license and maintenance costs.
 - Refer to “Section 5. Proposal Cost Schedules & Options Section”.
- List the level of operational, technical and software support capabilities of the vendor that are included in the maintenance cost.
 - Refer to “Section 5. Proposal Cost Schedules & Options Section.”
- List of all software that will be provided with the solution.
 - *SmartMSG Base Application*
 - *SmartMSG Client, Enterprise Server & Administrator Licenses*
 - *SmartMSG LDAP/Active Directory Module*
 - *SmartMSG E Team Module*
 - *SmartMSG Voice over IP Module (VoIP)*
 - *SmartMSG Communications Interoperability Module*
- List of all equipment and hardware that will be provided with the solution.
 - *Five (5) SmartMSG Communications Interoperability Units*
 - *-With 4 to 8 Docking Ports – Mobile Rugged Configuration and/or*
 - *With 4 to 8 Docking Ports – Server Rack Mount Configuration*
- Services to install the solution on the SEOC, Agency and Regional E Team servers.
 - Refer to “Section 5. Proposal Cost Schedules & Options Section” and “Section 7. Proposal Installation, Implementation & Training Approach.”
- The solution’s user and administrator manuals that document upgrades, backup, disaster recovery and redundancy capabilities.
 - The State of Michigan will download the on-line documentation at: <http://www.codespear.com/helpcentral.asp>. Adobe Acrobat versions of all of the user and technical reference guides will be located at this web site link. The installation scripts for application load all reference manuals to local file folders. The following is a list of documentation available through the Contractor’s website:
 - SmartMSG Configuration Guide
 - SmartMSG Installation Guide
 - SmartMSG Deployment Guide
 - SmartMSG Administrator Manual
 - SmartMSG Client Manual
 - SmartMSG Security Guide
 - SmartMSG Active Directory Module Guide
 - SmartMSG Data Import/Export Module Guide
 - SmartMSG Text to Speech Module Guide
 - SmartMSG SQL Send Message Module Guide
 - SmartMSG XML Module Guide
 - SmartMSG Language Translation Module Guide
 - SmartMSG Quick Reference Guides:
 - Windows Client / Pocket PC / Sending Messages
- Training costs associated with trainers, materials, and classes to support a maximum of 150 SEOC-related users, 10 classes with a maximum of 15 users per class.
 - Refer to “Section 5. Proposal Cost Schedules & Options Section.”



- Additional server license, license maintenance and training costs in case the State of Michigan or a Michigan State Agency, County or Local jurisdiction needs to add a server for emergency management operations, incidents, exercises and emergencies.
 - Refer to “Section 5. Proposal Cost Schedules & Options Section.”
- Schedule for the solution’s acquisition, deployment, implementation, acceptance, and training.
 - Refer to “Section 7. Proposed Installation, Implementation, & Training Approach.”
- Sample license agreement.
 - Refer to the “Appendix Information” Section for Sample Legal Agreements relating to Licensing and Annual Maintenance & Support Services.

1.102 OUT OF SCOPE

The project is limited to the Alert Notification System, implementation and maintenance.

1.103 TECHNICAL ENVIRONMENT

The EMD SEOC CIMS environment at the Lansing Office currently consists of 9 Dell PowerEdge servers running Windows 2003 operating system. Each server is running one or more instances of the E Team CIMS software. These servers are linked together in a complex network of intranet and internet applications, with firewalls, SSL encryption and user authentication to allow user interaction with one or more of these servers in a seamless transition for the user. E Team data replication occurs within this system as a concurrent function of the Lotus Domino Enterprise Server using TCP/IP protocol for communication between the E Team servers. The E Team and replication network currently extends outside of the State’s network to Regional Servers located in Traverse City, Port Huron City, and Detroit City, each of which is running one or more instances of E Team. The CIMS architecture will ultimately consist of not more than 25 servers, each capable of operating in this interlocking network, independently of each other. E Team is a web browser-based application with a common user interface for generating forms, assigning tasks and resources, and providing real time, on-line status reporting. E Team uses a Domino XML interface for importing and exporting data with external applications. The CIMS system in place is maintained by MSP EMD personnel. An abbreviated version of this CIMS network architecture is diagrammed in Appendix 1.

1.104 WORK AND DELIVERABLE*

Contractor shall provide Deliverables/Services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

Phase I Implementation – Phase I begins upon execution of the contract. In this phase, the vendor will install and test the selected solution software and licenses on the SEOC E Team and one (1) Regional server.

Phase I must be completed no later than January 6, 2006.

Phase II Documentation and Training – Phase II begins concurrently with Phase I. The vendor provides documentation and training to support a maximum of 150 SEOC-related users, 10 classes with a maximum of 15 users per class. Training to be held at the SEOC Lansing facility and at one or more of the regional sites.

A minimum of three classes must be completed by January 21, 2006, two or more at the SEOC facility in Lansing and one or more at a regional site in the Detroit area or other reasonable areas in the state as directed by EMD. The remaining classes in Phase II must be completed by February 10, 2006. EMD reserves the right to conduct additional training as required with EMD personnel. EMD reserves the right to negotiate with the vendor for additional training at additional costs not associated with this request

Phase III Deployment “Go Live” – **Phase III begins no later than February 13, 2006.** The selected solution must be fully functional in Phase III. The ‘fully functional’ is defined as meeting all of the Solution Requirements previously under section 1.101 above. **Phase III must be completed no later than April 14, 2006.**

Phase IV Operations and Maintenance – During this phase, the selected solution will be running on State-hosted hardware. The end state of Phase IV will be the successful hand off of the selected solution hosting and



operations to state technical personnel and resources. The vendor solution will include (O&M) for the first year and provide resource and costs information for additional annual, yearly O&M support for 4 additional years. O&M support includes software upgrades and testing application on existing hardware and equipment. Each bid will be required to break out software support level and pricing if not included in the base O&M costs.

*SOM/DIT reserves the right to adjust these dates forward.

1.2 Roles and Responsibilities

1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES

The vendor’s proposal must include a role and responsibilities table (for staff who are dedicated more than 20% of time to the project) that outlines all of their team’s roles to be involved in this project. Identify by name individuals that are to be designated as Key Personnel and describe in detail their roles and responsibilities. Vendor must identify where Contractor staff will be physically located during Contract performance. If an overall chart has been developed, provide a reference to that chart. Descriptions of roles should be functional and not just by title.

Defined Roles – Preliminary until Final Project Plan Definition:

Glen Seaman

Codespear Executive Contact for Project Management Escalation and Product Strategy & Development issues relating to project delivery. Will be involved in project status meetings, conference room pilot effort and training coordination.

Mark Palmer

Codespear Account Manager and Project Manager assigned to the State of Michigan to coordinate customer service and implementation effort.

Beth Dingman

Codespear Development Support Manager for Codespear. Beth will manage and provide Technical Support, Documentation and Training Resources as required on the Project. Beth has been directly involved with several customer implementations, including Ford Credit, Quicken Loans, Active Aero Charter and Detroit Public Schools.

Walter Mainhardt

Sr. Installation and Configuration Engineer. Walter will assist with Server Installation, Communications Interoperability Hardware Configuration and General Software Configuration and Testing.

Kevin Campbell

QA/Support Manager. Kevin will serve as the Primary Support Contact for the State of Michigan Project.

1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES

The designated business project manager is Thomas A. Newell, Michigan State Police, Emergency Management Division. The designated DIT project manager is Lisa Irwin, Dept. of Information Technology.

1.203 OTHER ROLES AND RESPONSIBILITIES

RESERVED

1.3 Project Plan

1.301 PROJECT PLAN MANAGEMENT

A project plan must be delivered within the first twenty (20) business days after the effective date of the contract resulting from this Request for Proposal (RFP). The project plan must reflect the tasks lists identified in each section of this RFP. This plan must be provided to both the Business project manager, and the MSP Project Office.



The contractor will manage the project in accordance with the PMBOK® (Project Management Body of Knowledge from the Project Management Institute) and the state’s Project Management Methodology (PMM). Methodology is available at www.michigan.gov/projectmanagement. Contractor will use an automated tool for planning, monitoring, and tracking the Contract’s progress and the level of effort of any Contractor personnel spent performing Services under the Contract. In addition, the Contractor shall use automated project management tools, as reasonably necessary, in order to perform the cited Services, which shall include, through the end of the Contract, the capability to produce:

Staffing tables with names of personnel assigned to Contract tasks.

(b) Project plans showing tasks, subtasks, deliverables, and the resources required and allocated to each (including detailed plans for all Services to be performed within the next sixty (60) calendar days, updated semi-monthly). Updates must include actual time spent on each task and a revised estimate to complete. Graphs showing critical events, dependencies and decision points during the course of the Contract. Any tool(s) used by Contractor for such purposes must produce information of a type and in a manner and format that will support reporting in compliance with the State’s standard to the extent such standard is described with reasonable detail in the Statement of Work.

Manage and operate the project at Capability Maturity Model® (CMM), at <http://www.sei.cmu.edu/sei-home.html>, level three (3) or higher. The intent is to deliver the highest quality solution by deploying and maintaining best practices, methodologies, tools, and knowledge capital using the CMM framework...defined engineering approach to the development and management of computer software projects through adherence to established and tested practices.

Provide the State with clearly written processes for managing updates to the software during and after the implementation of the system.

Contractor will be responsible for the leading and managing of end user testing as specified by the Statement of Work (SOW).

NOTE: Acknowledged. Please refer “Section 7. Recommended Installation, Implementation & Training Approach”

Contractor will develop and deliver the following documentation:

- Project Plan & Project Organization
- Monthly Progress Report
- Issue Management Log
- Risk Management Plan
- Scope Change Management Plan
- Configuration and Upgrade Management Process

1.302 REPORTS

Reporting formats need to be submitted to the State for approval within ten (10) business days after the effective date of the contract resulting from this RFP. Once both parties have agreed to the format of the report, it shall become the standard to follow for the duration of the contract. The contractor shall submit monthly reports using the agreed upon format. The State reserves the right to require more frequent reporting. Additionally, within ten (10) business days after the effective date of the contract resulting from this RFP, the parties shall determine an appropriate set of meetings to be held between representatives of the State and Contractor. Contractor shall prepare and circulate an agenda prior to the meeting(s).

Each monthly progress report must contain the following:

1. Accomplishments: Indicate what was worked on and what was completed during the current reporting period.
2. Planned work: planned work for the upcoming month
2. Funds: Indicate the amount of funds expended during the current reporting period, and the cumulative total to date for the project.



Section Acknowledged by Contractor

1.4 Project Management

1.401 ISSUE MANAGEMENT

Contractor shall maintain an issue log for the project. The issue management log must be communicated to the State's project manager, which could include weekly email notifications and updates as well as be electronically accessible at all times. The issue log must be updated weekly and must have the following elements:

- Description of issue
- Issue identification date
- Responsibility for resolving issue.
- Priority for issue resolution (to be mutually agreed upon by the State and the Contractor)
- Resolution date
- Resolution description

1.402 RISK MANAGEMENT

Contractor must create a risk management plan for the project. A risk management plan format will be submitted to the State for approval within twenty (20) business days after the effective date of the contract resulting from this RFP. Once both parties have agreed to the format of the plan, it shall become the standard to follow for the duration of the contract. The plan must be updated weekly. The risk management plan will be developed in accordance with the State's PMM methodology and the PMBOK® (Project Management Institute).

1.403 CHANGE MANAGEMENT

Any changes to timelines or project deliverables shall be proposed for approval prior to the change being worked on by the vendor. The following provides a detailed process to follow if a change to this Statement of Work (SOW) is required.

- A Project Change Request (PCR) will be the vehicle for communicating change. The PCR must describe the change; the rationale for the change and the effect the change will have on the project.
- The designated Project Manager of the requesting party will review the proposed change and determine whether to submit the request to the other party.
- The contractor's Project Manager and the State will review the proposed change and approve it for further investigation or reject it. Contractor will specify any charges for such investigation. If the investigation is authorized, the State and the contractor will sign the PCR, which will constitute approval for the investigation charges. (The timing of signature by the State Project Manager will be in accordance with the State's Administrative Board or other applicable approval process). Contractor will invoice the State for any such charges. The investigation will determine the effect that the implementation of the PCR will have on price, schedule and other terms and conditions of the *Agreement*.

A written Change Authorization and/or Project Change Request (PCR) must be signed by both parties to authorize implementation of the investigated changes. Change Authorizations and/or Project Changes Request (PCR) will be processed through the state's Acquisition Services Office.

If the DMB Acquisition Services Director agrees with the proposed modification, and all required approvals are obtained (including State Administrative Board), the Acquisition Services Buyer will issue an addendum to the Contract, via a Contract Change Notice. **Vendors who provide products or services prior to the issuance of a Contract Change Notice by the DMB Office of Acquisition Services, risk non-payment for the out-of-scope/pricing products and/or services.**



1.404 Configuration Management

Contractor will develop a detailed process for controlling the development of all deliverables. This will include controlling access to documents and version control.

1.5 Acceptance

1.501 CRITERIA

The following criteria will be used by the State to determine Acceptance of the Services and/or Deliverables provided under this SOW. MSP EMD will conduct a mock drill or exercise that will test the functionality of the A&N SW solution. This testing will include:

- The ability to accurately, immediately and simultaneously disseminate and record the communication of messages to a minimum of 10 users equipped with a variety of communications devices including laptops, desktops, pagers, cellular & satellite telephones (e.g. Nextel, Alltel, Verizon, Blackberry, GlobalStar.)
- Test the redundancy of automatic routing and escalation of messages to both a user's devices and back-up devices and personnel.
- Test at least one MSP EMD talk-group in the MPSCS for radio interoperability with a minimum of three users.
- Test the ability to send graphics to three or more users.
- Test the seamless integration into E Team as well as the stand alone web browser module.
- Test the chat feature with all participants.
- Test the message confirmation feature.

These tests will be performed at the conclusion of Phase I implementation.

1.502 FINAL ACCEPTANCE

Final acceptance will occur when the Phase I implementation is completed and functions according to the acceptance criteria requirements as defined in Section 1.501. Final acceptance tests will be conducted jointly by vendor and MSP EMD, and accepted in writing by both parties based upon execution of the EMD Alert Notification System Acceptance Test Addendum.

- Contractor shall deliver an end-to-end testing plan for the system.
- Contractor must conduct an end-to-end testing of the system.
- All errors found as a result of the testing must be corrected.
- All deliverables listed in the Statement of Work will be delivered.
- All end user testing listed in the Statement of Work will be completed.

Acknowledged by Contractor

1.6 Compensation and Payment

1.601 COMPENSATION AND PAYMENT

Contract will be a firm fixed price contract, with firm fixed annual price for maintenance.

DIT will pay vendor upon receipt of accepted deliverables per phases. Completed invoices shall be submitted to the Agency Project Manager not more often than monthly. All invoices should reflect actual work completed by payment date and must be approved the Agency Project Manager and DIT prior to payment.

Payment shall be considered timely if made by DIT within forty-five (45 days) after receipt of properly completed invoices.

To be used for Contract:

State shall pay Contractor an amount not to exceed \$410,000.00 dollars for the performance of all activities necessary for or incidental to the performance of work as set forth in this SOW. Authorized Services and Price



List as follows (use separate pages, marked as Article 1, Attachment A, if necessary for the price schedules relevant to each Statement of Work):

Acknowledged by Contractor

1.7 Additional Terms and Conditions Specific to this SOW

**1.701 ADDITIONAL TERMS AND CONDITIONS SPECIFIC TO THIS SOW
RESERVED**



ARTICLE 1B – EVALUATION INFORMATION

REQUIRED VENDOR INFORMATION

Please provide following required Vendor information. Failure respond to each requirement may disqualify the Vendor from further participation in this RFP.

1B.100 Vendor Information

1B.101 VENDOR NAME AND ADDRESS

Name, address, principle place of business, and telephone number of legal entity with whom contract is to be written.

Name:	<u>CODESPEAR, LLC</u>
Address:	<u>370 E. Maple Rd., Suite 350</u>
City, State, Zip:	<u>Birmingham, MI 48009</u>
Phone:	<u>(248) 644-1090</u>
Web Page:	<u>www.codespear.com</u>

1B.102 LOCATION ADDRESS

Address:	<u>SAME</u>
City, State, Zip:	<u></u>

1B.103 ORGANIZATION AND YEAR

Legal status and business structure (corporation, partnership, sole proprietorship, etc.) of the Vendor and the year entity was established.

Status:	<u>March 2003</u>
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In addition, please provide:

(a) Company Sales Volume for the last five (5) years

2003 \$ 240,000.00
 2004 \$ 100,000.00
 2005 \$4,100,000.00 (YTD Sales thru August 31, 2005)

(b) Size and location of facilities that will be involved in any resulting contract.

Corporate Offices,
 370 E. Maple, Suite 350
 Birmingham, MI 48009
 6,400 Sq. Feet of Leased Space (**Note: Significant Expansion Planned for January 2006**)

1B.104 RFP CONTACT

Name, title, address, email, phone and fax numbers for Vendor’s RFP Contact.

Name:	<u>GLEN SEAMAN</u>
Address:	<u>370 E. Maple Rd., Suite 350</u>
City, State, Zip:	<u>Birmingham, MI 48009</u>
Phone:	<u>(248) 644-1090 ext. 224</u>
Fax:	<u>(248) 644-5110</u>
E-Mail:	<u>gseaman@codespear.com</u>



Note: Person named above will be sole contact for your company to receive the Contract. Include the name and telephone number of person(s) in your company authorized to expedite any proposed contract with the State.

1B.200 Qualifications

1B.201 PRIOR EXPERIENCE

Indicate the prior experience of your firm, which you consider relevant to your ability to successfully manage a contract for the commodity or service defined by this Invitation to Bid. Include sufficient detail to demonstrate the relevance of this experience. Proposals submitted should include, in this section, descriptions of qualifying experience to include project descriptions, costs, and starting and completion dates of projects successfully completed. Also, include the name, address, and phone number of the responsible official of the customer organization who may be contacted.

Please refer to the Executive Summary (1.), Proposed Implementation & Training Approach (7) and References (8) Sections of this ITB Response.

Bidders shall provide 3 (three) specific references with their proposal.

References have been provided in "Section 8. References" of this ITB Response.

1B.202 STAFFING

The written proposal should indicate the competence of personnel whom the Vendor intends to assign to the project as specified Section 1.2. Qualifications will be measured by education and /or experience, with particular reference to experience on projects similar to that described in the RFP. Emphasis will be placed upon the qualifications of Vendor's Project Manager and the Manager's dedicated management time as well as that of other Key Personnel working on this project. To insure a quality bid result, and fair evaluation, it is important that the information requested in these sections is appropriate and relevant to the project being bid.

For all personnel identified in Section 1.2, Vendor must provide resumes, which shall include detailed, chronological work experience. To insure a quality bid result, and fair evaluation, it is important that the information requested in these sections is appropriate and relevant to the project being bid.

Please refer to the References and Staffing Qualifications (8) Section of this ITB Response.

Vendor must provide a list of all subcontractors, including firm name, address, contact person, and a complete description of the work to be contracted. Include descriptive information concerning subcontractor's organization and abilities.

Based on the information available at the time of this ITB Response, as to overall project scope, there are no subcontractors anticipated at this time.

1B.203 PAST PERFORMANCE

Please list any contracts that you have had with the State in the last ten (10) years.

NONE.

1B.204 CONTRACT PERFORMANCE

Indicate if the Vendor has had a contract terminated for default in the last three (3) years. Termination for default is defined as notice to stop performance which was delivered to the Vendor due to the Vendor's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Vendor, or (b) litigated and determined that the Vendor was in default.

If no such terminations exist, the Vendor must affirmatively state this.



Note: If the Vendor has had a contract terminated for default in this period, the Vendor shall submit full details including the other party's name, address, and phone number Acquisition Services will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of past experience.

Termination: No Defaults
Reason: N/A

1B.300 Disclosures

1B.301 DISCLOSURE OF LITIGATION

(a) Disclosure. Vendor must disclose any material criminal litigation, investigations or proceedings involving the Vendor (and each Subcontractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Vendor (and each Subcontractor) must disclose to the State any material civil litigation, arbitration or proceeding to which Vendor (or, to the extent Vendor is aware, any Subcontractor hereunder) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Vendor or any Subcontractor hereunder; or (ii) a claim or written allegation of fraud against Vendor or, to the extent Vendor is aware, any Subcontractor hereunder by a governmental or public entity arising out of their business dealings with governmental or public entities. Any such litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") must be disclosed in a written statement in Vendor's bid response. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated as such. Information provided to the State from Vendor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section.

NONE.

1B.302 DISCLOSURE OF RFP ASSISTANCE

The Vendor shall notify the State in its bid proposal, if it, or any of its subcontractors, or its officers or directors has assisted with the drafting of this RFP, either in whole, or in part. This includes the conducting or drafting of surveys designed to establish a system inventory, and/or arrive at an estimate for the value of the solicitation.

The Vendor shall provide a listing of all materials provided to the State by the Contractor, or by the State to the Contractor, containing information relevant to this RFP, including, but not limited to: questionnaires, requirements lists, budgetary figures, assessments, white papers, presentations, RFP draft documents. The Vendor shall provide a list of all individuals within the State with whom any of their personnel, and/or subcontractors' personnel has discussed this RFP or any portion of this RFP.

The following constitutes a list of actions that would preclude the developer/co-developer of a Request for Proposal (RFP) from bidding on an RFP. This list is not comprehensive, and the State reserves the right to disqualify any Vendor, if the State determines that the Vendor has used its position (whether as an incumbent Vendor, or as a Contractor hired to assist with the RFP development, or as a Vendor offering assistance gratis), to gain a leading edge on the competitive solicitation:

- The RFP development results in a "unique solution," having proprietary influence for the benefit of the developer, or a very limited source list. The resulting RFP must be of a nature that displays neutrality and fairness; any implication of impropriety will preclude the developer from participating in the ensuing bid process.
- Retaining information assembled or compiled for the development of the RFP by the developer. The Contractor must share all pertinent information assembled for the RFP development, by making such information equally and fully available to all potential bidders, via the DMB Acquisition Services Buyer.



- The use of information assembled that would lead to an early response to the RFP by the RFP developer. This includes, but is not limited to: assessments, surveys, white papers, RFP draft documents, questionnaires, requirements lists, budgetary figures, presentations, notes from conversations with State personnel, and any other form of information resulting in a competitive advantage.

Codespear acknowledges compliance requirement and has provided no assistance with respect to this ITB.

1B.303 MIDEAL - EXTENDED PURCHASING (SEE ARTICLE 2, SECTION 2.320)

NON-STATE AGENCY REQUIREMENTS

Act Number 431 of the Public Acts of 1984 permits the State of Michigan, Department of Management and Budget, to provide purchasing services to any city, village, county, township, school district, intermediate school district, non-profit hospital, institution of higher education, community, or junior college. The bidder is requested to complete the attached "Non-State Agency Statement" to indicate a willingness to supply commodities to these authorized local units of government, school districts, etc. as well as the state departments and agencies. Should a contract result, a listing of approved program members will be included.

Inasmuch as these are non-state agencies, all invoices will be submitted to and payment remitted by the local unit of government on a direct and individual basis. Orders received from non-approved local units of government shall not be considered unless prior approval is granted by DMB Office of Acquisition Services.

Estimated requirements for authorized local units of government are not included in the quantities shown in this ITB.

NON-STATE AGENCY STATEMENT

Act Number 431 of the Public Acts of 1984 permits the State of Michigan, Department of Management and Budget, to provide purchasing services to As a result of the enactment of this legislation, the MIDEAL Program has been developed. This program extends the use of state contracts to program members. The governmental agency must enter into an agreement with the State of Michigan to become authorized to participate, thus ensuring that local units of government secure a greater return for the expenditure of public funds. It is the policy of the Office of Acquisition Services, Department of Management and Budget, that the final approval to utilize any such contract in this manner must come from the contract vendor.

In such cases, contract vendors supply merchandise at the established State of Michigan contract prices and terms. Inasmuch as these are non-state agencies, all purchase orders will be submitted by, invoices will be billed to, and payment will be remitted by the authorized MIDEAL member on a direct and individual basis in accordance with contract terms.

Therefore, it is required that all bidders indicate, by checking the appropriate box below, whether they will (first box) or will not (second box) honor orders on any contract resulting from this Request for Quotation from State of Michigan authorized MIDEAL members. It is the responsibility of the contractor to ensure the non-state agency is an authorized MIDEAL member prior to extending the state contract price.

BIDDER MUST CHECK ONE BOX BELOW

- Commodities and/or services on this Request for Quotation will be supplied to State of Michigan departments and agencies, and authorized MIDEAL Program members in accordance with the terms and prices quoted. A complete listing of eligible participants in the MIDEAL Program will be provided if this option is selected.

Note: Codespear has provided a separate pricing schedule addressing the MIDEAL Program. Please refer to "Section 5. Proposal Cost Schedules & Additional Products & Services Options"



Article 1, Attachment A

Pricing

FIXED PRICE - SUMMARY

Description	Total Amount for 5 years
Schedule A: Deliverable-Based Payment (Implementation & Integration)	\$ 30,000
Schedule B: Software	\$220,000
Schedule C: Hardware & Software Maintenance after Warranty	\$110,000 –Years 2 thru 5
Schedule D: Training	\$ Included in License Fee
Schedule E: Hardware	\$ 50,000
Total	\$410,000



**STRAIGHT DELIVERABLE-BASED (FIXED PRICE) PAYMENT (Section 1.1.04)
SCHEDULE A**

Section II Description	Amount
Phase I - Implementation (Estimated Allocation)	\$10,000
Phase II – Documentation & Training	Included in License
Phase III – Go Live (Estimated Allocation)	\$20,000
Total (Training included in License Fee)	\$30,000



**ITEMIZED SOFTWARE – SERVER LICENSE
SCHEDULE B**

Description	Software Cost	Type of Licenses (server, CPU, etc.)	Number of Licenses	Unit Price per License	Total Amount
(Bundled License	See Schedule B	Below, and	ITB Section 5.	License Pricing	On Page 33)
					(See Below)

**ITEMIZED SOFTWARE – USER LICENSE
SCHEDULE B**

Description	Software Cost	Type of Licenses (concurrent, seat, named, etc.)	Number of Licenses	Unit Price per License	Total Amount
SmartMSG	(See ITB Section	5. for Terms	Of Licensing	On Page 33)	\$220,000
SmartMSG	(Bundled HDWE			See Page 33)	\$ 50,000

**SOFTWARE MAINTENANCE (AFTER WARRANTY) (State may elect to do separate procurement)
SCHEDULE C**

Description	Year 1	Year 2	Year 3	Optional Year 4	Optional Year 5	Total Amount
Standard Support (See Page 44 of ITB Resp.)	Incl.	8,750	33,750	33,750	33,750	\$110,000
Total	\$0	8,750	33,750	33,750	33,750	\$110,000

- The vendor must provide the number of releases scheduled per year.

There is an average of two major version releases per year.

- The vendor must provide the date of the next major release and provide the cost to configure a major release based on historical data.

