Form No. DTMB-3521 (Rev. 4/2012)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract change will not be executed unless form is filed

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

August 20, 2013

# CHANGE NOTICE NO. 2
to
# CONTRACT NO. 071B1300337
between
# THE STATE OF MICHIGAN
and

| NAME & ADDRESS OF CONTRACTOR: | PRIMARY CONTACT | EMAIL |
|---|---|---|
| Amberian | Chris Kirgios | ckirgios@amberian.com |
| 50648 Brookhaven Dr. | TELEPHONE | CONTRACTOR #, MAIL CODE |
| Granger, IN 46530 | (574) 277-5678 | |

| STATE CONTACTS | AGENCY | NAME | PHONE | EMAIL |
|---|---|---|---|---|
| CONTRACT COMPLIANCE INSPECTOR | DTMB | Joe Kelly | 517-373-3993 | kellyj11@michigan.gov |
| BUYER | DTMB | Joe Kelly | 517-373-3993 | kellyj11@michigan.gov |

## CONTRACT SUMMARY:

DESCRIPTION: **RESTART– MDE MOECS SR. PROGRAMMER**

| INITIAL EFFECTIVE DATE | INITIAL EXPIRATION DATE | INITIAL AVAILABLE OPTIONS | EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW |
|---|---|---|---|
| August 22, 2011 | August 24, 2012 | 2, 1 Yr. Options | August 24, 2013 |
| PAYMENT TERMS | F.O.B | SHIPPED | SHIPPED FROM |
| | | | |

| ALTERNATE PAYMENT OPTIONS: | AVAILABLE TO MiDEAL PARTICIPANTS |
|---|---|
| ☐ P-card ☐ Direct Voucher (DV) ☐ Other | ☐ Yes ☒ No |

MINIMUM DELIVERY REQUIREMENTS:
N/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 |
|---|---|---|---|---|
| ☐ No ☒ Yes | ☒ | ☐ | 1 Year | August 24, 2014 |

| VALUE/COST OF CHANGE NOTICE: | ESTIMATED REVISED AGGREGATE CONTRACT VALUE: |
|---|---|
| $160,704.00 | $482,112.00 |

**Effective immediately, this Contract is hereby INCREASED by $160,704.00 and is utilizing the second option year. The new end date is August 24, 2013.**

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

**Per vendor agreement, DTMB Procurement approval and the approval of the State Administrative Board dated August 20, 2013.**

Form No. DTMB-3521 (Rev. 4/2012)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract change will not be executed unless form is filed

**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. 071B1300337
between
# THE STATE OF MICHIGAN
and

| NAME & ADDRESS OF CONTRACTOR: | PRIMARY CONTACT | EMAIL |
|---|---|---|
| **Amberian** | **Chris Kirgios** | **ckirgios@amberian.com** |
| **50648 Brookhaven Dr.** | TELEPHONE | CONTRACTOR #, MAIL CODE |
| **Granger, IN 46530** | **(574) 277-5678** | |

| STATE CONTACTS | AGENCY | NAME | PHONE | EMAIL |
|---|---|---|---|---|
| CONTRACT COMPLIANCE INSPECTOR: | **DTMB** | **Joe Kelly** | **(517) 373-3993** | **kellyj11@michigan.gov** |
| BUYER: | **DTMB** | **Joe Kelly** | **(517) 373-3993** | **kellyj11@michigan.gov** |

## CONTRACT SUMMARY:

DESCRIPTION: **RESTART– MDE MOECS SR. PROGRAMMER**

| INITIAL EFFECTIVE DATE | INITIAL EXPIRATION DATE | AVAILABLE OPTIONS | CURRENT EXPIRATION DATE |
|---|---|---|---|
| **August 22, 2011** | **August 24, 2012** | **2, 1 Yr. Options** | **August 24, 2012** |
| PAYMENT TERMS | F.O.B | SHIPPED | SHIPPED FROM |
| **N/A** | **N/A** | **N/A** | **N/A** |

| ALTERNATE PAYMENT OPTIONS: | | | AVAILABLE TO MiDEAL PARTICIPANTS | |
|---|---|---|---|---|
| ☐ P-card | ☐ Direct Voucher (DV) | ☐ Other | ☐ YES | ☒ NO |

MINIMUM DELIVERY REQUIREMENTS:

**N/A**

## DESCRIPTION OF CHANGE NOTICE:

| OPTION EXERCISED: | IF YES, EFFECTIVE DATE OF CHANGE: | NEW EXPIRATION DATE: |
|---|---|---|
| ☐ NO ☒ YES | **August 25, 2012** | **August 24, 2013** |

**Effective immediately, this Contract is hereby INCREASED by $160,704.00 and EXTENDED to August 24, 2013.**

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

**Per vendor agreement and DTMB Procurement approval.**

| | |
|---|---|
| VALUE/COST OF CHANGE NOTICE: | **$160,704.00** |
| ESTIMATED REVISED AGGREGATE CONTRACT VALUE: | **$321,408.00** |

Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

**STATE OF MICHIGAN**
**DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET** **July 13, 2011**
**PURCHASING OPERATIONS**
**P.O. BOX 30026, LANSING, MI 48909**
**OR**
**530 W. ALLEGAN, LANSING, MI 48933**

