

STATE OF MICHIGAN
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET
 PROCUREMENT
 P.O. BOX 30026, LANSING, MI 48900
 OR
 525 W. ALLEGAN, LANSING, MI 48933

CHANGE NOTICE NO. 3
 to
CONTRACT NO. 071B1300207
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
COMPLETE SOURCE INC 4455 44th St. SE Grand Rapids MI 49512	Paul Schweitzer	Schweitzer@completesource.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	616-285-9110	8015

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	LARA	Sheila O'Sullivan	313-456-2327	osullivans@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Valerie Hiltz	(517) 284-7026	hiltzv@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: PRINTING OF CHECK STOCK AND FORMS- LARA/ UIA			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILIABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE (S) NOTED BELOW
February 01, 2011	January 31, 2014	2, 1 year	January 31, 2016
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		30 calendar days from approval of test samples	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P Card: <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXPIRATION DATE
<input type="checkbox"/>		<input checked="" type="checkbox"/>	12 Months	January 31, 2017
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$297,900.00		\$0.00	\$297,900.00	
DESCRIPTION:				
Effective February 1, 2016, this contract is hereby EXTENDED through January 31, 2017. Prices are increased as reflected in changes made to Attachment A. Buyer is changed to Valerie Hiltz, DTMB. All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Procurement approval.				

Attachment A, Price
Updated Change Notice #3

Item	Commodity Number	Unit	Description	Unit Price
001	966-13	TH	UA 1570 Benefit Checks, per the attached specifications (SOW). Minimum Order: 26,000 checks Mill: Boise Brand: Boise	\$ 59.90/M
002	966-13	TH	UA 1570R Replacement Checks, per the attached specifications (SOW). Minimum Order: 2,000 checks Mill: Boise Brand: Boise	\$ 499.47/M *
003	966-13	TH	Form 1099-G, per the attached specifications (SOW) Minimum Order: 1,000,000 forms Mill: Enterprise Brand: Enterprise Laser	\$ 51.55/M
004	966-13	TH	Form UIA1570 BO Benefit Overpayment (Restitution) Refund Check, per the attached specifications (SOW). Minimum Order: 2,000 checks Mill: Boise Brand: Boise	\$ 499.47/M*
005	966-13	TH	Form UA1570TR Tax Refund Check, per the attached specifications (SOW) Minimum Order: 2,000 checks Mill: Boise Brand: Boise	\$ 499.47/M*

*Price savings can be realized if any of these checks are ordered in larger quantities.

3000+ \$479.80/M
4000+ \$462.31/M
5000+ \$446.18/M

STATE OF MICHIGAN
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET
 PROCUREMENT
 P.O. BOX 30026, LANSING, MI 48909
 OR
 525 W. ALLEGAN, LANSING, MI 48933

CHANGE NOTICE NO. 2
 to
CONTRACT NO. 071B1300207
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
CompleteSource Inc. 4455 44th Street SE Grand Rapids, MI 49512	Paul Schweitzer	Schweitzer@completesource.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(616) 285-9110	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	LARA	Sheila O'Sullivan	(313) 456-2327	Osullivans@michigan.gov
BUYER	DTMB	Sue Cieciva	(517) 284-7007	cieciwas@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Printing Check Stocks and Forms – LARA/UIA			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
February 2, 2011	January 31, 2014	2, one year	January 31, 2015
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
Net 45	Destination	Various	Various
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			
As noted in Attachment A			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	One Year	January 31, 2016
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$0.00		\$297,900.00		

Effective February 1, 2015, the last option year on this contract is hereby exercised. The revised contract expiration date is January 31, 2016.

All other terms, conditions, specifications, and pricing remain the same.

Per agency request, contractor agreement, and DTMB Procurement approval.

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

CHANGE NOTICE NO. 1
 to
CONTRACT NO. 071B1300207
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
CompleteSource Inc. 4455 44 th Street SE Grand Rapids, MI 49512	Paul Schweitzer	Schweitzer@completesource.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(616) 285-9110	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	LARA	Sheila O'Sullivan	(313) 456-2327	Osullivans@michigan.gov
BUYER	DTMB	Sue Cieciva	(517) 284-7007	ciecivas@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Printing Check Stocks and Forms – LARA/UIA			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
February 1, 2011	January 31, 2014	2, one year	January 31, 2014
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
Net 45	Destination	Various	Various
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			
As Noted in Attachment A			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	One Year	January 31, 2015
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$0.00		\$297,900.00		

Effective January 29, 2014, the first option year on this Contract is hereby exercised. The new Contract end date is January 31, 2015. All other terms, conditions, pricing, and specifications remain unchanged.

Per agency request, vendor agreement (email from Paul Schweitzer dated January 29, 2014), and approval from DTMB-Procurement.

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

CONTRACT NO. 071B1300207
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR CompleteSource, Inc. 4455 44th St. SE Grand Rapids, MI 49512 Email: Schweitzer@completesource.com	TELEPHONE: Paul Schweitzer (616) 285-9110 CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 373-6535 William C. Walsh, CPPB
Contract Compliance Inspector: Sheila O'Sullivan (313) 456-2327 Printing Check Stocks and Forms – DELEG/UIA	
CONTRACT PERIOD: 3 yrs. + 2 one-year options From: February 1, 2011 To: January 31, 2014	
TERMS <p style="text-align: center;">Net 45</p>	SHIPMENT <p style="text-align: center;">Various</p>
F.O.B. <p style="text-align: center;">Destination</p>	SHIPPED FROM <p style="text-align: center;">Various</p>
ALTERNATE PAYMENT OPTIONS: <input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other	
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">As Noted in Attachment A</p>	
MISCELLANEOUS INFORMATION: <p>The terms and conditions of this Contract are those of ITB #071I0200169, this Contract Agreement and the vendor's quote dated June 29, 2010. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.</p> <p>Estimated Contract Value: \$297,900.00</p>	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 071I0200169. Orders for delivery will be issued directly by the Department of Department Energy, Labor and Economic Growth, Unemployment Insurance Agency through the issuance of a Purchase Order Form.

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

FOR THE CONTRACTOR:

FOR THE STATE:

CompleteSource, Inc.

 Firm Name

 Authorized Agent Signature

 Authorized Agent (Print or Type)

 Date

 Signature

William C. Walsh, CPPB, Buyer/Manager

 Name/Title

**Commodities Division, Purchasing
 Operations**

 Division

 Date

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DEFINITIONS

“Days” means calendar days unless otherwise specified.

“24x7x365” means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).

“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.

“Audit Period” has the meaning given in **Section 2.093**.

“Bidder(s)” are those companies that submit a proposal in response to this RFP.

“Business Day,” whether capitalized or not, shall mean any day other than a Saturday, Sunday, Office of State **Employer mandated furlough day**, 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.

“Blanket Purchase Order” is an alternate term for Contract and is used in the States computer system.

“Business Critical” means any function identified in any Statement of Work as Business Critical.

“Chronic Failure” is defined in any applicable Service Level Agreements.

“Deleted – Not Applicable” means that section is not applicable or included in this RFP. This is used as a placeholder to maintain consistent numbering.

“Deliverable” means physical goods and/or commodities as required or identified by a Statement of Work

“DMB” means the Michigan Department of Management and Budget

“Environmentally preferable products” means a product or service that has a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. Such products or services may include, but are not limited to, those which contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics either disposed of or consumed.

“Excusable Failure” has the meaning given in **Section 2.214**.

“Hazardous material” means any material defined as hazardous under the latest version of federal Emergency Planning and Community Right-to-Know Act of 1986 (including revisions adopted during the term of the Contract).

“Incident” means any interruption in Services.

“ITB” is a generic term used to describe an Invitation to Bid. The ITB serves as the document for transmitting the RFP to potential Bidders

“Key Personnel” means any Personnel designated in **Section 1.031** as Key Personnel.

“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.

“Ozone-depleting substance” means any substance the Environmental Protection Agency designates in 40 CFR part 82 as: (1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or (2) Class II, including, but not limited to, hydrochlorofluorocarbons.

“Post-Consumer Waste” means any product generated by a business or consumer which has served its intended end use, and which has been separated or diverted from solid waste for the purpose of recycling into a usable commodity or product, and which does not include post-industrial waste.

“Post-Industrial Waste” means industrial by-products which would otherwise go to disposal and wastes generated after completion of a manufacturing process, but does not include internally generated scrap commonly returned to industrial or manufacturing processes.

“Recycling” means the series of activities by which materials that are no longer useful to the generator are collected, sorted, processed, and converted into raw materials and used in the production of new products. This definition excludes the use of these materials as a fuel substitute or for energy production.

“Reuse” means using a product or component of municipal solid waste in its original form more than once.

“RFP” means a Request for Proposal designed to solicit proposals for services.

“Services” means any function performed for the benefit of the State.

“Source reduction” means any practice that reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment prior to recycling, energy recovery, treatment, or disposal.

“State Location” means any physical location where the State performs work. State Location may include state-owned, leased, or rented space.

“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.

“Unauthorized Removal” means the Contractor’s removal of Key Personnel without the prior written consent of the State.

“Waste prevention” means source reduction and reuse, but not recycling.

“Waste reduction” or “pollution prevention” means the practice of minimizing the generation of waste at the source and, when wastes cannot be prevented, utilizing environmentally sound on-site or off-site reuse and recycling. The term includes equipment or technology modifications, process or procedure modifications, product reformulation or redesign, and raw material substitutions. Waste treatment, control, management, and disposal are not considered pollution prevention, per the definitions under Part 143, Waste Minimization, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended.

“Work in Progress” means a Deliverable that has been partially prepared, but has not been presented to the State for Approval.

“Work Product” refers to any data compilations, reports, and other media, materials, or other objects or works of authorship created or produced by the Contractor as a result of an in furtherance of performing the services required by this Contract.



Article 1 – Statement of Work (SOW)

1.010 Project Identification

1.011 Project

This Contract is for the printing of paper and check stock for the Department of Energy, Labor and Economic Growth, Unemployment Insurance Agency compensation forms, including unemployment benefit and replacement checks, employer tax refund checks, benefit overpayment refund checks, and tax forms.

1.012 Background - Deleted – Not Applicable

1.020 Scope of Work and Deliverables

1.21 In Scope

The Contractor shall be responsible for:

Supplying paper, ink, and all materials/equipment/hardware/software necessary for the production of the following stock:

- Form UA 1570 – Unemployment Benefit Checks
- Form UA 1570R – Replacement Checks
- Form UIA 1570 BO – Benefit Overpayment Refund Checks
- Form UA 1570TR – Employer Tax Refund Checks

1.022 Work and Deliverables

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

A. General Requirements

1. **Equipment Maintenance**
The Contractor shall regularly maintain and upgrade equipment. The Contractor must provide a schedule of equipment maintenance and/or maintenance Contracts upon request by the project manager.
2. **Disposal of Stock**
The Unemployment Insurance Agency complies with Internal Revenue Service (IRS) Publication 1075 for shredding voided or damaged warrant stock. Specifically, paper should be shredded to effect 5/16 inch wide or smaller strips. If shredding is part of the overall destruction, strips can in effect be set at the industry standard (currently 1/2"). However, when deviating from the IRS 5/16" requirement, as long as the stock is in this condition (i.e., strips larger than 5/16"), it must be safeguarded until it reaches the stage where it is rendered unreadable. Pulping of data is allowed only after material has been shredded. See IRS Publication 1075 (www.irs.gov/pub/irs-pdf/p1075.pdf) for complete requirements. Note: Hand tearing, recycling, or burying information in a landfill are unacceptable methods of disposal.