Base Release 5.1 was made available on June 7, 2005. The next Major Release is tentatively planned for June 2006. However, it is common for Codespear to make Module Upgrades and New Modules available on a quarterly basis.

The SmartMSG Application provides for an “Auto Update” function, which applies new software versions/modules and upgraded modules through and automated utility. The SmartMSG application also provides an automated software distribution and update utility to update all server and client software.

The average time to perform an upgrade is one week (managed internally by Customer with SmartMSG Auto Update Utility). Codespear will assist the State with the first two version and/or module updates at no-charge (within first three years).

- All scheduled releases must be delivered to the MSP within three months of the scheduled release date. Service Level Agreement: If the release is not received within three months and 14 calendar days from the scheduled release date, there will be a \$500 penalty imposed in the form of a credit to the maintenance costs.

Codespear will comply with and accept this service level agreement requirement.



**ITEMIZED HARDWARE
(State may elect to do separate procurement.)
SCHEDULE D**

Description	Quantity	Unit Price	Total Amount
Note: Bundled in Schedule B. Client Software. Custom Configured PC's for	Also See ITB Response – Section 5. Page 33.		Included in License Fee
Communications Interoperability			

**HARDWARE MAINTENANCE (AFTER WARRANTY)
(State may elect to do separate procurement.)
SCHEDULE E**

Description	Year 1	Year 2	Year 3	Optional Year 4	Optional Year5	Total Amount
Note: Bundled in Schedule C. Software Maintenance. Custom Configured PC's for						Also See Page 34 & 35 of ITB Response
Communications Interoperability						
Total						



Article 2 – General Terms and Conditions

2.010 Contract Structure and Administration

2.011 Definitions

Capitalized terms used in this Contract (including its Exhibits) shall have the meanings given below, unless the context requires otherwise:

- (a) “Days” means calendar days unless otherwise specified.
- (b) “24x7x365” means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).
- (c) “Additional Service” means any Services/Deliverables within the scope of the Contract, but not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration. “Additional Service” does not include New Work.
- (d) “Amendment Labor Rates” means the schedule of fully-loaded hourly labor rates.
- (e) “Audit Period” has the meaning given in **Section 2.111**.
- (f) “Business Day,” whether capitalized or not, shall mean any day other than a Saturday, Sunday or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am EST through 5:00pm EST unless otherwise stated.
- (g) “Incident” means any interruption in Services.
- (h) “Business Critical” means any function identified in any Statement of Work as Business Critical.
- (i) “Deliverable” means physical goods and/or commodities as required or identified by a Statement of Work
- (j) “Key Personnel” means any Personnel designated in **Article 1, Section 1.201** as Key Personnel.
- (k) “New Work” means any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration. “New Work” does not include Additional Service.
- (l) “Services” means any function performed for the benefit of the State.
- (m) “State Location” means any physical location where the State performs work. State Location may include state-owned, leased, or rented space.
- (n) “Subcontractor” means a company Contractor delegates performance of a portion of the Services to, but does not include independent contractors engaged by Contractor solely in a staff augmentation role.
- (o) “Work in Process” means a Deliverable that has been partially prepared, but has not been presented to the State for Approval.

2.012 Attachments and Exhibits

All Attachments and/or Exhibits attached to any, and all Statement(s) of Work, attached to, or referencing this Contract, are incorporated in their entirety into, and form part of, this Contract.

2.013 Statements of Work

- (a) The parties agree that the Services/Deliverables to be rendered by Contractor pursuant to this Contract (and any future amendments of it) will be defined and described in detail in Statements of Work or Purchase Orders (PO) executed under this Contract. Contractor shall not be obliged or authorized to commence any work to implement a Statement of Work until authorized via a PO issued against this Contract, or an amendment to this Contract (see 2.106). Contractor shall perform in accordance with this Contract, including the Statements of Work/Purchase Orders executed under it.
- (b) Unless otherwise agreed by the parties, each Statement of Work (as defined in Article 1) will include, or incorporate by reference to the appropriate Contract Article 1 Attachment containing, the following information:
 - a description of the Services to be performed by Contractor under the Statement of Work;



- a project schedule (including the commencement and completion dates for all tasks, subtasks (for all projects of sufficient duration and complexity to warrant sub task breakdown), and Deliverables;
 - a list of the Deliverables to be provided, if any, including any particular specifications and acceptance criteria for such Deliverables, and the dates on which the Deliverables are scheduled to be completed and delivered to the State;
 - all Deliverable price schedules and other charges associated with the Statement of Work, the overall fixed price for such Statement of Work and any other appropriate pricing and payment terms;
 - a specification of Contractor's and the State's respective performance responsibilities with respect to the performance or completion of all tasks, subtasks and Deliverables;
 - a listing of any Key Personnel of Contractor and/or its Subcontractors for that Statement of Work and any future Statements of Work;
 - any other information or provisions the parties agree to include.
- (c) Reserved.
- (d) The initial Statements of Work, as of the Effective Date, are attached to this Contract.

2.014 Issuing Office

This Contract is issued by the Department of Management and Budget, Office of Acquisition Services (“OAS”) and the Department of Information Technology (collectively, including all other relevant State of Michigan departments and agencies, the “State”). OAS is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. **OAS is the only State office authorized to change, modify, amend, alter or clarify the prices, specifications, terms and conditions of this Contract.** The Contractor Administrator within the Office of Acquisition Services for this Contract is:

Jacque Kuch
 Office of Acquisition Services
 Department of Management and Budget
 Mason Bldg, 2nd Floor
 PO Box 30026
 Lansing, MI 48909
 (517) 241-0239
kuchj@michigan.gov:

2.015 Contract Compliance Inspector

Upon receipt at OAS of the properly executed Contract, it is anticipated that the Director of DMB Acquisition Services, in consultation with (insert the end using agency), will direct that the person named below, or any other person so designated, be authorized to monitor and coordinate the activities for the Contract on a day-to-day basis during its term. However, monitoring of this Contract implies **no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of such Contract as that authority is retained by the Office of Acquisition Services.** The Contract Compliance Inspector for this Contract is:

Barb Suska
 Department of Information Technology
 Constitution Hall, Atrium South Tower
 525 W Allegan Street
 Lansing, MI 48913
suskab2@michigan.gov
 517-335-4067

2.016 Project Manager

The following individual will oversee the project:

Name: Thomas Newell
 Department of Michigan State Police
 Address: 4000 Collins Rd



City: Lansing
State & Zip Lansing, MI 48910
Email: NewellIT@michigan.gov
Phone: (517) 333-5026

2.020 Contract Objectives/Scope/Background

2.021 Background

The Emergency Management Division is the sole state agency responsible for the preparation, maintenance and training necessary to keep the State Emergency Operations Center (SEOC) in a 7/24 ready mode. This project is part of the Homeland Security response activities to provide the CIMS for emergency / disaster response and scheduled exercises of same. The CIMS project encompasses State agencies, counties, cities, townships and commissions who all have access to the E Team application to manage emergencies and disasters.

The Michigan State Police (MSP) Emergency Management Division (EMD) requires a commercial off-the-shelf (COTS) alerting and notification software solution to integrate into the existing E Team Critical Incident Management System (CIMS).

MSP EMD has been using E Team since 2002. MSP EMD has a Government E Team enterprise license for 25 servers, unlimited users per server. E Team's present messaging capabilities are limited at this time to unsecured text email messaging, also known as "notification" through a SMTP gateway.

2.022 Purpose

See Section 1.002

2.023 Objectives and Scope

See Section 1.101

2.024 Interpretation

Sections 2.021 through 2.023 are intended to provide background and context for this Contract and are not intended to expand the scope of the obligations under this Contract or to alter the plain meaning of the terms and conditions of this Contract. However, to the extent the terms and conditions of this Contract are unclear or otherwise ambiguous, such terms and conditions are to be interpreted and construed in light of the provisions of this Section.

2.025 Form, Function and Utility

If the Contract is for use of more than one State agency and if the Deliverable/Service does not meet the form, function, and utility required by that State agency, that agency may, subject to State purchasing policies, procure the Deliverable/Service from another source.

2.030 Legal Effect and Term

2.031 Legal Effect

Except as otherwise agreed in writing by the parties, the State assumes no liability for costs incurred by Contractor or payment under this Contract, until Contractor is notified in writing that this Contract (or Change Order) has been approved by the State Administrative Board (if required), approved and signed by all the parties, and a Purchase Order against the Contract has been issued.

2.032 Contract Term

This Contract is for a period of three (3) years commencing on the date that the last signature required to make the Contract enforceable is obtained. All outstanding Purchase Orders shall also expire upon the termination (cancellation for any of the reasons listed in 2.210) of the Contract, unless otherwise extended pursuant to the



Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

2.033 Renewal(s)

This Contract may be renewed in writing by mutual agreement of the parties not less than thirty (30) days before its expiration. The Contract may be renewed for up to two (2) one (1) year periods. Successful completion of negotiations surrounding the terms of the extension will be a pre-requisite for the exercise of any option year.

2.040 Contractor Personnel

2.041 Contractor Personnel

- (a) Personnel Qualifications. All persons assigned by Contractor to the performance of Services under this Contract shall be employees of Contractor or its majority-owned (directly or indirectly, at any tier) subsidiaries (or a State-approved Subcontractor) and shall be fully qualified to perform the work assigned to them. Contractor shall include a similar provision in any subcontract entered into with a Subcontractor. For the purposes of this Contract, independent contractors engaged by Contractor solely in a staff augmentation role shall be treated by the State as if they were employees of Contractor for this Contract only; however, the State understands that the relationship between Contractor and Subcontractor is an independent contractor relationship.
- (b) Key Personnel
- (i) In discharging its obligations under this Contract, Contractor shall provide the named Key Personnel on the terms indicated. **Exhibit A** provides an organization chart showing the roles of certain Key Personnel, if any.
- (ii) Key Personnel shall be dedicated as defined in **Exhibit A** to the Project for its duration in the applicable Statement of Work with respect to other individuals designated as Key Personnel for that Statement of Work.
- (iii) The State will have the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, will introduce the individual to the appropriate State representatives, and will provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. Additionally, the State's request shall be based on legitimate, good-faith reasons. Proposed alternative for the individual denied, shall be fully qualified for the position.
- (iv) Contractor shall not remove any Key Personnel from their assigned roles or the Contract without the prior written consent of the State. If the Contractor does remove Key Personnel without the prior written consent of the State, it shall be considered an unauthorized removal ("Unauthorized Removal"). It shall not be considered an Unauthorized Removal if Key Personnel must be replaced for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation or for cause termination of the Key Personnel's employment. It shall not be considered an Unauthorized Removal if Key Personnel must be replaced because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides ten (10) days of shadowing with an additional ten (10) at the State's request. The Contractor with the State shall review any Key Personnel replacements, and appropriate transition planning will be established. Any Unauthorized Removal may be considered by the State to be a material breach of the Contract, in respect of which the State may elect to exercise its rights under **Section 2.210**.
- (v) It is acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of the Contract, to the loss and damage of the State, and that it would be



impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 2.210**, the State may assess liquidated damages against Contractor as specified below.

For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the liquidated damages amount shall be \$25,000.00 per individual provided Contractor identifies a replacement approved by the State pursuant to **Section 2.041** and assigns the replacement to the Project to shadow the Key Personnel s/he is replacing for a period of at least thirty (30) days prior to such Key Personnel's removal.

If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least thirty (30) days, in addition to the \$25,000.00 liquidated damages for an Unauthorized Removal, Contractor shall pay the amount of \$833.33 per day for each day of the thirty (30) day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$25,000.00 maximum per individual. The total liquidated damages that may be assessed per Unauthorized Removal and failure to provide thirty (30) days of shadowing shall not exceed \$50,000.00 per individual.

(c) Re-assignment of non-Key Personnel. Prior to re-deploying to other projects, at the completion of their assigned tasks on the Project, teams of its non-Key Personnel who are performing Services on-site at State facilities or who are otherwise dedicated primarily to the Project, Contractor will give the State at least ten (10) Business Days notice of the proposed re-deployment to give the State an opportunity to object to the re-deployment if the State reasonably believes such team's Contract responsibilities are not likely to be completed and approved by the State prior to the proposed date of re-deployment.

(d) Re-assignment of Personnel at the State's Request. The State reserves the right to require the removal from the Project of Contractor personnel found, in the judgment of the State, to be unacceptable. The State's request shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good-faith reasons. Replacement personnel for the removed person shall be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed personnel, the State agrees to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with removed personnel results in delay not reasonable anticipated under the circumstances and which is attributable to the State, the applicable SLAs for the affected Service will not be counted in **Section 2.076** for a time as agreed to by the parties.

(e) Staffing Levels.

(i) All staff requirements not specified in the applicable Statement of Work or State-approved project plan as State personnel will be supplied by Contractor. This includes secretarial, clerical and Contract administration support staff necessary for Contractor to perform its obligations hereunder.

(ii) Contractor shall provide sufficient personnel resources for the completion of Contract tasks indicated in Contractor's project plan approved by the State. If the level of personnel resources is insufficient to complete any Contractor Contract tasks in accordance with the Contract time schedule as demonstrated by Contractor's failure to meet mutually agreed to time schedules, Contractor shall promptly add additional qualified personnel resources to the performance of the affected tasks, at no additional charge to the State, in an amount sufficient to complete performance of Contractor's tasks in accordance with the Contract time schedule.

(f) Personnel Turnover. The Parties agree that it is in their best interests to keep the turnover rate of employees of Contractor and its Subcontractors who are performing the Services to a reasonable minimum. Accordingly, if the State determines that the turnover rate of such employees is excessive and so notifies Contractor, Contractor will meet with the State to discuss the reasons for the turnover rate and otherwise use commercially reasonable efforts to minimize such turnover rate. If requested to



do so by the State, Contractor will submit to the State its proposals for reducing the turnover rate to an acceptable level. In any event, notwithstanding the turnover of personnel, Contractor remains obligated to perform the Services without degradation and in accordance with the State-approved Contract schedule.

(g) Location. All staff assigned by Contractor to work on the Contract will perform their duties either primarily at Contractor's offices and facilities or at State facilities. Without limiting the generality of the foregoing, Key Personnel will, at a minimum, spend at least the amount of time on-site at State facilities as indicated in the applicable Statement of Work. Subject to availability, selected Contractor personnel may be assigned office space to be shared with State personnel.

2.042 Contractor Identification

Contractor employees shall be clearly identifiable while on State property by wearing a State-issued badge, as required. Contractor employees are required to clearly identify themselves and the company they work for whenever making contact with State personnel by telephone or other means.

2.043 Cooperation with Third Parties

Contractor agrees to cause its personnel and the personnel of any Subcontractors to cooperate with the State and its agents and other contractors including the State's Quality Assurance personnel, and, as reasonably requested by the State, to provide to the State's agents and other contractors with reasonable access to Contractor's Project personnel, systems and facilities to the extent they relate to activities specifically associated with this Contract and will not interfere or jeopardize the safety or operation of the systems or facilities and provided Contractor receives reasonable prior written notice of such request. The State acknowledges that Contractor's time schedule for the Contract is very specific and agrees not to unnecessarily or unreasonably interfere with, delay or otherwise impeded Contractor's performance under this Contract with such requests for access.

2.044 Subcontracting by Contractor

(a) Contractor shall have full responsibility for the successful performance and completion of all of the Services and Deliverables. The State will consider Contractor to be the sole point of contact with regard to all contractual matters under this Contract, including payment of any and all charges for Services and Deliverables.

(b) Contractor shall not delegate any duties under this Contract to a Subcontractor unless the Department of Management and Budget, Office of Acquisition Services has given written consent to such delegation. The State shall have the right of prior written approval of all Subcontractors and to require Contractor to replace any Subcontractors found, in the reasonable judgment of the State, to be unacceptable. The State's request shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good-faith reasons. Replacement Subcontractor(s) for the removed Subcontractor shall be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed Subcontractor, the State will agree to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with a removed Subcontractor results in delay not reasonably anticipated under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.076** for a time agreed upon by the parties.

(c) In any subcontracts entered into by Contractor for the performance of the Services, Contractor shall require the Subcontractor, to the extent of the Services to be performed by the Subcontractor, to be bound to Contractor by the terms of this Contract and to assume toward Contractor all of the obligations and responsibilities that Contractor, by this Contract, assumes toward the State. The State reserves the right to receive copies of and review all subcontracts, although Contractor may delete or mask any proprietary information, including pricing, contained in such contracts before providing them to the State. The management of any Subcontractor will be the responsibility of Contractor, and Contractor shall remain responsible for the performance of its Subcontractors to the same extent as if Contractor had not subcontracted such performance. Contractor shall make all payments to Subcontractors or suppliers of



Contractor. Except as otherwise agreed in writing by the State and Contractor, the State will not be obligated to direct payments for the Services other than to Contractor. The State's written approval of any Subcontractor engaged by Contractor to perform any obligation under this Contract shall not relieve Contractor of any obligations or performance required under this Contract.

(d) Except where specifically approved in writing by the State on a case-by-case basis, Contractor shall flow down the obligations in **Sections 2.040, 2.110, 2.150, 2.160, 2.171(c), 2.172(b), 2.180, 2.260, 2.276, 2.297** in all of its agreements with any Subcontractors.

(e) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the Contract.

2.045 Contractor Responsibility for Personnel

Contractor shall be responsible for all acts and omissions of its employees, as well as the acts and omissions of any other personnel furnished by Contractor to perform the Services.

2.050 State Standards

2.051 Existing Technology Standards

The Contractor will adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at http://www.michigan.gov/dit/0,1607,7-139-30639_30655---,00.html.

2.052 PM Methodology Standards

The State has adopted a standard documented Project Management Methodology (PMM) for use on all Information Technology (IT) based projects. See the State's PMM website at <http://www.michigan.gov/projectmanagement>.

The Contractor shall use the State's PPM to manage this Contract. If the Contractor requires training on the PMM, those costs shall be the responsibility of the Contractor, unless otherwise stated.

2.053 Adherence to Portal Technology Tools

The State has adopted the following tools for its Portal Technology development efforts:

- Vignette Content Management and personalization Tool
- Inktomi Search Engine
- E-Pay Payment Processing Module
- Websphere Commerce Suite for e-Store applications

Unless otherwise stated, Contractor must use the Portal Technology Tools to implement web content management and deployment efforts. Tools used for web-based application development must work in conjunction with Vignette and Inktomi. The interaction with Vignette and Inktomi must be coordinated with DIT, Enterprise Application Services Office, e-Michigan Web Development team.

Contractors that are compelled to use alternate tools must have received an exception from DIT, Enterprise Application Services Office, e-Michigan Web Development team, before this Contract is effective.

2.054 Acceptable Use Policy

To the extent that Contractor has access to the State computer system, Contractor must comply with the State's Acceptable Use Policy, see <http://www.michigan.gov/dit/service/0,1607,7-179-25781-73760--,00.html>. All Contractor employees must be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State system. The State reserves the right to terminate Contractor's access to the State system if a violation occurs.



2.060 Deliverables

2.061 Ordering

(a) Any Services/Deliverables to be furnished under this Contract shall be ordered by issuance of written Purchase Orders/Blanket Purchase Order by the State after approval by the Contract Administrator or his/her designee. All orders are subject to the terms and conditions of this Contract. In the event of conflict between an order and this Contract, the Contract shall take precedence as stated in **Section 2.293**. In no event shall any additional terms and conditions contained on a Purchase Order/Blanket Purchase Order be applicable, unless specifically contained in that Purchase Order/Blanket Purchase Order's accompanying Statement of Work.

(b) DIT will continue to oversee the use of this Contract by End Users. DIT may, in writing, delegate to agencies the authority to submit requests for certain services directly to the Contractor. DIT may also designate, in writing, some services as non-delegated and require DIT review and approval before agency acquisition. DIT will use Contractor provided management reports and periodic random agency audits to monitor and administer contract usage for delegated services.

2.062 Software

RESERVED

2.063 Hardware

RESERVED

2.064 Equipment to be New and Prohibited Products

(a) Equipment to be New

If applicable, all equipment provided under this Contract by Contractor shall be new where Contractor has knowledge regarding whether the equipment is new or assembled from new or serviceable used parts that are like new in performance or has the option of selecting one or the other. Equipment that is assembled from new or serviceable used parts that are like new in performance is acceptable where Contractor does not have knowledge or the ability to select one or other, unless specifically agreed otherwise in writing by the State.

(b) Prohibited Products

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against the Contract, shall be considered default by the Contractor of the terms and conditions of the Contract and may result in cancellation of the Contract by the State. The brand and product number offered for all items shall remain consistent for the term of the Contract, unless Acquisition Services has approved a change order pursuant to **Section 2.106**.

2.070 Performance

2.071 Performance, In General

The State engages Contractor to execute the Contract and perform the Services/provide the Deliverables, and Contractor undertakes to execute and complete the Contract in its entirety in accordance with the terms and conditions of this Contract and with the participation of State representatives as specified in this Contract.

2.072 Time of Performance

(a) Contractor shall use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables in accordance with the time schedules contained in the Statements of Work and other Exhibits governing the work, and with professional quality.

(b) Without limiting the generality of **Section 2.072(a)**, Contractor shall notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and, in such event, shall inform the State of the projected actual delivery date.

(c) If Contractor believes that a delay in performance by the State has caused or will cause Contractor to be unable to perform its obligations in accordance with specified Contract time periods,



Contractor shall notify the State in a timely manner and shall use commercially reasonable efforts to perform its obligations in accordance with such Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent such delay is caused by the State.

2.073 Liquidated Damages

RESERVED

2.074 Bankruptcy

If Contractor shall file for protection under the bankruptcy laws, or if an involuntary petition shall be filed against Contractor and not removed within thirty (30) days, or if the Contractor becomes insolvent, be adjudicated bankrupt, or if it should make a general assignment for the benefit of creditors, or if a receiver shall be appointed due to its insolvency, and Contractor and/or its affiliates are unable to provide reasonable assurances that Contractor and/or its affiliates can deliver the services provided herein, the State may, without prejudice to any other right or remedy, terminate this Contract, in whole or in part, and, at its option, may take possession of the "Work in Process" and finish such Works in Process by whatever appropriate method the State may deem expedient. Contractor will fix appropriate notices or labels on the Work in Process to indicate ownership by the State. To the extent reasonably possible, materials and Work in Process shall be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.

To secure the State's progress payments before the delivery of any services or materials required for the execution of Contractor's obligations hereunder, and any work which Contractor may subcontract in the support of the performance of its obligations hereunder, title shall vest in the State to the extent the State has made progress payments hereunder.

2.075 Time is of the Essence

The Contractor agrees that time is of the essence in the performance of the Contractor's obligations under this Contract.

2.076 Service Level Agreements (SLAs)

(a) SLAs will be completed with the following operational considerations:

(i) SLAs will not be calculated for individual Incidents where any event of Excusable Failure has occurred as defined in **Section 2.202**,

(ii) SLAs will not be calculated for individual Incidents where loss of service is planned and where the State has received prior notification and/or coordination.

(iii) SLAs will not apply if the applicable Incident could have been prevented through planning proposed by Contractor and not implemented at the request of the State. In order to invoke this consideration, complete documentation relevant to the denied planning proposal must be presented to substantiate the proposal.

(iv) Time period measurements will be based on the time Incidents are received by the Contractor and the time that the State receives notification of resolution based on 24x7x365 time period, except that the time period measurement will be suspended based on the following ("Stop-Clock Conditions"):

1. Time period(s) will not apply where Contractor does not have access to a physical State Location and where access to the State Location is necessary for problem identification and resolution.

2. Time period(s) will not apply where Contractor needs to obtain timely and accurate information or appropriate feedback and is unable to obtain timely and accurate information or appropriate feedback from the State.

(b) Chronic Failure for any Service(s) will be defined as three (3) unscheduled outage(s) or interruption(s) on any individual Service for the same reason or cause or if the same reason or cause was reasonably discoverable in the first instance over a rolling thirty (30) day period. Chronic Failure will result in the State's option to terminate the effected individual Service(s) and procure them from a different vendor for the chronic location(s) with Contractor to pay the difference in charges for up to three (3) additional months. The termination of the Service will not affect any tiered pricing levels.



(c) Root Cause Analysis will be performed on any Business Critical outage(s) or outage(s) on Services when requested by the Contract Administrator. Contractor will provide its analysis within two (2) weeks of outage(s) and provide a recommendation for resolution.

(d) All decimals shall be rounded to two decimal places with 5 and greater rounding up and 4 and less rounding down unless otherwise specified.

2.080 Delivery and Acceptance of Deliverables

2.081 Delivery Responsibilities

Unless otherwise specified by the State within an individual order, the following shall be applicable to all orders issued under this Contract.

(a) Shipment responsibilities - Services performed/Deliverables provided under this Contract shall be delivered "F.O.B. Destination, within Government Premises." The Contractor shall have complete responsibility for providing all Services/Deliverables to all site(s) unless otherwise stated. Actual delivery dates will be specified on the individual purchase order.

(b) Delivery locations - Services will be performed/Deliverables will be provided at every State of Michigan location within Michigan unless otherwise stated in the SOW. Specific locations will be provided by the State or upon issuance of individual purchase orders.

(c) Damage Disputes - At the time of delivery to State Locations, the State shall examine all packages. The quantity of packages delivered shall be recorded and any obvious visible or suspected damage shall be noted at time of delivery using the shipper's delivery document(s) and appropriate procedures to record such.

Where there is no obvious or suspected damage, all deliveries to a State Location must be opened by the State and the contents inspected for possible internal damage not visible externally within fourteen (14) days of receipt. Any damage must be reported to the Contractor within five (5) days of inspection. If this inspection does not occur and damages not reported within thirty (30) days of receipt, the cure for such damaged deliveries shall transfer to the delivery signing party.

2.082 Delivery of Deliverables

(a) Where applicable, the Statements of Work/POs contain lists of the Deliverables to be prepared and delivered by Contractor including, for each Deliverable, the scheduled delivery date and a designation of whether the Deliverable is a document ("Written Deliverable"), a good ("Physical Deliverable") or a Service. All Deliverables shall be completed and delivered for State review and written approval and, where applicable, installed in accordance with the State-approved delivery schedule and any other applicable terms and conditions of the Contract.

2.083 Testing

(a) Prior to delivering any of the above-mentioned Statement of Work Physical Deliverables or Services to the State, Contractor will first perform all required quality assurance activities to verify that the Physical Deliverable or Service is complete and in conformance with its specifications listed in the applicable Statement of Work or Purchase Order. Before delivering a Physical Deliverable or Service to the State, Contractor shall certify to the State that (1) it has performed such quality assurance activities, (2) it has performed any applicable testing, (3) it has corrected all material deficiencies discovered during such quality assurance activities and testing, (4) the Deliverable or Service is in a suitable state of readiness for the State's review and approval, and (5) the Deliverable/Service has all Critical Security patches/updates applied.

(b) If a Deliverable includes installation at a State Location, then Contractor shall (1) perform any applicable testing, (2) correct all material deficiencies discovered during such quality assurance activities and testing, and (3) inform the State that the Deliverable is in a suitable state of readiness for the State's review and approval. To the extent that testing occurs at State Locations, the State shall be entitled to observe or otherwise participate in testing.