# NOTICE
# OF
# CONTRACT NO. 071B1300337
# between
# THE STATE OF MICHIGAN
# and

| | |
|---|---|
| NAME & ADDRESS OF CONTRACTOR<br>**Amberian**<br>**50648 Brookhaven Dr.**<br>**Granger, IN 46530**<br>**Email:ckirgios@amberian.com** | TELEPHONE Chris Kirgios<br>**(574) 277-5678**<br>CONTRACTOR NUMBER/MAIL CODE<br><br>BUYER/CA (517) 335-4770<br>**Tammi Hart** |
| Contract Compliance Inspector: Tammi Hart<br>**RESTART MDE MOECS SR. Programmer** | |
| CONTRACT PERIOD: **1 yrs. + 2 one-year options** From: **August 22, 2011** To: **August 24, 2012** | |
| TERMS<br>**N/A** | SHIPMENT<br>**N/A** |
| F.O.B.<br>**N/A** | SHIPPED FROM<br>**N/A** |
| ALTERNATE PAYMENT OPTIONS:<br>☐ P-card ☐ Direct Voucher (DV) ☐ Other | |
| MINIMUM DELIVERY REQUIREMENTS<br>**N/A** | |
| MISCELLANEOUS INFORMATION:<br>**The terms and conditions of this Contract are those of ITB #071I1300196, this Contract Agreement and the vendor's quote. 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.**<br><br>**Estimated Contract Value: $160,704.00** | |

**THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 071I1300196. Orders for delivery will be issued directly by the Department of Dept. of Technology, Management & Budget 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:** |
|---|---|
| Amberian<br>Firm Name | Signature |
| Authorized Agent Signature<br>Chris Kirgios | Tammi Hart, Buyer<br>Name/Title<br>IT Division |
| Authorized Agent (Print or Type) | Division |
| Date | Date |

# SECTION I
# GENERAL INFORMATION

## I-A PURPOSE

This contract is for temporary professional services to assist Department of Technology Management and Budget (DTMB), and Michigan Department of Education (MDE) to establish a staff augment contract for one (1) resource for (1) one-year for a senior programmer analyst for up to 1984 hours to assist the Department of Technology, Management and Budget (DTMB), and the Michigan Department of Education (MDE), for the maintenance of the Michigan Online Educator Certification (MOECS) system for the MDE Office of Professional Preparation Services (OPPS) and other MDE projects as needed. This individual will participate in all phases of the software development life cycle.

The services must begin on August 22, 2011. The contract will be a time and materials contract, with a not to exceed contract price.

The contract will be August 22, 2011 to August 24, 2012, up to 1,984 hours, with two (2), one (1) year options**.** The State does not commit to procuring services in the quantities estimated or in any other amounts.

## I-B ISSUING OFFICE

This contract is issued by Purchasing Operations, State of Michigan, Department of Technology, Management and Budget (DTMB), hereafter known as Purchasing Operations, for the Department of Technology, Management and Budget (DTMB) and the Michigan Department of Education (MDE). Where actions are a combination of those of Purchasing Operations, DTMB, and MDE, the authority will be known as the State.

Purchasing Operations is the sole point of contact in the State with regard to all procurement and contractual matters relating to the services described herein. Purchasing Operations is the only office authorized to change, modify, amend, alter, clarify, or otherwise alter the specifications, terms, and conditions of this contract. All communications concerning this procurement must be addressed to:

Tammi Hart, Buyer
DTMB, Purchasing Operations
2nd Floor, Mason Building
P.O. Box 30026
Lansing, Michigan 48909
HartT3@michigan.gov

## I-C PROJECT MANAGER

DTMB and MDE have assigned a Project Manager who have been authorized by Purchasing Operations to administer the resulting Contract(s) on a day-to-day basis during the term of the Contract. However, administration of any Contract implies no authority to change, modify, clarify, amend, or otherwise alter the terms, conditions, and specifications of such contract. That authority is retained by Purchasing Operations.

**The MDE Project Manager for this contract is:**

Flora Jenkins, Michigan Department of Education
Office of Coordinated School Health and Safety Programs
608 West Allegan Street, 4th Floor
P.O. Box 30008
Lansing, MI 48909
JenkinsF@michigan.gov

**The DTMB Project Manager for this contract is**:

Maria Thomas, DTMB Agency Services – Education
Hannah Building, 1st Floor
608 West Allegan
Lansing, MI 48913
**ThomasM16@michigan.gov**

**I-D INCURRING COSTS AND LEGISLATIVE APPROPRIATIONS**
The State of Michigan is not liable for any costs incurred by any bidder prior to signing of a contract by all parties and delivery of services under the contract. Any costs to be paid by the State are limited to those authorized by the terms and conditions of any resulting Contract.

The State fiscal year is October 1st through September 30th. The prospective contractor is advised that payments in any given fiscal year are contingent upon enactment of legislative appropriations.