In the event that warrant stock is damaged in the manufacturing process, the Contractor's disposal procedures must adhere to IRS 1075 requirements.



Provide with the bid a description of your destruction methods and safeguard procedures for destruction of warrant/check stock.

3. Emergency Plan

The Contractor shall have an emergency disaster recovery plan to continue providing service without interruption to the Unemployment Insurance Agency.

4. Unemployment Disaster Recovery Requirements:

UIA maintains a disaster recovery site for imprinting and warehousing of checks. Upon notification, which would be within 24 hours, Contractor must have the capacity to deliver UA 1570, Unemployment Benefit Check stock, in the quantity stated below, within two weeks, to the following disaster recovery printing site:

Disaster Recovery Site: HOV Services
38120 Amrhein Rd.
Livonia, MI 48150

Quantity: Two (2) Weeks worth (minimum)

5. Manufacturing and Warehouse Security

Contractor must provide a complete description of facility and system security to safeguard Unemployment Insurance Agency's check/warrant stock. At minimum, security features at manufacturing and warehouse facilities must include the following:

BUILDING EXTERIOR

- Fire exit doors with break alarm bell for local alert in the event of exit.
- Locks on all outside doors.
- 24 hour intrusion detection and alarm system.
- Secured access with entry by card key or other keyless entry system.

BUILDING INTERIOR

- A log for all visitors entering office and manufacturing areas.
- Employee escort of visitors throughout the facility at all times.
- Restricted access to all areas where UIA's check/warrant stock is stored.
- Restricted access by authorized staff to where UIA check/warrant stock is staged before, during, and after production.
- All spoilage and over runs to be destroyed by a method acceptable to the State of Michigan.
- Restricted access to all plates and electronic or digital forms containing UIA check/warrant information.
- Printing plates produced only under maximum security conditions and stored in vaults when not in use.
- A shipping manifest created for all warrants produced. The cartons/rolls must be stacked in sequential order per the shipment specifications and placed on pallets for delivery.
- The State reserves the right to enter the Contractor's premises at any time during the production and storage of the forms to inspect methods of production and security to assure full compliance with all provisions of this Contract and future purchase orders.

The Contractor and all subContractors handling data will be required to sign a *Confidentiality Agreement provided by the Contractor and accepted by UIA*. If personalized materials are being transported, every care must be taken to secure the confidentiality of the materials during transport.

Contractor is responsible for assuring that security measures are maintained and continuously monitored for maximum effectiveness. Contractor will document and notify the Unemployment Insurance Agency immediately if there is a breach in security and advise UIA on the corrective action being taken.



Unemployment Insurance Agency's checks/warrants must not be used to demonstrate a product. Contractor must not release any information regarding security features used for Treasury warrants. The Contractor and its subContractors shall comply with the security access requirements of individual State facilities.

B. SPECIFICATIONS

CHECK STOCK

- ❑ UA 1570, Benefit Checks – 9.5” x 11”, boxed, pin feed, and continuous
For use at the Lansing Consolidated Print Center and for use at a specified disaster back up site, currently HOV Services, 38120 Amrhein Rd., Livonia MI 48150.
- ❑ UA 1570R, Replacement Checks – 8.5” x 11”, boxed, cut sheet
For use by the Unemployment Insurance Agency, Trust Fund Accounting Section.
- ❑ UA 1570 BO, Benefit Overpayment Refund Checks – 8.5” x 11”, boxed, cut sheet
For use by the Unemployment Insurance Agency, Trust Fund Accounting Section.
- ❑ UA 1570TR, Employer Tax Refund Checks – 8.5” x 11”, boxed, cut sheet
For use by the Unemployment Insurance Agency, Trust Fund Accounting Section.

It is the intention of the Department of Energy, Labor and Economic Growth, Unemployment Insurance Agency to continue to issue the form UA 1570 in the same form and color previously issued. However, the State reserves the right to make any format or text changes that are necessary during the term of this Contract.

PAPER STOCK

Paper shall be 24# bond suitable for use in a laser electro photographic print process. The paper shall have high toner transfer efficiency and shall yield prints without visible feathering or toned image breakup.

Acceptable Brands

Paper shall be 24# bond suitable for use in a laser electro photographic print process. The paper shall have high toner transfer efficiency and shall yield prints without visible feathering or toned image breakup, not necessary to be brand specific.

Dimensions of Paper Stock and Quantity

1. UA 1570, Benefit Checks
9.5” x 11”, boxed, blue in color, pin-feed forms with 2 color pantograph, micro line printing, and consecutive numbering on front of check, DELEG-Unemployment Insurance Agency
2,000 per box
Estimated total quantity per year: 52,000 (26 boxes).
2. Test forms for the item listed above in item #1.
Estimated quantity: 2,000
3. UA 1570R, Benefit Replacement Checks
8.5” x 11”, cut sheet, blue in color, with 2 color pantograph, micro line printing, consecutive numbering on front of check, DELEG-Unemployment Insurance Agency
500 per box
Estimated total quantity per year: 500 (1 box)



4. UA 1570 BO, Benefit Overpayment Refund Checks
8.5" x 11" cut sheet, burgundy in color, with 2 color pantograph, micro line printing, consecutive numbering on front of check, DELEG-Unemployment Insurance Agency
2000 per box
Estimated total quantity per year: 5,000 (3 boxes)
5. UA 1570TR, Tax Refund Checks
8.5" x 11" cut sheet, green in color, with 2 color pantograph, micro line printing, consecutive numbering on front of check, DELEG-Unemployment Insurance Agency
2000 per box
Estimated total quantity per year: 2,000 (1 box)
6. Composition charges for changes to the check stock listed above will be \$65.00 per hour.

Specific Requirements

Form UA 1570, Benefit Check, shall be printed front and back. Front of the check shall be a light blue background with dark blue print and consecutive numbering in black ink. Back of item is printed in black with an artificial watermark. The face of this item will have a two color pantograph with the State of Michigan seal at the center.

The back of the check portion, (not the stub), shall bear an artificial watermark in a step-and-repeat pattern approved by the UIA. The watermark shall be visible to the human eye when viewed at an angle but shall not be such that it can be photographically reproduced. The ink used shall fluoresce under a black or ultraviolet light.

A consecutive control number shall be printed on the face of the check in the upper left-hand corner. The printing shall be in black and will use an OCR-A font. There will be no duplicate numbers, and missing numbers are not to exceed 1% of the total run. A guaranteed list of missing numbers in sequential order shall be provided the UIA upon delivery. The Contractor will be provided the beginning number to use with each order against this Contract.

Micro line printing will be used on the face of the item. Upon award of this Contract, the Contractor will be provided the verbiage that the UIA wishes to be included in this area. This printing will appear to be a solid line to the human eye, but will under magnification show the verbiage that will be provided. This will be a line of approximately three (3) inches in length.

Perforation – There shall be a clearly marked perforation at three (3) inches from the bottom of the document. The perforations shall be strong enough to withstand the stress of printing while cleanly separating when the check is removed from the stub portion. The perforation shall stop short of the edge of the document. The traction strips shall also be perforated ½ inch from the document edges.

Security features – A safety paper shall be used which will contain invisible fluorescent fibers for which the purpose is to increase the difficulty of photocopying the check. The paper used will provide improved toner adherence over standard papers, will be sensitive to bleach or solvents, and will produce a visible stain if these products were to be applied.

1. **Form UA 1570R, Replacement Check**, shall be printed on the front and back. The front of the check shall be a light blue background with dark blue print. The face of this item will have a two-color pantograph with the State of Michigan seal at the center. A pre-assigned consecutive check number is printed on the check in the upper right-hand corner and on the stub. The printing shall be in red ink. There will be no duplicate check numbers and missing numbers are not to exceed 1% of the total run. A guaranteed list of missing numbers in sequential order shall be provided to the UIA upon delivery. The Contractor will be provided the beginning number to use with each order against this Contract. The MICR associated with the check and transit numbers are printed by the Contractor. (See attached sample for additional wording, format changes, and for the design of the check stub).



Micro line printing will be used on the face of the item. Upon award of this Contract, the Contractor will be provided the verbiage that the UIA wishes to be included in this area. This printing will appear to be a solid line to the human eye, but will under magnification show the verbiage that will be provided. This will be a line of approximately three (3) inches in length.

Back of the item is printed in black with an artificial watermark. The back of the check portion, (not the stub), shall bear an artificial watermark in a step-and-repeat pattern approved by the UIA. The watermark shall be visible to the human eye when viewed at an angle but shall not be such that it can be photographically reproduced. The ink used shall fluoresce under a black or ultraviolet light.

Perforation – There shall be a clearly marked perforation at three (3) inches from the bottom of the document. An additional perforation shall be located at seven and one-fourth (7 ¼) inches from the bottom of the document. The perforations shall be strong enough to withstand the stress of printing while cleanly separating when the check is removed from the stub portion.

Security features – A safety paper shall be used which will contain invisible fluorescent fibers for which the purpose is to increase the difficulty of photocopying the check. The paper used will provide improved toner adherence over standard papers, be sensitive to bleach or solvents, and will produce a visible stain if these products were to be applied.

2. **Form UIA 1570 BO, Benefit Overpayment Refund Check**, shall be printed on the front and back. The front of the check shall be a light burgundy background with dark burgundy print. The face of this item will have a two-color pantograph with the State of Michigan seal at the center. The phrase “VALID FOR SIXTY (60) DAYS FROM THE DATE OF ISSUE” is to be printed under “BANK NAME” on the front of the check. (See attached sample for additional wording, format changes, and for the design of the check stub). A pre-assigned consecutive check number is printed on the check in the upper right-hand corner and twice on the stub. The printing shall be in red ink. There will be no duplicate check numbers and missing numbers are not to exceed 1% of the total run. A guaranteed list of missing numbers in sequential order shall be provided to the UIA upon delivery. The Contractor will be provided the beginning number to use with each order against this Contract. The MICR associated with the check and transit numbers are printed by the Contractor.

Micro line printing will be used on the face of the item. Upon award of this Contract, the Contractor will be provided the verbiage that the UIA wishes to be included in this area. This printing will appear to be a solid line to the human eye but will under magnification show the verbiage that will be provided. This will be a line of approximately three (3) inches in length.

The back of the item is printed in black with an artificial watermark. The back of the check portion, not the stub, shall bear an artificial watermark in a step-and-repeat pattern approved by the UIA. The watermark shall be visible to the human eye when viewed at an angle but shall not be such that it can be photographically reproduced. The ink used shall fluoresce under a black or ultraviolet light.