2.084 Approval of Deliverables, In General

(a) All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, in accordance with the following procedures. Formal approval by the State requires that



the Deliverable be confirmed in writing by the State to meet its specifications, which will include the successful completion of Testing as applicable in **Section 2.083**, to be led by the State with the support and assistance of Contractor. The parties acknowledge that the approval process set forth herein will be facilitated by ongoing consultation between the parties, visibility of interim and intermediate Deliverables and collaboration on key decisions.

(b) The State's obligation to comply with any State Review Period is conditioned on the timely delivery of Deliverables/Services being reviewed.

(c) Prior to commencement of its review or testing of a Deliverable/Service, the State may inspect the Deliverable/Service to confirm that all components of the Deliverable/Service have been delivered without material deficiencies. If the State determines that the Deliverable/Service has material deficiencies, the State may refuse delivery of the Deliverable/Service without performing any further inspection or testing of the Deliverable/Service. Otherwise, the review period will be deemed to have started on the day the State receives the Deliverable or the Service begins, and the State and Contractor agree that the Deliverable/Service is ready for use and, where applicable, certification by Contractor in accordance with **Section 2.083(a)**.

(d) The State will approve in writing a Deliverable/Service upon confirming that it conforms to and, performs in accordance with, its specifications without material deficiency. The State may, but shall not be required to, conditionally approve in writing a Deliverable/Service that contains material deficiencies if the State elects to permit Contractor to rectify them post-approval. In any case, Contractor will be responsible for working diligently to correct within a reasonable time at Contractor's expense all deficiencies in the Deliverable/Service that remain outstanding at the time of State approval.

(e) If, after three (3) opportunities (the original and two repeat efforts), Contractor is unable to correct all deficiencies preventing Final Acceptance of a Deliverable/Service, the State may: (i) demand that Contractor cure the failure and give Contractor additional time to cure the failure at the sole expense of Contractor; or (ii) keep the Contract in force and do, either itself or through other parties, whatever Contractor has failed to do, in which event Contractor shall bear any excess expenditure incurred by the State in so doing beyond the Contract price for such Deliverable/Service and will pay the State an additional sum equal to ten percent (10%) of such excess expenditure to cover the State's general expenses provided the State can furnish proof of such general expenses; or (iii) terminate the particular Statement of Work for default, either in whole or in part by notice to Contractor provided Contractor is unable to cure such breach. Notwithstanding the foregoing, the State shall not use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.

(f) The State, at any time and in its reasonable discretion, may halt the testing or approval process if such process reveals deficiencies in or problems with a Deliverable/Service in a sufficient quantity or of a sufficient severity as to make the continuation of such process unproductive or unworkable. In such case, the State may stop using the Service or return the applicable Deliverable to Contractor for correction and re-delivery prior to resuming the testing or approval process.

2.085 Process For Approval of Written Deliverables

The State Review Period for Written Deliverables will be the number of days set forth in the applicable Statement of Work following delivery of the final version of the Deliverable (failing which the State Review Period, by default, shall be five (5) Business Days for Written Deliverables of one hundred (100) pages or less and ten (10) Business Days for Written Deliverables of more than one hundred (100) pages). The duration of the State Review Periods will be doubled if the State has not had an opportunity to review an interim draft of the Written Deliverable prior to its submission to the State. The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Deliverable (or at the State's election, subsequent to approval of the Deliverable). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within thirty (30) Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Deliverable from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the



original State Review Period, to review the corrected Deliverable to confirm that the identified deficiencies have been corrected.

2.086 Process for Approval of Services

The State Review Period for approval of Services is governed by the applicable Statement of Work (failing which the State Review Period, by default, shall be thirty (30) Business Days for Services). The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Service is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Services (or at the State's election, subsequent to approval of the Service). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within thirty (30) Business Days resubmit the Service in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon implementation of a corrected Service from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Service for conformity and that the identified deficiencies have been corrected.

2.087 Process for Approval of Physical Deliverables

The State Review Period for approval of Physical Deliverables is governed by the applicable Statement of Work (failing which the State Review Period, by default, shall be thirty (30) continuous Business Days for a Physical Deliverable). The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Deliverable (or at the State's election, subsequent to approval of the Deliverable). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within thirty (30) Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Deliverable from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Deliverable to confirm that the identified deficiencies have been corrected.

2.088 Final Acceptance

Unless otherwise stated in the Statement of Work or Purchase Order, "Final Acceptance" of each Deliverable shall occur when each Deliverable/Service has been approved by the State following the State Review Periods identified in **Sections 2.080-2.087**. Payment will be made for Deliverables installed and accepted. Upon acceptance of a Service, the State will pay for all Services provided during the State Review Period that conformed to the acceptance criteria.

2.080 Delivery and Acceptance of Deliverables

2.081 Delivery of Deliverables

Exhibit A contains a list of the Deliverables to be prepared and delivered by Contractor including, for each Deliverable, the scheduled delivery date and a designation of whether the Deliverable is a document ("Written Deliverable") or a Custom Software Deliverable. All Deliverables shall be completed and delivered for State review and written approval and, where applicable, installed in accordance with the State-approved delivery schedule and any other applicable terms and conditions of this Contract.

Prior to delivering any Deliverable to the State, Contractor will first perform all required quality assurance activities, and, in the case of Custom Software Deliverables, System Testing to verify that the Deliverable is complete and in conformance with its specifications. Before delivering a Deliverable to the State, Contractor shall certify to the State that (1) it has performed such quality assurance activities, (2) it has performed any applicable testing, (3) it has corrected all material deficiencies discovered during such quality assurance activities and testing, (4) the Deliverable is in a suitable state of readiness for the State's review and approval, and (5) the Deliverable/Service has all Critical Security patches/updates applied.



In discharging its obligations under this Section, Contractor shall be at all times (except where the parties agree otherwise in writing) in compliance with Level 3 of the Software Engineering Institute's Capability Maturity Model for Software ("CMM Level 3") or its equivalent.

2.082 Contractor System Testing

Contractor will be responsible for System Testing each Custom Software Deliverable in Contractor's development environment prior to turning over the Custom Software Deliverable to the State for User Acceptance Testing and approval. Contractor's System Testing shall include the following, at a minimum, plus any other testing required by CMM Level 3 or Contractor's system development methodology: Contractor will be responsible for performing Unit Testing and incremental Integration Testing of the components of each Custom Software Deliverable.

Contractor's System Testing will also include Integration Testing of each Custom Software Deliverable to ensure proper inter-operation with all prior software Deliverables, interfaces and other components that are intended to inter-operate with such Custom Software Deliverable, and will include Regression Testing, volume and stress testing to ensure that the Custom Software Deliverables are able to meet the State's projected growth in the number and size of transactions to be processed by the Application and number of users, as such projections are set forth in the applicable Statement of Work.

Contractor's System Testing will also include Business Function Testing and Technical Testing of each Application in a simulated production environment. Business Function Testing will include testing of full work streams that flow through the Application as the Application will be incorporated within the State's computing environment. The State shall participate in and provide support for the Business Function Testing to the extent reasonably requested by Contractor. Within ten (10) days before the commencement of Business Function Testing pursuant to this Section, Contractor shall provide the State for State review and written approval Contractor's test plan for Business Function Testing.

Within five (5) Business Days following the completion of System Testing pursuant to **Section 2.080**, Contractor shall provide to the State a testing matrix establishing that testing for each condition identified in the System Testing plans has been conducted and successfully concluded. To the extent that testing occurs on State premises, the State shall be entitled to observe or otherwise participate in testing under this Section as the State may elect.

2.083 Approval of Deliverables, In General

All Deliverables (Written Deliverables and Custom Software Deliverables) require formal written approval by the State, in accordance with the following procedures. Formal approval by the State requires that the Deliverable be confirmed in writing by the State to meet its specifications which, in the case of Custom Software Deliverables, will include the successful completion of State User Acceptance Testing, to be led by the State with the support and assistance of Contractor. The parties acknowledge that the approval process set forth herein will be facilitated by ongoing consultation between the parties, visibility of interim and intermediate Deliverables and collaboration on key decisions.

The State's obligation to comply with any State Review Period is conditioned on the timely delivery of Deliverables being reviewed. If Contractor fails to provide a Deliverable to the State in a timely manner, the State will nevertheless use commercially reasonable efforts to complete its review or testing within the applicable State Review Period.

Before commencement of its review or testing of a Deliverable, the State may inspect the Deliverable to confirm that all components of the Deliverable (e.g., software, associated documentation, and other materials) have been delivered. If the State determines that the Deliverable is incomplete, the State may refuse delivery of the Deliverable without performing any further inspection or testing of the Deliverable. Otherwise, the review period will be deemed to have started on the day the State receives the Deliverable and the applicable certification by Contractor in accordance with **Section 2.080**.



The State will approve in writing a Deliverable upon confirming that it conforms to and, in the case of a Custom Software Deliverable, performs in accordance with, its specifications without material deficiency. The State may, but shall not be required to, conditionally approve in writing a Deliverable that contains material deficiencies if the State elects to permit Contractor to rectify them post-approval. In any case, Contractor will be responsible for working diligently to correct within a reasonable time at Contractor's expense all deficiencies in the Deliverable that remain outstanding at the time of State approval.

If, after three (3) opportunities (the original and two repeat efforts), Contractor is unable to correct all deficiencies preventing State approval of a Deliverable, the State may: (i) demand that Contractor cure the failure and give Contractor additional time to cure the failure at the sole expense of Contractor; or (ii) keep this Contract in force and do, either itself or through other parties, whatever Contractor has failed to do, in which event Contractor shall bear any excess expenditure incurred by the State in so doing beyond the contract price for such Deliverable and will pay the State an additional sum equal to ten percent (10%) of such excess expenditure to cover the State's general expenses without the need to furnish proof in substantiation of such general expenses; or (iii) terminate this Contract for default, either in whole or in part by notice to Contractor (and without the need to afford Contractor any further opportunity to cure). Notwithstanding the foregoing, the State shall not use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.

The State, at any time and in its own discretion, may halt the UAT or approval process if such process reveals deficiencies in or problems with a Deliverable in a sufficient quantity or of a sufficient severity as to make the continuation of such process unproductive or unworkable. In such case, the State may return the applicable Deliverable to Contractor for correction and re-delivery prior to resuming the review or UAT process and, in that event, Contractor will correct the deficiencies in such Deliverable in accordance with the Contract, as the case may be.

Approval in writing of a Deliverable by the State shall be provisional; that is, such approval shall not preclude the State from later identifying deficiencies in, and declining to accept, a subsequent Deliverable based on or which incorporates or inter-operates with an approved Deliverable, to the extent that the results of subsequent review or testing indicate the existence of deficiencies in the subsequent Deliverable, or if the Application of which the subsequent Deliverable is a component otherwise fails to be accepted pursuant to **Section 2.080**.

2.084 Process for Approval of Written Deliverables

The State Review Period for Written Deliverables will be the number of days set forth in the applicable Statement of Work following delivery of the final version of the Written Deliverable (failing which the State Review Period, by default, shall be five (5) Business Days for Written Deliverables of one hundred (100) pages or less and ten (10) Business Days for Written Deliverables of more than one hundred (100) pages). The duration of the State Review Periods will be doubled if the State has not had an opportunity to review an interim draft of the Written Deliverable prior to its submission to the State. The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Written Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Written Deliverable (or at the State's election, subsequent to approval of the Written Deliverable). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within five (5) Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Written Deliverable from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Written Deliverable to confirm that the identified deficiencies have been corrected.

2.085 Process for Approval of Custom Software Deliverables

The State will conduct UAT of each Custom Software Deliverable in accordance with the following procedures to determine whether it meets the criteria for State approval – i.e., whether it conforms to and performs in accordance with its specifications without material deficiencies.

Within thirty (30) days (or such other number of days as the parties may agree to in writing) prior to Contractor's delivery of any Custom Software Deliverable to the State for approval, Contractor shall provide to



the State a set of proposed test plans, including test cases, scripts, data and expected outcomes, for the State's use (which the State may supplement in its own discretion) in conducting UAT of the Custom Software Deliverable. Contractor, upon request by the State, shall provide the State with reasonable assistance and support during the UAT process.

For the Custom Software Deliverables listed in **Exhibit A**, the State Review Period for conducting UAT will be as indicated in **Exhibit A**. For any other Custom Software Deliverables not listed in **Exhibit A**, the State Review Period shall be the number of days agreed in writing by the parties (failing which it shall be forty-five (45) days by default). The State Review Period for each Custom Software Deliverable will begin when Contractor has delivered the Custom Software Deliverable to the State accompanied by the certification required by **Section 2.080** and the State's inspection of the Deliverable has confirmed that all components of it have been delivered.

The State's UAT will consist of executing test scripts from the proposed testing submitted by Contractor, but may also include any additional testing deemed appropriate by the State. If the State determines during the UAT that the Custom Software Deliverable contains any deficiencies, the State will notify Contractor of the deficiency by making an entry in an incident reporting system available to both Contractor and the State. Contractor will modify promptly the Custom Software Deliverable to correct the reported deficiencies, conduct appropriate System Testing (including, where applicable, Regression Testing) to confirm the proper correction of the deficiencies and re-deliver the corrected version to the State for re-testing in UAT. Contractor will coordinate the re-delivery of corrected versions of Custom Software Deliverables with the State so as not to disrupt the State's UAT process. The State will promptly re-test the corrected version of the Software Deliverable after receiving it from Contractor.

Within three (3) business days after the end of the State Review Period, the State will give Contractor a written notice indicating the State's approval or rejection of the Custom Software Deliverable according to the criteria and process set out in this **Section 2.080**.

2.086 Final Acceptance

"Final Acceptance" shall be considered to occur when the Custom Software Deliverable to be delivered has been approved by the State and has been operating in production without any material deficiency for fourteen (14) consecutive days. If the State elects to defer putting a Custom Software Deliverable into live production for its own reasons, not based on concerns about outstanding material deficiencies in the Deliverable, the State shall nevertheless grant Final Acceptance of the Project.

2.090 Financial

2.091 Pricing

(a) Fixed Prices for Services/Deliverables

Each Statement of Work/PO issued under this Contract shall specify (or indicate by reference to the appropriate Contract Exhibit) the firm, fixed prices for all Services/Deliverables, and the associated payment milestones and payment amounts. To the extent the parties agree that certain specific Services will be provided on a time and materials basis, such Services shall be provided at the Amendment Labor Rates. The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

(b) Adjustments for Reductions in Scope of Services/Deliverables

If the scope of the Services/Deliverables under any Statement of Work issued under this Contract is subsequently reduced by the State, the parties shall negotiate an equitable reduction in Contractor's charges under such Statement of Work commensurate with the reduction in scope, using the rates in **Exhibit A**, unless specifically identified in an applicable Statement of Work.

(c) Services/Deliverables Covered

For all Services/Deliverables to be provided by Contractor (and its Subcontractors, if any) under this Contract, the State shall not be obligated to pay any amounts in addition to the charges specified in this Contract.



(d) Labor Rates

All time and material charges will be at the rates specified in **Exhibit A**.

2.092 Invoicing and Payment Procedures and Terms

(a) Invoicing and Payment – In General

(i) Each Statement of Work issued under this Contract shall list (or indicate by reference to the appropriate Contract Exhibit) the prices for all Services/Deliverables, equipment and commodities to be provided, and the associated payment milestones and payment amounts.

(ii) Each Contractor invoice will show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. The charges for Services billed on a time and materials basis shall be determined based on the actual number of hours of Services performed, at the applicable Labor Rates specified in **Exhibit A**. Invoices for Services performed on a time and materials basis will show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 2.094**.

(iii) Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within forty-five (45) days after receipt, provided the State determines that the invoice was properly rendered.

(b) Taxes (See Section 2.305 and Article 3, Section 3.022-3.024 for additional)

The State is exempt from Federal Excise Tax, State and Local Sales Taxes, and Use Tax with respect to the sale to and use by it of tangible personal property. Such taxes shall not be included in Contract prices as long as the State maintains such exemptions. Copies of all tax exemption certificates shall be supplied to Contractor, if requested.

(c) Out-of-Pocket Expenses

Contractor acknowledges that the out-of-pocket expenses that Contractor expects to incur in performing the Services/ providing the Deliverables (such as, but not limited to, travel and lodging, document reproduction and shipping, and long distance telephone) are included in Contractor's fixed price for each Statement of Work. Accordingly, Contractor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for such an expense at the State's current travel reimbursement rates. See http://www.mi.gov/dmb/0,1607,7-150-9141_13132---,00.html for current rates.

(d) Pro-ration

To the extent there are any Services that are to be paid for on a monthly basis, the cost of such Services shall be pro-rated for any partial month.

(e) Antitrust Assignment

The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

(f) Final Payment

The making of final payment by the State to Contractor does not constitute a waiver by either party of any rights or other claims as to the other party's continuing obligations under the Contract, nor will it constitute a waiver of any claims by one party against the other arising from unsettled claims or failure by a party to comply with this Contract, including claims for Services and Deliverables not reasonably known until after acceptance to be defective or substandard. Contractor's acceptance of final payment by the State under this Contract shall constitute a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still unsettled.



2.093 State Funding Obligation

The State's obligation under this Contract is payable only and solely from funds appropriated for the purpose of this Contract. Contractor acknowledges and agrees that all funds for payments after the end of the current fiscal year are subject to the availability of a legislative appropriation for the purpose of this Contract. Events of non-appropriation are addressed further in **Section 2.210** of this Contract.

2.094 Holdback

RESERVED

2.095 Electronic Payment Availability

Electronic transfer of funds is available to State contractors. Contractor is required to register with the State electronically at <http://www.cpexpress.state.mi.us>. Public Act 533 of 2004, requires all payments be transitioned over to EFT by October, 2005.

2.100 Contract Management

2.101 Contract Management Responsibility

(a) Contractor shall have overall responsibility for managing and successfully performing and completing the Services/Deliverables, subject to the overall direction and supervision of the State and with the participation and support of the State as specified in this Contract. Contractor's duties will include monitoring and reporting the State's performance of its participation and support responsibilities (as well as Contractor's own responsibilities) and providing timely notice to the State in Contractor's reasonable opinion if the State's failure to perform its responsibilities in accordance with **Exhibit A** (Project Plan) is likely to delay the timely achievement of any Contract tasks.

(b) The Services/Deliverables will be provided by the Contractor either directly or through its affiliates, subsidiaries, subcontractors or resellers. Regardless of the entity providing the Service/Deliverable, the Contractor will act as a single point of contact coordinating these entities to meet the State's need for Services/Deliverables. Nothing in this Contract, however, shall be construed to authorize or require any party to violate any applicable law or regulation in its performance of this Contract.

2.102 Problem and Contract Management Procedures

Problem Management and Contract Management procedures will be governed by the Contract and the applicable Statements of Work.

2.103 Reports and Meetings

(a) Reports.

Within thirty (30) days after the Effective Date, the parties shall determine an appropriate set of periodic reports to be issued by Contractor to the State. Such reports may include:

- (i) separately address Contractor's performance in each area of the Services;
- (ii) for each area of the Services, assess the degree to which Contractor has attained or failed to attain the pertinent objectives in that area, including on-time completion and delivery of Deliverables;
- (iii) explain the reasons for any failure to achieve on-time completion and delivery of Deliverables and include a plan for corrective action where appropriate;
- (iv) describe any circumstances that Contractor anticipates will impair or prevent on-time completion and delivery of Deliverables in upcoming reporting periods;
- (v) include plans for corrective action or risk mitigation where appropriate and describe the status of ongoing problem resolution efforts;
- (vi) provide reports setting forth a comparison of actual hours spent by Contractor (including its augmented personnel and Subcontractors) in performing the Project versus hours budgeted by Contractor.
- (vii) set forth a record of the material personnel changes that pertain to the Services and describe planned changes during the upcoming month that may affect the Services.



(viii) include such documentation and other information may be mutually agreed to verify compliance with, and meeting the objectives of, this Contract.

(ix) set forth an updated schedule that provides information on the status of upcoming Deliverables, expected dates of delivery (or redelivery) of such Deliverables and estimates on timing for completion of the Project.

(b) Meetings.

Within thirty (30) days after the Effective Date, the parties shall determine an appropriate set of meetings to be held between representatives of the State and Contractor. Contractor shall prepare and circulate an agenda sufficiently in advance of each such meeting to give participants an opportunity to prepare for the meeting. Contractor shall incorporate into such agenda items that the State desires to discuss. At the State's request, Contractor shall prepare and circulate minutes promptly after a meeting.

2.104 System Changes

Contractor is not responsible for and not authorized to make changes to any State systems without written authorization from the State. Any changes Contractor makes to State systems with the State's approval shall be done in accordance with applicable State procedures, including security, access and configuration management procedures.

2.105 Reserved

2.106 Change Requests

The State reserves the right to request from time to time, any changes to the requirements and specifications of the Contract and the work to be performed by the Contractor under the Contract. During the course of ordinary business, it may become necessary for the State to discontinue certain business practices or create Additional Services/Deliverables. At a minimum, to the extent applicable, the State would like the Contractor to provide a detailed outline of all work to be done, including tasks necessary to accomplish the services/deliverables, timeframes, listing of key personnel assigned, estimated hours for each individual per task, and a complete and detailed cost justification.

If the State requests or directs the Contractor to perform any Services/Deliverables that are outside the scope of the Contractor's responsibilities under the Contract ("New Work"), the Contractor must notify the State promptly, and before commencing performance of the requested activities, that it believes the requested activities are New Work. If the Contractor fails to notify the State before commencing performance of the requested activities, any such activities performed before notice is given by the Contractor shall be conclusively considered to be in-scope Services/Deliverables, not New Work.

If the State requests or directs the Contractor to perform any services or provide deliverables that are consistent with and similar to the Services/Deliverables being provided by the Contractor under the Contract, but which the Contractor reasonably and in good faith believes are not included within the Statements of Work, then before performing such services or providing such deliverables, the Contractor shall notify the State in writing that it considers the services or deliverables to be an Additional Service/Deliverable for which the Contractor should receive additional compensation. If the Contractor does not so notify the State, the Contractor shall have no right to claim thereafter that it is entitled to additional compensation for performing that service or providing that deliverable. If the Contractor does so notify the State, then such a service or deliverable shall be governed by the Change Request procedure in this Section.

In the event prices or service levels are not acceptable to the State, the Additional Services or New Work shall be subject to competitive bidding based upon the specifications.

(a) Change Requests

(i) State Requests

If the State should require Contractor to perform New Work, Additional Services or make changes to the Services that would affect the Contract completion schedule or the amount of



compensation due Contractor (a "Change"), the State shall submit a written request for Contractor to furnish a proposal for carrying out the requested Change (a "Change Request").

(ii) Contractor Recommendations

Contractor shall be entitled to propose a Change to the State, on its own initiative, should it be of the opinion that this would benefit the Contract.

(iii) Upon receipt of a Change Request or on its own initiative, Contractor shall examine the implications of the requested Change on the technical specifications, Contract schedule and price of the Deliverables and Services and shall submit to the State without undue delay a written proposal for carrying out the Change. Contractor's proposal will include any associated changes in the technical specifications, Contract schedule and price and method of pricing of the Services. If the Change is to be performed on a time and materials basis, the Amendment Labor Rates shall apply to the provision of such Services. If Contractor provides a written proposal and should Contractor be of the opinion that a requested Change is not to be recommended, it shall communicate its opinion to the State but shall nevertheless carry out the Change as specified in the written proposal if the State directs it to do so.

(iv) By giving Contractor written notice within a reasonable time, the State shall be entitled to accept a Contractor proposal for Change, to reject it or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice shall be prepared and issued under this Contract, describing the Change and its effects on the Services and any affected components of this Contract (a "Contract Change Notice").

(v) No proposed Change shall be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Management and Budget, Office of Acquisition Services.

(vi) If the State requests or directs Contractor to perform any activities that Contractor believes constitute a Change, Contractor must notify the State that it believes the requested activities are a Change prior to commencing the performance of the requested activities. If Contractor fails to so notify the State prior to commencing performance of the requested activities, such activities shall be considered to be performed gratuitously by Contractor, and Contractor shall not have any right thereafter to assert any claim for additional compensation or time for the performance of such activities. If Contractor commences performance of gratuitous services outside the scope of this Contract and subsequently elects to stop performing such out-of-scope services, Contractor must, at the request of the State, back out or reverse any changes resulting from such performance that would adversely affect the Contract.

2.107 Management Tools

Contractor will use an automated tool for planning, monitoring and tracking the Contract's progress. In addition, Contractor shall use automated project management tools as reasonably necessary to perform the Services, which tools shall include the capability to produce through the end of the Contract: (i) staffing tables with names of personnel assigned to Contract tasks, (ii) project plans showing tasks, subtasks, Deliverables and the resources required and allocated to each (including detailed plans for all Services to be performed within the next sixty (60) days, updated semi-monthly) and (iii) graphs showing critical events, dependencies and decision points during the course of the Contract. Any tool(s) used by Contractor for such purposes must produce information of a type and in a manner and format that will support reporting in compliance with the State's standard to the extent such information is described with reasonable detail in the Statements of Work and to the extent the related work is of sufficient project complexity and duration to warrant such reporting.

2.110 Records and Inspections

2.111b Records and Inspections

The Contractor agrees that the State may, upon 24-hour notice, perform an audit at Contractor's location(s) to determine if the Contractor is complying with the requirements of the Contract. The Contractor agrees to cooperate with the State during the audit and produce all records and documentation that verifies compliance with the Contract requirements.



2.112 Errors

(a) If the audit demonstrates any errors in the statements provided to the State, then the amount in error shall be reflected as a credit or debit on the next invoice and in subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried for more than four (4) quarterly statements. If a balance remains after four (4) quarterly statements, then the remaining amount will be due as a payment or refund within forty-five (45) days of the last quarterly statement that the balance appeared on or termination of the contract, whichever is earlier.

(b) In addition to other available remedies, the difference between the payment received and the correct payment amount is greater than ten percent (10%), then the Contractor shall pay all of the reasonable costs of the audit.

2.120 State Responsibilities

2.121 State Performance Obligations

(a) Equipment and Other Resources. To facilitate Contractor's performance of the Services/Deliverables, the State shall provide to Contractor such equipment and resources as identified in the Statements of Work or other Contract Exhibits as items to be provided by the State.

(b) Facilities. The State shall designate space as long as it is available and as provided in the Statement of Work, to house Contractor's personnel whom the parties agree will perform the Services/Deliverables at State facilities (collectively, the "State Facilities"). Contractor shall have reasonable access to, and unless agreed otherwise by the parties in writing shall observe and comply with all rules and regulations relating to, each of the State Facilities (including hours of operation) used by Contractor in the course of providing the Services. Contractor agrees that it will not, without the prior written consent of the State, use any State Facilities or access any State information systems provided for Contractor's use, or to which Contractor otherwise gains access in the course of performing the Services, for any purpose other than providing the Services to the State.