**I-E PROPOSALS**
RESERVED

**I-F ACCEPTANCE OF ITB and PROPOSAL CONTENT**
RESERVED

**I-G CONTRACTOR RESPONSIBILITIES**
The Contractor will be required to assume responsibility for all contractual activities offered in this contract whether or not the 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 from the anticipated contract. Contractor must make timely payment to staff performing services for the State.

Note: If any personnel contracted through this RFP are not your employees, but that of another company, you must include a list of those companies (subcontractors), including firm name and address, contact person, complete description of skill sets to be subcontracted, and descriptive information concerning subcontractor's organizational abilities in your response. The State reserves the right to approve subcontractors for this work 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. Failure to identify companies providing personnel for your use in Contracts will be cause for cancellation of your Contract and possible removal from the RE:START program.

**I-H NEWS RELEASES**
News releases pertaining to this contract or the services, study, data, or project to which it relates will not be made without prior written State approval, and then only in accordance with explicit written instructions from the State. No results of the project are to be released without prior approval of the State and then only to persons designated.

**I-I SELECTION CRITERIA**
RESERVED

**I-J INDEPENDENT PRICE DETERMINATION**
RESERVED

**I-K SEALED BID RECEIPT (SEE ALSO PARAGRAPH IV-G)**
RESERVED

**I-L DISCLOSURE**
All information in a contractor's proposal and any Contract resulting from this ITB is subject to disclosure under the provisions of the "Freedom of Information Act.", 1976 Public Act No. 442, as amended, MCL 15.231, et seq.

**I-M AWARD**
RESERVED

**I-N MODIFICATIONS, REVISIONS, CONSENTS AND APPROVALS**
This contract may not be modified, amended, extended, or augmented, except by a writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party.

Additional services which are outside the Scope of Services of this Contract shall not be performed by the Contractor without the prior, written approval of the State. Additional services, when authorized by an executed contract, change order, or an amendment to this Contract, shall be compensated by a fee mutually agreed upon between the State and the Contractor.

**I-O CONTRACT DOCUMENTS**

The following constitute the complete and exclusive statement of the agreement between the parties as it relates to this transaction:

1. State's ITB and any Addenda thereto;
2. Contractor's response to the State's ITB and Addenda; and
3. All amendments and change orders as written and properly approved.

and by reference:

3. State's Pre-qualification RFI and any Addenda thereto;
4. Contractor's response to the State's Pre-qualification RFI and Addenda

All responses, representations, and assurances contained in the Proposal are incorporated into and are enforceable provisions of this Contract. In the event of any conflict between the provisions of the ITB, and the Contractor's response to the ITB, the terms of the ITB and any Contract amendments shall prevail.

**I-P SPECIAL TERMS AND CONDITIONS**

1. Normal State work hours are 8:00 a.m. to 5:00 p.m. Monday through Friday.

2. All work will be performed at the site identified in Section III of this contract, unless otherwise agreed to by both parties.

3. The Contractor must permit representatives of DTMB, and MDE, and other authorized public agencies interested in the services requested in this contract to have full access to the services requested showing the Contractor's performance, during normal business hours.

4. The Contractor, during the performance of services detailed in this contract, will be responsible for any loss or damage to original documents, belonging to the State when they are in the Contractor's possession. Restoration of lost or damaged original documents shall be at the Contractor's expense.

5. All questions, which may arise as to the quality and acceptability of work, the manner of performance and rate of progress of the work, the interpretation of designs and specifications, and as to the satisfactory and acceptable fulfillment of the terms of this agreement shall be decided by DTMB and the State agencies involved.

6. The Contractor shall agree that it will not volunteer, offer, or sell its services to any litigant against the State its agencies, employees and officials, with respect to any services that it has agreed to perform for the State, provided that this provision shall not apply either when the Contractor is issued a valid subpoena to testify in a judicial or administrative proceeding or when the enforcement of this provision would cause the Contractor to be in violation of any Michigan or Federal law.

7. All work prepared by the Contractor during the execution of this contract shall be considered works made by hire and shall belong exclusively to the State and its designees, unless specifically provided otherwise by mutual agreement of the authorized representatives of the Contractor and the State. This includes, but is not limited to, all new business processes created, all planning and design work performed, all technology developed, the source and object code of all software programs and systems, any business objects or databases created, all related documentation (written or automated), and all documents and reports.

If by operation of law any of the work, including all related intellectual property rights is not owned in its entirety by the State automatically upon creation thereof, the Contractor agrees to assign, and hereby assigns to the State and its designees the ownership of such work, including all related intellectual property rights. The Contractor agrees to provide, at no additional charge, any assistance and to execute any action reasonably required for the State to perfect its intellectual property rights with respect to the aforementioned work. If the Contractor uses any subcontractors to perform and prepare any of the work, the Contractor shall insure through agreement with the subcontractors that all intellectual property rights in any of the work shall belong exclusively to the State. Failure of the Contractor to insure such rights may be considered by the State to be a material breach of this contract.

8. The Contractor shall agree that they will not furnish or disclose any items owned by the State to a third party without the written permission of the State. This includes both items created as part of this contract and items owned by the State that are incidental to the contract. The Contractor shall also agree not to use items owned by the State for other purposes without the prior written permission of the State.