Perforation – There shall be a clearly marked perforation at three (3) inches from the bottom of the document. An additional perforation shall be located at seven and one-fourth (7 ¼) inches from the bottom of the document. The perforations shall be strong enough to withstand the stress of printing while cleanly separating when the check is removed from the stub portion.

Security features – A safety paper shall be used which will contain invisible fluorescent fibers for which the purpose is to increase the difficulty of photocopying the check. The paper used will provide improved toner adherence over standard papers, be sensitive to bleach or solvents, and will produce a visible stain if these products were to be applied.

3. **Form UA 1570TR, Unemployment Insurance Tax Refund Check**, shall be printed on the front and back. The front of the check shall be a light green background with dark green print. The face of this



item will have a two-color pantograph with the State of Michigan seal at the center. (See attached sample for additional wording, format changes, and for the design of the check stub). A pre-assigned consecutive check number is printed on the check in the upper right-hand corner and two places on the stub. The printing shall be in red ink. There will be no duplicate check numbers and missing numbers are not to exceed 1% of the total run. A guaranteed list of missing numbers in sequential order shall be provided the UIA upon delivery. The Contractor will be provided the beginning number to use with each order against this Contract. The MICR associated with the check and transit numbers are printed by the Contractor.

4. Micro line printing will be used on the face of the item. Upon award of this Contract, the Contractor will be provided the verbiage that the UIA wishes to be included in this area. This printing will appear to be a solid line to the human eye but will under magnification show the verbiage that will be provided. This will be a line of approximately three (3) inches in length.

The back of the item is printed in black with an artificial watermark. The back of the check portion, not the stub, shall bear an artificial watermark in a step-and-repeat pattern approved by the UIA. The watermark shall be visible to the human eye when viewed at an angle but shall not be such that it can be photographically reproduced. The ink used shall fluoresce under a black or ultraviolet light.

Perforation – There shall be a clearly marked perforation at three (3) inches from the bottom of the document. An additional perforation shall be located at seven and one-fourth (7 ¼) inches from the bottom of the document. The perforations shall be strong enough to withstand the stress of printing while cleanly separating when the check is removed from the stub portion.

Security features – A safety paper shall be used which will contain invisible fluorescent fibers for which the purpose is to increase the difficulty of photocopying the check. The paper used will provide improved toner adherence over standard papers, be sensitive to bleach or solvents, and will produce a visible stain if these products were to be applied.

Test Samples

Upon award of the Contract, the Contractor will prepare test samples of each of the products and provide them to the State at no additional cost. For initial setup, the State may require the Contractor to provide up to one box of each product. After written approval of test samples by the UIA, the Contractor may proceed with the balance of the production run(s). The State will not be obligated to pay for additional test samples if the first samples are unacceptable due to incompatibility with equipment, improper inks, or defective forms.

Changes after initial approval which are made at the State’s direction are cost items that may be billed to the State. The Contractor must provide an hourly rate for any cost categories that may apply, such as artwork and set-up fees.

Quantity and Minimum Order

UA 1570, Benefit Checks, approximately 52,000 per year. Contract releases to be a minimum 26,000. The Contractor shall identify any fees that would apply if the State orders less than 26,000. Normally, delivery of UA-1570, Benefit Checks, will be made to the Michigan Department of Technology, Management and Budget, Consolidated Print Center, Lansing, Michigan.

UA 1570R, Replacement Checks, approximately 500 per year. Contract releases to be a minimum 500. The Contractor shall identify any fees that would apply if the State orders less than 500. Normally, delivery shall be made to the Trust Fund Accounting Section, Cadillac Place, Suite 13-350, and 3024 West Grand Blvd., Detroit, Michigan.



UA 1570 BO, Benefit Overpayment Refund Checks, approximately 5,000 per year. Contract releases to be a minimum 2,000. The Contractor shall identify any fees that would apply if the State orders less than 2,000. Normally, delivery shall be made to the Trust Fund Accounting Section, Cadillac Place, Suite 13-350, and 3024 West Grand Blvd., Detroit, Michigan.

UA 1570TR, Unemployment Insurance Tax Refund Checks, approximately 2,000 per year. Contract releases to be a minimum 2,000. The Contractor shall identify any fees that would apply if the State orders less than 2,000. Normally, delivery shall be made to the Trust Fund Accounting Section, Cadillac Place, Suite 13-350, and 3024 West Grand Blvd., Detroit, Michigan.

Overruns/Under runs

Responsibility for payment of overruns/under runs will be limited to 1% of the quantity ordered.

Equipment Compatibility

UA 1570, Benefit Checks, will be processed on either an OCE' PageStream MICR printing system or an IBM InfoPrint 4000 ID1/ID2 printing system. Post-processing equipment used is large scale, production folder inserters, U.S. Postal Service sorting and processing equipment.

Packaging and Carton Labeling

No splice guarantee on continuous forms.

Packaging shall be taped shut with reinforced tape so that the packages will not open accidentally with normal handling, storage, and shipping.

Cartons and rolls shall be securely attached to the pallets. Pallets shall be secured to allow transportation by truck and movement with a forklift.

Lowest numbered checks are to be loaded toward the front of the truck and highest numbered checks to be near the doors so they will be unloaded first.

Since this is a security document, the name of the document shall not appear on the outside of the package/carton/roll. Each package/carton/roll shall be appropriately labeled UA 1570, UA 1570R Replacement (with no reference to check), UA 1570 BO Benefit Overpayment (with no reference to check), or UA 1570TR Unemployment Insurance Tax Refund (with no reference to check), showing sequence of numbers contained within the package/carton/roll.

FORM 1099-G

Contractor's responsibilities include all necessary supplies, such as paper, printing and forms manufacture, data processing, personalization, sorting, folding, inserting into envelopes, (which are supplied by DELEG, UIA, with permit information applied) and delivery to the United States Postal Service (USPS) office, located at 1401 W. Fort St., Detroit, MI 48233.

Production Schedule

The following is a general production schedule for this project. Except for the final delivery dates, all dates may be negotiated within 7 days. Extra time is provided between the date for approving the test and the release of production tapes if the first test is unacceptable.

Copy released to printer	November 5
Copy proof received	November 12



Test tapes released and proof approved	November 12
Testing materials with construction proof received	December 10
Testing materials approved	Before production tapes are released
Release of production tapes	January 10
Mail Date	January 24

Statutes that require mailing on or before January 31 bind the UIA. Any late mailing of these forms is considered a breach of Contract.

Basic Construction

- A. Quantity 1,000,000 forms. Quantity is a one-year estimate and varies based on annual records. Exact record counts will not be available until production data is run. The Contractor will be required to produce forms that contain two copies of each record on the UIA’s file.

The Contractor may bill only for the actual number of forms produced (see Section 2.044 d, Invoicing).
- B. Size Final size of 8.5” x 11” and shall meet all USPS requirements for 1st class permit mailing.
- C. Stock Paper – 20 to 24# Bond – White.
- D. Ink Paper – Black printed two sides.
- E. Perforations Each form will contain two copies of the 1099-G. Perforations will be located between copy B and copy D of the 1099-G, as well as between copy B and the address panel. Perforations shall be sufficiently sturdy to withstand folding but should tear cleanly by hand.
- F. Confidentiality Final document shall be sealed such that a casual observer or mail handler cannot see personalized information.
- G. Artwork Artwork and negatives used to produce this job are the property of the State of Michigan. Ownership of the artwork is included in the purchase price. All plates, negatives, key lines and other materials relating to this job shall be delivered to the State of Michigan upon request.

Form Personalization and Mailing

- A. Personalization Contractor will personalize each form with variable information from data provided by the UIA. Personalization shall be performed in a single pass so data will be kept synchronized. All personalization shall be in black ink. **One hundred (100) percent retrieval of all the variable information from the production data is required.**
- B. Data Exchange The UIA will transfer the information to the Contractor’s server. Data transmission may be done by FTP (File Transfer Protocol) file or other means agreed upon by UIA. The file size is 50-100 MB. The file is compressed and may be extracted by password only. The file details and password will be provided by UIA. The information in the file will be encrypted.



C. Data Security To preserve the confidentiality of the data provided by the UIA, all work shall be produced in the Contractor’s plant or in its subContractor’s plant.

All agency data shall be protected from unauthorized release. Any duplication of information made for back up shall be deleted immediately upon completion of the project. Any information printed from the file shall be kept under reasonable security to prevent release to any unauthorized person. **UNDER NO CIRCUMSTANCES SHOULD ANY FILE BE REPRODUCED WITHOUT PRIOR WRITTEN APPROVAL.** All files should be deleted or destroyed upon completion of printing of the 1099-Gs.

VIOLATORS WHO RELEASE UIA DATA ARE SUBJECT TO PROSECUTION UNDER MICHIGAN EMPLOYMENT SECURITY ACT, SECTION 421.54(d).

D. Testing Test 1: The UIA will provide test data from which the Contractor shall produce a construction proof with an imaged overlay. The test proof shall show all imaging as it will appear on the final document. The file will not be released until a successful test is completed.

Test 2: Contractor shall duplicate the first 25 records from the production file. These forms shall be printed at the beginning of the production run and sent by overnight mail on the same day they are imaged to the UIA contact person for approval. The UIA reserves the right to alter production if these test samples are unsatisfactory.

Test 3: Contractor shall image every 1000th form of the production run with a ‘Z’ file. Contractor should use these forms to verify the quality of the imaging and the accuracy of the data. These forms should be forwarded to the Contract administrator for review within 5 days of production. The State may choose not to require this test or to reduce the frequency of this test if the manufacturing method does not warrant it.

E. Mail Sort First class, carrier route rate, in Agency provided envelope. Before imaging, Contractor shall match the UIA data with a USPS qualified zip-code and first class carrier-route sort program, append the carrier route code, apply the correct “Post Net” barcode, postal qualify the file, and prepare for delivery to the post office located at 1401 W. Fort St., Detroit, MI 48233. SubContractors for the postal sorting are acceptable, and a copy of the subContractor’s current CASS certificate must be provided to the State. Quality of barcode imaging must meet USPS guidelines.

Contractor is to insert, but leave unsealed any foreign mail. This foreign mail shall be directly sent by overnight mail to:

State of Michigan
DELEG-Unemployment Insurance Agency
Publishing and Distribution Unit
14333 Woodrow Wilson
Detroit, Michigan 48238
ATTN: Mail Supervisor



F. Quality Control Contractor shall maintain a thorough quality assurance program. Any damaged, mutilated, or illegibly addressed forms shall be shredded immediately after printing. Forms damaged in this manner shall be corrected at the Contractor's expense.

The UIA will pay for the exact number of forms mailed as documented on the U.S. Postal Service Postage Statement – First Class Mail – Permit Imprint (Form 3600-R).

G. Postage Payment And Proof of Mailing The UIA has franking privileges. Within three working days after the agency's forms have been mailed, the Contractor shall send the proof of mailing furnished by the U.S. Postal Service to the Contract administrator. The USPS Statement of First-Class mailing with Permit Imprints (form 3600-R) shall clearly identify the Agency's name, the proper federal permit, and the agency cost code.

