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 **April 13, 2010**
PURCHASING OPERTIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

CHANGE NOTICE NO. 5
TO
CONTRACT NO. 071B5200240
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **Pond Consulting Services, Inc.** **487 Cherryview Drive** **Portage, MI 49024** **poly@net-link.net**	TELEPHONE (269) 329-2028 **Patrick J. Pond** VENDOR NUMBER/MAIL CODE **(001)** BUYER/CA (517) 241-1145 **Lymon C. Hunter, CPPB**
Contract Compliance Inspector: Destinie Shipman **Polygraph Testing Services – MDOC – Muskegon County**	
CONTRACT PERIOD: From: **April 1, 2005** To: **September 30, 2010**	
TERMS **Net 45 Days**	SHIPMENT **Per the Attached Terms and Conditions**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

NATURE OF CHANGE (S):

Effective April 6, 2010, this Contract is hereby EXTENDED to September 30, 2010.

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

AUTHORITY/REASON:

Per agency request (PRF dated 3/3/10), vendor agreement, Ad Board approval on 4/6/10, and DTMB/Purchasing Operations' approval.

CURRENT AUTHORIZED SPEND LIMIT REMAINS: $270,000.00

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 MANAGEMENT AND BUDGET
PURCHASING OPERTIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

March 4, 2008

CHANGE NOTICE NO. 4
TO
CONTRACT NO. 071B5200240
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **Pond Consulting Services, Inc.** **487 Cherryview Drive** **Portage, MI 49024** **poly@net-link.net**	TELEPHONE (269) 329-2028 **Patrick J. Pond** VENDOR NUMBER/MAIL CODE **(001)** BUYER/CA (517) 241-1145 **Lymon C. Hunter, CPPB**
Contract Compliance Inspector: Destinie Shipman **Polygraph Testing Services – MDOC – Muskegon County**	
CONTRACT PERIOD: From: **April 1, 2005** To: **April 1, 2010**	
TERMS **N/A**	SHIPMENT **Per the Attached Terms and Conditions**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

NATURE OF CHANGE (S):

Effective April 1, 2009, the 2nd year option on this Contract is hereby exercised. The new Contract end date is April 1, 2010.

Also effective April 1, 2009, $100,000.00 is hereby added to this Contract. All other terms, conditions, specifications, and pricing remain the same.

AUTHORITY/REASON:

Per agency request (PRF dated 1/29/09), vendor agreement (letter dated 2/5/09), Ad Board approval on 3/3/09, and DMB/Purchasing Operations' approval.

REVISED CURRENT AUTHORIZED SPEND LIMIT: $270,000.00

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

February 20, 2008

CHANGE NOTICE NO. 3
TO
CONTRACT NO. 071B5200240
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **Pond Consulting Services, Inc.** **487 Cherryview Drive** **Portage, MI 49024** **poly@net-link.net**	TELEPHONE (269) 329-2028 **Patrick J. Pond** VENDOR NUMBER/MAIL CODE **(001)** BUYER/CA (517) 241-1145 **Lymon C. Hunter, CPPB**
Contract Compliance Inspector: Destinie Shipman **Polygraph Testing Services – MDOC – Muskegon County**	
CONTRACT PERIOD: From: **April 1, 2005** To: **April 1, 2009**	
TERMS **N/A**	SHIPMENT **Per the Attached Terms and Conditions**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

NATURE OF CHANGE (S):

Effective immediately, this Contract is hereby EXTENDED through April 1, 2009. All other terms, conditions, specifications, and pricing remain the same.

AUTHORITY/REASON:

Per request from MDOC and DMB/Purchasing Operations' approval.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: $170,000.00

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

August 17, 2005

CHANGE NOTICE NO. 2
TO
CONTRACT NO. 071B5200240
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **Pond Consulting Services, Inc.** **487 Cherryview Drive** **Portage, MI 49024** **poly@net-link.net**	TELEPHONE (269) 329-2028 **Patrick J. Pond** VENDOR NUMBER/MAIL CODE **(001)** BUYER/CA (517) 241-1145 **Lymon C. Hunter, CPPB**
Contract Compliance Inspector: Destinie Shipman **Polygraph Testing Services – MDOC – Muskegon County**	
CONTRACT PERIOD: From: **April 1, 2005** To: **April 1, 2008**	
TERMS **N/A**	SHIPMENT **Per the Attached Terms and Conditions**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

NATURE OF CHANGE (S):

Effective immediately, this contract has been INCREASED by $91,100.00. The new contract value is $170,000.00. All other terms, conditions, specifications, and pricing remain the same.