9. Individuals assigned by the Contractor are employees of the Contractor, and are not, under any circumstances or conditions, employees of the State.

   The State will retain the right to release outright or request the replacement of any person who is working at an inferior level of performance. The Contractor will be given 24 hours advance notice of this action.

12. The Contractor's name, logo, or other company identifier may not appear on documentation delivered to the State without written authorization from the Contract Administrator. An exception to this will be transmittal of cover letters showing delivery of said documents.

13. The Contractor will certify in writing that it is in conformance with all applicable federal and state civil rights and practices equal employment opportunity for all persons regardless of race, creed, color, religion, national origin, gender or handicap; it is also in conformance with the requirements of the Americans with Disabilities Act. Failure to comply with the aforementioned laws may result in termination of the contract.

14. The Contractor shall use all software in accordance with the State's license agreements and any further restrictions imposed by the State. The Contractor shall not make any unauthorized copies of any software under any circumstances. Contractors found copying or knowingly using copyrighted software other than for backup purposes are subject to progressive disciplinary action. Contractors shall not provide software to any outsiders including consultants, local governmental units, and others when this would be a violation of law or copyright agreements.

15. Contractors are responsible for maintaining the confidentiality of their passwords and are liable for any harm resulting from disclosing or allowing disclosure of any password. Any conduct that restricts or inhibits the legitimate business use of State systems or network is prohibited. Each person must use State systems and networks only for lawful purposes. Specifically prohibited is any use of State systems or disclosure of any data which would constitute a criminal offense, give rise to civil liability, violate any State of Michigan policy, or otherwise violate any applicable local, state, or federal law. This also applies to any computer systems or networks that are accessed from State computer systems or networks.

16. The DTMB and the MDE have developed, and will continue to develop during the course of this effort, a growing number of information technology standards. The selected Contractor must follow any and all standards adopted by DTMB and the MDE. Where standards do not exist, the final acceptance of a new technique, technology, or design will rest with the Project Manager, following consultation and review with DTMB.

## I-Q DEPARTMENT AND CONTRACTOR RESPONSIBILITIES

**Department Responsibilities**:

1. Provide office space within the Departments for temporary employees selected to work on these projects. NOTE: Access to office space during non-working hours must be approved.

2. Provide conference room space when sufficient notice is given and space is available.

3. Provide telephones for calls originating from within the Department Technology, Management and Budget, and all supported agencies that are project-related.

4. Provide copying services that are project-related.

5. Provide access to Facsimile equipment for items that are project-related.

6. Provide computer hardware and software, as deemed necessary, for all temporary staff/personnel working within the Department.

**Contractor Responsibilities**:

1. Provide temporary professional services Monday through Friday, during the same work hours as those worked by State employees working at the identified facility.

2. Provide those services requested based on staff having the qualifications identified in this contract.

3. Provide services on an as needed, if needed, basis. The exact timing and scheduling of the services shall be between the State and the contractor at the time of need.

4. All personnel provided by the Contractor shall be subject to the rules, regulations, and policies of the DTMB, MDE and the State.

5. The Contractor shall replace all personnel whose work was found to be unsatisfactory within 24 hours of notification. Replacement of discontinued staff will be at the State's sole discretion; the State is not obligated to replace terminated or withdrawn individuals.

   In the event an individual has been terminated or has voluntarily withdrawn from an assignment, the State will advise the Contractor which of the following three options will be employed:
   - The State can request the same Contractor replace the individual with an individual of equal or greater qualifications.
   - The State can choose from the other candidates submitted in response to the ITB, if they are still available and the proposed rates are still valid.
   - The State can re-issue the ITB and obtain a new list of candidates and rates from eligible Contractors.

6. Contractor shall ensure that staff proposed for assignment are fully trained and meet the skill set requirements of the job position being filled.

7. The State and/or its agencies make changes to their technical architectures from time to time. If a contract individual is assigned to a State project or support area and the technology associated with their assignment changes, the Contractor is responsible for training in the new or changed technology (e.g., Contractor personnel needs training in a particular CASE tool in order to perform their State assignment.

   The cost of the course, including any travel expenses, will be the responsibility of the Contractor and the training hours will not be billable to the State). This responsibility includes all fees associated with the actual training course, travel expenses, and also the hours the individual spends in training. The maximum liability to the Contractor firm for training hours for any individual will be two weeks per year.

8. Provide parking when working on-site.

9. Phone calls not related to the project are not to be charged to the State.

10. The Contractor recognizes its responsibility for all tasks and deliverables contained therein, warrants that it has fully informed itself of all relevant factors affecting accomplishment of the tasks and deliverables and agrees to be fully accountable for the performance thereof. In addition, the Contractor assumes full responsibility for the acts of all subcontractors. Contractor shall have sole responsibility for the supervision, daily direction and control, payment of salary (including withholding of income taxes and social security), worker's compensation, disability benefits and the like for its personnel.

    Contractor's management responsibilities include, but are not limited to, the following:
    - Ensure personnel understand the work to be performed to which they are assigned.
    - Ensure personnel know their management chain and adhere to Contractor policies and exhibit professional conduct to perform in the best interest of the State.
    - Ensure personnel adhere to applicable laws, regulations, and Contract conditions governing Contractor performance and relationships with the State.
    - Regularly assess personnel performance and provide feedback to improve overall task performance.
    - Ensure high quality results are achieved through task performance.
    - Provide training.