Pricing

A. Liquidated Damages Because of statutory requirements, late delivery of these products are not acceptable. The UIA will impose liquidated damages of five (5) percent of the total price for each day the delivery is delayed. Damages will not be imposed if the delay is created by the UIA.

B. Invoicing Contractor will receive one (1) purchase order from the UIA. Contractor shall provide a single invoice to the Contract Compliance Inspector that includes the purchase order number and the date the items were mailed.

1.031 Contractor Staff, Roles, and Responsibilities

Paul Schweitzer is the Contractor's main contact for this Contract and may be reached at (616) 745-4493 24/7. This representative must respond by phone to telephone inquiries within four (4) business hours and will meet with UIA representatives in Detroit, as deemed necessary by the project manager or CCI. UIA reserves the right to recommend reassignment of personnel deemed unsatisfactory.

Bonnie Haslacker is the secondary contact if Paul Schweitzer is not available.

Incidents involving missing, lost, stolen, or misplaced warrants must be reported to the project manager **immediately**. Report should include when the incident occurred or was discovered, who was involved, location of the incident, warrant details, (control numbers, carton numbers, etc..) action taken, incident impact, and post-incident recommendations to lessen the likelihood of a similar incident.

Check/warrant orders under the Contract shall be approved by issuance of a purchase order release. Contract order releases will be issued by the Department of Energy, Labor and Economic Growth Purchasing.

1.040 Project Plan

1.041 Project Plan Management

Contractor representative will meet with the UIA Project Plan Manager and collect information necessary to produce proofs and schedule meetings for review when needed. A schedule will be established that is acceptable to UIA.



Within fifteen (15) working days of the award of the Contract, the Contractor will submit to the project manager, the Contractor's project organizational structure. This must include the Contractor's staffing table with names and title of personnel assigned to the project. This must be in agreement with staffing of accepted proposals. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the project manager

1.042 Reports – Deleted - Not Applicable

1.50-51 Acceptance

The following criteria will be used by the State to determine Acceptance of the Services or Deliverables provided under this SOW:

Approval by the UIA project manager of the Contractor's project plan, staffing, test samples and UIA functionality.

1.52 Final Acceptance

Final Acceptance is when production warrants/checks are received and accepted by the Unemployment Insurance Agency.

1.060 Proposal Pricing

1.61 Proposal Pricing- Deleted – Not Applicable

1.062 Price Term

Prices quoted are firm for the entire length of the Contract.

1.063 Tax Excluded from Price

(a) Sales Tax: For purchases made directly by the State, the State is exempt from State and Local Sales Tax. Prices must not include the taxes. Exemption Certificates for State Sales Tax will be furnished upon request.

(b) Federal Excise Tax: The State may be exempt from Federal Excise Tax, or the taxes may be reimbursable, if articles purchased under any resulting Contract are used for the State's exclusive use. Certificates showing exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices must not include the Federal Excise Tax.

1.064 Holdback – Deleted - Not Applicable

1.070 Commodity Requirements and Terms

Product Quality

1.0701 Specifications

Definite Specifications - All commodities and/or services to be furnished hereunder shall conform to the specifications as noted in the "Request for Proposal" and/or copies of specifications attached.

1.0702 Alternate Bids

A minimum order of 1,000 checks for the UA 1570R replacement checks for cost effective production minimums.



1.0703 Research and Development – Deleted – Not Applicable

1.0704 Quality Assurance Program

The Contractor must maintain and demonstrate a thorough quality assurance program. The Contractor must provide a detailed description of its quality assurance program specifically related to production of the 1099-G form identified in this Contract. The quality assurance program must include: (1) reports to be provided, (2) production checks, (3) data verification, (4) specific quality checkpoints, etc. Description must also address the following quality controls:

A. Reconciliation

The Contractor must explain how they will account and verify a form is produced and mailed for every addressee. The reconciliation process must document the process from receipt of order to delivery of forms to post office.

B. Accuracy of Printed Information

The Contractor must account for accuracy of data imprinted on each form to provide detail regarding any Quality Assurance Program(s) that are currently in place within their organization.

1.0705 Warranty for Products or Services – Deleted - Not Applicable

1.0706 Training – Deleted – Not Applicable

1.0707 Special Programs - Deleted - Not Applicable

1.0708 Security- Deleted - Not Applicable

Delivery Capabilities

1.0709 Time Frames

It is required that all orders be delivered within seven (7) calendar days for proofs, fifteen (15) calendar days for test samples after receipt of accepted proof, and thirty (30) calendar days to complete and deliver the quantity ordered after approval of the test samples. However, Contractors shall discuss in detail the various delivery programs available. The State is interested in both a standard delivery program and a quick-ship program. Please discuss the delivery time associated with each program, as well as if there are quantity and other limitations for the quick ship program.

1.0710 Minimum Order - Deleted - Not Applicable

1.0711 Packaging – Deleted - Not Applicable

1.0712 Palletizing – Deleted - Not Applicable

1.0713 Delivery Term

Prices shall be quoted "F.O.B. Delivered" with transportation charges prepaid on all orders to the state

1.0714 Contract Performance

Contractor has not had a Contract terminated for default in the last three years.

Termination: None
Reason: _____



1.0715 Place of Performance

Place of Performance Full address	Owner/Operator of facility to be used	Percent (%) of Contract value to be Performed at listed Location
F.P. Horak 401 N. Saginaw Bay City, MI 48708		100% of all checks printed and base stock for 1099.
ICS 4225 Legacy Parkway Lansing, MI 48911		Processing of 1099 data

1.0716 Environmental Requirements

Energy Efficiency Purchasing Policy – The State shall seek wherever possible to purchase energy efficient products. This may include giving preference to U.S. Environmental Protection Agency (EPA) certified ‘Energy Star’ products for any category of products for which EPA has established Energy Star certification. For other purchases, the State may include energy efficiency as one of the priority factors to consider when choosing among comparable bids.

Environmental Purchasing Policy – The State of Michigan has committed to encourage the use of products and services that impact the environment less than competing products. This can be best accomplished by including environmental considerations in purchasing decisions, while remaining fiscally responsible, to promote practices that improve worker health, conserve natural resources, and prevent pollution. Environmental components that may be considered in Best Value Purchasing evaluation include: recycled content and recyclability; energy efficiency; and the presence of undesirable materials in the products, especially those toxic chemicals which are persistent and bio-accumulative. Bidders able to supply products containing recycled and environmentally preferable materials that meet performance requirements are encouraged to offer them in bids and proposals. Information on any relevant third party certification (such as Green Seal, Energy Star, etc.) should also be provided.

I. Recycled Content and Recyclability

A. Recycled Packaging. Bidders may offer some or all of the following items listed below or provide alternative proposal as to how packaging materials can be reduced, eliminated or otherwise made more environmentally preferable. It is desirable that Bidders offer packaging which:

- a. is made from recycled content which meets or exceeds all federal and state recycled content guidelines (currently 35% post-consumer for all corrugated cardboard)
- b. minimizes or eliminates the use of polystyrene or other difficult to recycle materials
- c. minimizes or eliminates the use packaging and containers and, in the alternative, minimizes or eliminates the use of non-recyclable packaging and containers
- d. provides for a return program where packaging can be returned to a specific location for recycling
- e. contains materials which are easily recyclable in Michigan.

All Bidders are requested to indicate below an estimate of the percentage of recycled materials, if any, contained in each item bid. Higher percentages of recycled materials are preferred. Product performance is paramount, whether containing recycled material or not; however, preference will be given to products that perform up to specification and are environmentally preferable without compromising quality.

0 % (Total estimated percentage of recovered material)

0 % (Estimated percentage of post-consumer material)

0 % (Estimated percentage of post-industrial waste)



Certification

I, _____ (name of certifier), am an officer or employee responsible for the performance of this Contract and hereby certify that the percentage of recovered material content for EPA-designated products met the applicable Contract specifications.
_____ (Initial)

II. Materials Identification and Tracking

A. Hazardous Material Identification. ‘Hazardous material’, as used in this clause, includes any material defined as hazardous under the latest version of federal Emergency Planning and Community Right-to-Know Act of 1986 (including revisions adopted during the term of the Contract).

(1) The Bidder must list any hazardous material, as defined in §370.20 (a) of 40 CFR, to be delivered under this Contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this Contract.

Material (if none, enter ‘None’)	Identification Number
N/A	

(2) This list must be updated during performance of the Contract whenever the Contractor determines that any other material to be delivered under this Contract is hazardous.

(3) The apparently successful Bidder agrees to submit, for each item as required prior to award, a Material Safety Data Sheet for each hazardous material identified in paragraph (1) of this clause. Data shall be submitted in accordance with Section 312 of the federal Emergency Planning and Community Right-to-Know Act, whether or not the apparently successful Bidder is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful Bidder being considered non-responsive and ineligible for award.

B. Mercury Content. It is the clear intent of state agencies to avoid purchasing products that contain intentionally-added mercury whenever possible. Bidders shall offer mercury-free product alternatives whenever available. Should mercury-free alternatives not exist, as presently is the case with a few select products and devices such as fluorescent lamps or where the alternative is not yet cost competitive, such as dental amalgam, Bidders shall offer the lowest mercury content available for a given application. Bidders shall disclose whenever products contain added-mercury by using the following format.

() Product contains added-Mercury (attach an explanation that includes: the amount or concentration of mercury and justification as to why this particular product is essential).
In addition, the Bidder shall also ensure that all products to be purchased containing intentionally added-mercury shall be labeled as: “product contains mercury/recycle or dispose of properly.” For instances where space constraints limit the amount or size of print, the chemical symbol “Hg” followed by a picture of a trash container with a diagonal line through it shall suffice for labeling requirements.
BIDDERS PLEASE NOTE: Michigan Law Prohibits the sale of mercury-containing thermostats, thermometers, sphygmomanometers (blood pressure monitors) and other types of medical devices. For specific details visit: http://www.michigan.gov/deq/0,1607,7-135-3307_29693_4175-160230--,00.html



C. Brominated Flame Retardants (BFR). Bidders shall disclose whether the products being offered contain toxic flame retardants. Bidders are encouraged to provide BFR-free alternatives when available.

() Product does not contain BFR's

() Product does contain BFR's (attach an explanation)

D. Ozone Depleting Substances

'Ozone-depleting substance', as used in this clause, means any substance the Environmental Protection Agency designates in 40 CFR part 82 as:

(1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or

(2) Class II, including, but not limited to, hydrochlorofluorocarbons.

The Contractor shall label products which contain or are manufactured with ozone-depleting substances in the manner and to the extent required by 42 U.S.C. 7671j (b), (c), and (d) and 40 CFR part 82, Subpart E, as follows:

'Warning: Contains (or manufactured with, if applicable) _____ (insert the name of the substance(s).), a substance(s) which harm(s) public health and environment by destroying ozone in the upper atmosphere.'

A. Clean Air and Water

Contractor certifies that any facility to be used in the performance of this Contract has all the necessary environmental permits and is in consistent compliance with all applicable environmental requirements and has no outstanding unresolved violations.

The Contractor will immediately notify the state, before award, of the receipt of any communication from the Environmental Protection Agency or any state environmental agency, of civil or criminal enforcement for any facility that the Contractor proposes to use in the performance of this Contract.