(c) Return. Contractor shall be responsible for returning to the State any State-furnished equipment, facilities and other resources when no longer required for the Contract in the same condition as when provided by the State, reasonable wear and tear excepted.

(d) Except as otherwise provided in **Section 2.220**, the State's failure to perform its responsibilities as set forth in this Contract shall not be deemed to be grounds for termination by Contractor. However, Contractor will not be liable for any default or delay in the performance of its obligations under this Contract to the extent such default or delay is caused by nonperformance of the State's obligations under this Contract, provided Contractor provides the State with reasonable written notice of such nonperformance and Contractor uses commercially reasonable efforts to perform notwithstanding the State's failure to perform. In addition, if the State's nonperformance of its responsibilities under this Contract materially increases the time required for Contractor's performance or Contractor's cost of performance, Contractor shall be entitled to seek an equitable extension via the Change Request process described in **Section 2.106**.

2.130 Security

2.131 Background Checks

The Contractor shall authorize the investigation of its personnel proposed to have access to State facilities and systems on a case by case basis. The scope of the background check is at the discretion of the State and the results will be used to determine Contractor personnel eligibility for working within State facilities and systems. Such investigations will include Michigan State Police Background checks (ICHAT) and may include the National Crime Information Center (NCIC) Finger Prints. Proposed Contractor personnel may be required to complete and submit an RI-8 Fingerprint Card for the NCIC Finger Print Check. Any request for background checks will be initiated by the State and will be reasonably related to the type of work requested.

All Contractor personnel will also be expected to comply with the State's security and acceptable use policies for State IT equipment and resources. See <http://www.michigan.gov/ditservice/0,1607,7-179-25781-73760--00.html>. Furthermore, Contractor personnel will be expected to agree to the State's security and acceptable use policies before the Contractor personnel will be accepted as a resource to perform work for the State. It is



expected the Contractor will present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff will be expected to comply with all Physical Security procedures in place within the facilities where they are working.

2.140 Reserved

2.150 Confidentiality

2.151 Freedom of Information

All information in any proposal submitted to the State by Contractor and this Contract is subject to the provisions of the Michigan Freedom of Information Act, 1976 Public Act No. 442, as amended, MCL 15.231, et seq (the "FOIA").

2.152 Confidentiality

Contractor and the State each acknowledge that the other possesses and will continue to possess confidential information that has been developed or received by it. As used in this Section, "Confidential Information" of Contractor shall mean all non-public proprietary information of Contractor (other than Confidential Information of the State as defined below) which is marked confidential, restricted, proprietary or with a similar designation. "Confidential Information" of the State shall mean any information which is retained in confidence by the State (or otherwise required to be held in confidence by the State pursuant to applicable federal, state and local laws and regulations) or which, in the case of tangible materials provided to Contractor by the State pursuant to its performance under this Contract, is marked as confidential, proprietary or with a similar designation by the State. In the case of information of either Contractor or the State "Confidential Information" shall exclude any information (including this Contract) that is publicly available pursuant to the Michigan FOIA.

2.153 Protection of Confidential Information

The State and Contractor will each use at least the same degree of care to prevent disclosing to third parties the Confidential Information of the other as it employs to avoid unauthorized disclosure, publication or dissemination of its own confidential information of like character, but in no event less than reasonable care. Neither Contractor nor the State will (i) make any use of the Confidential Information of the other except as contemplated by this Contract, (ii) acquire any right in or assert any lien against the Confidential Information of the other, or (iii) if requested to do so, refuse for any reason to promptly return the other party's Confidential Information to the other party. Each party will limit disclosure of the other party's Confidential Information to employees and Subcontractors who must have access in order to fulfill the purposes of this Contract. Disclosure to, and use by, a Subcontractor is permissible where (A) use of a Subcontractor is authorized under this Contract, (B) such disclosure is necessary or otherwise naturally occurs in connection with work that is within such Subcontractor's scope of responsibility, and (C) Contractor obligates the Subcontractor in a written Contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor and of any Subcontractor having access or continued access to the State's Confidential Information may be required to execute an acknowledgment that the employee has been advised of Contractor's and the Subcontractor's obligations under this Section and of the employee's obligation to Contractor or Subcontractor, as the case may be, to protect such Confidential Information from unauthorized use or disclosure.

2.154 Exclusions

Notwithstanding the foregoing, the provisions of this Section will not apply to any particular information which the State or Contractor can demonstrate (i) was, at the time of disclosure to it, in the public domain; (ii) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure to it without an obligation of confidentiality; (iv) was received after disclosure to it from a third party who had a lawful right to disclose such information to it without any obligation to restrict its further disclosure; or (v) was independently developed by the receiving party without reference to Confidential Information of the furnishing party. Further, the provisions of this Section will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose such Confidential Information, provided that the receiving party (i) promptly



provides the furnishing party with notice of the legal request, and (ii) assists the furnishing party in resisting or limiting the scope of such disclosure as reasonably requested by the furnishing party.

2.155 No Implied Rights

Nothing contained in this Section shall be construed as obligating a party to disclose any particular Confidential Information to the other party, or as granting to or conferring on a party, expressly or impliedly, any right or license to the Confidential Information of the other party.

2.156 Remedies

Each party acknowledges that, if it breaches (or attempts or threatens to breach) its obligations under this Section, the other party may be irreparably harmed. Accordingly, if a court of competent jurisdiction should find that a party has breached (or attempted or threatened to breach) any such obligations, the non-breaching party shall be entitled to seek an injunction preventing such breach (or attempted or threatened breach).

2.157 Security Breach Notification

In the event of a breach of this Section, Contractor shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor shall report to the State in writing any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by the Contract within ten (10) days of becoming aware of such use or disclosure or such shorter time period as is reasonable under the circumstances.

2.158 Survival

The parties' respective obligations under this Section shall survive the termination or expiration of this Contract for any reason.

2.159 Destruction of Confidential Information

Promptly upon termination or cancellation of the Contract for any reason, Contractor shall certify to the State that Contractor has destroyed all State Confidential Information.

2.160 Proprietary Rights

2.161c License

SmartMSG v5 "Restricted Use" Site License: For use in Michigan State Emergency Operations Center (SEOC). Includes 10 SEOC and 10 Regional Servers, with E-Team Auto Alert Module, VoIP/SIP² and Radio Interoperability¹ Modules, 1,000 Users Per Server Allowance, & Unlimited User Devices.

RESTRICTED USER LICENSE TERMS: License is limited to State Agencies, Counties, Cities, Townships, and Commissions requiring access the MSP EMD E-Team CIMS Application to manage officially declared emergencies, incidents & exercises.

License allows for access by all Michigan State Personnel requiring access to the MSP EMD Incident Management System for State declared emergencies, incidents, and exercises. Access by other outside personnel (Counties, Cities, Townships, etc.) will be restricted to a maximum of twenty (20) users per entity, to be installed and accessed solely on EMD managed servers.

¹ Estimated number of interoperability add-on hardware equipment units to handle SEOC specific Talk Groups. Assumption based upon 5 regionally dispersed servers with 4 to 8 Ports per Radio Interoperability Equipment Unit (hardware component) to accommodate a maximum of 40 radio/cellular push-to-talk groups for the SEOC (there are no restrictions as to the number Federal, State, or Local Agency Radios that may be connected to communications units with this license).



² SmartMSG Voice-over-IP (VoIP) SIP Voice Module included in License. However, the required on-site infrastructure (T1/T3 Voice Lines, VoIP SIP Equipment) is not included in License. Codespear has provided first year Voice Dialing Services. See Appendix Section for SmartMSG Technical Recommendations Guide.

2.162 Source Code Escrow

(a) Definition. "Source Code Escrow Package" shall mean:

- (i) A complete copy in machine-readable form of the source code and executable code of the Licensed Software, including any updates or new releases of the product;
- (ii) A complete copy of any existing design documentation and user documentation, including any updates or revisions; and/or
- (iii) Complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code as provided below. Such instructions shall include precise identification of all compilers, library packages, and linkers used to generate executable code.

(b) Delivery of Source Code into Escrow. Contractor shall deliver a Source Code Escrow Package to the Escrow Agent, pursuant to the Escrow Contract, which shall be entered into on commercially reasonable terms subject to the provisions of this Contract within thirty (30) days of the execution of this Contract.

(c) Delivery of New Source Code into Escrow. If at anytime during the term of this Contract, the Contractor provides a maintenance release or upgrade version of the Licensed Software, Contractor shall within thirty (30) days deposit with the Escrow Agent, in accordance with the Escrow Contract, a Source Code Escrow Package for the maintenance release or upgrade version, and provide the State with notice of the delivery.

(d) Verification. The State reserves the right at any time, but not more than once a year, either itself or through a third party contractor, upon thirty (30) days written notice, to seek verification of the Source Code Escrow Package.

(e) Escrow Fees. All fees and expenses charged by the Escrow Agent will be paid by the Contractor.

(f) Release Events. The Source Code Escrow Package may be released from escrow to the State, temporarily or permanently, upon the occurrence of one or more of the following:

- (i) The Contractor becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under bankruptcy or insolvency law, whether domestic or foreign;
- (ii) The Contractor has wound up or liquidated its business voluntarily or otherwise and the State has reason to believe that such events will cause the Contractor to fail to meet its warranties and maintenance obligations in the foreseeable future;
- (iii) The Contractor voluntarily or otherwise discontinues support of the provided products or fails to support the products in accordance with its maintenance obligations and warranties.

(g) Release Event Procedures. If the State desires to obtain the Source Code Escrow Package from the Escrow Agent upon the occurrence of an Event in **Section 2.162(f)**, then:

- (i) The State shall comply with all procedures in the Escrow Contract;
- (ii) The State shall maintain all materials and information comprising the Source Code Escrow Package in confidence in accordance with this Contract;
- (iii) If the release is a temporary one, then the State shall promptly return all released materials to Contractor when the circumstances leading to the release are no longer in effect.

(h) License. Upon release from the Escrow Agent pursuant to an event described in **Section 2.162(f)**, the Contractor automatically grants the State a non-exclusive, irrevocable license to use, reproduce, modify, maintain, support, update, have made, and create Derivative Works. Further, the State shall have the right to use the Source Code Escrow Package in order to maintain and support the Licensed Software so that it can be used by the State as set forth in this Contract.



(i) **Derivative Works.** Any Derivative Works to the source code released from escrow which are made by or on behalf of the State shall be the sole property of the State. The State acknowledges that its ownership rights are limited solely to the Derivative Works and do not include any ownership rights in the underlying source code.

2.163 Rights in Data

(a) The State will be and remain the owner of all data made available by the State to Contractor or its agents, Subcontractors or representatives pursuant to the Contract. Contractor will not use the State's data for any purpose other than providing the Services, nor will any part of the State's data be disclosed, sold, assigned, leased or otherwise disposed of to the general public or to specific third parties or commercially exploited by or on behalf of Contractor, nor will any employee of Contractor other than those on a strictly need to know basis have access to the State's data. Contractor will not possess or assert any lien or other right against the State's data. Without limiting the generality of this Section, Contractor shall only use personally identifiable information as strictly necessary to provide the Services and shall disclose such information only to its employees who have a strict need to know such information. Contractor shall comply at all times with all laws and regulations applicable to such personally identifiable information.

(b) The State is and shall remain the owner of all State-specific data pursuant to the Contract. The State may use the data provided by the Contractor for any purpose. The State will not possess or assert any lien or other right against the Contractor's data. Without limiting the generality of this Section, the State shall only use personally identifiable information as strictly necessary to utilize the Services and shall disclose such information only to its employees who have a strict need to know such information, except as provided by law. The State shall comply at all times with all laws and regulations applicable to such personally identifiable information. Other material developed and provided to the State shall remain the State's sole and exclusive property.

2.164 Ownership of Materials

State and Contractor will continue to own their respective proprietary technologies developed before entering into the Contract. Any hardware bought through the Contractor by the State, and paid for by the State, will be owned by the State. Any software licensed through the Contractor and sold to the State, will be licensed directly to the State.

2.165 Standard Software

If applicable and necessary, all Standard Software used in performing the Services shall be provided to the State under a separate license agreement between the State and the owner (or authorized licensor) of such software. Standard Software to be licensed to the State is listed in **Exhibit B**.

2.166 Pre-existing Materials for Custom Software Deliverables

Neither Contractor nor any of its Subcontractors shall incorporate any preexisting materials (including Standard Software) into Custom Software Deliverables or use any pre-existing materials to produce Custom Software Deliverables if such pre-existing materials will be needed by the State in order to use the Custom Software Deliverables unless (i) such pre-existing materials and their owners are identified to the State in writing and (ii) such pre-existing materials are either readily commercially available products for which Contractor or its Subcontractor, as the case may be, has obtained a license (in form and substance approved by the State) in the name of the State, or are materials that Contractor or its Subcontractor, as the case may be, has the right to license to the State and has licensed to the State on terms and conditions approved by the State prior to using such pre-existing materials to perform the Services.

2.167 General Skills

Notwithstanding anything to the contrary in this Section, each party, its Subcontractors and their personnel shall be free to use and employ its and their general skills, know-how and expertise, and to use, disclose and employ any generalized ideas, concepts, know-how, methods, techniques or skills gained or learned during the course of performing the Services, so long as it or they acquire and apply the foregoing without disclosure of any confidential or proprietary information of the other party.



2.170 Warranties And Representations

2.171 Warranties and Representations

The Contractor represents and warrants:

- (a) It is capable in all respects of fulfilling and shall fulfill all of its obligations under this Contract. The performance of all obligations under this Contract shall be provided in a timely, professional, and workman-like manner and shall meet the performance and operational standards required under this Contract.
- (b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.
- (c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under this Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under this Contract, nor their use by the State, will infringe the patent, copyright, trade secret, or other proprietary rights of any third party.
- (d) If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to such items in this Contract, Contractor shall assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.
- (e) The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.
- (f) It is qualified and registered to transact business in all locations where required.
- (g) Neither the Contractor nor any Affiliates, nor any employee of either, has, shall have, or shall acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor shall notify the State within two (2) days of any such interest that may be incompatible with the interests of the State.
- (h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or shall accept anything of value based on an understanding that the actions of the Contractor or Affiliates or employee on behalf of the State would be influenced. Contractor shall not attempt to influence any State employee by the direct or indirect offer of anything of value.
- (i) Neither Contractor nor any Affiliates, nor any employee of either has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Contractor or such Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.
- (j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other bidder; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.
- (k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by such financial statements, reports, other



information. Since the respective dates or periods covered by such financial statements, reports, or other information, there have been no material adverse change in the business, properties, financial condition, or results of operations of Contractor.

(m) All written information furnished to the State by or behalf of Contractor in connection with this Contract, including its bid, is true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make such information not misleading.

(n) It is not in material default or breach of any other contract or agreement that it may have with the State or any of its departments, commissions, boards, or agencies. Contractor further represents and warrants that it has not been a party to any contract with the State or any of its departments that was terminated by the State or such department within the previous five (5) years for the reason that Contractor failed to perform or otherwise breached an obligation of such contract.

2.172 Software Warranties

(a) Performance Warranty

The Contractor represents and warrants that Deliverables, after Final Acceptance, will perform and operate in compliance with the requirements and other standards of performance contained in this Contract (including all descriptions, specifications and drawings made a part of the Contract) for a period of ninety (90) days. In the event of a breach of this warranty, Contractor will promptly correct the affected Deliverable(s) at no charge to the State.

(b) No Surreptitious Code Warranty

The Contractor represents and warrants that no copy of licensed Software provided to the State contains or will contain any Self-Help Code or any Unauthorized Code as defined below. This warranty is referred to in this Contract as the "No Surreptitious Code Warranty."

As used in this Contract, "Self-Help Code" means any back door, time bomb, drop dead device, or other software routine designed to disable a computer program automatically with the passage of time or under the positive control of a person other than the licensee of the software. Self-Help Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access via modem) for purposes of maintenance or technical support.

As used in this Contract, "Unauthorized Code" means any virus, Trojan horse, spyware, worm or other Software routines or components designed to permit unauthorized access to disable, erase, or otherwise harm software, equipment, or data; or to perform any other such actions. The term Unauthorized Code does not include Self-Help Code. Unauthorized Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access via modem) for purposes of maintenance or technical support.

In addition, Contractor will use up-to-date commercial virus detection software to detect and remove any viruses from any software prior to delivering it to the State.

(c) Calendar Warranty

The Contractor represents and warrants that all software for which the Contractor either sells or licenses to the State of Michigan and used by the State prior to, during or after the calendar year 2000, includes or shall include, at no added cost to the State, design and performance so the State shall not experience software abnormality and/or the generation of incorrect results from the software, due to date oriented processing, in the operation of the business of the State of Michigan.

The software design, to insure calendar year rollover compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all



processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately show 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.

(d) Third-party Software Warranty

The Contractor represents and warrants that it will disclose the use or incorporation of any third-party software into the Deliverables. At the time of Delivery, the Contractor shall provide in writing the name and use of any Third-party Software, including information regarding the Contractor's authorization to include and utilize such software. The notice shall include a copy of any ownership agreement or license that authorizes the Contractor to use the Third-party Software.

2.173 Equipment Warranty

To the extent Contractor is responsible under this Contract for maintaining equipment/system(s), Contractor represents and warrants that it will maintain such equipment/system(s) in good operating condition and will undertake all repairs and preventive maintenance in accordance with the applicable manufacturer's recommendations for the period specified in this Contract.

The Contractor represents and warrants that the equipment/system(s) shall be in good operating condition and shall operate and perform to the requirements and other standards of performance contained in this Contract, when installed, at the time of Final Acceptance by the State, and for a period of one (1) year commencing upon the first day following Final Acceptance.

Within 30 business days of notification from the State, the Contractor shall adjust, repair or replace all equipment that is defective or not performing in compliance with the Contract. The Contractor shall assume all costs for replacing parts or units and their installation including transportation and delivery fees, if any.

The Contractor shall provide a toll-free telephone number to allow the State to report equipment failures and problems to be remedied by the Contractor.

The Contractor agrees that all warranty service it provides under this Contract shall be performed by original equipment manufacturer (OEM) trained, certified and authorized technicians.

The Contractor shall act as the sole point of contact for warranty service. The Contractor warrants that it shall pass through to the State any and all warranties obtained or available from the original equipment manufacturer, including any replacement, upgraded, or additional equipment warranties.

All warranty work shall be performed on the State of Michigan worksite(s).

2.174 Physical Media Warranty

(a) Contractor represents and warrants that each licensed copy of the Software provided by the Contractor is free from physical defects in the media that tangibly embodies the copy. This warranty does not apply to defects discovered more than thirty (30) days after that date of Final Acceptance of the Software by the State. This warranty does not apply to defects arising from acts of Excusable Failure. If the Contractor breaches this warranty, then the State shall be entitled to replacement of the non-compliant copy by Contractor, at Contractor's expense (including shipping and handling).

2.175b Standard Warranties

(a) Warranty of Merchantability

Deliverables shall be merchantable. All Deliverables shall be of good quality within the description given by the State, shall be fit for their ordinary purpose, shall be adequately contained and packaged within the description given by the State, shall conform to the agreed upon specifications, and shall conform to the affirmations of fact made by the Contractor on the container or label.

(b) Warranty of fitness for a particular purpose



When Contractor has reason to know or knows any particular purpose for which the Deliverables are required, and when the State is relying on the Contractor's skill or judgment to select or furnish suitable Deliverables, the Contractor warrants that the Deliverables are fit for such purpose.

(c) Warranty of title

Contractor shall convey good title in those Deliverables, whose transfer is right and lawful. All Deliverables provided by Contractor shall be delivered free from any security interest, lien, or encumbrance. Deliverables shall be delivered free of any rightful claim of any third person of ownership, interest, lien or encumbrance.

2.176 Consequences For Breach

In addition to any remedies available in law, if the Contractor breaches any of the warranties contained in this section, such breach may be considered as a default in the performance of a material obligation of this Contract.

2.180 Insurance

2.181 Liability Insurance

(a) Liability Insurance

The Contractor is required to provide proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage shall be to protect the State from claims which may arise out of or result from the Contractor's performance of services under the terms of this Contract, whether such services are performed by the Contractor, or by any subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

The Contractor waives all rights against the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents for recovery of damages to the extent these damages are covered by the insurance policies the Contractor is required to maintain pursuant to this Contract.

All insurance coverage's provided relative to this Contract/Purchase Order are PRIMARY and NON-CONTRIBUTING to any comparable liability insurance (including self-insurance) carried by the State.

The insurance shall be written for not less than any minimum coverage specified in this Contract or required by law, whichever is greater.

The insurers selected by Contractor shall have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if such ratings are no longer available, with a comparable rating from a recognized insurance rating agency. All policies of insurance required in this Contract shall be issued by companies that have been approved to do business in the State.

See http://www.mi.gov/cis/0,1607,7-154-10555_22535---,00.html.

Where specific limits are shown, they are the minimum acceptable limits. If Contractor's policy contains higher limits, the State shall be entitled to coverage to the extent of such higher limits.

Before the Contract is signed by both parties or before the purchase order is issued by the State, the Contractor must furnish to the Director of Acquisition Services, certificate(s) of insurance verifying insurance coverage ("Certificates"). The Certificate must be on the standard "accord" form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) shall contain a provision indicating that coverages afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without THIRTY (30) days prior written notice, except for ten (10) days for non-payment of premium, having been given to the Director of Acquisition Services, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected and be mailed to: Director, Acquisition Services, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909. Failure to provide evidence of coverage, may, at the State's sole option, result in this Contract's termination.



The Contractor is required to pay for and provide the type and amount of insurance checked below:

- 1. Commercial General Liability with the following minimum coverage:
 \$2,000,000 General Aggregate Limit other than Products/Completed Operations
 \$2,000,000 Products/Completed Operations Aggregate Limit
 \$1,000,000 Personal & Advertising Injury Limit
 \$1,000,000 Each Occurrence Limit
 \$500,000 Fire Damage Limit (any one fire)

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the Commercial General Liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

- 2. If a motor vehicle is used to provide services or products under this Contract, the Contractor must have vehicle liability insurance on any auto including owned, hired and non-owned vehicles used in Contractor's business for bodily injury and property damage as required by law.

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the vehicle liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

- 3. Workers' compensation coverage must be provided in accordance with applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If the applicable coverage is provided by a self-insurer, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Contractor must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

Any certificates of insurance received must also provide a list of states where the coverage is applicable.

The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company. This provision shall not be applicable where prohibited or limited by the laws of the jurisdiction in which the work is to be performed.

- 4. Employers liability insurance with the following minimum limits:
 \$100,000 each accident
 \$100,000 each employee by disease
 \$500,000 aggregate disease

- 5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor or its Subcontractors, acting alone or in collusion with others, in a minimum amount of one million dollars (\$1,000,000.00) with a maximum deductible of fifty thousand dollars (\$50,000.00).

- 6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars (\$10,000,000.00), which shall apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.

- 7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: three million dollars (\$3,000,000.00) each occurrence and three million dollars (\$3,000,000.00) annual aggregate.



□ 8. Fire and Personal Property Insurance covering against any loss or damage to the office space used by Contractor for any reason under this Contract, and the equipment, software and other contents of such office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to the replacement value thereof, where such office space and its contents are under the care, custody and control of Contractor. Such policy shall cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State shall be endorsed on the policy as a loss payee as its interests appear.

(b) Subcontractors

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor shall require all of its Subcontractors under this Contract to purchase and maintain the insurance coverage as described in this Section for the Contractor in connection with the performance of work by those Subcontractors. Alternatively, Contractor may include any Subcontractors under Contractor’s insurance on the coverage required in this Section. Subcontractor(s) shall fully comply with the insurance coverage required in this Section. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor’s liability or responsibility.

(c) Certificates of Insurance and Other Requirements

Contractor shall furnish to the Office of Acquisition Services certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the “Certificates”). Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor shall provide evidence that the State and its agents, officers and employees are listed as additional insureds under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer’s attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

Contractor shall maintain all required insurance coverage throughout the term of the Contract and any extensions thereto and, in the case of claims-made Commercial General Liability policies, shall secure tail coverage for at least three (3) years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and shall not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor shall be responsible for all deductibles with regard to such insurance. If Contractor fails to pay any premium for required insurance as specified in this Contract, or if any insurer cancels or significantly reduces any required insurance as specified in this Contract without the State’s written consent, at the State’s election (but without any obligation to do so) after the State has given Contractor at least thirty (30) days written notice, the State may pay such premium or procure similar insurance coverage from another company or companies; and at the State’s election, the State may deduct the entire cost (or part thereof) from any payment due Contractor, or Contractor shall pay the entire cost (or any part thereof) upon demand by the State.

2.190 Indemnification

2.191 Indemnification

(a) General Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys’ fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm or corporation that may be injured or damaged by the Contractor in the performance of this Contract and that are attributable to the negligence or tortious acts of the Contractor or any of its subcontractors, or by anyone else for whose acts any of them may be liable.

(b) Code Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from any claim, loss, or expense arising from Contractor’s breach of the No Surreptitious Code Warranty.

(c) Employee Indemnification



In any and all claims against the State of Michigan, its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the Contractor or any of its subcontractors, the indemnification obligation under the Contract shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Contractor or any of its subcontractors under worker's disability compensation acts, disability benefit acts or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in provisions, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

(d) Patent/Copyright Infringement Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its subcontractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States.

In addition, should the equipment, software, commodity, or service, or its operation, become or in the State's or Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Contractor, (ii) replace or modify to the State's satisfaction the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

Notwithstanding the foregoing, the Contractor shall have no obligation to indemnify or defend the State for, or to pay any costs, damages or attorneys' fees related to, any claim based upon (i) equipment developed based on written specifications of the State; or (ii) use of the equipment in a configuration other than implemented or approved in writing by the Contractor, including, but not limited to, any modification of the equipment by the State; or (iii) the combination, operation, or use of the equipment with equipment or software not supplied by the Contractor under this Contract.

2.192 Continuation of Indemnification Obligations

The Contractor's duty to indemnify pursuant to this Section continues in full force and effect, notwithstanding the expiration or early cancellation of the Contract, with respect to any claims based on facts or conditions that occurred prior to expiration or cancellation.

2.193 Indemnification Procedures

The procedures set forth below shall apply to all indemnity obligations under this Contract.

(a) After receipt by the State of notice of the action or proceeding involving a claim in respect of which it will seek indemnification, the State shall promptly notify Contractor of such claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to notify Contractor shall relieve Contractor of its indemnification obligations except to the extent that Contractor can demonstrate damages attributable to such failure. Within ten (10) days following receipt of written notice from the State relating to any claim, Contractor shall notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and prior to the State receiving Contractor's Notice of Election, the State shall be entitled to defend against the claim, at Contractor's expense, and Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during such period.