**I-R USE OF AGENCY STANDARD INFORMATION TECHNOLOGY ENVIRONMENT**

Unless otherwise stated in this contract, all items produced by the Contractor must run on and be compatible with the information technology environment described in Section III.B. of this contract.

It is recognized that technology changes rapidly. The staff may request a change in the standard environment using the process identified by DTMB. Any changes must be approved, in writing by DTMB, before work may proceed based on the changed environment.

Additionally, the State needs to be able to maintain software and other items produced as the result of the contract. Therefore, software development tools may not be used unless request is made, in writing, and approved by DTMB, in writing.

## SECTION II
## CONTRACTUAL SERVICES TERMS AND CONDITIONS

### II-A CONTRACT PAYMENT

The State shall not be liable to pay the Contractor for any work performed prior to the Contractor's receipt of a fully executed Blanket Purchase Order (BPO).

The services shall be provided and invoiced on a monthly basis, as used. After the services have been rendered, the Contractor shall invoice the State in accordance with the payment provisions of the Contract. Invoices must list the project, agency, ITB number and monthly rate. All invoices MUST include copies of timesheets signed by the project manager verifying hours were worked and that services were acceptably performed.

The State shall not be liable to pay the Contractor for any hours worked in excess of the rate stated in the BPO. The State will not pay the Contractor for overtime, holiday or other premium charges or other benefits.

The Contractor shall not receive payment for Services the State finds unsatisfactory or which were performed in violation of federal, state or local law, ordinance, rule or regulation.

### II-B ACCOUNTING RECORDS

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

### II-C INDEMNIFICATION

1. For Purposes of Indemnification as set forth in this section, State means the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents.

2. General Indemnification
   The Contractor shall indemnify, defend and hold harmless the State from and against all losses, liabilities, penalties, fines, damages, and claims (including taxes), and all related costs, and all related costs and expenses (including reasonable attorneys; and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any claim, demand, action, citation or legal proceeding against the State arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by Contractor, by any of its subcontractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable provided that the Contractor is notified within 30 days from the time that the State has knowledge of such claims. This indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused by the conduct of the State.

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

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

4. Continuation of Indemnification Obligation
   The duty to indemnify will continue in full force and effect, not withstanding the expiration or early cancellation of the Contract, with respect to any claims based on facts or conditions that occurred prior to expiration or cancellation.

**II-D LIMITATION OF LIABILITY**

The Contractor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in contract or tort, shall be limited the value of the Contract or $200,000 which ever is higher. The foregoing limitation of liability shall not apply to claims for infringement of United States patent, copyright or trade secrets; to claims for death or bodily injury or damage to any real or tangible personal property caused by the negligence or fault of the Contractor; to claims related to the Contractor's unauthorized release of confidential information; to claims covered by other specific provisions of this Contract, if any, calling for liquidated damages; to the Contractor's indemnification obligations under Section II-C; and to the receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on this Contract.

Neither the Contractor nor the State shall be liable to the other for indirect or consequential damages even, if such party has been advised of the possibility of such damages. This limitation as to indirect or consequential damages does not apply to claims for infringement of United States patent, copyright or trade secrets; to claims related to the Contractor's unauthorized release of confidential information; to other specific provisions of this Contract, if any, calling for liquidated damages; or to the receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on this Contract.

**II-E CONTRACTOR'S LIABILITY INSURANCE**

BEFORE STARTING WORK THE CONTRACTOR MUST FURNISH TO THE DIRECTOR OF PURCHASING OPERATIONS, CERTIFICATE(S) OF INSURANCE VERIFYING LIABILITY COVERAGE. THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING. These Certificates shall contain a provision that coverage's afforded under the policies will not be canceled until at least fifteen days prior written notice bearing the Contract Number or Purchase Order Number has been given to the Director of Purchasing Operations.

The Contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the Contractor's operations under the Contract (Purchase Order), whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

1. Claims under workers' disability compensation, disability benefit and other similar employee benefit act. A non-resident Contractor shall have insurance for benefits payable under Michigan's Workers' Disability Compensation Law for any employee resident of and hired in Michigan; and as respects any other employee protected by workers' disability compensation laws of any other state the Contractor shall have insurance or participate in a mandatory state fund to cover the benefits payable to any such employee.

2. Claims for damages because of bodily injury, occupational sickness or disease, or death of his employees.

3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees, subject to limits of liability of not less than $100,000 each occurrence and, when applicable $300,000 annual aggregate, for non-automobile hazards and as required by law for automobile hazards.

4. Claims for damages because of injury to or destruction of tangible property, including loss of use resulting, subject to a limit of liability of not less than $50,000 each occurrence for non-automobile hazards and as required by law for automobile hazards.

5. Insurance for Subparagraphs (3) and (4) non-automobile hazards on a combined single limit of liability basis shall not be less than $100,000 each occurrence and when applicable, $300,000 annual aggregate.