_____ (Initial)

B. Emergency Planning and Community Right-to-Know Reporting - By signing this offer, the Bidder certifies that:

(1) The owner or operator of each facility that will be used in the performance of this Contract is in compliance with the filing and reporting requirements described in sections 302, 304, 311, 312 and 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001, et. seq.) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101, et. seq.). EPCRA filing and reporting requirements include emergency planning notification, release reporting, hazardous chemical inventory reporting, and toxic chemical release inventory (TRI) reporting.

(2) The owner or operator of each facility that will be used in the performance of this Contract will maintain compliance with the filing and reporting requirements described in sections 302, 304, 311, 312 and 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001, et. seq.) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101, et. seq.) for the life of the Contract.

_____ (Initial)



1.0717 SubContractors

Indicated below is the work to be subContracted under this Contract:

Description of Work to be sub-Contracted	Percent (%) of total Contract value to be sub-Contracted	Sub-Contractor's name and principal place of business (City and State)
Printing of checks and base documents	100% of check printing	F.P. Horak 401 N. Saginaw Bay City, MI 48708
Processing of 1099 data	100% of 1099 data processing	ICS 4225 Legacy Parkway Lansing, MI 48911

1.0718 Reports and Meetings – Deleted - Not Applicable

1.0719 Samples/Models- Deleted – Not Applicable

1.080 Additional Requirements

1.081 Additional Terms and Conditions

State Printing Act--All work performed shall be produced in the plant of the Contractor or that of the sub-Contractor and the sub-Contractor shall be designated in this Contract. Contractor and sub-Contractor must be in compliance with Public Act 153 of 1937, as amended.



Article 2, Terms and Conditions

2.000 Contract Structure and Term

2.001 Contract Term

This Contract is for a period of 3 years beginning February 1, 2011 through January 31, 2014. All outstanding Purchase Orders must also expire upon the termination (cancellation for any of the reasons listed in **Section 2.150**) of the Contract, unless otherwise extended under 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.

2.002 Options to Renew

This Contract may be renewed in writing by mutual agreement of the parties not less than 30 days before its expiration. The Contract may be renewed for up to (2) additional (1) year periods.

2.003 Legal Effect

Contractor shall show acceptance of this Contract by signing two copies of this Contract and returning them to the Contract Administrator. The Contractor shall not proceed with the performance of the work to be done under the Contract, including the purchase of necessary materials, until both parties have signed the Contract to show acceptance of its terms, and the Contractor receives a Contract release/purchase order that authorizes and defines specific performance requirements.

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 this Contract has been issued.

2.004 Attachments & Exhibits

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

2.005 Ordering

The State will issue a written Purchase Order, or Blanket Purchase Order, which must be approved by the Contract Administrator or the Contract Administrator's designee, to order any Services/Deliverables under this Contract. All orders are subject to the terms and conditions of this Contract. No additional terms and conditions contained on either a Purchase Order or Blanket Purchase Order apply unless they are also specifically contained in that Purchase Order's or Blanket Purchase Order's accompanying Statement of Work. Exact quantities to be purchased are unknown, however, the Contractor will be required to furnish all such materials and services as may be ordered during the CONTRACT period. Quantities specified, if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities.

2.006 Order of Precedence

(a) This Contract, including any Statements of Work and Exhibits, to the extent not contrary to this 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 the subject matter and as additional terms and conditions on the purchase order must apply as limited by **Section 2.005**.

(b) In the event of any inconsistency between the terms of this 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 this Contract, which may be modified or amended only by a formal Contract amendment.



2.007 Headings

Captions and headings used in this 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 this Contract.

2.008 Form, Function & Utility- Deleted – Not Applicable

2.009 Reformation and Severability

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

2.010 Consents and Approvals

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

2.011 No Waiver of Default

If a party fails to insist upon strict adherence to any term of this Contract then the party has not waived the right to later insist upon strict adherence to that term, or any other term, of this Contract.

2.012 Survival

Any provisions of this Contract that impose continuing obligations on the parties, including without limitation the parties' respective warranty, indemnity and confidentiality obligations, survive the expiration or termination of this Contract for any reason. Specific references to survival in this Contract are solely for identification purposes and not meant to limit or prevent the survival of any other section.

2.020 Contract Administration

2.021 Issuing Office

This Contract is issued by the Department of Technology, Management and Budget, Purchasing Operations and DELEG Unemployment Insurance Agency (collectively, including all other relevant State of Michigan departments and agencies, the "State"). Purchasing Operations is the sole point of contact in the State with regard to all procurement and Contractual matters relating to this Contract. Purchasing Operations **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 Purchasing Operations for this Contract is:

William C. Walsh, CPPB
Department of Technology, Management and Budget
Purchasing Operations
Stevens T. mason Building, 2nd Floor
530 W. Allegan Street
Lansing, MI 48933
(517) 373-6535
walshw@michigan.gov

2.022 Contract Compliance Inspector (CCI)

After DTMB-PurchOps receives the properly executed Contract, it is anticipated that the Director of Purchasing Operations, in consultation with Department of Treasury, will direct the person named below, or any other person so designated, 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 the Contract as that authority is retained by DTMB Purchasing Operations.** The Contract Compliance Inspector for this Contract is:



Sheila O'Sullivan
DELEG-Unemployment Insurance Agency
3024 W. Grand Blvd Suite 12-300
Detroit, MI 48202
Email: osullivans@michigan.gov
Phone; (313) 456-2327
Fax (313) 456-2588

2.023 Project Manager

The following individual will oversee the project:

Sheila Murff, Manager
DLEG-Unemployment Insurance Agency
Warehouse, Publishing and Distribution Center
14333 Woodrow Wilson
Detroit, MI 48238-2812
Email: murffs@michigan.gov
Phone (313) 868-0150
Fax (313)868-4842

2.024 Change Requests

The State reserves the right to request from time to time any changes to the requirements and specifications of this Contract and the work to be performed by the Contractor under this 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 Contractor does not so notify the State, the Contractor has no right to claim thereafter that it is entitled to additional compensation for performing that service or providing that deliverable.

Change Requests:

- (a) By giving Contractor written notice within a reasonable time, the State must 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 must 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").
- (b) No proposed Change must be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Management and Budget, Purchasing Operations.
- (c) If the State requests or directs the Contractor to perform any activities that Contractor believes constitute a Change, the Contractor must notify the State that it believes the requested activities are a Change before beginning to work on the requested activities. If the Contractor fails to notify the State before beginning to work on the requested activities, then the Contractor waives any right to assert any claim for additional compensation or time for performing the requested activities. If the Contractor commences performing work outside the scope of this Contract and then ceases performing that work, the Contractor must, at the request of the State, retract any out-of-scope work that would adversely affect the Contract.

2.025 Notices

Any notice given to a party under this Contract must be deemed effective, if addressed to the 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 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
Department of Technology, Management & Budget
Purchasing Operations
Attention: William C. Walsh, CPPB
PO Box 30026
530 West Allegan
Lansing, Michigan 48909

Contractor:
CompleteSource
Attention: Paul Schweitzer
4455 44th St. SE
Grand Rapids, MI 49512

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

2.026 Binding Commitments

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

2.027 Relationship of the Parties

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 must be or must 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 this Contract.

2.028 Covenant of Good Faith

Each party must act reasonably and in good faith. Unless stated otherwise in this 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 this Contract.

2.029 Assignments

(a) Neither party may assign this Contract, or assign or delegate any of its duties or obligations under this 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 this Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign this Contract to an affiliate so long as the affiliate is adequately capitalized and can provide adequate assurances that the affiliate can perform this Contract. The State may withhold consent from proposed assignments, subContracts, or novations when the transfer of responsibility would operate to decrease the State's likelihood of receiving performance on this 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 this Contract. If the State permits an assignment, the Contractor is not relieved of its responsibility to perform any of its Contractual duties, and the requirement under this Contract that all payments must be made to one entity continues.



(c) If the Contractor intends to assign this Contract or any of the Contractor's rights or duties under this Contract, the Contractor must notify the State in writing at least 90 days before the assignment. The Contractor also must provide the State with adequate information about the assignee within a reasonable amount of time before the assignment for the State to determine whether to approve the assignment.

2.030 General Provisions

2.031 Media Releases

News releases (including promotional literature and commercial advertisements) pertaining to this Contract or project to which it relates shall not be made without prior written State approval, and then only in accordance with the explicit written instructions from the State. No results of the activities associated with this Contract are to be released without prior written approval of the State and then only to persons designated.

2.032 Contract Distribution

Purchasing Operations retains the sole right of Contract distribution to all State agencies and local units of government unless other arrangements are authorized by Purchasing Operations.

2.033 Permits

Contractor must 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 must pay for all costs and expenses incurred in obtaining and maintaining any necessary easements or right of way.

2.034 Website Incorporation

The State is not 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 the content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representative of the State.

2.035 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 Contractor offering free assistance) to gain a competitive advantage on the RFP.

2.036 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").

2.037 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 man-made disaster.

2.040 Financial Provisions

2.041 Fixed Prices for Services/Deliverables

Each Statement of Work or Purchase Order 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. 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.

2.042 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.

2.043 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.

2.044 Invoicing and Payment – In General

- (a) 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.
- (b) 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. 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 1.064**.
- (c) 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 45 days after receipt, provided the State determines that the invoice was properly rendered.
- (d) All invoices should reflect actual work done. Specific details of invoices and payments will be agreed upon between the Contract Administrator and the Contractor after this Contract Agreement has been signed and accepted by both the Contractor and the Director of Purchasing Operations, Department of Technology, Management & Budget. This activity will occur only upon the specific written direction from Purchasing Operations.

2.045 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.

2.046 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.

2.047 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 this 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.



2.048 Electronic Payment Requirement

Electronic transfer of funds is required for payments on State Contracts. Contractors are required to register with the State electronically at <http://www.cpeexpress.state.mi.us>. As stated in Public Act 431 of 1984, all Contracts that the State enters into for the purchase of goods and services shall provide that payment will be made by electronic fund transfer (EFT).

2.050 Taxes

2.051 Employment Taxes

Contractors are expected to collect and pay all applicable federal, state, and local employment taxes, including the taxes.

2.052 Sales and Use Taxes

Contractors are required to be registered and to remit sales and use taxes on taxable sales of tangible personal property or services delivered into the State. Contractors that lack sufficient presence in Michigan to be required to register and pay tax must do so as a volunteer. This requirement extends to: (1) all members of any controlled group as defined in § 1563(a) of the Internal Revenue Code and applicable regulations of which the company is a member, and (2) all organizations under common control as defined in § 414(c) of the Internal Revenue Code and applicable regulations of which the company is a member that make sales at retail for delivery into the State are registered with the State for the collection and remittance of sales and use taxes. In applying treasury regulations defining “two or more trades or businesses under common control” the term “organization” means sole proprietorship, a partnership (as defined in § 701(a) (2) of the Internal Revenue Code), a trust, an estate, a corporation, or a limited liability company.