(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of



such claim and to monitor and advise the State about the status and progress of the defense; (ii) Contractor shall, at the request of the State, demonstrate to the reasonable satisfaction of the State, Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) Contractor shall periodically advise the State about the status and progress of the defense and shall obtain the prior written approval of the State before entering into any settlement of such claim or ceasing to defend against such claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State shall have the right, at its own expense, to control the defense of that portion of such claim involving the principles of Michigan governmental or public law. Notwithstanding the foregoing, the State may retain control of the defense and settlement of a claim by written notice to Contractor given within ten (10) days after the State's receipt of Contractor's information requested by the State pursuant to clause (ii) of this paragraph if the State determines that Contractor has failed to demonstrate to the reasonable satisfaction of the State Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State of Michigan, or any of its subdivisions pursuant to this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State pursuant to this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

(c) If Contractor does not deliver a Notice of Election relating to any claim of which it is notified by the State as provided above, the State shall have the right to defend the claim in such manner as it may deem appropriate, at the cost and expense of Contractor. If it is determined that the claim was one against which Contractor was required to indemnify the State, upon request of the State, Contractor shall promptly reimburse the State for all such reasonable costs and expenses.

2.200 Limits of Liability and Excusable Failure

2.201 Limits of Liability

The Contractor's liability for damages to the State shall be limited to two times the value of the Contract or \$200,000 (for low risk contracts – Select a higher amount for moderate to high risk contracts) which ever is higher. The foregoing limitation of liability shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

The State's liability for damages to the Contractor shall be limited to the value of the Contract.

Neither the Contractor nor the State shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability shall not apply to claims for infringement of United States patent, copyright, trademark or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

2.202 Excusable Failure

Neither party will be liable for any default, damage or delay in the performance of its obligations under the Contract to the extent such default, damage or delay is caused by government regulations or requirements (executive, legislative, judicial, military or otherwise), power failure, electrical surges or current fluctuations, lightning, earthquake, war, water or other forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, or acts or omissions of common carriers, fire; riots, civil disorders; strikes or other labor disputes, embargoes; injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of such party; provided the non-performing party and its Subcontractors are without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans.



If in such event, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay and provided further that such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.

If any of the above-enumerated circumstances substantially prevent, hinder, or delay Contractor's performance of the Services/provision of Deliverables for more than ten (10) Business Days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected Services/Deliverables from an alternate source, and the State shall not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in performance shall continue; (b) the State may terminate any portion of the Contract so affected and the charges payable there under shall be equitably adjusted to reflect those Services/Deliverables terminated; or (c) the State may terminate the affected Statement of Work without liability to Contractor as of a date specified by the State in a written notice of termination to Contractor, except to the extent that the State shall pay for Services/Deliverables provided through the date of termination.

Contractor will not have the right to any additional payments from the State as a result of any Excusable Failure occurrence or to payments for Services not rendered/Deliverables not provided as a result of the Excusable Failure condition. Defaults or delays in performance by Contractor which are caused by acts or omissions of its Subcontractors will not relieve Contractor of its obligations under the Contract except to the extent that a Subcontractor is itself subject to an Excusable Failure condition described above and Contractor cannot reasonably circumvent the effect of the Subcontractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

2.203 Disaster Recovery

Contractor and the State recognize that the State provides essential services in times of natural or man-made disasters. Therefore, except as so mandated by Federal disaster response requirements, Contractor personnel dedicated to providing Services/Deliverables under this Contract will provide the State with priority service for repair and work around in the event of a natural or manmade disaster.

2.210 Termination/Cancellation by the State

The State may terminate this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents and employees for any of the following reasons:

2.211 Termination for Cause

(a) In the event that Contractor breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA as defined in **Section 2.076**), which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State (such time period not to be less than thirty (30) days), or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of termination to Contractor, terminate this Contract in whole or in part, for cause, as of the date specified in the notice of termination.

(b) In the event that this Contract is terminated for cause, in addition to any legal remedies otherwise available to the State by law or equity, Contractor shall be responsible for all costs incurred by the State in terminating this Contract, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the Services/Deliverables required by this Contract from other sources. Re-procurement costs shall not be considered by the parties to be consequential, indirect or incidental damages, and shall not be excluded by any other terms otherwise included in this Contract, provided such costs are not in excess of fifty percent (50%) more than the prices for such Service/Deliverables provided under this Contract.

(c) In the event the State chooses to partially terminate this Contract for cause, charges payable under this Contract will be equitably adjusted to reflect those Services/Deliverables that are terminated and the State shall pay for all Services/Deliverables for which Final Acceptance has been granted provided up to the



termination date. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.

(d) In the event this Contract is terminated for cause pursuant to this Section, and it is determined, for any reason, that Contractor was not in breach of contract pursuant to the provisions of this section, that termination for cause shall be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in this Contract for a termination for convenience.

2.212 Termination for Convenience

The State may terminate this Contract for its convenience, in whole or part, if the State determines that such a termination is in the State's best interest. Reasons for such termination shall be left to the sole discretion of the State and may include, but not necessarily be limited to (a) the State no longer needs the Services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Services no longer practical or feasible, (c) unacceptable prices for Additional Services or New Work requested by the State, or (d) falsification or misrepresentation, by inclusion or non-inclusion, of information material to a response to any RFP issued by the State. The State may terminate this Contract for its convenience, in whole or in part, by giving Contractor written notice at least thirty (30) days prior to the date of termination. If the State chooses to terminate this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.

2.213 Non-Appropriation

(a) Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this Contract. If funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available, the State shall have the right to terminate this Contract and all affected Statements of Work, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The State shall give Contractor at least thirty (30) days advance written notice of termination for non-appropriation or unavailability (or such time as is available if the State receives notice of the final decision less than thirty (30) days before the funding cutoff).

(b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise made available, the State may, upon thirty (30) days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in such manner and for such periods of time as the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of such reduction.

(c) In the event the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor pursuant to this Section, the State shall pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available. For the avoidance of doubt, this Section will not preclude Contractor from reducing or stopping Services/Deliverables and/or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed or Deliverables finally accepted before the effective date of termination.

2.214 Criminal Conviction

The State may terminate this Contract immediately and without further liability or penalty in the event Contractor, an officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense incident to the application for, or performance of, a State, public or private Contract or subcontract; convicted of a criminal offense, including any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State reflects upon Contractor's business integrity.



2.215 Approvals Rescinded

The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, § 5, and Civil Service Rule 7-1. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in such written notice.

2.216 Rights and Obligations Upon Termination

(a) If this Contract is terminated by the State for any reason, Contractor shall (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from this Contract that may be in Contractor's possession, (c) return all materials and property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) in the event that the Contractor maintains title in Deliverables that is intended to be transferred to the State at the termination of the Contract, Contractor will transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of the Contract and which are resulting from the Contract (which shall be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of such items included compensation to Contractor for the provision of warranty services in respect of such materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.

(b) In the event the State terminates this Contract prior to its expiration for its own convenience, the State shall pay Contractor for all charges due for Services provided prior to the date of termination and, if applicable, as a separate item of payment pursuant to this Contract, for Work In Process, on a percentage of completion basis at the level of completion determined by the State. All completed or partially completed Deliverables prepared by Contractor pursuant to this Contract shall, at the option of the State, become the State's property, and Contractor shall be entitled to receive equitable fair compensation for such Deliverables. Regardless of the basis for the termination, the State shall not be obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.

(c) Upon a good faith termination, the State shall have the right to assume, at its option, any and all subcontracts and agreements for services and deliverables provided under this Contract, and may further pursue completion of the Services/Deliverables under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

2.217 Reservation of Rights

Any termination of this Contract or any Statement of Work issued under it by a party shall be with full reservation of, and without prejudice to, any rights or remedies otherwise available to such party with respect to any claims arising prior to or as a result of such termination.

2.218 Contractor Transition Responsibilities

In the event this contract is terminated, for convenience or cause, dissolved, voided, rescinded, nullified, expires or is otherwise rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. In the event of termination or the expiration of this Contract, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed ninety (90) days. These efforts shall include, but are not limited to, the following:

(a) Personnel - The Contractor shall work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties, to effect an orderly transition. The Contractor shall allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by this Contract. In addition, during or following the transition period, in the event the State requires the Services of



the Contractor's subcontractors or vendors, as necessary to meet its needs, Contractor agrees to reasonably, and with good-faith, work with the State to use the Services of Contractor's subcontractors or vendors. Contractor will notify all of Contractor's subcontractors of procedures to be followed during transition.

(b) Information - The Contractor agrees to provide reasonable detailed specifications for all Services/Deliverables needed by the State, or specified third party, to properly provide the Services/Deliverables required under this Contract. The Contractor will provide the State with asset management data generated from the inception of this Contract through the date on which this Contractor is terminated in a comma-delineated format unless otherwise requested by the State. The Contractor will deliver to the State any remaining owed reports and documentation still in Contractor's possession subject to appropriate payment by the State.

(d) Software. - The Contractor shall reasonably assist the State in the acquisition of any Contractor software required to perform the Services/use the Deliverables under this Contract. This shall include any documentation being used by the Contractor to perform the Services under this Contract. If the State transfers any software licenses to the Contractor, those licenses shall, upon expiration of the Contract, transfer back to the State at their current revision level. Upon notification by the State, Contractor may be required to freeze all non-critical changes to Deliverables/Services.

(e) Payment - If the transition results from a termination for any reason, reimbursement shall be governed by the termination provisions of this Contract. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after contract expiration that result from transition operations) at the rates specified by **Exhibit D**. The Contractor will prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

2.219 State Transition Responsibilities

In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to perform the following obligations, and any others upon which the State and the Contractor agree:

- (a) Reconciling all accounts between the State and the Contractor;
- (b) Completing any pending post-project reviews.

2.220 Termination by Contractor

2.221 Termination by Contractor

If the State materially breaches its obligation to pay Contractor undisputed amounts due and owing under this Contract in accordance with **Section 2.090**, or if the State breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for Contractor to perform the Services, and if the State does not cure the breach within the time period specified in a written notice of breach provided to the State by Contractor (such time period not to be less than thirty (30) days), then Contractor may terminate this Contract, in whole or in part based on Statement of Work for cause, as of the date specified in the notice of termination; provided, however, that Contractor must discharge its obligations under **Section 2.250** before any such termination.

2.230 Stop Work

2.231 Stop Work Orders

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by the Contract for a period of up to ninety (90) calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate that it is issued under this **Section 2.230**. Upon receipt of the stop work order, 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 stop work order during the period of work stoppage. Within the period of the stop work order, the State shall either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.210**.



2.232 Cancellation or Expiration of Stop Work Order

If a stop work order issued under this **Section 2.230** is canceled or the period of the stop work order or any extension thereof expires, Contractor shall resume work. The parties shall agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if: (a) the stop work order results in an increase in the time required for, or in Contractor's costs properly allocable to, the performance of any part of the Contract; and (b) Contractor asserts its right to an equitable adjustment within thirty (30) calendar days after the end of the period of work stoppage; provided that, if the State decides the facts justify the action, the State may receive and act upon a Contractor proposal submitted at any time before final payment under the Contract. Any adjustment will conform to the requirements of **Section 2.106**.

2.233 Allowance of Contractor Costs

If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, such termination shall be deemed to be a termination for convenience under **Section 2.212**, and the State shall allow reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State shall not be liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.230**.

2.240 Reserved

2.250 Dispute Resolution

2.251 In General

Any claim, counterclaim, or dispute between the State and Contractor arising out of or relating to the Contract or any Statement of Work shall be resolved as follows. For all Contractor claims seeking an increase in the amounts payable to Contractor under the Contract, or the time for Contractor's performance, Contractor shall submit a letter executed by Contractor's Contract Administrator or his designee certifying that (a) the claim is made in good faith, (b) the amount claimed accurately reflects the adjustments in the amounts payable to Contractor or the time for Contractor's performance for which Contractor believes the State is liable and covers all costs of every type to which Contractor is entitled from the occurrence of the claimed event, and (c) the supporting data provided with such an affidavit are current and complete to Contractor's best knowledge and belief.

2.252 Informal Dispute Resolution

(a) All operational disputes between the parties shall be resolved under the Contract Management procedures developed pursuant to **Section 2.100**. If the parties are unable to resolve any disputes after compliance with such processes, the parties shall meet with the Director of Acquisition Services, DMB, or designee, for the purpose of attempting to resolve such dispute without the need for formal legal proceedings, as follows:

(i) The representatives of Contractor and the State shall meet as often as the parties reasonably deem necessary in order to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.

(ii) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract will be honored in order that each of the parties may be fully advised of the other's position.

(iii) The specific format for the discussions will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.

(iv) Following the completion of this process within sixty (60) calendar days, the Director of Acquisition Services, DMB, or designee, shall issue a written opinion regarding the issue(s) in dispute



within thirty (30) calendar days. The opinion regarding the dispute shall be considered the State's final action and the exhaustion of administrative remedies.

(b) This **Section 2.250** will not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or pursuant to **Section 2.253**.

(c) The State will not mediate disputes between the Contractor and any other entity, except state agencies, concerning responsibility for performance of work pursuant to the Contract.

2.253 Injunctive Relief

The only circumstance in which disputes between the State and Contractor will not be subject to the provisions of **Section 2.252** is where a party makes a good faith determination that a breach of the terms of the Contract by the other party is such that the damages to such party resulting from the breach will be so immediate, so large or severe and so incapable of adequate redress after the fact that a temporary restraining order or other immediate injunctive relief is the only adequate remedy.

2.254 Continued Performance

Each party agrees to continue performing its obligations under the Contract while a dispute is being resolved except to the extent the issue in dispute precludes performance (dispute over payment shall not be deemed to preclude performance) and without limiting either party's right to terminate the Contract as provided in **Section 2.210** and **2.220**, as the case may be.

2.260 Federal and State Contract Requirements

2.261 Nondiscrimination

In the performance of the Contract, Contractor agrees not to discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental disability. Contractor further agrees that every subcontract entered into for the performance of this Contract or any purchase order resulting from this Contract will contain a provision requiring non-discrimination in employment, as specified here, binding upon each Subcontractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and any breach of this provision may be regarded as a material breach of the Contract.

2.262 Unfair Labor Practices

Pursuant to 1980 PA 278, MCL 423.231, *et seq.*, the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A Contractor of the State, in relation to the Contract, shall not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of Contractor appears in the register.

2.263 Workplace Safety and Discriminatory Harassment

In performing Services for the State, the Contractor shall comply with the Department of Civil Services Rule 2-20 regarding Workplace Safety and Rule 1-8.3 regarding Discriminatory Harassment. In addition, the Contractor shall comply with Civil Service regulations and any applicable agency rules provided to the Contractor. For Civil Service Rules, see <http://www.mi.gov/mdcs/0,1607,7-147-6877---,00.html>.



2.270 Litigation

2.271 Disclosure of Litigation

(a) Disclosure. Contractor must disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each Subcontractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Contractor (and each Subcontractor) must notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions thereto, to which Contractor (or, to the extent Contractor is aware, any Subcontractor hereunder) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Contractor or any Subcontractor hereunder; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor hereunder by a governmental or public entity arising out of their business dealings with governmental or public entities. Any such litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") must be disclosed in a written statement to the Contract Administrator within thirty (30) days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated as such. Information provided to the State from Contractor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section.

(b) Assurances. In the event that any such Proceeding disclosed to the State pursuant to this Section, or of which the State otherwise becomes aware, during the term of this Contract would cause a reasonable party to be concerned about:

- (i) the ability of Contractor (or a Subcontractor hereunder) to continue to perform this Contract in accordance with its terms and conditions, or
- (ii) whether Contractor (or a Subcontractor hereunder) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in such Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then Contractor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that:

(A) Contractor and/or its Subcontractors hereunder will be able to continue to perform this Contract and any Statements of Work in accordance with its terms and conditions, and

(B) Contractor and/or its Subcontractors hereunder have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in such Proceeding.

(c) Contractor shall make the following notifications in writing:

(1) Within thirty (30) days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor shall notify the Office of Acquisition Services.

(2) Contractor shall also notify the Office of Acquisition Services within thirty (30) days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.

(3) Contractor shall also notify Acquisition Services within thirty (30) days whenever changes to company affiliations occur.

2.272 Governing Law

The Contract shall in all respects be governed by, and construed in accordance with, the substantive laws of the State of Michigan without regard to any Michigan choice of law rules that would apply the substantive law of any other jurisdiction to the extent not inconsistent with, or pre-empted by federal law.

2.273 Compliance with Laws

Contractor shall comply with all applicable state, federal, and local laws and ordinances ("Applicable Laws") in providing the Services/Deliverables.



2.274 Jurisdiction

Any dispute arising from the Contract shall be resolved in the State of Michigan. With respect to any claim between the parties, Contractor consents to venue in Ingham County, Michigan, and irrevocably waives any objections it may have to such jurisdiction on the grounds of lack of personal jurisdiction of such court or the laying of venue of such court or on the basis of forum non conveniens or otherwise. Contractor agrees to appoint agents in the State of Michigan to receive service of process.

2.280 Environmental Provision

2.281 Environmental Provision

For the purposes of this Section, "Hazardous Materials" is a generic term used to describe asbestos, ACBMs, PCBs, petroleum products, such construction materials as paint thinners, solvents, gasoline, oil, etc., and any other material the manufacture, use, treatment, storage, transportation or disposal of which is regulated by the federal, state or local laws governing the protection of the public health, natural resources or the environment. This includes, but is not limited to, materials such as batteries and circuit packs, and other materials that are regulated as (1) "Hazardous Materials" under the Hazardous Materials Transportation Act, (2) "chemical hazards" under the Occupational Safety and Health Administration standards, (3) "chemical substances or mixtures" under the Toxic Substances Control Act, (4) "pesticides" under the Federal Insecticide Fungicide and Rodenticide Act, and (5) "hazardous wastes" as defined or listed under the Resource Conservation and Recovery Act. This Contract does not cover the handling, removal, or disposal of all Hazardous Materials.

(a) The Contractor shall use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material in accordance with all federal, State and local laws. The State shall provide a safe and suitable environment for performance of Contractor's Work. Prior to the commencement of Work, the State shall advise Contractor of the presence at the work site of any Hazardous Material to the extent that the State is aware of such Hazardous Material. If the Contractor encounters material reasonably believed to be a Hazardous Material and which may present a substantial danger, the Contractor shall immediately stop all affected Work, give written notice to the State of the conditions encountered, and take appropriate health and safety precautions.

(b) Upon receipt of a written notice, the State will investigate the conditions. If (a) the material is a Hazardous Material that may present a substantial danger, and (b) the Hazardous Material was not brought to the site by the Contractor, or does not result in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Materials, the State shall order a suspension of Work in writing. The State shall proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State shall terminate the affected Work for the State's convenience.

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the affected Work shall be resumed as directed in writing by the State. Any determination by the Michigan Department of Community Health and/or the Michigan Department of Environmental Quality (whichever is applicable) that the Hazardous Material has either been removed or rendered harmless shall be binding upon the State and Contractor for the purposes of resuming the Work. If any such incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.076** for a time as mutually agreed by the parties.

(d) If the Hazardous Material was brought to the site by the Contractor, or results in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Material, or from any other act or omission within the control of the Contractor, the Contractor shall bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material in accordance with Applicable Laws to the condition approved by applicable regulatory agency(ies). If the Contractor fails to take appropriate action pursuant to Applicable Laws and consistent with the State requirements, then the State may take appropriate action.



2.290 General

2.291 Amendments

The Contract may not be modified, amended, extended, or augmented, except by a writing executed by the parties.

2.292 Assignment

(a) Neither party shall have the right to assign the Contract, or to assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign the Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign the Contract to an affiliate so long as such affiliate is adequately capitalized and can provide adequate assurances that such affiliate can perform the Contract. Any purported assignment in violation of this Section shall be null and void. It is the policy of the State of Michigan to withhold consent from proposed assignments, subcontracts, or novations when such transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

(b) Contractor may not, without the prior written approval of the State, assign its right to receive payments due under the Contract. In the event of any such permitted assignment, Contractor shall not be relieved of its responsibility to perform any duty imposed upon it herein, and the requirement under the Contract that all payments shall be made to one entity shall continue.

2.293 Entire Contract; Order of Precedence

(a) The Contract, including any Statements of Work and Exhibits, to the extent not contrary to the Contract, each of which is incorporated for all purposes, constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior agreements, whether written or oral, with respect to such subject matter and as additional terms and conditions on the purchase order shall apply as limited by **Section 2.061**.

(b) In the event of any inconsistency between the terms of the Contract and a Statement of Work, the terms of the Statement of Work will take precedence (as to that Statement of Work only); provided, however, that a Statement of Work may not modify or amend the terms of **Sections 2.110 through 2.220** of the Contract, which may be modified or amended only by a formal Contract amendment.

2.294 Headings

Captions and headings used in the Contract are for information and organization purposes. Captions and headings, including inaccurate references, do not, in any way, define or limit the requirements or terms and conditions of the Contract.

2.295 Relationship of the Parties (Independent Contractor Relationship)

The relationship between the State and Contractor is that of client and independent Contractor. No agent, employee, or servant of Contractor or any of its Subcontractors shall be or shall be deemed to be an employee, agent or servant of the State for any reason. Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and Subcontractors during the performance of the Contract.

2.296 Notices

(a) Any notice given to a party under the Contract shall be deemed effective, if addressed to such party as addressed below, upon: (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this Section; (iii) the third (3rd) Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

State:
State of Michigan
Office of Acquisition Services



Attention:
PO Box 30026
530 West Allegan
Lansing, Michigan 48909

with a copy to:
State of Michigan
Department of Information Technology
Attention:
525 W Allegan
Constitution Hall, Atrium South Tower
Lansing, Michigan 48909

Contractor(s):
Name CODESPEAR, LLC
Address 370 E. Maple Rd., Suite 350 Birmingham, MI 48009

Either party may change its address where notices are to be sent by giving notice in accordance with this Section.

(b) Binding Commitments

Representatives of Contractor shall have the authority to make binding commitments on Contractor's behalf within the bounds set forth in such table. Contractor may change such representatives from time to time upon written notice.

2.297 Media Releases and Contract Distribution

(a) Media Releases

Neither Contractor nor the State will make any news releases, public announcements or public disclosures, nor will they have any conversations with representatives of the news media, pertaining to the Contract, the Services or the Contract without the prior written approval of the other party, and then only in accordance with explicit written instructions provided by that party. In addition, neither Contractor nor the State will use the name, trademarks or other proprietary identifying symbol of the other party or its affiliates without such party's prior written consent. Prior written consent of the Contractor must be obtained from authorized representatives.

(b) Contract Distribution

Acquisition Services shall retain the sole right of Contract distribution to all State agencies and local units of government unless other arrangements are authorized by Acquisition Services.

2.298 Reformation and Severability

Each provision of the Contract shall be deemed to be severable from all other provisions of the Contract and, if one or more of the provisions of the Contract shall be declared invalid, the remaining provisions of the Contract shall remain in full force and effect.

2.299 Consents and Approvals

Except as expressly provided otherwise in the Contract, if either party requires the consent or approval of the other party for the taking of any action under the Contract, such consent or approval shall be in writing and shall not be unreasonably withheld or delayed.

2.300 No Waiver of Default

The failure of a party to insist upon strict adherence to any term of the Contract shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term, or any other term, of the Contract.



2.301 Survival

Any provisions of the Contract that impose continuing obligations on the parties including the parties' respective warranty, indemnity and confidentiality obligations, shall survive the expiration or termination of the Contract for any reason. Specific references to survival in the Contract are solely for identification purposes and not meant to limit or prevent the survival of any other section.

2.302 Covenant of Good Faith

Each party agrees that, in its dealings with the other party or in connection with the Contract, it shall act reasonably and in good faith. Unless stated otherwise in the Contract, the parties will not unreasonably delay, condition or withhold the giving of any consent, decision or approval that is either requested or reasonably required of them in order for the other party to perform its responsibilities under the Contract.

2.303 Permits

Contractor shall obtain and pay any associated costs for all required governmental permits, licenses and approvals for the delivery, installation and performance of the Services. The State shall pay for all costs and expenses incurred in obtaining and maintaining any necessary easements or right of way.

2.304 Website Incorporation

State expressly states that it will not be bound by any content on the Contractor's website, even if the Contractor's documentation specifically referenced that content and attempts to incorporate it into any other communication, unless the State has actual knowledge of such content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representation of the State.

2.305 Taxes

Vendors are expected to collect and pay all applicable federal, state, and local employment taxes, including the taxes defined in Section 3.022 for all persons involved in the resulting Contract.

The State may refuse to award a contract to any Vendor who has failed to pay any applicable State taxes. The State may refuse to accept Vendor's bid, if Vendor has any outstanding debt with the State. Prior to any award, the State will verify whether Vendor has any outstanding debt with the State.

2.306 Prevailing Wage

RESERVED

2.307 Call Center Disclosure

Contractor and/or all subcontractors involved in the performance of this Contract providing call or contact center services to the State must disclose the location of its call or contact center services to inbound callers. Failure to disclose this information shall be a material breach of this Contract.

2.308 Future Bidding Preclusion

Contractor acknowledges that, to the extent this Contract involves the creation, research, investigation or generation of a future RFP, it may be precluded from bidding on the subsequent RFP. The State reserves the right to disqualify any bidder if the State determines that the bidder has used its position (whether as an incumbent Contractor, or as a Contractor hired to assist with the RFP development, or as a Vendor offering free assistance) to gain a leading edge on the competitive RFP.

[2.310 Reserved](#)

[2.320 Extended Purchasing](#)



2.321 MiDEAL

Public Act 431 of 1984 permits DMB to provide purchasing services to any city, village, county, township, school district, intermediate school district, non-profit hospital, institution of higher education, community, or junior college. A current listing of approved program members is available at: <http://www.michigan.gov/doingbusiness/0,1607,7-146-6586-16656--,00.html>. Unless otherwise stated, it is the responsibility of the Contractor to ensure that the non-state agency is an authorized purchaser before extending the Contract pricing.

The Contractor will supply Contract Services and equipment at the established State of Michigan contract prices and terms to the extent applicable and where available. Inasmuch as these are non-state agencies, all invoices will be submitted to and payment remitted by the local unit of government on a direct and individual basis.

To the extent that authorized local units of government purchase quantities of Services and/or equipment under this Contract, the quantities of Services and/or equipment purchased will be included in determining the appropriate rate wherever tiered pricing based on quantity is provided.

2.322 State Employee Purchases

The State allows State employees to purchase from this Contract. Unless otherwise stated, it is the responsibility of the Contractor to ensure that the State employee is an authorized purchaser before extending the Contract pricing.

The Contractor will supply Contract Services and Deliverables at the established State of Michigan contract prices and terms to the extent applicable and where available. Inasmuch as these are non-state agencies, all invoices will be submitted to and payment remitted by the State employee on a direct and individual basis.

To the extent that authorized State employees purchase quantities of Services and/or Deliverables under this Contract, the quantities of Services and/or Deliverables purchased will be included in determining the appropriate rate wherever tiered pricing based on quantity is provided.

2.330 Federal Grant Requirements

2.331 Federal Grant Requirements

The following links contain certifications and terms which may be required for some purchases paid via Federal funds. They are included here to be utilized as required.