AUTHORITY/REASON:

Per DMB/Acquisition Services

TOTAL REVISED ESTIMATED CONTRACT VALUE: $170,000.00

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

April 18, 2005

CHANGE NOTICE NO. 1
TO
CONTRACT NO. 071B5200240
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR	TELEPHONE (269) 329-2028 **Patrick J. Pond**
Pond Consulting Services, Inc. **487 Cherryview Drive** **Portage, MI 49024**	VENDOR NUMBER/MAIL CODE **(001)**
	BUYER/CA (517) 241-1145 **Lymon C. Hunter, CPPB**
Contract Compliance Inspector: Destinie Shipman **Polygraph Testing Services – MDOC – Muskegon County**	
CONTRACT PERIOD: From: **April 1, 2005**	To: **April 1, 2008**
TERMS **N/A**	SHIPMENT **Per the Attached Terms and Conditions**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

NATURE OF CHANGE (S):

Effective immediately, the attached REVISED pricing page is hereby inclusive of item #5. All other pricing, specifications, terms and conditions remain unchanged.

AUTHORITY/REASON:

Per Agency (Destinie Shipman) Contact.

Total Estimated Contract Value Remains: $78,900.00

PRICING PAGE

POLYGRAPH TESTING

MUSKEGON COUNTY

Item Listing	Description	Unit Price
1	Initial Full Examination	$450.00
2	Follow Up/Maintenance Exam	$400.00
3	Deceptive/Inconclusive Retest	$350.00
4	Failure to Show (without 24 hr. notification)	$200.00
5	Unable to test (positive drug or alcohol test immediately prior to scheduled exam)	$200.00
	Total Bid Amount:	**$78,900.00**

A P A Membership number: 3084

Contact Person for Pond Consulting Services, Inc.:

NAME/TITLE: Patrick J, Pond
TELEPHONE: 269.329.2028
FACSIMILE: 269.329.2048
TOLL FREE #: 800.858.3584
E-MAIL: Poly@net-Link.net

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

April 1, 2005

NOTICE
TO
CONTRACT NO. 071B5200240
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **Pond Consulting Services, Inc.** **487 Cherryview Drive** **Portage, MI 49024**	TELEPHONE (269) 329-2028 **Patrick J. Pond** VENDOR NUMBER/MAIL CODE **(001)** BUYER/CA (517) 241-1145 **Lymon C. Hunter, CPPB**
Contract Compliance Inspector: Destinie Shipman **Polygraph Testing Services – MDOC – Muskegon County**	
CONTRACT PERIOD: From: **April 1, 2005**	To: **April 1, 2008**
TERMS **N/A**	SHIPMENT **Per the Attached Terms and Conditions**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

The terms and conditions of this Contract are those of ITB #071B5200055, this Contract Agreement and the vendor's quote dated 11/30/2004. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.

Estimated Contract Value: $78,900.00

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

CONTRACT NO. 071B5200240
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR	TELEPHONE (269) 329-2028 **Patrick J. Pond**
Pond Consulting Services, Inc. **487 Cherryview Drive** **Portage, MI 49024**	VENDOR NUMBER/MAIL CODE **(001)**
	BUYER/CA (517) 241-1145 **Lymon C. Hunter, CPPB**

Contract Compliance Inspector: Destinie Shipman
Polygraph Testing Services – MDOC – Muskegon County

CONTRACT PERIOD: From: **April 1, 2005** To: **April 1, 2008**

TERMS	SHIPMENT
N/A	**Per the Attached Terms and Conditions**
F.O.B.	SHIPPED FROM
N/A	**N/A**

MINIMUM DELIVERY REQUIREMENTS
N/A

MISCELLANEOUS INFORMATION:

The terms and conditions of this Contract are those of ITB #071B5200055, this Contract Agreement and the vendor's quote dated 11/30/2004. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.