2.060 Contract Management

2.061 Contractor Personnel Qualifications

All persons assigned by Contractor to the performance of Services under this Contract must be employees of Contractor or its majority-owned (directly or indirectly, at any tier) subsidiaries (or a State-approved SubContractor) and must be fully qualified to perform the work assigned to them. Contractor must 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 must 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.

2.062 Contractor Key Personnel

The following Contractor personnel are assigned to this Contract:

Paul Schweitzer – President
(616) 285-9110
Schweitzer@completesource.com

Bonnie Haslacker
Main Plant Contact Person

Bob Charles II - Vice President of Manufacturing
Responsible for all manufacturing

Darrin MeMott – Vice President of Operations
Responsible for quality issues



2.063 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 must be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request must be based on legitimate, good-faith reasons. Replacement personnel for the removed person must 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 incident with removed personnel results in delay not reasonably anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Service will not be counted for a time as agreed to by the parties.

2.064 Contractor Personnel Location

All staff assigned by Contractor to work on this Contract will perform their duties primarily at Contractor's offices.

2.065 Contractor Identification

Contractor employees must be clearly identifiable while on State property. 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.

2.066 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. As reasonably requested by the State in writing, the Contractor will provide to the State's agents and other Contractors reasonable access to Contractor's Project personnel, systems and facilities to the extent the access relates to activities specifically associated with this Contract and will not interfere or jeopardize the safety or operation of the systems or facilities. 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 the requests for access.

2.067 Contract Management Responsibilities

The Contractor will be required to assume responsibility for all Contractual activities, whether or not that Contractor performs them. Further, the State will consider the Contractor to be the sole point of contact with regard to Contractual matters, including payment of any and all charges resulting this Contract. If any part of the work is to be subContracted, this Contract must include a list of subContractors, including firm name and address, contact person and a complete description of work to be subContracted. The State reserves the right to approve subContractors and to require the Contractor to replace subContractors found to be unacceptable. The Contractor is totally responsible for adherence by the subContractor to all provisions of the Contract. Any change in subContractors must be approved by the State, in writing, prior to such change.

2.068 Contractor Return of State Equipment/Resources

The Contractor must return to the State any State-furnished equipment, facilities and other resources when no longer required for this Contract in the same condition as when provided by the State, reasonable wear and tear excepted.

2.070 SubContracting by Contractor

2.071 Contractor full Responsibility

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.



2.072 State Consent to delegation

Contractor shall not delegate any duties under this Contract to a SubContractor unless the Department of Management and Budget, Purchasing Operations 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 reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLA for the affected Work will not be counted in time agreed upon by the parties.

2.073 SubContractor bound to Contract

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. Attached as **Exhibit A** is a list of the SubContractors, if any, approved by the State as of the execution of this Contract, together with a copy of the applicable subContract.

2.074 Flow Down

Except where specifically approved in writing by the State on a case-by-case basis, Contractor shall flow down the obligations in **Sections 2.031, 2.060, 2.100, 2.110, 2.120, 2.130, 2.200** in all of its agreements with any SubContractors.

2.075 Competitive Selection

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

2.080 State Responsibilities

2.081 Equipment

The State will provide only the equipment and resources identified in the Statements of Work and other Contract Exhibits.

2.082 Facilities- Deleted – Not Applicable

2.090 Security

2.091 Background Checks

On a case-by-case basis, the State may investigate the Contractor's personnel before they may have access to State facilities and systems. 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. The 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/dit>. 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.

2.092 Security Breach Notification

If the Contractor breaches this Section, the Contractor must (i) promptly cure any deficiencies and (ii) comply with any applicable federal and state laws and regulations pertaining to unauthorized disclosures. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor must 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 10 days of becoming aware of the use or disclosure or the shorter time period as is reasonable under the circumstances.

2.093 PCI Data Security Requirements Deleted - Not Applicable.

2.100 Confidentiality

2.101 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 must 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 must mean any information which is retained in confidence by the State (or otherwise required to be held in confidence by the State under applicable federal, state and local laws and regulations) or which, in the case of tangible materials provided to Contractor by the State under its performance under this Contract, is marked as confidential, proprietary or with a similar designation by the State. "Confidential Information" excludes any information (including this Contract) that is publicly available under the Michigan FOIA.

2.102 Protection and Destruction 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 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) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the 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 the Confidential Information from unauthorized use or disclosure.

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

2.103 Exclusions

Notwithstanding the foregoing, the provisions of **Section 2.100** 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 the 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 **Section 2.100** will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose the 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 the disclosure as reasonably requested by the furnishing party.

2.104 No Implied Rights

Nothing contained in this Section must 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.

2.105 Respective Obligations

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

2.110 Records and Inspections

2.111 Inspection of Work Performed

The State's authorized representatives must at all reasonable times and with 10 days prior written request, have the right to enter Contractor's premises, or any other places, where the Services are being performed, and must have access, upon reasonable request, to interim drafts of Deliverables or work-in-progress. Upon 10 Days prior written notice and at all reasonable times, the State's representatives must be allowed to inspect, monitor, or otherwise evaluate the work being performed and to the extent that the access will not reasonably interfere or jeopardize the safety or operation of the systems or facilities. Contractor must provide all reasonable facilities and assistance for the State's representatives.

2.112 Examination of Records

For seven years after the Contractor provides any work under this Contract (the "Audit Period"), the State may examine and copy any of Contractor's books, records, documents and papers pertinent to establishing Contractor's compliance with this Contract and with applicable laws and rules. The State must notify the Contractor 20 days before examining the Contractor's books and records. The State does not have the right to review any information deemed confidential by the Contractor to the extent access would require the confidential information to become publicly available. This provision also applies to the books, records, accounts, documents and papers, in print or electronic form, of any parent, affiliated or subsidiary organization of Contractor, or any SubContractor of Contractor performing services in connection with this Contract.



2.113 Retention of Records

Contractor must maintain at least until the end of the Audit Period all pertinent financial and accounting records (including time sheets and payroll records, and information pertaining to this Contract and to the Services, equipment, and commodities provided under this Contract) pertaining to this Contract according to generally accepted accounting principles and other procedures specified in this Section. Financial and accounting records must be made available, upon request, to the State at any time during the Audit Period. If an audit, litigation, or other action involving Contractor's records is initiated before the end of the Audit Period, the records must be retained until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later.

2.114 Audit Resolution

If necessary, the Contractor and the State will meet to review each audit report promptly after issuance. The Contractor will respond to each audit report in writing within 30 days from receipt of the report, unless a shorter response time is specified in the report. The Contractor and the State must develop, agree upon and monitor an action plan to promptly address and resolve any deficiencies, concerns, and/or recommendations in the audit report.

2.115 Errors

- (a) If the audit demonstrates any errors in the documents provided to the State, then the amount in error must 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 invoices. If a balance remains after four invoices, then the remaining amount will be due as a payment or refund within 45 days of the last quarterly invoice that the balance appeared on or termination of this 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 10%, then the Contractor must pay all of the reasonable costs of the audit.

2.120 Warranties

2.121 Warranties and Representations

The Contractor represents and warrants:

- (a) It is capable in all respects of fulfilling and must fulfill all of its obligations under this Contract. The performance of all obligations under this Contract must be provided in a timely, professional, and workman-like manner and must meet the performance and operational standards required under this Contract.
- (b) 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 neither this Contract, nor their use by the State will infringe the patent, copyright, trade secret, or other proprietary rights of any third party.
- (c) The Contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.
- (d) It is qualified and registered to transact business in all locations where required.
- (e) Neither the Contractor nor any Affiliates, nor any employee of either, has, will have, or will 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 must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.

- (f) Neither Contractor nor any Affiliates, nor any employee of either has accepted or will 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 must not attempt to influence any State employee by the direct or indirect offer of anything of value.
- (g) 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 the Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.
- (h) 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.
- (i) 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 the financial statements, reports, other information. Since the respective dates or periods covered by the 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.
- (j) All written information furnished to the State by or for the 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 the information not misleading.
- (k) 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 the department within the previous five years for the reason that Contractor failed to perform or otherwise breached an obligation of the Contract.
- (l) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after Contract award, the Contractor is required to report those changes immediately to the Department of Management and Budget, Purchasing Operations.

2.122 Warranty of Merchantability

Goods provided by Contractor under this agreement shall be merchantable. All goods provided under this Contract 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 or on the container or label.

2.123 Warranty of Fitness for a Particular Purpose

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



2.124 Warranty of Title

Contractor shall, in providing goods to the State, convey good title in those goods, whose transfer is right and lawful. All goods provided by Contractor shall be delivered free from any security interest, lien, or encumbrance of which the State, at the time of Contracting, has no knowledge. Goods provided by Contractor, under this Contract, shall be delivered free of any rightful claim of any third person by of infringement or the like.

2.125 Equipment Warranty – Deleted - Not Applicable.

2.126 Equipment to be New – Deleted- Not Applicable.

2.127 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 this Contract by the State. The brand and product number offered for all items shall remain consistent for the term of this Contract, unless Purchasing Operations has approved a change order pursuant to **Section 2.024**.

2.128 Consequences For Breach

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

2.130 Insurance

2.131 Liability Insurance

The Contractor must provide proof of the minimum levels of insurance coverage as indicated below. The insurance must 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 the 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 under this Contract.

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

The insurance must 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 must have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if the ratings are no longer available, with a comparable rating from a recognized insurance rating agency. All policies of insurance required in this Contract must be issued by companies that have been approved to do business in the State. See www.michigan.gov/dleg.

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

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

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSURED 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 INSURED 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 according to 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 must 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

2.132 SubContractor Insurance Coverage

Except where the State has approved in writing a Contractor subContract with other insurance provisions, Contractor must 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) must 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.

2.133 Certificates of Insurance and Other Requirements

Contractor must furnish to DTMB-PurchOps, certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the “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) must contain a provision indicating that coverages afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without 30 days prior written notice, except for 10 days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Technology, Management and Budget. The notice must include the Contract or Purchase Order number affected. Before this Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must 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.

The Contractor must maintain all required insurance coverage throughout the term of this Contract and any extensions and, in the case of claims-made Commercial General Liability policies, must secure tail coverage for at least three years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and must not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor is responsible for all deductibles with regard to the insurance. If the 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, then the State may, after the State has given the Contractor at least 30 days written notice, pay the premium or procure similar insurance coverage from another company or companies. The State may deduct any part of the cost from any payment due the Contractor, or the Contractor must pay that cost upon demand by the State.

2.140 Indemnification

2.141 General Indemnification

To the extent permitted by law, the Contractor must 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.

2.142 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.

2.143 Employee Indemnification

In any 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 this Contract must 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.

2.144 Patent/Copyright Infringement Indemnification

To the extent permitted by law, the Contractor must 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 the 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 the equipment, software, commodity or service, or the use or reproduction of any documentation provided with the 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 must at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if the 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 the 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 has 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; (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.