Lobbying Certifications are usually for agreements over \$100,000. The debarment certification is required for all agreements. The last link is where you can go and search for debarred or suspended contractors.

http://straylight.law.cornell.edu/uscode/html/uscode31/usc_sec_31_00001352----000-.html

http://www.archives.gov/federal_register/codification/executive_order/12549.html

http://www.archives.gov/federal_register/executive_orders/pdf/12869.pdf

<http://www.epls.gov/epls/servlet/EPLSearchMain/1>



Exhibit A

V. "MiDeal" Contract Pricing Proposal for Qualifying Michigan Counties & Municipalities

Codespear will offer User based and Site Licensing Options to Qualifying City, County and other Agencies meeting eligibility requirements for ordering from a Michigan based Contract, based upon the "MiDeal" Program.

Michigan based City or County Government Entity	Option 1: Per User Based License Fee	" + "	Option 1: Per User Based Server Fee	or	Option 2: Population Based Site License	Option 2: Site License Fee (Unlimited Use for FTE's, Volunteers, & Citizen Alert)	Population Pricing Band
County, City, or Township	\$37.50		\$2.50		0 - 500	\$2,500.00	1
	\$37.50		\$2.50		501 - 750	\$3,000.00	2
Notes:	\$37.50		\$2.50		751 - 1000	\$3,500.00	3
- License Includes First Year Support	\$37.50		\$2.50		1001 - 1500	\$4,000.00	4
- Excludes Optional Modules:	\$37.50		\$2.50		1501 - 2000	\$4,500.00	5
* Radio Interoperability Module	\$37.50		\$2.50		2001 - 2500	\$5,000.00	6
* SIP Dialing Module	\$37.50		\$2.50		2501 - 3000	\$6,000.00	7
* Multi-Agency & Multi-Lingual	\$37.50		\$2.50		3001 - 4000	\$7,000.00	8
- Includes Necessary SmartMSG Servers, Based on 1,000 Users Per Server	\$37.50		\$2.50		4001 - 6000	\$8,000.00	9
Benchmark (Conservative User Count)	\$37.50		\$2.50		6001 - 7000	\$9,000.00	10
- Excludes the Following Services:	\$37.50		\$2.50		7001 - 10000	\$10,000.00	11
* Off-Site Hosting / Voice Dialing	\$37.50		\$2.50		10001 - 12000	\$12,500.00	12
* Education & Training	\$37.50		\$2.50		12001 - 15000	\$15,000.00	13
* Implementation Assistance	\$37.50		\$2.50		15001 - 20000	\$20,000.00	14
	\$37.50		\$2.50		20001 - 25000	\$25,000.00	15
	\$37.50		\$2.50		25001 - 35000	\$35,000.00	16
Options:	\$37.50		\$2.50		35001 - 50000	\$50,000.00	17
(1) Radio & Communications Interoperability Units	\$37.50		\$2.50		50001 - 60000	\$60,000.00	18
- \$10,000.00 for Rugged Mobile Configuration (4 Ports)	\$37.50		\$2.50		60001 - 75000	\$75,000.00	19
- \$7,500.00 for Rack-Mount Server (4 Ports)	\$37.50		\$2.50		75001 - 100000	\$100,000.00	20
- \$2,500.00 for Add-On 4 Port Radio Interface Unit	\$37.50		\$2.50		100001 - 120000	\$125,000.00	21
- \$150.00 Per Cable for Additional Cables (4 Per Interface Unit)	\$37.50		\$2.50		120001 - 150000	\$150,000.00	22
(2) VoIP Voice Dialing Module	\$37.50		\$2.50		150001 - 200000	\$200,000.00	23
- \$5,000.00 Per Agency/City/County/State	\$37.50		\$2.50		200001 - 250000	\$250,000.00	24
(4) Multi-Lingual Module	\$37.50		\$2.50		250001 - 300000	\$350,000.00	25
- Budget 15% of License Fees	\$37.50		\$2.50		300001 - 500000	\$500,000.00	26
- See Enterprise License Schedule	\$37.50		\$2.50		500001 - 750000	\$750,000.00	27
NOTE:	\$37.50		\$2.50		750001 - 1000000	\$1,000,000.00	28
NORMAL "LIST" PER USER FEE: \$50.00	\$37.50		\$2.50		1000001 - 1500000	\$1,500,000.00	29
	\$37.50		\$2.50		1500001 - 2500000	\$2,000,000.00	30

VI. Optional Services – Voice Phone Calling & Remote Hosted Redundant Server

A. Voice Dial Calling Services (Following Included First Year Services by Codespear)

For customers who choose not to invest in the required voice dialing infrastructure, or who determine that having a back-up dialing capability is critical, Codespear will offer hosted alert notification calling services to State of Michigan, based on the following fee schedule:

Voice Services - Initial Set-Up Fee	\$2,500.00
Annual Fee - 50,000 Voice Recipient Call-Outs Annual Allowance	\$5,000.00 (1)
Additional Voice Alerts – Per Individual Recipient Call-Out	10 Cents/Call (2)



Notes:

- (1) Voice Dialing Services Fee would be billed monthly at \$416.67. Service would be subscribed to on an annual basis. Plan is based on In-State Calling only. Additional fees may apply for Long-Distance depending on location and area code of recipients being called.
- (2) Additional Voice Alerts past Annual Allowance would be calculated and billed at end of each calendar quarter.

Regardless of configuration and whether the State of Michigan provides internal voice dialing infrastructure, or utilizes Codespear’s Voice Dialing Services, the SmartMSG solution uniquely supports the implementation of “Alert Escalation Waves”, whereby Mixed-Mode Alerts can be initiated in the following order:

- Network Connected PC's (wired, or wireless) – Completed within Seconds.
- Two-Way Radio’s & Push-to-Talk Cell Phone Talk Group – Completed within Seconds.
- SMS Pagers, SMS Cell Phones, Blackberry PDA’s and E-Mails – Completed at a Rate of 1,000 Text Messages – Per Minute / Per Server(s) Designated to Send.
- Voice Calls - Initiated within Seconds to Minutes, depending on User Profile Escalation Rules.

The advantage of this message alerting option is that users can acknowledge alerts VIA their PC’s and Text Messaging Devices instantly. Voice Calls would only then be necessary to those user recipients who do not have PC’s or text devices, or who have not responded to their PC or text based message in a pre-determined length of escalation time.

B. Codespear Hosted Redundant Server Option (Optional)

For customers who choose not to invest in the required voice dialing infrastructure, or who determine that having a back-up dialing capability is critical, Codespear will offer hosted alert notification calling services to State of Michigan, based on the following fee schedule:

Redundant Server - Initial Set-Up Fee (per Server)	\$2,000.00 (3)
Annual Back-Up Server Hosting Fee (per Server)	\$3,000.00 (4)

Notes:

- (3) If both Voice Dialing and Hosted Redundant Server Options are subscribed to together, then the combined Initial Set-Up Fees would be reduced by \$1,000 to \$3,500.
- (2) Redundant Hosted Server Fee would be billed monthly at \$250. Service would be subscribed to on an annual basis.

6. Recommended Server Hardware and Related Infrastructure Cost Items

I. Recommended Server Related Hardware (Optional):

Intel Based Servers – Estimated Cost	Assume Use Existing Servers
Cellular Internet Data Card (Verizon/Cingular/Sprint)	Cost: Approximately \$250 ea.
Wireless Internet Service	Approximately \$80 Per Month

Notes:

Please refer to the SmartMSG Technical Recommendations Guide – Version 5.1 for recommended minimum configurations (“Appendix Information” Section). New Server hardware is not a requirement. It is assumed that the State of Michigan has existing servers in the SEOC & Regional Sites with capacity. Wireless Internet Card(s) and Services are responsibility of the State.

II. Voice Dialing Infrastructure – If Located at State of Michigan Site (Optional):

“T1” Voice Line – Estimated Service Provider Set-Up Fee	\$1,000.00 – Per Line
“T1” Voice Line – Estimated Monthly Service Fee	\$ 550.00 – Per Line
“BrookTrout” VoIP / SIP to “T1” Server PCI Card – Estimated Cost	\$3,500.00 (Single T1 Port)
“BrookTrout” VoIP / SIP to “T1” Server PCI Card – Estimated Cost	\$8,500.00 (Up to 4 T1 Ports)

**Notes:**

A single Voice "T1" Line can manage 23 simultaneous phone calls. Assuming a One (1) Minute Alert Message, each "T1" Line could initiate 23 calls per minute. Multiple T1 Voice Lines (or T3/DS3 Lines) could increase internal MSP EMD voice call capacity to over 1,000 simultaneous calls.

Codespear can supply the "BrookTrout" PCI Server Cards if requested (at costs provided above – "T3" Cards are also available), or VoIP Dialing Services, as defined in Section 5.

Regardless of configuration and whether the State of Michigan provides internal voice dialing infrastructure, or utilizes Codespear's Voice Dialing Services, the SmartMSG solution uniquely supports the implementation of "Alert Escalation Waves", whereby Mixed-Mode Alerts can be initiated in the following order:

- Network Connected PC's (wired, or wireless) – Completed within Seconds.
- Two-Way Radio's & Push-to-Talk Cell Phone Talk Group – Completed within Seconds.
- SMS Pagers, SMS Cell Phones, Blackberry PDA's and E-Mails – Completed at a Rate of 1,000 Text Messages – Per Minute / Per Server(s) Designated to Send.
- Voice Calls - Initiated within Seconds to Minutes, depending on User Profile Escalation Rules.

The advantage of this message alerting option is that users can acknowledge alerts VIA their PC's and Text Messaging Devices instantly. Voice Calls would only then be necessary to those user recipients who do not have PC's or text devices, or who have not responded to their PC or text based message in a pre-determined length of escalation time.

3. Internet Service Provider:

It is assumed that State of Michigan has Internet Access Services from State Department Operations, and the State EOC, as well as Firewall configuration for communication with Cities and Counties.

Internet Service is required for the SMS & E-Mail Alert Messaging functions.

7. Proposed Installation, Implementation & Training Approach

Consulting assistance provided by Codespear assumes the existence of a formal State of Michigan Project Team, which will have direct project oversight and management responsibilities. This project team will be comprised of key DIT, MSP, MSP EMD, MPSCS & Codespear personnel. Codespear personnel will work as a member of this Project Team and report to the designated State of Michigan Project Manager. We will assign an Account Manager/Project Leader to interface with the State Project Team.

It is assumed that Codespear will be assisting the State of Michigan Project Team in an advisory role, providing project approach consultation, product content, application configuration expertise, technical configuration expertise and integration assistance.

The proposed project implementation approach includes an accelerated Conference Room Pilot Phase, which will serve to rapidly define overall operating and technical requirements, so that a full working model exercise of the Alert Notification Systems can be executed for project sign-off purposes.



Project Management Complexity at the State of Michigan:

Based upon the perceived complexities in coordinating multiple departments within the State, we believe it is in the State’s best interest take on overall project responsibility. We propose a Joint Project Team approach, between the Codespear and the State of Michigan. In this way, all Project Members and State Departments will be sensitive to Key Milestones and the effect of delays on meeting the Project Phase Completion Dates referenced in Section 1.104 of the ITB.

The suggested Project Implementation Approach entails an estimated implementation duration of sixteen (16) weeks. ** Schedule of high level Project Implementation Approach follows in the next section of this ITB Response.

** Dependent on current infrastructure, scope of deployment within the State and participating entities, required application changes, or delays in configuring State computing and network environments.

It is common for Codespear to assist, or augment a Customer’s Project Team in the following areas:

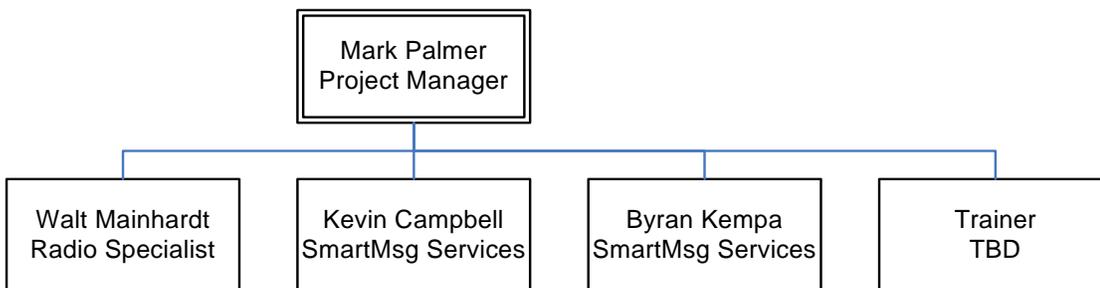
- Database and Server Sizing
- Distributed Server Deployment, Load Balancing, & Redundancy Planning
- Installation & Training
- Application & Technical Design Review
- Data Conversion
- Device & Messaging Integration
- Training

Codespear Account Manager:

Codespear will assign an Account Manager to serve as a Customer Service and Project Manager Liaison. At present the following Codespear representative has been assigned to State of Michigan:

Mark Palmer
 Sr. Account Manager
mpalmer@codespear.com
 (248) 644-1090

The following organizational chart represents the proposed Codespear Team for the MSP EMD Project:



Training of Project Team and End-User Roles:

Training in the SmartMsg product will be focused primarily on the following groups:

- **SmartMsg System Administrators:** these may be existing Network Administrators or System Administrators who are responsible for the maintenance and operations of network servers. The responsibilities of the SmartMsg Administrator straddle the boundaries of the normal Network or System Administrator. The role allows both server administration and SmartMsg data administration. Project



Team Leaders and Members, Dispatcher, Task Force Leaders, Communications Personnel and other Key people may be included in this group

- **SmartMsg Global Administrators:** similar to the SmartMsg System Administrator except that the Global Administrator role is limited to SmartMsg data activities. The Global Administrator cannot administer the SmartMsg servers. This role may be filled by a Dispatcher who needs access to all SmartMsg data-related functions. It may also be filled by many of the roles described under the Systems Administrators group.
- **SmartMsg Alert Receivers and Senders:** receivers and senders are those who have the authorization to send a primary alert, and/or to receive a primary alert and send a secondary alert. These are usually Executives, Directors, Managers, Supervisors and Dispatchers.
- **SmartMsg Alert Receivers:** receivers are usually First Responders and other roles that need to be made aware of an incident but are not authorized to send alerts to others. Receivers may have the authority to initiate live Chat Sessions with other personnel to conduct real-time communications.



PROPOSED PROJECT APPROACH TIMELINE:

State of Michigan											
MSP / EMD Alert & Notification System (A & N) Project											
Implementation Timeline - "V3" Draft Approach											
"A & N" - Proposed Implementation Timeline											
Weeks Duration -----											
Representative Tasks	Wk 1	Wk 2	Wk 3	Wk 4	Wk 5	Wk 6	Wk 7	Wk 8	Wk 9	Wk 10	
Phase I. Project Scope Assessment & Organizational	█										
Define Scope and Project Team Organization	█										
Install & Test Software at SEOC & Regional Server	█										
Phase II. Initial Project Team & Roll-Out Training		█						█	█	█	
Train Core Project Team		█									
Train DIT Technical & EMD Operations Users								█			
Training Team ("Train-the-Trainer Approach") & Roll-Out									█	█	
Phase III.A. Project Planning & Structure Phase			█								
Planning & Analysis (Data Sources & Integration Plan)			█								
Project Definition/Approval (On Base Configuration)			█								
Phase III.B. Project Design & Build Phase				█	█	█					
Application & Technical Design				█							
Infrastructure, Server Locations & Radio Spec's					█	█					
Talk Groups, Alert Groups & User Profile Definition					█						
Scenario/Template and Custom Response Definitions						█					
Phase III.C. "A & N" Conference Room Pilot Test							█	█			
Limited User & Group Scope Test of all Functionality							█				
Document Needed Changes to Base Configuration								█			
Phase III.D. Project Build & Roll-Out									█		
Complete Data Load (User & Group Profiles)									█		
Complete Server Fail-Over & Messaging Defaults										█	
Phase III.E. Move to Production										█	
Final System & Field Testing											█



NOTES TO IMPLEMENTATION APPROACH & KEY MILESTONES:

Given the Holiday Season that Overlaps the State's Proposed Implementation Timeline the Stated "Go-Live" Date is Aggressive. The Proposed Approach Would Provide for Meeting the Desired Project Milestones:

- Phase I Completion by December 7, 2005
- Phase II A Completion by December 7, 2005 (Three Training Sessions)
- Phase II B Completion by January 13, 2006 , (Remaining Training Sessions)
- Phase III Completion & "Go Live" by January 20, 2006
- Phase IV Operations and Maintenance – Commencing with "Go Live"

II. REPRESENTATIVE PROJECT APPROACH TASKS:

I. Project Strategy, Scope Assessment & Project Organization Phase

- Assemble Project Team
- Determine and Document Project Charter and Project Organization Structure
- Assess & Document Current Information Technology Infrastructure and Standards
 - Perform Server Sizing Analysis
 - Assess Current Network Architecture & Performance
 - Determine Optimum Number of Redundant Distributed Servers
 - Assess Feasibility of Redundant Network Capability (802.11b, GSM, CDPD)
 - Document Current Personnel Directory and Options for Conversion to Application (LDAP, Active Directory, Flat File Import, XML, Manual Entry)
- Interview Project Team & Key Users for Desired Alerting Methods & Related Functions
- Assess Available and Viable Communication Device Options (Voice, Two-Way Radio, PC, Wireless PC or PDA, SMS Text Pager, SMS/WAP/GSM based Mobile Phone, PocketPC Phone, or E-Mail).
- Install Software and Conduct Limited System Test to Verify Operation of Application

II. Initial Project Team & Roll-Out Training

- Determine and Document Project Charter and Project Organization Structure
- Train Core Project Team Members
- Train DIT Technical & EMD Operations Users (See III.E.)
- Training Team ("Train-the-Trainer" Approach) & User Training Roll-Out (See III.E.)

III.A. Project Planning & Structure Phase

- Develop Draft Project Plan based on Project Discovery & Scope Phase
- Finalize all Required Software, Hardware, and Network Components
- Present Final Project Plan to Project Steering Committee
 - Project Oversight and Reporting Structure
 - Project Timeline and Key Milestones
 - Project Conference Room Pilot Plan
- Order Necessary Hardware, Networking, and Related Service Components

III.B. Project Design, Conference Room Pilot (CRP) & Build Phase

- Finalize Application Design
- Finalize Infrastructure, Architecture, Server Deployment of Application & Radio/Model Spec's
- Talk Groups, Alert Groups & User Profile Definition
- Scenario/Template and Custom Response Definition

III.C. "ANS" Conference Room Pilot (CRP) Test

- Kick-Off Conference Room Pilot (CRP) Design Phase
 - Configure Hardware and Network Components



- Configure Application with Representative State Data & Parameters
 - Groups (Departments / Teams / Taskforces)
 - Personnel Profiles & Mobile Device Settings/Escalation Rules
 - Message Alerting Scenarios (Ad-Hoc / Templates / Automated Events)
 - Two-Way & Multi-Personnel Messaging Scenarios
 - Security Administration for Test Groups & User Profiles
- Perform Unit and System Tests on CRP Configuration
- Train a Selected Group of Core Users for CRP Test
- Perform Emergency Alert Test Scenarios
- Perform Simulated Network Fail-Over & Redundancy Tests
- Document CRP Results and Finalize Application Design.

III.D. Project Build & Roll-Out

- Finalize Application Configuration
- Import All Personnel Records
- Define All User Profiles and Mobile Device Settings & Escalation Rules
- Finalize All Pre-Defined Directory Groups
- Finalize all Message Alerting Templates and System Generated Events
- Finalize Security Administration for Group & User Profiles
- Finalize Server Fail-Over & Messaging Defaults (IP, VoIP, SMS, Radio)

III.E. Move to Production

- Train DIT Technical & EMD Operations Teams
- Train the MSP Training Team (“Train -The-Trainer” Approach)
- Train All End Users VIA “Train-The-Trainer” Teams w/ Codespear Content Assistance
- Perform Full System Alert, Network Fail-Over & Redundancy Testing
- Transition to Production.

Training on SmartMsg System Components

SmartMsg Server Software houses and maintains the SmartMsg database and handles message routing. SmartMsg servers also handle client connections. The server software runs as a Windows Service. There is always at least one SmartMsg server in a SmartMsg system. Multiple servers in a system allow for load balancing and redundancy. There can be many servers in one system.

SmartMsg Server Modules are additional components that run on the SmartMsg servers and provide extra functionality beyond the basic, core server functionality. Features such as Language Translation, Text-to-Speech conversion, LDAP/Active Directory integration, XML integration, etc.. are handled via Server Modules. A module is normally a single *.dll file that is registered with the server and interfaces with the SmartMsg system.

SmartMsg Client/Device Software is loaded on user client computers, laptops and PDAs. It is used to display pop-up messages on the respective devices and allows users to enter into secure communication sessions. Users can also utilize the client software to configure their own individual settings, participate in chat sessions and send messages (provided the user has appropriate access). Two examples of client software are SmartMsg Client for Windows and SmartMsg Client for Pocket PC.

SmartMsg Administrator Tool Software is used to configure and monitor the SmartMsg system. Tasks such as creating users and groups, configuring security, entering license keys, adding servers, archiving messages and other maintenance and administrative-type tasks are performed using the Administrator Tool. The Administrator Tool can also be used for sending SmartMsg alerts.

SmartMSG Training Curriculum Information:

I. SmartMsg Deployment Training



Designed for IT personnel or other technical personnel responsible for the set-up and maintenance of the network servers on which SmartMsg resides. Students will be trained on how to best deploy the SmartMsg product into their network infrastructure.

Audience: IT Personnel
 Duration: 1 Day
 Maximum Class Size: 15 people

II. SmartMsg Administrator Console
 (Set-Up, Maintenance, Message Alert and Radio Unit Functions)

Designed for IT personnel or other technical personnel responsible for ensuring server up-time, Group maintenance, Assignment of Users to Groups, User Maintenance, User Device Maintenance, Assignment of User Privileges, creation of Incident Templates, how to apply skins to Incident Templates, the use of Audio files and File Attachments.

Audience: Project Team Leader
 Project Team Members
 Primary Dispatch & Communications Personnel
 Key Department / Task Force Leaders
 IT Personnel
 Duration: 1 Day
 Maximum Class Size: 15 people

III. SmartMsg Basic Training Module (Client Dashboard Functions)

The Basic Training module is designed for those people who will have the SmartMsg Client on their Windows-based devices, such as desktop PCs, laptops and/or PocketPC or Windows Mobile 2003 based PDAs. It teaches the basic functions of the Client Dashboard.

Audience: Project Team Members responsible for End-User Training
 Three-to-Five (3-5) Personnel from each department
 "Train the Trainer" approach
 Duration: ½ day
 Maximum Class Size: 15 people (Core Training Team)

IV. SmartMsg Basic Training Module (Receiving Alerts)

This module demonstrates how to receive and acknowledge a SmartMsg alert. It is taught as a second module to those students who previously received training in the Client Dashboard and as a first module to students who do not have the Client Dashboard installed on a PC but will receive alerts on other devices, such as two-way radios and cell phones.

Audience: Project Team Members responsible for End-User Training
 Three-to-Five (3-5) Personnel from each department
 "Train the Trainer" approach
 First Responders
 Management level people requiring alert notifications
 Duration: ½ day
 Maximum Class Size: 15 people

V. SmartMsg Basic Training Module (Sending Alerts)



This module demonstrates how to send a SmartMsg alert. It is taught to those students who will have the authorization to send an alert. With the appropriate authorization, a student who received training in the Client Dashboard and Receiving Alerts modules will also receive training in this module. The student will learn how to use pre-defined Incident Templates, create ad-hoc Incident alert, use and/or Audio files as part of the Alert, include File attachments, assign/create custom responses for Incidents.

Audience: Project Team Members responsible for End-User Training
 Three-to-Five (3-5) Personnel from each department
 “Train the Trainer” approach
 Management level people who need to send Primary and/or Secondary alerts

Duration: ½ day
 Maximum Class Size: 15 people

VI. SmartMsg Basic Training Module (Chat Sessions)

This module is for those students who will have the Authorization to conduct Chat sessions with recipients who received the alert. The student will learn how to initiate a chat, how to invite authorized people into the chat, how to include video in the chat and how to conduct both text and voice-based chat sessions.

Audience: Project Team Members responsible for End-User Training
 Three-to-Five (3-5) Personnel from each department
 “Train the Trainer” approach
 Management level people who need to send Primary and/or Secondary alerts

Duration: ½ day
 Maximum Class Size: 15 people

Education and Training Assumptions

- It is anticipated that required training classes will be offered based on formal project plan and Phase timing.
- It is assumed the training will be conducted in classroom facilities of CNRI’s choosing in Kearney, Nebraska.
- The classroom(s) will contain the necessary equipment (PC Projector, multiple PCs and Network connectivity) to conduct the classes.
- The student groups will be assembled according to their levels of authorizations as follows. This will facilitate classroom organization and scheduling.
 - Only those students who use PCs, laptops or Tablets will receive training in the Client Dashboard
 - All students will attend training in the Receiving Alerts module.
 - Only those students authorized to send alerts will receive training in the Sending Alerts module.
 - Only those students authorized to initiate and/or participate in Chat sessions will receive training in the Chat Sessions module.
- This is the only training required to use the SmartMsg software. No other training is assumed or implied.



Customer Support Information:

Customer / Technical Support Hours

Standard Support Hours:

9am-6pm EST – Monday - Friday

Premium – Priority Support:

24 Hours – 7 Days a Week

Target Response Times for Customer/Technical Support Issues

Standard Support:

Maximum Response Time of 2 Hours

Premium – Priority Support:

Maximum Response Time of 30 Minutes

How Are Customer/Technical Support Issues Handled? (via phone, dial-in, web access)

Standard Support:

Phone, E-Mail, & Web Access (Log Support Issue, Download Updates)

Premium – Priority Support:

Standard Support Options above, plus Pager Escalation, & SmartMSG Urgent Alert Link to Codespear Support.

Codespear employs both a Phone and Web Based Support Process. It is the preference, both for accuracy and speed of support incident response that the Web based process (from Codespear Support Page) be used as the primary initiating medium, due to the fact that we employ the own SmartMSG Notification capability for alerting both the own internal support personnel and confirming receipt of a support incident ticket back to the originating customer contact.



8. References and Staffing Qualifications

I. Wayne County – Department of Homeland Security & Emergency Management

Mark Hammond
 Director, Emergency Management Coordinator
 Department of Homeland Security
Charter County of Wayne
 10250 Middlebelt Road
 Detroit, MI 48242
 (734) 942-5289
 mhammond@waynecountyemd.com

- Customer Since March 2005
- Successful Test w/ Live “Operation Perfect Game Exercise (May 2005)
- 10,000 + State & Municipal First Responder & MSP EMD Users Planned for Production
- Microsoft Active Directory Integration w/ SmartMSG Active Directory Module
- Implemented Jointly by Client and Codespear
- Acceptance Test Completed in June 2005

II. North American International Auto Show / Detroit Auto Dealers Association

Carl Berry
 Chief of Security
North American International Auto Show
 1900 West Big Beaver Road
 Troy, MI 48084
 (248) 283-5116
 cberry@dada.org

- Event Customer since 2005
- 250+ Cross-Agency Users During Auto Show Event (City, County, MSP, FBI, Private Security)
- Implemented & Hosted by Codespear
- Urgent Alert Notification for Auto Show Teams and Two-Way Communications Interoperability Services.