The insurance shall be written for not less than any limits of liability herein specified or required by law, whichever is greater, and shall include contractual liability insurance as applicable to the Contractor's obligations under the Indemnification clause of the BPO.

**II-F CANCELLATION**

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

1. Material Breach by the Contractor. In the event that the Contractor breaches any of its material duties or obligations under the Contract the State may, having provided written notice of cancellation to the Contractor, cancel this Contract in whole or in part, for cause, as of the date specified in the notice of cancellation.

   In the event that this Contract is cancelled for cause, in addition to any legal remedies otherwise available to the State by law or equity, the Contractor shall be responsible for all costs incurred by the State in canceling the Contract, including but not limited to, State administrative costs, attorneys fees and court costs, and any additional costs the State may incur to procure the services required by this Contract from other sources. All excess re-procurement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and shall be subject to the dollar limitation of liability as provided in Section II-D.

   In the event the State chooses to partially cancel this Contract for cause charges payable under this Contract will be equitably adjusted to reflect those services that are cancelled.

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

2. Cancellation For Convenience By the State. The State may cancel this Contract for its convenience, in whole or part, if the State determines that such a cancellation is in the State's best interest. Reasons for such cancellation shall be left to the sole discretion of the State and may include, but not necessarily be limited to (a) the State no longer needs the services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Contract services no longer practical or feasible, and (c) unacceptable prices for additional services requested by the State. The State may cancel the Contract for its convenience, in whole or in part, by giving the Contractor written notice 30 days prior to the date of cancellation. If the State chooses to cancel this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those services that are cancelled.

3. In the event that funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available. The 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 project. If funds are not appropriated or otherwise made available, the State shall have the right to cancel this Contract at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of cancellation to the Contractor. The State shall give the Contractor written notice of such non-appropriation or unavailability within 30 days after it receives notice of such non-appropriation or unavailability.

4. In the event the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or subcontract; or convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects upon the Contractor's business integrity.

5. In the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, section 5, and Civil Service Rule 4-6. Cancellation may be in whole or in part and may be immediate as of the date of the written notice to the Contractor or may be effective as of the date stated in such written notice.

**II-G ASSIGNMENT**

The Contractor shall not have the right to assign this Contract or to 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 State. Any purported assignment in violation of this section shall be null and void. Further, the Contractor may not assign the right to receive money due under the Contract without the prior written consent of the State Purchasing Operations Director.

**II-H DELEGATION**

The Contractor shall not delegate any duties or obligations under this Contract to a subcontractor other than a subcontractor named in the bid unless the State Purchasing Operations Director has given written consent to the delegation.

**II-I NON-DISCRIMINATION CLAUSE**

In the performance of any Contract or purchase order resulting herefrom, the bidder agrees not to discriminate against any employee or applicant for employment, with respect to their 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 unrelated to the individual's ability to perform the duties of the particular job or position. The bidder further agrees that every subcontract entered into for the performance of any Contract or purchase order resulting herefrom will contain a provision requiring non-discrimination in employment, as herein specified, binding upon each subcontractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 Public Act 453, as amended, MCL 37.2101, et seq, and the Persons with Disabilities Civil Rights Act, 1976 Public Act 220, as amended, MCL 37.1101, et seq, and any breach thereof may be regarded as a material breach of the Contract or purchase order.

**II-J UNFAIR LABOR PRACTICES**

Pursuant to 1980 Public Act 278, as amended, MCL 423.231, et seq, the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to section 2 of the Act. This information is compiled by the United States National Labor Relations Board.

A Contractor of the State, in relation to the Contract, shall not enter into a Contract with a subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to section 4 of 1980 Public Act 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of the Contractor as an employer, or the name of the subcontractor, manufacturer or supplier of the Contractor appears in the register.

**II-K SURVIVOR**

Any provisions of the Contract that impose continuing obligations on the parties including, but not limited to the Contractor's indemnity and other obligations shall survive the expiration or cancellation of this Contract for any reason.

**II-L GOVERNING LAW**

This Contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan. Any dispute arising herein shall be resolved in the State of Michigan.

**II-M NO WAIVER OF DEFAULT**

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

**II-N SEVERABILITY**

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

**II-O HEADINGS**

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

**II-P RELATIONSHIP OF THE PARTIES**

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The 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.

**II-Q MISCELLANEOUS**

1. The Contractor covenants that it is not, and will not become, in arrears to the State upon any contract, debt, or any other obligation to the State, including real property and personal property taxes.

2. DAMAGES FOR UNAUTHORIZED PERSONNEL CHANGES
    a. The Contractor shall not replace the personnel designated in this Contract without the prior, written approval of the State.
    b. If the Contractor violates this requirement, it shall pay the State, as liquidated damages and not as a penalty, a sum equal to the amount payable under this Contract.
    c. The State may recover the amount due from the Contractor under this section by setting off against any amount due under this Contract or other contracts it may have with the Contractor.

3. AUTHORIZATION & CAPABILITY
    a. The Contractor warrants that it has taken all corporate actions necessary for the authorization, execution, delivery and performance of this Contract. It is ready to perform its obligations.
    b. The Contractor further warrants that the person signing this Contract is authorized to do so on behalf of the Contractor and is empowered to bind the Contractor to this Contract.