2.145 Continuation of Indemnification Obligations

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

2.146 Indemnification Procedures

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

(a) After the State receives notice of the action or proceeding involving a claim for which it will seek indemnification, the State must promptly notify Contractor of the 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 the Contractor relieves the Contractor of its indemnification obligations except to the extent that the Contractor can prove damages attributable to the failure. Within 10 days following receipt of written notice from the State relating to any claim, the Contractor must 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 before the State receiving Contractor's Notice of Election, the State is entitled to defend against the claim, at the Contractor's expense, and the Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during that period.

(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State is entitled to participate in the defense of the claim and to employ counsel at its own expense to assist in the handling of the claim and to monitor and advise the State about the status and progress of the defense; (ii) the Contractor must, at the request of the State, demonstrate to the reasonable satisfaction of the State, the Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) the Contractor must periodically advise the State about the status and progress of the defense and must obtain the prior written approval of the State before entering into any settlement of the claim or ceasing to defend against the claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State has the right, at its own expense, to control the defense of that portion of the claim involving the principles of Michigan governmental or public law. But the State may retain control of the defense and settlement of a claim by notifying the Contractor in writing within 10



days after the State's receipt of Contractor's information requested by the State under clause (ii) of this paragraph if the State determines that the Contractor has failed to demonstrate to the reasonable satisfaction of the State the Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State under 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 may defend the claim in the 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 must promptly reimburse the State for all the reasonable costs and expenses.

2.150 Termination/Cancellation

2.151 Notice and Right to Cure

If the Contractor breaches this Contract, and the State in its sole discretion determines that the breach is curable, then the State will provide the Contractor with written notice of the breach and a time period (not less than 30 days) to cure the Breach. The notice of breach and opportunity to cure is inapplicable for successive or repeated breaches or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage, or destruction of any real or tangible personal property.

2.152 Termination for Cause

(a) The State may terminate this Contract, for cause, by notifying the Contractor in writing, if the Contractor (i) breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA), or (ii) fails to cure a breach within the time period specified in the written notice of breach provided by the State

(b) If this Contract is terminated for cause, the Contractor must pay 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 are not consequential, indirect or incidental damages, and cannot be excluded by any other terms otherwise included in this Contract, provided the costs are not in excess of 50% more than the prices for the Service/Deliverables provided under this Contract.

(c) If 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 must 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 must cease on the effective date of the termination.

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

2.153 Termination for Convenience

The State may terminate this Contract for its convenience, in whole or part, if the State determines that a termination is in the State's best interest. Reasons for the termination must 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 this 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 30 days before the date of termination. If the State chooses to terminate this Contract in part, the charges payable under this Contract must be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of this Contract that are terminated for cause must cease on the effective date of the termination.

2.154 Termination for 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 must 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 must give Contractor at least 30 days advance written notice of termination for non-appropriation or unavailability (or the time as is available if the State receives notice of the final decision less than 30 days before the funding cutoff).

(b) If funding for this 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 unavailable, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in the manner and for the 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 the reduction.

(c) If the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor under this Section, the State must 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. This Section will not preclude Contractor from reducing or stopping Services/Deliverables 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.

2.155 Termination for 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 related to a State, public or private Contract or subContract.

2.156 Termination for Approvals Rescinded

The State may terminate this Contract if any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services under Constitution 1963, Article 11, § 5, and Civil Service Rule 7-1. In that case, the State will pay the Contractor for only the work completed to that point under this Contract. 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 the written notice.

2.157 Rights and Obligations upon Termination

(a) If the State terminates this Contract for any reason, the Contractor must (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) transfer title in, and deliver to,



the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of this Contract and which are resulting from this Contract (which must be provided to the State on an “As-Is” basis except to the extent the amounts paid by the State in respect of the items included compensation to Contractor for the provision of warranty services in respect of the 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) If the State terminates this Contract before its expiration for its own convenience, the State must pay Contractor for all charges due for Services provided before the date of termination and, if applicable, as a separate item of payment under 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 under this Contract, at the option of the State, becomes the State’s property, and Contractor is entitled to receive equitable fair compensation for the Deliverables. Regardless of the basis for the termination, the State is not 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 may assume, at its option, any 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.

2.158 Reservation of Rights

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

2.160 Termination by Contractor

2.161 Termination by Contractor

If the State breaches this Contract, and the Contractor in its sole discretion determines that the breach is curable, then the Contractor will provide the State with written notice of the breach and a time period (not less than 30 days) to cure the breach. The Notice of Breach and opportunity to cure is inapplicable for successive and repeated breaches.

The Contractor may terminate this Contract if the State (i) materially breaches its obligation to pay the Contractor undisputed amounts due and owing under this Contract, (ii) breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for the Contractor to perform the Services, or (iii) does not cure the breach within the time period specified in a written notice of breach. But the Contractor must discharge its obligations under **Section 2.160** before it terminates this Contract.

2.170 Transition Responsibilities

2.171 Contractor Transition Responsibilities

If the State terminates this Contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or 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. If this Contract expires or terminates, 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 **(3) months**. These efforts must include, but are not limited to, those listed in **Sections 2.141, 2.142, 2.143, 2.144, and 2.145**.



2.172 Contractor Personnel Transition

The Contractor must 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 must 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 Contractors, 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 Contractors. Contractor will notify all of Contractor's subContractors of procedures to be followed during transition.

2.173 Contractor Information Transition

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.

2.174 Contractor Software Transition

The Contractor must reasonably assist the State in the acquisition of any Contractor software required to perform the Services/use the Deliverables under this Contract. This must 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 must, 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.

2.175 Transition Payments

If the transition results from a termination for any reason, reimbursement must 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 agreed upon by the State. The Contractor will prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

2.176 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.

2.180 Stop Work

2.181 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 this Contract for a period of up to 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 must be identified as a stop work order and must indicate that it is issued under this **Section 2.150**. Upon receipt of the stop work order, Contractor must immediately comply with its terms and take all reasonable steps to minimize incurring 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 must either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.130**.



2.182 Cancellation or Expiration of Stop Work Order

The Contractor must resume work if the State cancels a Stop Work Order or if it expires. The parties will agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and this Contract must 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 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 this Contract. Any adjustment will conform to the requirements of **Section 2.024**.

2.183 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, the termination must be deemed to be a termination for convenience under **Section 2.130**, and the State will pay reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State is not be liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.150**.

2.190 Dispute Resolution

2.191 In General

Any claim, counterclaim, or dispute between the State and Contractor arising out of or relating to this Contract or any Statement of Work must be resolved as follows. For all Contractor claims seeking an increase in the amounts payable to Contractor under this Contract, or the time for Contractor’s performance, Contractor must submit a letter, together with all data supporting the claims, executed by Contractor’s Contract Administrator or the Contract Administrator’s 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 claim and the supporting data are current and complete to Contractor’s best knowledge and belief.

2.192 Informal Dispute Resolution

- (a) All disputes between the parties must be resolved under this Contract Management procedures in this Contract. If the parties are unable to resolve any disputes after compliance with the processes, the parties must meet with the Director of Purchasing Operations, DTMB, or designee, for the purpose of attempting to resolve the dispute without the need for formal legal proceedings, as follows:
 - (i) The representatives of Contractor and the State must meet as often as the parties reasonably deem necessary 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 must 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 this 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 60 calendar days, the Director of Purchasing Operations, DTMB, or designee, must issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State’s final action and the exhaustion of administrative remedies.



(b) This Section 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 under **Section 2.163**.

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

2.193 Injunctive Relief

The only circumstance in which disputes between the State and Contractor will not be subject to the provisions of **Section 2.162** is where a party makes a good faith determination that a breach of the terms of this Contract by the other party is the that the damages to the 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.

2.194 Continued Performance

Each party agrees to continue performing its obligations under this Contract while a dispute is being resolved except to the extent the issue in dispute precludes performance (dispute over payment must not be deemed to preclude performance) and without limiting either party's right to terminate this Contract as provided in **Section 2.150**, as the case may be.

2.200 Federal and State Contract Requirements

2.201 Nondiscrimination

In the performance of this 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 under 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 this Contract.

2.202 Unfair Labor Practices

Under 1980 PA 278, MCL 423.321, et seq., the State must 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 under 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 this Contract, must not enter into a Contract with a SubContractor, manufacturer, or supplier whose name appears in this register. Under section 4 of 1980 PA 278, MCL 423.324, the State may void this Contract if, after award of this Contract, the name of Contractor as an employer or the name of the SubContractor, manufacturer or supplier of Contractor appears in the register.

2.203 Workplace Safety and Discriminatory Harassment

In performing Services for the State, the Contractor must 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 must 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>.

2.204 Prevailing Wage

The rates of wages and fringe benefits to be paid each class of individuals employed by the Contractor, its subContractors, their subContractors, and all persons involved with the performance of this Contract in privity of Contract with the Contractor shall not be less than the wage rates and fringe benefits established by the Michigan Department of Labor and Economic Development, Wage and Hour Bureau, schedule of



occupational classification and wage rates and fringe benefits for the local where the work is to be performed. The term Contractor shall include all general Contractors, prime Contractors, project managers, trade Contractors, and all of their Contractors or subContractors and persons in privity of Contract with them.

The Contractor, its subContractors, their subContractors and all persons involved with the performance of this Contract in privity of Contract with the Contractor shall keep posted on the work site, in a conspicuous place, a copy of all wage rates and fringe benefits as prescribed in this Contract. You must also post, in a conspicuous place, the address and telephone number of the Michigan Department of Labor and Economic Development, the office responsible for enforcement of the wage rates and fringe benefits. You shall keep an accurate record showing the name and occupation of the actual wage and benefits paid to each individual employed in connection with this Contract. This record shall be available to the State upon request for reasonable inspection.

If any trade is omitted from the list of wage rates and fringe benefits to be paid to each class of individuals by the Contractor, it is understood that the trades omitted shall also be paid not less than the wage rate and fringe benefits prevailing in the local where the work is to be performed.

2.210 Governing Law

2.211 Governing Law

This Contract shall in all respects be governed by, and construed according to, 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.

2.212 Compliance with Laws

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

2.213 Jurisdiction

Any dispute arising from this Contract must 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 the jurisdiction on the grounds of lack of personal jurisdiction of the court or the laying of venue of the 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.

2.220 Limitation of Liability

2.221 Limitation of Liability

Neither the Contractor nor the State is liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability does 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.

2.230 Disclosure Responsibilities

2.231 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, to which Contractor (or, to the extent Contractor is aware, any SubContractor) 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; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any SubContractor by a governmental or public entity arising out of their business dealings with governmental or public entities. The Contractor must disclose in writing to the Contract Administrator any litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") within 30 days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated. 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. If any Proceeding disclosed to the State under 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) to continue to perform this Contract according to its terms and conditions, or
- (ii) whether Contractor (or a SubContractor) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in the Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then the Contractor must provide the State all reasonable assurances requested by the State to demonstrate that:

(a) Contractor and its SubContractors will be able to continue to perform this Contract and any Statements of Work according to its terms and conditions, and

(b) Contractor and its SubContractors have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in the Proceeding.

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

(1) Within 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 must notify DTMB PurchOps.

(2) Contractor must also notify DTMB PurchOps within 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 must also notify DTMB PurchOps within 30 days whenever changes to company affiliations occur.