III. City of Detroit

Shelby Slater
 Director of Homeland Security, City of Detroit
 9449 Grinnell
 Detroit, MI 48123
 (313) 596-2991
slaters@detroitmi.gov

The City of Detroit executed DHS UASI Grant Funds to purchase SmartMSG in June 2005. Phase I Implementation began in Mid-June, with the SmartMsg application being implemented within their EOC Operations for the July 12, 2005 Major League All-Star Game.

- Communications Interoperability - Link main 800mhz system with legacy radio systems
- “On-the-Fly” Radio System Interconnection.
- Public Alerting
- Automatically triggered alerts from security, monitoring equipment and feeder systems



IV. Quicken Loans

Cheryl Boelter
 SmartMSG Administrator
 Database & Systems Team

Quicken Loans

20555 Victor Parkway
 Livonia, MI 48152
 (734) 805-8037
 cherylboelter@quickenloans.com

- Production Customer since 2003
- 4,000 + Users in Production
- Microsoft Active Directory Integration w/ SmartMSG Active Directory Module
- Implemented internally by Client, with support from Codespear
- Migrated through Two Version Upgrade Cycles
- Quicken Loans has Licensed Software on Seven Separate Occasions over Past 18 Months

V. Active Aero Charter

Brian Hermelin
 President
Active Aero Charter
 2068 E. Street
 Belleville, MI 48111
 (734) 547-7210
 bmh@activeaero.com

- Production Customer since 2004
- 500 + Users in Production
- Implemented internally by Client, with support from Codespear
- SmartMSG integrated into Web Based Air Freight On-Line Marketplace with 175+ Air Carriers being Notified of Urgent Bid Items VIA SmartMSG Alerts.

VI. Detroit Public Schools

Robert Foley
 Office of Risk Management
 Detroit Public Schools
 Fisher Building
 3011 W. Grand Blvd., Suite 601B
 Detroit, MI 48202
 (313) 870-4809
 Robert.foley@detroitk12.org

Detroit Public Schools executed a contract for SmartMsg in May 2005. Implementation commenced. In Late May, with a Phase I - Ten Location/Site Implementation being completed in July 2005.

- Emergency Alert Notification to Public Safety and Faculty Staff
- Communications Interoperability between School Facilities and Public Safety Agencies
- Phase II: Emergency Alert Notification to School Parents, Commencing September '05
- Implemented by Codespear and Other DPS Vendor Partners

VII. Other Qualifications Information:



A) Codespear has been formally selected by several large U.S. based Cities and Counties, including the City of New York (they are presently “Live” with the SmartMsg application), Livingston County, MI EMS, Ingham County, MI Department of Public Health and an DHS/FEMA “MMRS” Coalition comprised of Douglas, Washington & Sarpy County, Nebraska. The Grant Funding / “MOU” or Legal Licensing Process is currently underway for these organizations.

B) Ford Motor Credit Corporation (FMCC) has been a production customer of SmartMsg for over two years. FMCC currently has 18,000 users connected thru an IP based Network, across 183 Geographically Dispersed Servers within the United States and Canada.

C) The Michigan State Police – Special Operations Division completed a successful Field Pilot of SmartMSG during the Late 2004 / Early 2005 Timeframe. This pilot was “Hosted” by Codespear.

D) In August 2005, Codespear has been selected to conduct a Field Pilot by the State of New York – Office of Homeland Security.

Project Manager Resume:

Mark Palmer

Mr. Palmer is an Account Manager with Codespear, LLC. He is responsible for the coordination and management of SmartMsg implementations and for maintaining client relations during the implementation process. He works closely with the Codespear Sales and Development staff and the client’s project staff to ensure a smooth transition to the SmartMsg product.

His role as an Account Manager during the implementation process includes performing as a Project Manager responsible for the coordination of project activities between Codespear representatives and the client.

Mr. Palmer is currently representing Codespear as a Project Manager in a multi-vendor implementation for a metropolitan-sized school system in which SmartMsg is the primary product and process driver. He is directly responsible for presenting, coordinating and scheduling the Codespear tasks within the project to the Project Overseer responsible for all vendor activities. He provides daily communications and advice to the Project Overseer to ensure the Overseer is kept current and knowledgeable of Codespear’s progress and is kept aware of any issues that could have an impact on the project schedule.

Prior to Codespear, Mr. Palmer was a Business Consultant who performed as a Project Manager in multiple business environments. The corporation where he was employed provided system integration services that included assisting clients with the identification and analysis of business processes as a prelude to the implementation and integration of application software. One client, a provider of marketing services to a major automotive manufacturer, was able to qualify as the primary host of marketing web services ahead of other competing vendors. Many of these same clients asked Mr. Palmer to assist them in managing and coordinating the transition to new data centers.

Mr. Palmer also has experience as a member of, and frequently a leader of, project teams responsible for the implementation of ERP software solutions. His clients include a major aerospace corporation, the primary manufacturer of emergency vehicles, automotive suppliers and the manufacturer of large-scale construction vehicles. Mr. Palmer provided technical assistance and experience and worked closely with the client’s IT staff responsible for the integration and installation of the ERP software on the client’s network. His knowledge of application systems was useful when assisting the consultants who were responsible for providing business application knowledge to the ERP project. He was able to coordinate data related processes between the IT staff and application business consultants to ensure the business consultants were able to access the data necessary for the application phases of the project.

In addition to business and technical assistance, Mr. Palmer assumed the responsibility of educating the client’s project staff and selected business users on the ERP product in a manner that provided a contextual



association with the user's current business process knowledge and facilitated the transition to the new ERP business processes.



Exhibit B

Technical Recommendations Guide



Table of Contents

Overview 101

Special Recommendation ----- 101

Summary----- 101

 System Requirements..... 101

Server System Requirements ----- 101

 Supported Operating Systems..... 101

 Recommended Operating Systems 101

 Minimum Hardware Requirements 101

 Disk Space:----- 101

 Physical Memory ----- 101

Administrator System Requirements ----- 102

 Supported Operating Systems..... 102

 Minimum Hardware Requirements 102

 Disk Space----- 102

 Physical Memory ----- 102

Client System Requirements ----- 102

 Supported Operating Systems..... 102

 Minimum Hardware Requirements 102

 Disk Space----- 102

 Physical Memory ----- 102

SmartMSG Server Configurations 102

Configuration options for SmartMSG client remote access----- 102

SmartMSG servers completely contained behind the firewall----- 102

SmartMSG Servers behind the firewall - port access allowed through the firewall -- 104

SmartMSG Server placed outside of the firewall ----- 105

SmartMSG SIP Phone Dialer Interface ----- 106

Using the SIP phone Dialer interface with a 3rd party VOIP carrier ----- 106

Using the SIP phone Dialer interface with VOIP provider/VOIP Manager Software 107

 SmartMSG SMTP Module 108

 Using the built-in SMTP Module ----- 108

 Sending SmartMSG SMTP messages via a separate Email server----- 109

 Receiving SMTP Responses ----- 110

 SmartMSG server placed within the firewall (with firewall configured to allow incoming TCP port 25 to that server ----- 110

 A SmartMSG server running the SMTP Receiver placed outside of the firewall directly receiving SMTP responses----- 111

 SMTP Responses relayed from a separate E-mail server ----- 112

SmartMSG Radio Interoperability Module----- 113

SmartMSG Interoperability Module – Architecture Diagram----- 114

Overview

This document contains the recommendations for the State of Michigan technical infrastructure for the proposed SmartMSG configuration. Included in this document are examples of various configurations which can assist State of Michigan in the decision process regarding implementation. The SmartMSG product is flexible enough in its architecture that a customer installing the software can choose from a number of different installation scenarios that best fit the customer's IT configuration and policies.

The recommended minimum configuration for all servers is:

Intel Pentium 4 - 3GHz
40GB Hard Drive
1GB RAM

There are no requirements regarding:

Sound card
Graphics card
Special Recommendation - UPS

Codespear recommends that UPS should be installed in each facility to ensure a continuous power supply in the event of a power outage.

Summary

Codespear has no special requirements regarding the type of server selected, whether desktop, tower or rack mount. There are a number of vendors who offer cost-effective, high-performance servers in a variety of configurations.

The customer may also choose to use existing hardware that meets the minimum requirements. It is not uncommon to see low-usage servers, such as file-print servers, perform a dual role, acting both as a file-print server and a SmartMSG server. SmartMSG does not require special servers to operate and utilizes a minimal portion of the server to do so.

System Requirements

Server System Requirements

Supported Operating Systems

Windows 2003 Server

Windows 2000 Professional/Server

Windows XP Professional

Recommended Operating Systems

Windows 2003 Server

Windows 2000 Server

Minimum Hardware Requirements

Disk Space:

Minimum 30MB + (1MB for every 500 users/devices in the system)

Large messages add to this disk space requirement.

Physical Memory

(Free memory after Operating System and other server applications)

Note: 55MB + (1MB for every 500 users/devices in the system.) *File attachments, sound files and custom skin files do not add to the physical memory requirement for the Server. They are stored on the hard disk and are not stored in memory.*

Administrator System Requirements

Supported Operating Systems

Windows 2003 Server

Windows 2000 Professional/Server

Windows XP Professional

Minimum Hardware Requirements

Disk Space

Minimum 25MB + (1MB for every 500 users/devices in the system.)

Physical Memory

(Free memory after Operating System and other applications)

15MB (+1MB for every 500 users/devices in the system.)

Client System Requirements

Supported Operating Systems

Windows 2000 Professional/Server

Windows XP Professional

Minimum Hardware Requirements

Disk Space

Minimum 15MB

Physical Memory

(Free memory after Operating System and other applications)

12MB

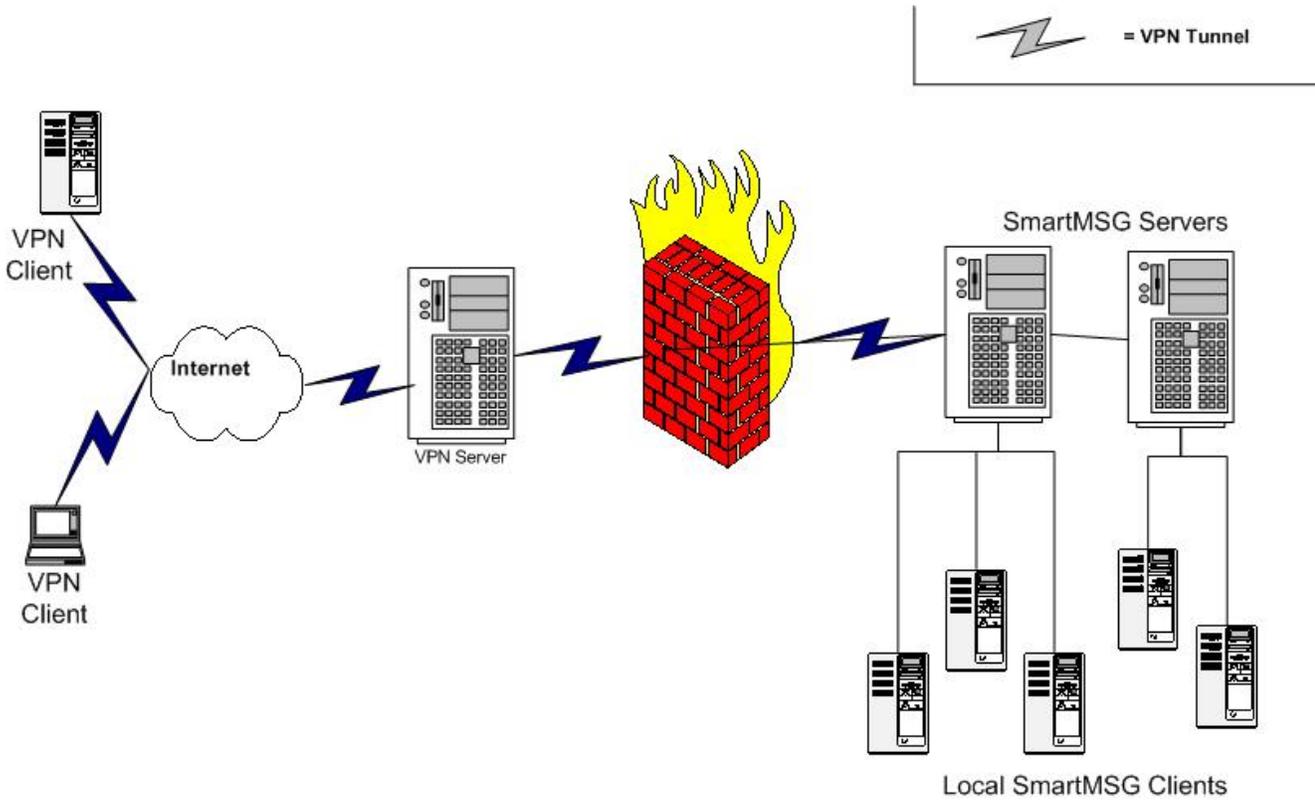
SmartMSG Server Configurations

Configuration options for SmartMSG client remote access

There are a few different options for setting up your SmartMSG system for remote access. SmartMSG servers can be: completely contained behind the firewall, allowing only VPN Remote access; placed outside of the firewall to allow direct connection from remote clients; or, placed within the firewall, with only the necessary TCP ports allowed through the firewall in order for remote clients to connect.

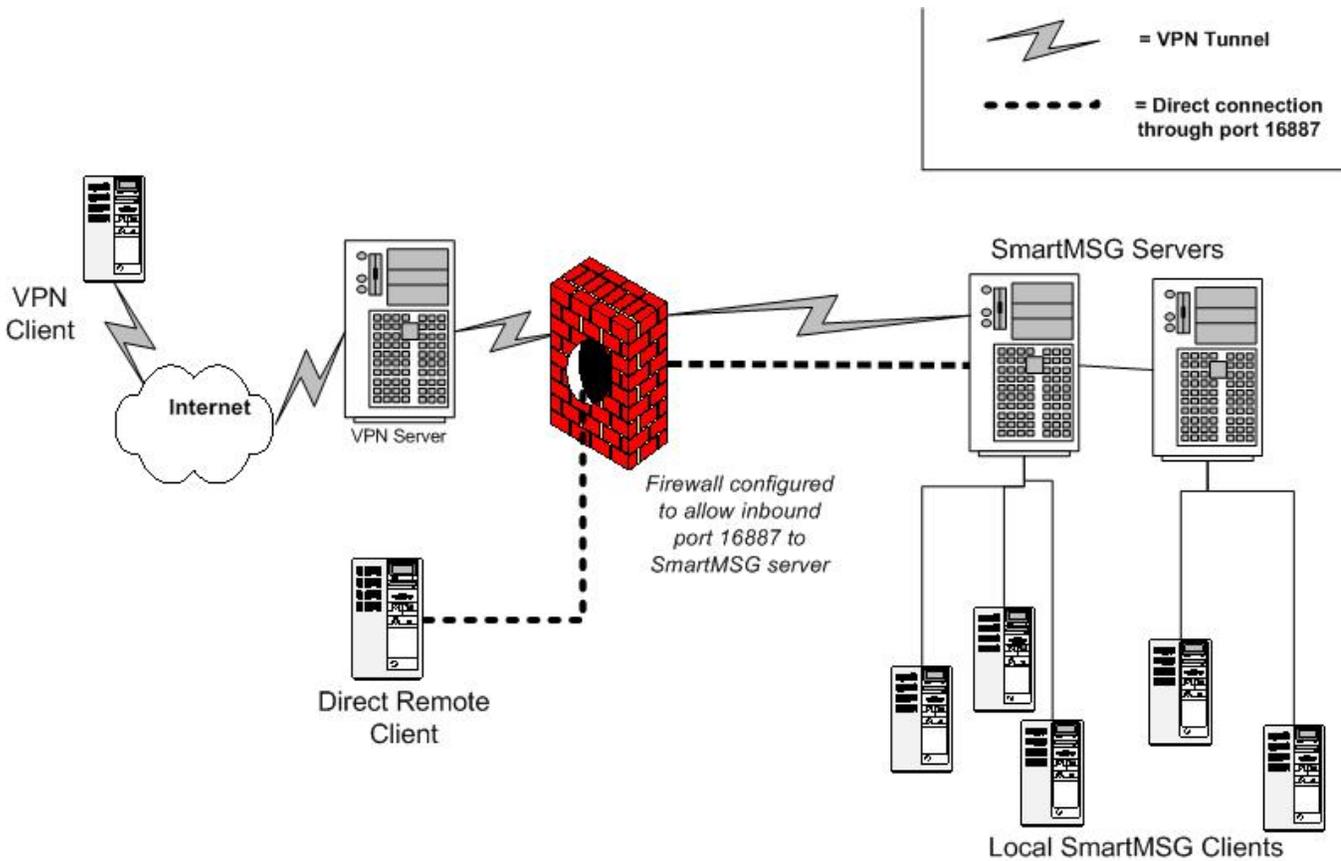
SmartMSG servers completely contained behind the firewall

A SmartMSG system can be configured to be completely contained within an organization's firewall with no ports open to computers outside of the firewall. In the following example, VPN access would be necessary in order for a remote client to connect to the system because the SmartMSG servers are situated completely behind the firewall.



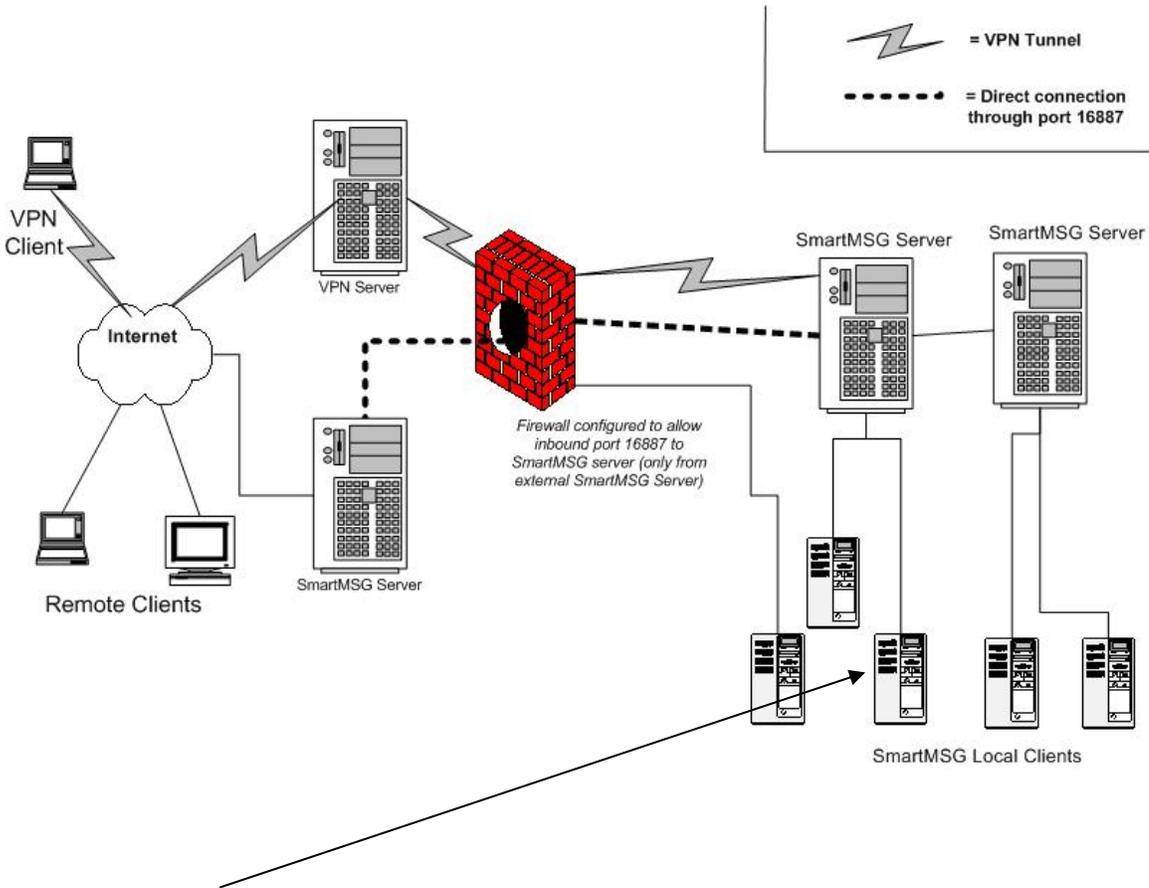
SmartMSG Servers behind the firewall - port access allowed through the firewall

A SmartMSG Server can be configured to be contained within the firewall, with only the necessary port* opened. In the following scenario the SmartMSG server is contained behind the firewall. However, port 16887 (incoming) is open to that server through the firewall allowing remote clients to connect to the server (with or without the client making a VPN connection)



SmartMSG Server placed outside of the firewall

In the following example, the SmartMSG server is placed outside of the firewall completely. Hence, remote clients are able to connect to the SmartMSG server (independent of the VPN). The firewall is configured to allow inbound communication on port 16887 to an internal SmartMSG server, but only from the external SmartMSG server.



* Notice that a local client can also connect to the SmartMSG Server outside of the firewall. If desired, all SmartMSG servers can be placed outside of the firewall.

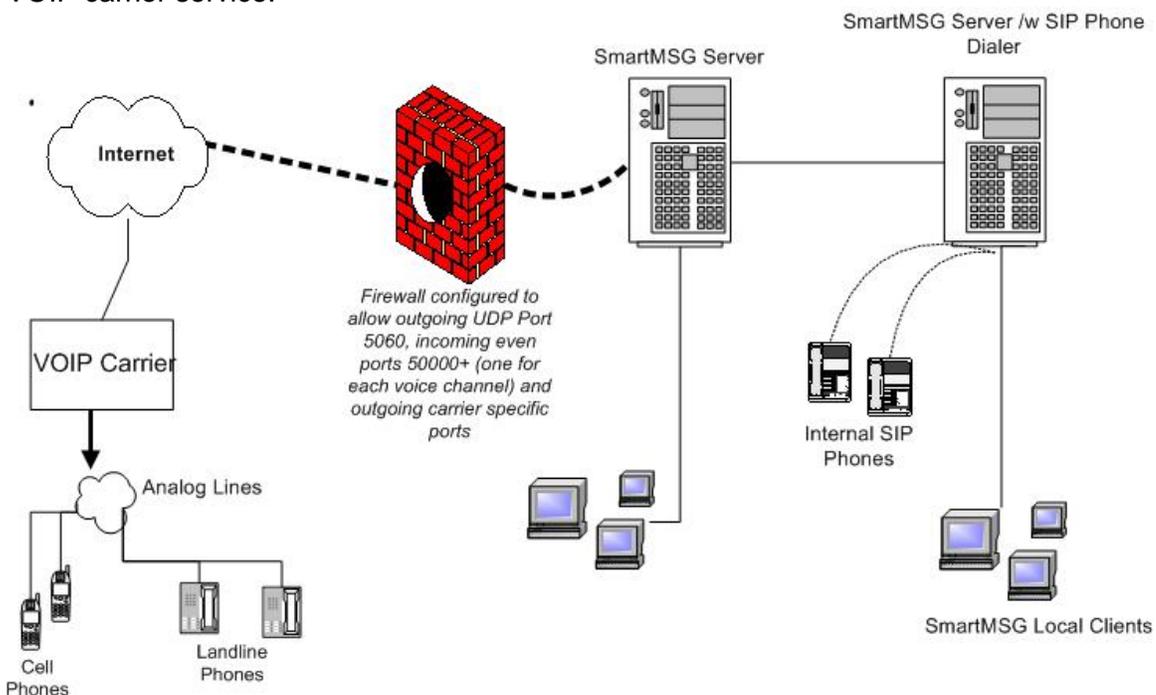
SmartMSG SIP Phone Dialer Interface

SIP is a standard protocol used for Voice Over IP applications. The SmartMSG SIP Phone Dialer interface allows a SmartMSG system to send voice messages to SIP devices, cell phones, and analog telephones and also allows for these devices to be included in SmartMSG chat sessions.

The SIP Phone Dialer can be configured to be used in conjunction with a 3rd party VOIP carrier (such as Delta3 or Net2Phone). Alternately, the SIP Phone Dialer may be configured to interface with SIP-compatible VOIP manager software, such as CISCO Call Manager, Nortel MCS, or Brooktrout Technology.

Using the SIP phone Dialer interface with a 3rd party VOIP carrier

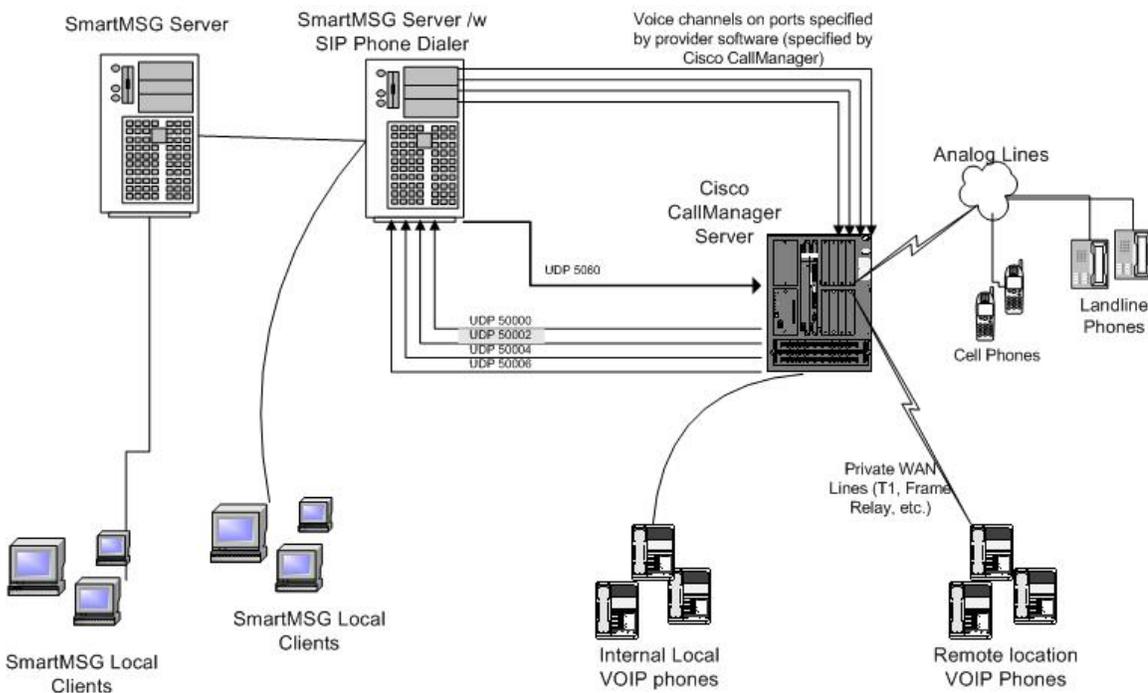
The following example configuration shows use of the SmartMSG SIP interface in conjunction with use of a VOIP carrier service.