Estimated Contract Value: $78,900.00

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 071I5200055. A Purchase Order Form will be issued only as the requirements of the Department of Corrections are submitted to Acquisition Services. Orders for delivery may be issued directly by the Department of Corrections through the issuance of a Purchase Order Form.

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

FOR THE VENDOR:	**FOR THE STATE:**
Pond Consulting Services, Inc. Firm Name	Signature
Authorized Agent Signature	**Lymon C Hunter, CPPB** Name
Authorized Agent (Print or Type)	**Services Division, Acquisition Services** Title
Date	Date

STATE OF MICHIGAN
Department of Management and Budget
Acquisition Services

Contract No. 071B5200240
Polygraph Testing Services

Buyer Name: Lymon C. Hunter, CPPB
Telephone Number: 517.241.1145
E-Mail Address: HunterL@Michigan.Gov

Polygraph Testing Services

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Article1 – Statement of Work (SOW)

1.0 Introduction

1.01 DEFINING DOCUMENT

This is a contract. This is a formal request to prospective vendors soliciting bids or price quotations. This document contains or incorporates defined requirements, the specifications and scope of work, and all contractual terms and conditions. Bid evaluation and award will depend upon which vendor represents the best value for the State.

1.002 PROJECT TITLE AND DESCRIPTION

The purpose of this contract is to establish an agreement for polygraph testing services for the Michigan Department of Corrections as detailed on the Invitation to Bid.

Article 1 - SOW will be used by the State for the evaluation process. Bidders will be submitting written proposals discussing how they meet the below specific requirements.

If any part of the Specific Requirements appears to be excessive, with respect to the overall outcome desired by the State, please notify the Buyer in writing for consideration of a possible change to the requirements (see 3.001).

1.003 PROJECT CONTROL

1. Project Control

a. The Contractor will carry out this project under the direction and control of the Michigan Department of Corrections, Field Operations Administration.

b. Although there will be continuous liaison with the Contractor team, the client agency's project director will meet monthly at a minimum, with the Contractor's project manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise.

c. The Contractor will submit brief written monthly summaries of progress which outline the work accomplished during the reporting period; work to be accomplished during the subsequent reporting period; problems, real or anticipated, which should be brought to the attention of the client agency's project director; and notification of any significant deviation from previously agreed-upon work plans.

d. Within ten (10) working days of the award of the contract, the Contractor will submit to the Michigan Department of Corrections, Field Operations Administration's project director for final approval a work plan. This final implementation plan must be in agreement with Section IV-C, Subsection 2 of ITB submission as proposed by the bidder and accepted by the State for contract, and must include the following:

(1) The Contractor's project organizational structure.

(2) The Contractor's staffing table with names and title of personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.

(3) The project breakdown showing sub-projects, activities and tasks, and resources required and allocated to each.

2. Reports

A. Aggregate Report: A monthly report shall be completed by the 5th of each month, showing program activity from two months previous. The report shall be completed using excel format and e-mailed followed by fax to the Manager of Community Programs by the 5th of each month.. This is to include, but is not limited to:

Number of examinations completed during the month and year-to-date by county.
Number of examinations completed by examiner during month and year-to-date.
Number of test results deemed truthful, deceptive and inconclusive by examiner by month and year-to-date.
Number of pre-test admissions by examiner during month and year-to-date.
Number of post-test admissions by examiner during month and year-to-date.

B. Examiners Report: Examiner reporting for every examination shall consist of, but is not limited to:

A verbal summary of examination results to the referring agent or his/her supervisor on the day of the examination.
A written report of examination findings within five (5) working days of the examination to the agent/supervisor which includes, but is not limited to:
Parolee name and number
Date of examination
List of specific issue questions and results
Pre- and post-test admissions, if any

A verbal notification to the Department of Corrections relaying pertinent issues regarding the polygraph process within eight (8) business hours of any examination report results that indicate examinee "deception" or admitted violation behavior. A written notification to the Department of Corrections within five (5) business days of any examination report results that indicate examinee "deception" or admitted violation behavior.

1.004 COMMENCEMENT OF WORK

Contractor shall show acceptance of this agreement by signing a copy of this contract and returning it to the contract administrator. Contractor shall not proceed with performance of the work to be done under this agreement, including the purchase of necessary materials, until both parties have signed this agreement to show acceptance of its terms.