2.232 Call Center Disclosure Deleted - Not Applicable.

2.233 Bankruptcy

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 the Works in Process by whatever appropriate method the State may deem expedient if:

(a) the Contractor files for protection under the bankruptcy laws;

(b) an involuntary petition is filed against the Contractor and not removed within 30 days;

(c) the Contractor becomes insolvent or if a receiver is appointed due to the Contractor's insolvency;

(d) the Contractor makes a general assignment for the benefit of creditors; or

(e) the Contractor or its affiliates are unable to provide reasonable assurances that the Contractor or its affiliates can deliver the services under this Contract.

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 must be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.



2.240 Performance

2.241 Time of Performance

- (a) Contractor must use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables according to 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 2.211(a)**, Contractor must 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 must inform the State of the projected actual delivery date.
- (c) If the Contractor believes that a delay in performance by the State has caused or will cause the Contractor to be unable to perform its obligations according to specified Contract time periods, the Contractor must notify the State in a timely manner and must use commercially reasonable efforts to perform its obligations according to the Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent the delay is caused by the State.
- (d) Should the State of Michigan issue an Executive Order thru the Office of State Employer mandating furlough days, the furlough days will not be considered a Business Day. The Contractor will not seek additional costs from the State for project schedule extensions to the extent such extensions are needed due to Contractor's inability to complete deliverables and milestones in accordance with the project schedule as a result of the above mentioned furlough days.

2.242 Service Level Agreements (SLAs) – Deleted - Not Applicable

2.243 Liquidated Damages

The parties acknowledge that late or improper completion of the Work will cause loss and damage to the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result. Therefore, Contractor and the State agree that if there is late or improper completion of the Work and the State does not elect to exercise its rights under **Section 2.141**, the State is entitled to collect liquidated damages in the amount of \$5,000.00 and an additional \$100.00 per day for each day Contractor fails to remedy the late or improper completion of the Work.

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 2.141**, 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 is \$25,000.00 per individual if the Contractor identifies a replacement approved by the State under **Section 2.060** and assigns the replacement to the Project to shadow the Key Personnel who is leaving for a period of at least 30 days before the Key Personnel's removal.

If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30 days, in addition to the \$25,000.00 liquidated damages for an Unauthorized Removal, Contractor must pay the amount of \$833.33 per day for each day of the 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 30 days of shadowing must not exceed \$50,000.00 per individual.



2.244 Excusable Failure

Neither party will be liable for any default, damage or delay in the performance of its obligations under this Contract to the extent the 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 a party; provided the non-performing party and its SubContractors are without fault in causing the default or delay, and the 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 a party does not perform its Contractual obligations for any of the reasons listed above, the non-performing party will be excused from any further performance of its affected obligation(s) for as long as the circumstances prevail. But the party must use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. A party must promptly notify the other party in writing immediately after the excusable failure occurs, and also when it abates or ends.

If any of the above-enumerated circumstances substantially prevent, hinder, or delay the Contractor's performance of the Services/provision of Deliverables for more than 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 is not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in performance continues; (b) the State may terminate any portion of this Contract so affected and the charges payable will 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 the Contractor, except to the extent that the State must pay for Services/Deliverables provided through the date of termination.

The 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 this 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.

2.250 Approval of Deliverables

2.251 Delivery Responsibilities

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

- (a) Shipment responsibilities - Services performed/Deliverables provided under this Contract must be delivered "F.O.B. Destination, within Government Premises." The Contractor will 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 must examine all packages. The quantity of packages delivered must be recorded and any obvious visible or suspected damage must be noted at time of delivery using the shipper's delivery document(s) and appropriate procedures to record the damage.

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 14 days of receipt. Any damage must be reported to the Contractor within five days of inspection.

2.252 Delivery of Deliverables

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 must be completed and delivered for State review and written approval and, where applicable, installed according to the State-approved delivery schedule and any other applicable terms and conditions of this Contract.

2.253 Testing- Deleted- Not Applicable

2.254 Approval of Deliverables, In General

(a) All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, according to the following procedures. Formal approval by the State requires the State to confirm in writing that the Deliverable meets its specifications. Formal approval may include the successful completion of Testing as applicable in **Section 2.253**, to be led by the State with the support and assistance of Contractor. The approval process will be facilitated by ongoing consultation between the parties, inspection 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) Before 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 according to **Section 2.223**.

(d) The State will approve in writing a Deliverable/Service after confirming that it conforms to and performs according to its specifications without material deficiency. The State may, but is 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 opportunities (the original and two repeat efforts), the Contractor is unable to correct all deficiencies preventing Final Acceptance of a Deliverable/Service, the State may: (i) demand that the Contractor cure the failure and give the Contractor additional time to cure the failure at the sole expense of the Contractor; or (ii) keep this Contract in force and do, either itself or through other parties, whatever the Contractor has failed to do, and recover the difference between the cost to cure the deficiency and the Contract price plus an additional sum equal to 10% of the cost to cure the deficiency to cover the State's general expenses provided the State can furnish proof of the 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 the breach. Notwithstanding the foregoing, the State cannot 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 the process reveals deficiencies in or problems with a Deliverable/Service in a sufficient quantity or of a sufficient severity that renders continuing the process unproductive or unworkable. If that happens, the State may stop using the Service or return the applicable Deliverable to Contractor for correction and re-delivery before resuming the testing or approval process.

2.255 Process For Approval of Written Deliverables- Deleted- Not Applicable

2.256 Process for Approval of Services- Deleted- Not Applicable

2.257 Process for Approval of Physical Deliverables

The State Review Period for approval of Physical Deliverables is governed by the applicable Statement of Work (and if the Statement of Work does not state the State Review Period, it is by default 30 continuous Business Days for a Physical Deliverable). The State agrees to notify the Contractor in writing by the end of the State Review Period either stating that the Deliverable is approved in the form delivered by the Contractor or describing any deficiencies that must be corrected before approval of the Deliverable (or at the State's election, after approval of the Deliverable). If the State delivers to the Contractor a notice of deficiencies, the Contractor will correct the described deficiencies and within 30 Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. The Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Deliverable from the 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.

2.258 Final Acceptance

Unless otherwise stated in the Article 1, Statement of Work or Purchase Order, "Final Acceptance" of each Deliverable must occur when each Deliverable/Service has been approved by the State following the State Review Periods identified in **Sections 2.251-2.257**. 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.

2.260 Ownership

2.261 Ownership of Work Product by State – Deleted – Not Applicable

2.262 Vesting of Rights- Deleted – Not Applicable

2.263 Rights in Data – Deleted – Not Applicable

2.264 Ownership of Materials- Deleted – Not Applicable

2.270 State Standards

2.271 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>.

2.272 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/ditservice>. 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.

2.273 Systems Changes

Contractor is not responsible for and not authorized to make changes to any State systems without written authorization from the Project Manager. Any changes Contractor makes to State systems with the State’s approval must be done according to applicable State procedures, including security, access and configuration management procedures.

2.280 Extended Purchasing – Deleted - Not Applicable

2.281 MiDEAL- Deleted - Not Applicable

2.282 State Employee Purchases –Deleted - Not Applicable

2.290 Environmental Provision – deleted, not applicable.

2.291 Environmental Provision

Energy Efficiency Purchasing Policy – The State seeks wherever possible to purchase energy efficient products. This includes giving preference to U.S. Environmental Protection Agency (EPA) certified ‘Energy Star’ products for any category of products for which EPA has established Energy Star certification. For other purchases, the State may include energy efficiency as one of the priority factors to consider when choosing among comparable products.

Environmental Purchasing Policy – The State of Michigan is committed to encouraging the use of products and services that impact the environment less than competing products. The State is accomplishing this by including environmental considerations in purchasing decisions, while remaining fiscally responsible, to promote practices that improve worker health, conserve natural resources, and prevent pollution. Environmental components that are to be considered include: recycled content and recyclability; energy efficiency; and the presence of undesirable materials in the products, especially those toxic chemicals which are persistent and bioaccumulative. The Contractor should be able to supply products containing recycled and environmentally preferable materials that meet performance requirements and is encouraged to offer such products throughout the duration of this Contract. Information on any relevant third party certification (such as Green Seal, Energy Star, etc.) should also be provided.

Hazardous Materials:

For the purposes of this Section, “Hazardous Materials” is a generic term used to describe asbestos, ACBMs, PCBs, petroleum products, construction materials including paint thinners, solvents, gasoline, oil, 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 the 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.

(a) The Contractor must use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material according to all federal, State and local laws. The State must provide a safe and suitable environment for performance of Contractor’s Work. Before the commencement of Work, the State must advise the Contractor of the presence at the work site of any Hazardous Material to the extent that the State is aware of the Hazardous Material. If the Contractor encounters material reasonably believed to be a Hazardous Material and which may present a substantial danger, the



Contractor must immediately stop all affected Work, notify the State in writing about 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 must order a suspension of Work in writing. The State must proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State must terminate the affected Work for the State's convenience.

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the Contractor must resume Work as directed in writing by the State. Any determination by the Michigan Department of Community Health or the Michigan Department of Environmental Quality that the Hazardous Material has either been removed or rendered harmless is binding upon the State and Contractor for the purposes of resuming the Work. If any 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 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 must bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material according to Applicable Laws to the condition approved by applicable regulatory agency(ies).

Michigan has a Consumer Products Rule pertaining to labeling of certain products containing volatile organic compounds. For specific details visit http://www.michigan.gov/deq/0,1607,7-135-3310_4108-173523--,00.html

Refrigeration and Air Conditioning:

The Contractor shall comply with the applicable requirements of Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to this Contract.

Environmental Performance:

Waste Reduction Program - Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this Contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, et seq.).

2.300 Other Provisions

2.311 Forced Labor, Convict Labor, Forced or Indentured Child Labor, or Indentured Servitude Made Materials

Equipment, materials, or supplies, that will be furnished to the State under this Contract must not be produced in whole or in part by forced labor, convict labor, forced or indentured child labor, or indentured servitude.

“Forced or indentured child labor” means all work or service: exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or performed by any person under the age of 18 under a Contract the enforcement of which can be accomplished by process or penalties.



Attachment A, Price

Item	Commodity Number	Unit	Description	Unit Price
001	966-13	TH	UA 1570 Benefit Checks, per the attached specifications (SOW). Minimum Order: 26,000 checks Mill: Boise Brand: Boise	\$ 56.38/M
002	966-13	TH	UA 1570R Replacement Checks, per the attached specifications (SOW). Minimum Order: 2,000 checks Mill: Boise Brand: Boise	\$ 470.13/M
003	966-13	TH	Form 1099-G, per the attached specifications (SOW) Minimum Order: 1,000,000 forms Mill: Enterprise Brand: Enterprise Laser	\$ 48.52/M
004	966-13	TH	Form UIA1570 BO Benefit Overpayment (Restitution) Refund Check, per the attached specifications (SOW). Minimum Order: 2,000 checks Mill: Boise Brand: Boise	\$ 470.13/M
005	966-13	TH	Form UA1570TR Tax Refund Check, per the attached specifications (SOW) Minimum Order: 2,000 checks Mill: Boise Brand: Boise	\$ 470.13/M