Using the SIP phone Dialer interface with VOIP provider/VOIP Manager Software

The following example configuration shows use of the SmartMSG SIP interface in conjunction with use of VOIP Provider Software (in this case the provider is Cisco's CallManager). The SmartMSG server running the SIP Phone Dialer interface sends voice information to the VOIP provider over UDP port 5060. The SmartMSG Server listens on even-numbered UDP ports 50000 and above (one port for each simultaneous voice channel).

Notice in this example 4 voice channels are used. Therefore the SmartMSG server is listening on UDP ports 50000, 50002, 50004, 50006 – one port for each voice channel.



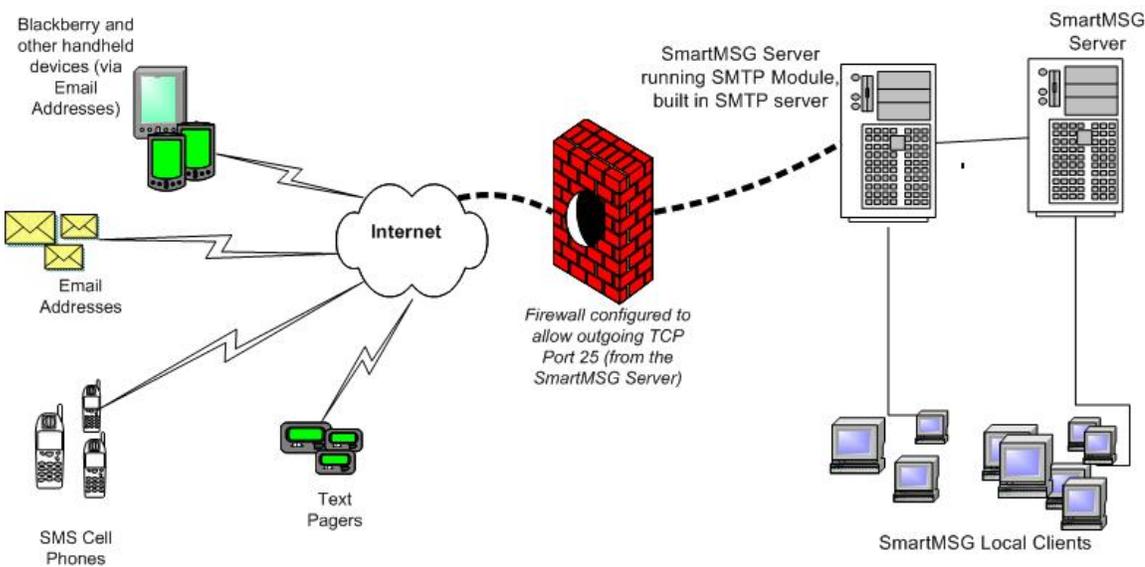
Cisco and Cisco CallManager are either registered trademark or trademarks of Cisco Systems, Inc. All other product names mentioned herein are the trademarks of their respective owners.

SmartMSG SMTP Module

SMTP (Simple Mail Transfer Protocol) is a standard protocol used for sending e-mail messages. The SMTP protocol is also commonly used to send text messages to cell phones and text pagers. The SmartMSG SMTP Module is used to send text-based SmartMSG messages to email addresses and to SMS cell phones and text pagers. The SmartMSG SMTP Module can be configured to use its own built-in SMTP server for sending these messages, or can be configured to route these messages through a separate SMTP server (such as Microsoft Exchange). If the built-in Codespear SMTP server is used to send messages, outbound TCP port 25 needs to be open to the internet (unless only internal SMTP messages are sent).

Using the built-in SMTP Module

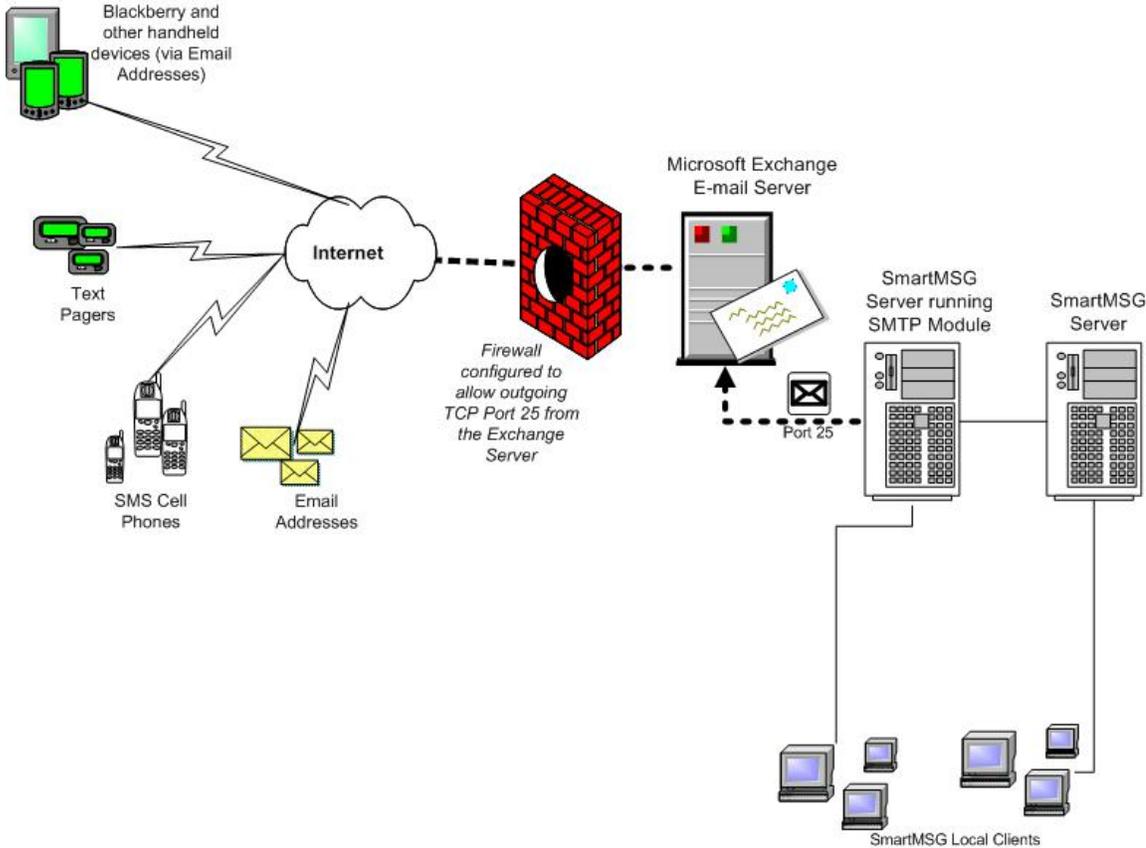
Following is an example scenario where the SmartMSG SMTP Module is configured to use its own built-in SMTP server for sending messages. In this scenario, the SmartMSG server is inside of the firewall and outbound TCP port 25 is allowed from the SmartMSG server.



Microsoft and Microsoft Exchange Server are either registered trademarks or trademarks of Microsoft Corporation in the United States other countries. All other product names mentioned herein are the trademarks of their respective owners.

Sending SmartMSG SMTP messages via a separate Email server

The SmartMSG SMTP Module can be configured to use an external mail server (rather than its own built-in SMTP server). The following example scenario shows how the SmartMSG SMTP Module can use a Microsoft Exchange Server to send out its SMTP-based messages.



Microsoft and Microsoft Exchange Server are either registered trademark or trademarks of Microsoft Corporation in the United States other countries. All other product names mentioned herein are the trademarks of their respective owners.

Receiving SMTP Responses

The SMTP Module will always use the built-in Codespear SMTP server to process SmartMSG SMTP responses.

There are 3 ways to configure a SmartMSG system to receive SMTP responses:

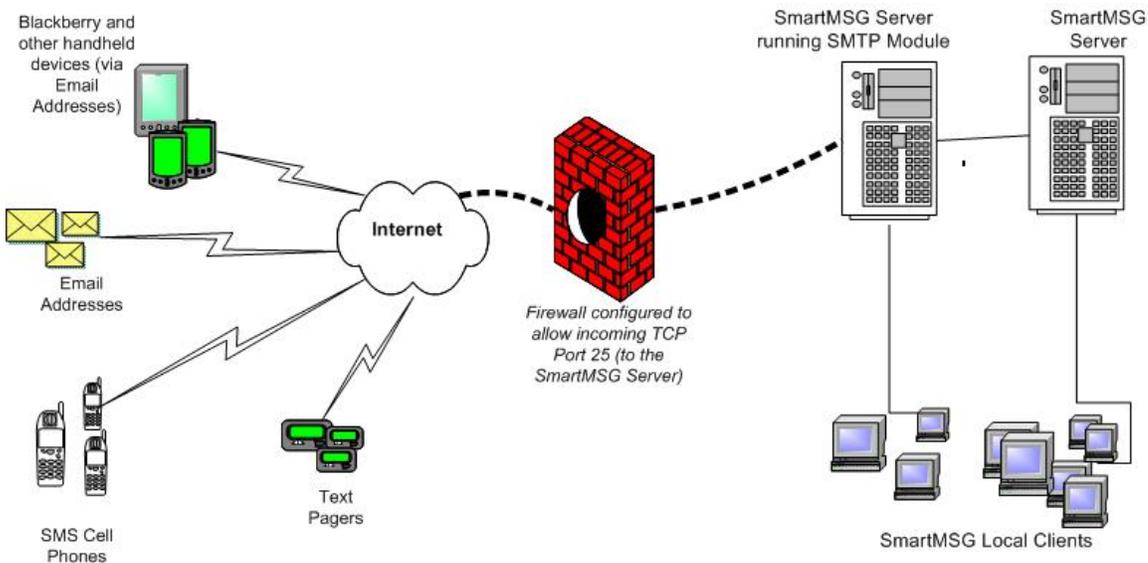
A SmartMSG server placed within the firewall, with the firewall configured to allow incoming TCP port 25 to that server.

A SmartMSG server running the SMTP Receiver placed outside of the firewall directly receiving SMTP responses.

A separate E-mail server receiving the SMTP responses and relaying those responses to a SmartMSG server running the SMTP Receiver

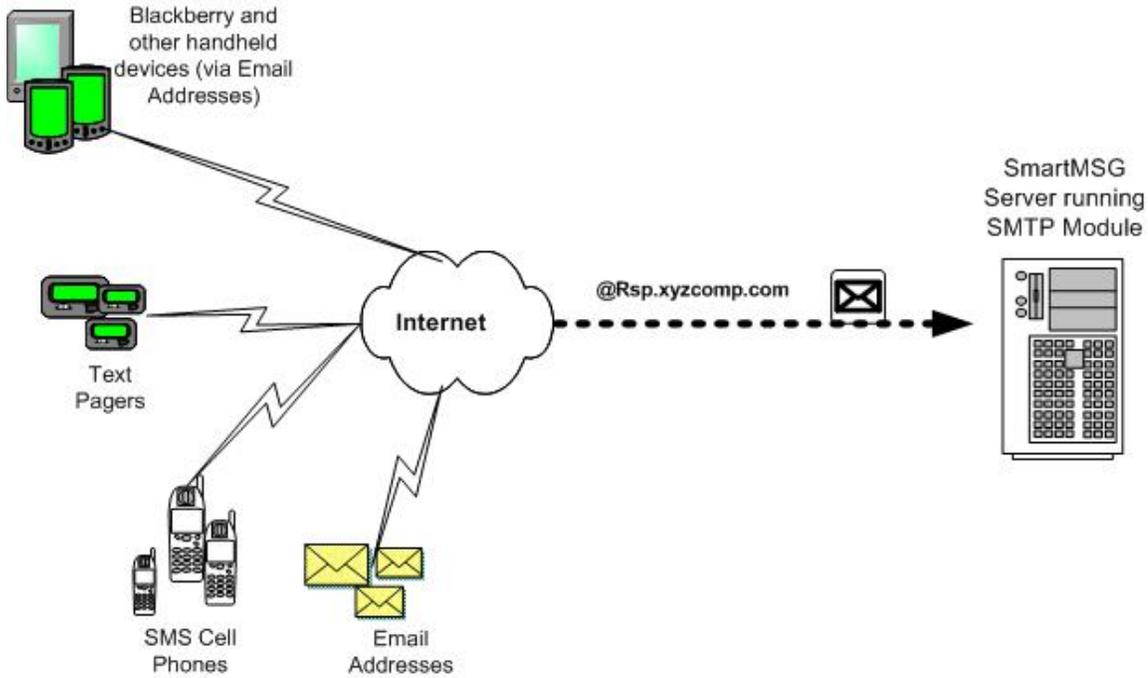
SmartMSG server placed within the firewall (with firewall configured to allow incoming TCP port 25 to that server)

In the following example scenario the firewall is configured to allow incoming TCP port 25 to the SmartMSG server running the SMTP Module. This allows the SMTP responses from the outside world (e.g. responses from cell phones, pagers, handheld devices) to reach the SMTP Receiver module and be processed as a SmartMSG message response.



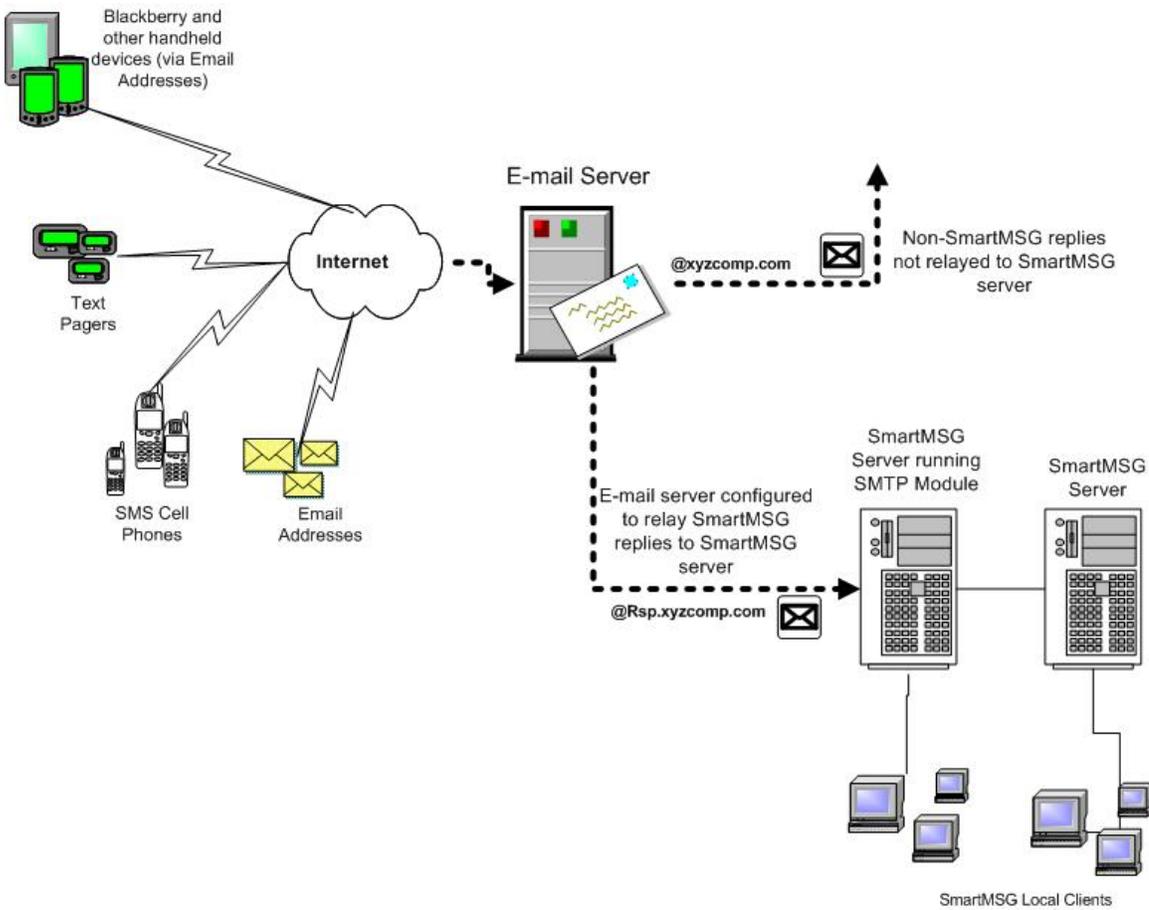
A SmartMSG server running the SMTP Receiver placed outside of the firewall directly receiving SMTP responses

In the following example the SmartMSG server running the SMTP Module is outside of any firewalls and will accept SMTP responses addressed to `rsp.xyzcomp.com` directly. The SmartMSG server can in turn be linked to other SmartMSG servers and/or SmartMSG clients which are situated behind the organization's firewall.



SMTP Responses relayed from a separate E-mail server

SMTP responses can be accepted on a separate E-mail server and then relayed to the SmartMSG SMTP Module. If considering this type of configuration for receiving SMTP responses, bear in mind any delays that may be incurred by first accepting the SMTP response at the E-mail server and then forwarding the message to the SmartMSG server. The Email server used to receive the SMTP responses must be configured to relay all SmartMSG SMTP responses to the SmartMSG server running SMTP Module (regardless of the recipient name). SmartMSG responses would be identified by a specific domain or sub domain set up for SmartMSG responses. For example, in the following scenario, the sub domain “rsp.xyzcomp.com” is used for SmartMSG responses, so the E-mail server is configured to only relay messages addressed to that domain to the SmartMSG server running the SMTP Module. Messages addressed to the “xyzcomp.com” domain are not relayed to the SmartMSG server.



SmartMSG Radio Interoperability Module

Utilizing our Voice Over IP (VoIP) architecture embedded within the SmartMSG application, the SmartMSG Radio Interoperability Module allows for the simultaneous text and voice broadcast of alert notifications to Two-Way Radios, "Push-to-Talk" enabled devices (like Nextel and other supported Cell Phones), PC's, Phones (PBX, IP Based, Cell & Satellite), Pagers, and Wireless PDA's.

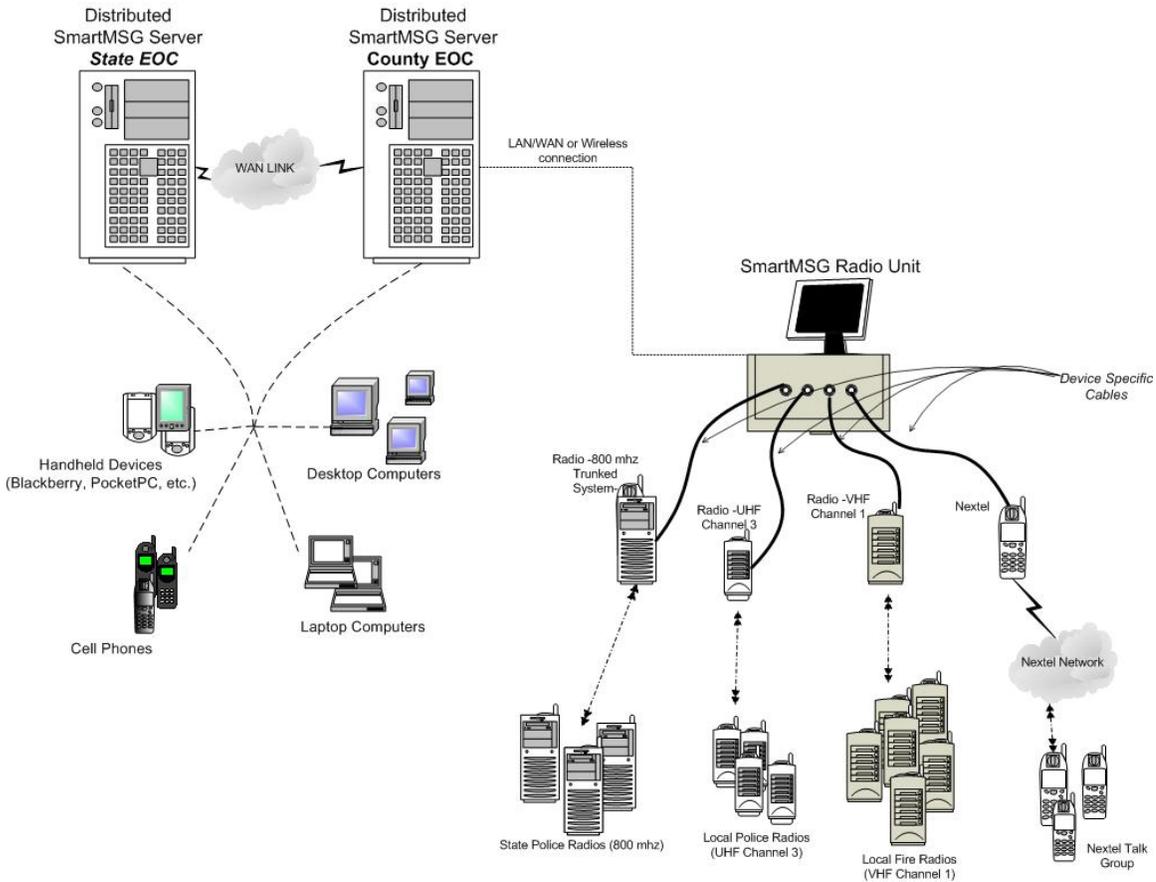
The Interoperability Module also allows for integrated two-way communication between Two-Way Radio Talk Groups, Push-to-Talk Groups, Phones, and PC's. This solution supports radios from different manufacturers, across multiple bands/frequencies and pre-defined talk groups.

The Radio Interoperability Unit consists of a customized Computer (Desktop PC, Rack-Mount, Lap-Top, or Brief Case Unit) with an integrated-compact hardware module accessory, which also operates as a standard SmartMSG Server. It is important to note that once a radio is "Docked" into SmartMSG, our VoIP architecture effectively enables that radio as a virtual repeater, since that device can now communicate over a SmartMSG distributed server deployment, operating on a private and/or public internet infrastructure.

This solution provides for uniform alert notification across multiple devices and urgent command and control communication relating to incidents and emergencies. Our software centric solution also provides for redundant, mobile and wireless operation, supporting multiple communications mediums and protocols.

The following example scenario depicts how a Radio Interoperability Unit can be connected to a distributed and redundant SmartMSG system to allow communication to a Nextel Talk Group and to three different Radio systems (A State Police Agency on 800 MHz trunk based system; a Municipal Police agency on a UHF system using Channel 3 and a local Fire Department on VHF Channel 1). Through our VoIP architecture the Radio Interoperability Module provides for communications interoperability between disparate Radios, Nextel devices, Phones (PBX, IP Based, Cell & Satellite) and PC's.

SmartMSG Interoperability Module – Architecture Diagram



Note: Nextel is a registered trademark of Nextel Communications, Inc. All other product names mentioned herein are the trademarks of their respective owners.

Addendum

Acceptance Test Addendum

1. **State of Michigan EMD Review and Acceptance.** "Acceptance Tests" means functional and performance related tests based on mutually agreed objective criteria, demonstrating that the System and/or its components meet EMD requirements as set out in the State of Michigan EMD Alert Notification ITB dated September 8, 2005 (Per "Section 1.101 In Scope Project Requirements"). "Defect" means a reproducible and demonstrable defect of the System, which renders the System (i) inoperable for its purpose as contemplated by this Agreement, or (ii) to be materially out of compliance with the requirements of the System as set out in the State of Michigan EMD Alert Notification ITB. "System Acceptance" means the earliest of (1) EMD's notice of acceptance of the System after completion of Project Implementation Phase I; or (3) EMD's commencement of Live Processing using the System. "Live Processing" shall mean the first day upon which the System is installed on site, brought on line, and used to perform or process EMD's data or functions in actual operations.
2. **Extension of Acceptance Test Pilot.** In the event a satisfactory acceptance cannot be obtained for any reason at the conclusion of the Phase I Implementation period, EMD and Codespear may mutually agree to extend the period of time allotted for the acceptance test pilot phase by an additional forty five (45) day period. After the expiration of this extension period, a definitive approval, or non-approval by EMD will be required.
3. **Acceptance Test Pilot Approval.** Regardless of the manner in which system acceptance is achieved, both parties will be required to have an authorized representative approve and execute a formal sign-off of the Alert Notification System Acceptance Test Addendum.

a) EMD Alert Notification System Functional Acceptance Requirements

1.501 CRITERIA (From Contract Section 1.5 Acceptance)

The following criteria will be used by the State to determine Acceptance of the Services and/or Deliverables provided under this SOW. MSP EMD will conduct a mock drill or exercise that will test the functionality of the A&N SW solution. This testing will include:

The ability to accurately, immediately and simultaneously disseminate and record the communication of messages to a minimum of 10 users equipped with a variety of communications devices including laptops, desktops, pagers, cellular & satellite telephones (e.g. Nextel, Alltel, Verizon, Blackberry, GlobalStar.)

- Test the redundancy of automatic routing and escalation of messages to both a user's devices and back-up devices and personnel.
- Test at least one MSP EMD talk-group in the MPSCS for radio interoperability with a minimum of three users.
- Test the ability to send graphics to three or more users.
- Test the seamless integration into E Team as well as the stand alone web browser module.
- Test the chat feature with all participants.
- Test the message confirmation feature.

These tests will be performed at the conclusion of Phase I implementation.

- b) EMD Alert Notification System Performance Metrics and Service Level Agreement. Acceptance Tests in accordance with mutually agreed criteria and procedures shall provide the mechanism for determining whether the System and component parts of it meet EMD's requirements as set out in this System Acceptance Test Addendum. If EMD determines during the Acceptance Test Period that the System does not meet EMD's requirements as set out in the Acceptance Test Addendum, or otherwise demonstrates Defects, EMD shall notify Codespear of the nature and specifics of the nonconformity.

Codespear shall correct Defects discovered during the Acceptance Test Period, with any affected functional, or performance requirements being re-tested by EMD and Codespear.

The following procedures shall apply for Acceptance Tests:

- i. EMD will provide at least Two (2) Intel Pentium 4 Class Production Servers for the redundant installation and configuration of SmartMsg Distributed Messaging Servers.
- ii. EMD will provide "T1" Data Internet Connectivity, with required Internet Firewall Configuration (specifications to be provided by Codespear).
- iii. EMD and Codespear will mutually agree to a User and Alert Recipient Data Population that will be entered into the SmartMsg application and configured to conduct the required test scenarios.
- iv. Acceptance Test Scenarios shall be carried out per the Acceptance Criteria, as specified in Section 1.501 of Contract No. 071B6200090 between the State of Michigan and Codespear.
- v. Provided that no Defects remain uncorrected at the conclusion of the acceptance test scenarios, Ingham County shall provide Codespear with written notice of System Acceptance within the acceptance test period set forth in Section 2 of this addendum.

ACCEPTANCE: STATE OF MICHIGAN

Signature: _____
Name: _____
Title: _____
Date: _____

ACCEPTANCE: CODESPEAR, LLC

Signature: _____
Name: _____
Title: _____
Date: _____