1.1 Product Quality

BACKGROUND/PROBLEM STATEMENT

The Michigan Department of Corrections (MDOC), Field Operations Administration (FOA), has the exclusive statutory authority to supervise paroled offenders and enforce conditions and terms of parole as imposed by the Michigan Parole Board. Using periodic polygraph examinations will significantly increase the likelihood of detecting illegal and violation behavior and has been demonstrated to deter violation and criminal behavior as well.

Anticipated Scope:

Presently, the MDOC, Field Operations Administration (FOA), supervises approximately 325 sex offenders within Wayne County, 38 within Muskegon County, 52 within Genesee County that are currently on parole and participating under a Polygraph Monitoring Program as a condition of parole. In addition, on average there are approximately fourteen (20) additional offenders being paroled per month under a condition of polygraph testing. The Contractor will periodically examine identified parolees to determine if they are in compliance with their conditions of parole and relapse prevention plan. Polygraph examinations may be scheduled, at the discretion of the MDOC, upon receipt of polygraph reports indicating a deceptive response, or other indications of a violation of their parole conditions.

Testing will occur at three different locations operated by the MDOC in secure conference rooms provided by the MDOC located in Wayne, Genesee and Muskegon Counties. During the term of this contract, testing services may be expanded within the State of Michigan, as additional parolees agree to provisions of the testing program as terms of their parole
Actual number of tests to be performed each year will be contingent upon actions/decisions of the State Parole Board, and changes to the parole laws as enacted by the State Legislature, and may vary from estimates as listed.

OBJECTIVES

Engage a general Contractor to provide scheduled polygraph examinations for targeted paroled sex offenders in Michigan. All examinations performed under this contract shall be administered consistent with APA testing guidelines, and subject to the following specifications:

1. All examiners must be licensed by, and in good standing with, the Michigan Department of Commerce, Board of Forensic Polygraph Examiners. Further, all examiners must be active members of the American Polygraph Association (APA), and the Michigan Association of Polygraph Examiners (MAPE), and maintain membership in same during the term of this contract.

2. All examiners must have one year of documented experience in polygraphing offenders, particularly sex offenders.

3. All examinations shall consist of, but not be limited to:

   A written pre-test interview,
   Three issue specific test,
   A written post-test interview.

   In addition, examiners would be encouraged to include a stimulation test in the examination process.

   There shall be a limit of three (3) initial examinations or four (4) follow-up examinations scheduled per examiner per day to allow for continuity of test results. Each examination shall last, at a minimum, of ninety (90) minutes.

4. All examinations performed under this contract shall be administered consistent with the American Polygraph Association (APA) Standards of Practice (attachment A), with exception of standard #3.8.8.

5. All testing shall be conducted using, as a minimum standard, a three pen recording devise that measures breathing, heart rate and galvanic skin response.

6. The Contractor shall be required to participate in a quality control procedure for examinations. This may include, but is not limited to, a chart review process conducted by the Department of Corrections or its authorized agent. The Contractor shall maintain polygraph charts in storage for 12 months after the examination takes place.
7.

TASKS

1. Provide and maintain sufficient polygraph examination staff to satisfy testing demand within the the State of Michigan.

2. Provide the State with copies of the examiners' license and a resume, documenting all previous polygraph examination experience for approval.

   Provide the Department of Corrections with an examiners' assignment list specific to Wayne, Genesee and Muskegon Counties. This information will be utilized by MDOC for LEIN checks of all examining staff prior to their being allowed on site, and must include the following information:

Employee's full name
Social Security number
Date of birth
Michigan Driver's License number of State ID number
Employee's signature

4. Train examiners on parole agent referral process, and examination reporting requirements.

5. Provide general orientation training to parole agents on use of the polygraph.

6. Establish a procedure to handle agent service complaints.

7. Establish contingency service delivery plan to accommodate examiner vacations, and illness or waiting lists, or other interruptions to scheduled service delivery.

8. Develop a plan for periodic on-site examiner auditing.

9. Develop a plan for immediate notification to the Department of Corrections concerning parolee failure to appear for a scheduled examination, or cancellation of appointment by parolee.