## SECTION III
## WORK STATEMENT

**A. Brief Description of Work**

DTMB Agency Services/MDE is seeking to secure the services of a Senior Programmer Analyst to provide development support and quality assurance services for the MDE Office of Professional Preparation Services (OPPS) and other MDE IT projects as needed.

**B. Background on the work requested**

The MDE Office of Professional Preparation Services (OPPS) recently released a new application, the Michigan Online Educator Certification (MOECS) System. This is a fully secured, role/function based web application developed and managed by the State of Michigan. Technical resources are needed to maintain and support the necessary changes in MOECS. This position will be responsible for activities throughout the software development management lifecycle. This position may be used for other MDE application development activities as needed.

**C. Objectives**

The purpose of this Invitation to Bid (ITB) is to obtain quotations for temporary employee services to provide DTMB Agency Services and its customer, MDE, with one full-time, on-site Senior Programmer Analyst to provide development support and quality assurance services for MDE's Office of Professional Preparation Services (OPPS) and other MDE IT projects as needed.

**D. DTMB/MDE technical environment for the work**

The current workplace technology for MDE environment includes:

- Windows 2003 Server or 2008
- Internet Information Services 6.0 or 7.0
- SQL Server Enterprise Edition 2008
- Microsoft SQL 2008 Reporting Services
- Cisco CSS 11000 series content services switch

SAN (storage area network) technology for data storage
NAS (network area storage) technology for file storage

The following software tools and skills are used:

- Microsoft Visual Studio (2008, & 2010)
- Microsoft SQL Reporting Services (2008)
- Microsoft SQL (2008)
- Microsoft Message Queue (MSMQ)
- Microsoft Team Foundation Server 2010
- Microsoft Office 2003 and 2010
- Microsoft Project
- Microsoft Visio
- HTML
- JavaScript
- XML
- SMTP

State Network Environment:
The State of Michigan (SOM) has a very complex network. The network has different perimeter entry points, and an internal network made up of a large WAN, a large MAN, and 3 hosting centers located in the Lansing metropolitan area.

Vendor Extranet: This zone allows vendors to connect to the SOM network via either point to point WAN circuits, or Gateway to Gateway VPN over the internet. The SOM currently allows vendors to place their network equipment on our premise, or they can terminate their connection at our dmarc at an SBC facility.

This zone is separated from the SOM network with a firewall. This access is application only; remote control access is not allowed.

Local Government Extranet: This Zone allows local government entities access to applications on the SOM network. This is provided by the provisioning of separate WAN circuits on the SOM WAN cloud. This zone is separated from the SOM network with a firewall.

SOM Lansing Metropolitan Area Network (LMAN): This is the SOM's high-speed backbone network that is utilized by SOM employees to access SOM resources and internet resources. The backbone is made up of redundant fiber links capable of transporting 2GBPS of traffic. Several State buildings as well as the State's 3 hosting centers are also connected to the backbone thru a distribution layer network.

Agency Internet DMZ: Consists of 2 zones. Zone 1 for public-facing server access to the Internet. This zone is firewall protected from the Internet, as well as from the LMAN. Servers in this zone can connect with 100mb Ethernet. The state currently has Internet services provided by Merit and Sprint to provide redundancy. Zone 1.49 for SOAP traffic. This zone is firewall protected and communication to servers within this zone is IP restricted. Both zones are available at all 3 hosting centers.

Agency Secure Zone: This zone is the most secure zone and is protected by multiple firewalls. This zone limits the ports, protocols, and communication to/from servers in this zone. This zone is available in all 3 hosting centers.

**E. Description of the requested work, including deliverables and knowledge transfer**

- Supporting analysis, development, testing and, maintenance activities associated with the MOECS application.
- Participate in requirements gathering sessions.
- Preparing and validating test case scenarios
- Create test files to test validity of system data and validate the functional requirements of a system.
- Development of test plans and components, and conducting unit, system and user acceptance testing.
- Maintaining data quality between all data sources.
- Develop and/or maintain interfaces with other systems.
- Create Ad-hoc queries in response to MDE data requests.
- Develop and execute SQL Server 2008 SSIS packages.
- Use software debugging tools to isolate problems
- Share technology solutions with the DTMB team as needed.
- Adhere to all processes and procedures identified within the DTMB methodology, including source code management processes and procedures.
- Provide technical and or development support for other education-related applications, as needed.

**F. Any specific regulations, requirements or expertise applicable, including specific background/security checks required.**

All prospective contractors will be required to pass background and security clearance prior to the start date of this contract at the contractors' expense.

**G. Reports required**

A bi-weekly progress report must be submitted to the DTMB Agency Services Project Manager throughout the life of this project. This report may be submitted with the billing invoice. Each bi-weekly progress report must contain the following:

- Hours: Indicate the number of hours expended during the past two weeks, and the cumulative total to date for the project. Also state whether the remaining hours are sufficient to complete the project

- Accomplishments: Indicate what was worked on and what was completed during the current reporting period.

- Funds: Indicate the amount of funds expended during the current reporting period, and the cumulative total to date for the project

**H. Location where the work is to be performed**
Hannah Building
608 West Allegan
Lansing, MI 48913

**I. Hours**
8:00am – 5:00pm, Monday – Friday

**J. State's contract/project manager for the work:**
Maria Thomas

**K. The numbers of personnel by skill set (classification):**
One Programmer – Analyst Senior

L. **Candidates will be evaluated on the following criteria:**

**Programmer – Analyst Senior (Not to exceed rate $85/hour)**
Plans, develops, tests, and documents computer programs, applying knowledge of programming techniques and computer systems: Evaluates user request for new or modified program, such as for financial or human resource management system, clinical research trial results, statistical study of traffic patterns, or analyzing and developing specifications for bridge design, to determine feasibility, cost and time required, compatibility with current system, and computer capabilities. Consults with user to identify current operating procedures and clarify program objectives. Reads manuals, periodicals, and technical reports to learn ways to develop programs that meet user requirements. Formulates plan outlining steps required to develop program, using structured analysis and design. Submits plans to user for approval. Prepares flowcharts and diagrams to illustrate sequence of steps program must follow and to describe logical operations involved. Designs computer terminal screen displays to accomplish goals of user request. Converts project specifications, using flowcharts and diagrams, into sequence of detailed instructions and logical steps for coding into language processable by computer, applying knowledge of computer programming techniques and computer languages. Enters program codes into computer system. Enters commands into computer to run and test program. Reads computer printouts or observes display screen to detect syntax or logic errors during program test, or uses diagnostic software to detect errors. Replaces, deletes, or modifies codes to correct errors. Analyzes, reviews, and alters program to increase operating efficiency or adapt to new requirements. Writes documentation to describe program development, logic, coding, and corrections. Writes manual for users to describe installation and operating procedures. Assists users to solve operating problems. Recreates steps taken by user to locate source of problem and rewrites program to correct errors. May use computer-aided software tools, such as flowchart design and code generation, in each stage of system development. May train users to use program. May oversee installation of hardware and software. May provide technical assistance to program users. May install and test program at user site. May monitor performance of program after implementation. May specialize in developing programs for business or technical applications.

Programmer-Analyst capabilities with 8 or more years of experience, relies on experience and judgment to plan and accomplish goals, performs a variety of complicated tasks, may lead and direct the work of others, may report directly to a project lead or manager, a wide degree of creativity and latitude is expected.

**The candidate will be scored on the following *REQUIRED* skills:**

1. Minimum 8 years of analysis, design, programming, testing, implementing and supporting web based applications in Microsoft/Windows platform. (must have worked on at least 3 full SDLC projects)
2. Minimum 5 years in designing, developing, and implementation of web applications (using ASP.NET, JavaScript, HTML).
3. Minimum 5 years of Microsoft C#.NET programming language.
4. Minimum 2 years with .NET Framework 3.5.
5. Minimum 5 years in developing systems with Microsoft SQL Server, of which at least on year is SQL Server 2008.
6. Minimum 3 years in writing Structured Query Language (SQL) and stored procedures in Microsoft SQL 2005 or higher.
7. Minimum 3 years in writing SQL Server Integration Services (SSIS) packages.
8. Minimum 5 years in developing reports with Microsoft Reporting Services, of which at least one year is Reporting Services 2005 or higher.
9. Minimum 5 years in performing analysis and requirements gathering with customers and documenting.
10. Minimum 3 years in creating test files to test validity of system data and validate the functional requirements of a system.
11. Minimum 3 years in development of test plans and components, and conducting unit, system and user acceptance testing.
12. Knowledge/Training in XML, ADO.Net, SMTP, SOAP, Windows Services, HTTP/HTTPS.
13. Knowledge of systems development methodology utilized in the development of new systems and enhancements, UML, configuration management, standard software lifecycle processes, structured programming methodology, relational database, support utilities, personal computers and personal computer software.
14. Good oral and written communication skills, and ability to organize and present information.
15. Ability to work under pressure and tight timelines and diagnose and resolve complex problems quickly.
16. Ability to recognize, gather, and assemble facts; then design, test and implement queries and reports.
17. Ability to analyze and evaluate a variety of data.
18. Ability to exercise independent judgment.
19. Ability to prepare detailed instructions and documentation.
20. Ability to keep customers and team members informed and respond to customer requests in a timely manner with positive communications.
21. Ability to show respect to all team members, actively contribute in team meetings and share information.
22. Ability to be organized, creative, adaptable to changing priorities, and dedicated to the responsibilities of the position.
23. Ability to establish and maintain effective, trusted relationships with clients and matrix support teams and treat others fairly.

Desired Skills

1. Experience with Microsoft Team Foundation Server.
2. Ability to conduct training & information sessions, communicate at a level appropriate to the audience, make oral and written reports and presentations.

M. **Start and End date for the work:**

- August 22, 2011 through August 24, 2012, with two (2) one-year option years.

**IV-C PRICE PROPOSAL**

1. Pricing
   Classification/skill set: _Senior Programmer_
   Hourly/Monthly Rate: $81/hour