10. Develop a procedure for immediate notification to the Department of Corrections if examinee confesses to any new crimes, or violations of parole conditions, since their last examination.

11. Provide the MDOC with an examiner's assignment list, for approval by the contract administrator or designee.

STANDARDS OF PRACTICE

Statement of Purpose

It is the position of the APA that a polygraph examination, properly administered by a well trained and competent polygraph examiner and using a validated testing technique, has a high degree of accuracy in detecting truthfulness or deception. In order to ensure this high degree of accuracy, the APA establishes for its membership the following Standards of Practice.

All examinations shall be conducted in compliance with governing local, state, and federal regulations and laws.

3.1 Definitions

3.1.1 Evidentiary Examination - a polygraph examination, the written and stated purpose for which, agreed to by the parties involved, is to provide the diagnostic opinion of the examiner as evidence in a scheduled judiciary proceeding. This is not intended to prevent admission as evidence of a confession obtained during the examination.

3.1.2 Investigative Examination - a polygraph examination for which the examination is intended to supplement and assist an investigation and for which the examiner has not been informed and does not reasonably believe that the results of the examination will be tendered for admission as evidence in a court of record. Pre-employment examinations shall be deemed to be investigative examinations.

3.1.3 Validated Testing Technique - a polygraph testing technique, for which exists a body of acceptable scientific studies. A polygraph testing technique both endorsed by the APA Research and Development Committee, and published in Polygraph, shall be presumed to be a validated testing technique.

3.1.4 Specific Issue Examination Polygraph - a single-issue examination, almost always administered in conjunction with a criminal investigation.

3.2 Polygraph Examiner

3.2.1 A polygraph examiner shall meet the training and educational requirements of his or her category of membership as set forth in Division V of the By-Laws.

3.2.2 Evidentiary examinations shall be conducted only by Full or Associate members. Intern members shall conduct evidentiary examinations only by stipulation of the parties, or under the supervision of a full or associate member.

3.2.3 Polygraph examinations for clinical polygraph examinations of sex offenders shall be conducted by members who have completed specialized training for sex offender polygraphs consistent with guidelines issued by the APA.

3.2.4 A polygraph examiner shall, where applicable, be licensed (or certified) by the regulatory organization of his or her jurisdiction.

3.2.5 A polygraph examiner shall, where applicable, comply with all state continuing education requirements. A polygraph examiner conducting evidentiary examinations shall have completed a minimum of thirty (30) Continuing Education hours every two (2) years.

3.3 **Polygraph Examinee**

3.3.1 The examiner shall make reasonable efforts to determine that the examinee is a fit subject for testing, where allowed by law. Basic inquiries into the medical and psychological condition of the examinee as well as any recent drug use should be made where allowed by law. Mental, physical or medical conditions of the examinee that should be observable to, or that should be reasonably known by the examiner, should also be evaluated prior to testing. No test should be conducted where valid results could not be reasonably forseen.

3.3.2 During the pretest interview, where allowed by law, the examiner will specifically inquire of the person to be examined whether or not he or she is currently receiving or has in the past received medical or psychiatric treatment or consultation.

3.3.3 If an examiner has a reasonable doubt concerning the ability of the examinee to safely undergo an examination, a release from the examinee and his or her physician shall be obtained.

3.4 **Instrumentation and Recording**

3.4.1 Polygraph examinations shall be conducted with APA approved instrumentation and shall record, at a minimum, the following channels or components:

3.4.1.1 Respiration patterns recorded by pneumograph components. Thoracic and abdominal patterns shall be recorded separately, using two pneumograph components.

3.4.1.2 Electrodermal activity reflecting relative changes in the conductance or resistance of current by the epidermal tissue.

3.4.1.3 Cardiograph to record relative changes in pulse rate, pulse amplitude, and relative blood volume.

3.4.2 Physiological recording during each test shall be continuous, and shall be of sufficient amplitude to be easily readable by the examiner and any reviewing examiner. Pneumograph and cardiograph tracings over one-half inch in amplitude will be considered of sufficient size to be easily readable.

3.4.3 The polygraph shall be given a functionality or calibration test consistent with manufacturer recommendations. The functionality or calibration test shall be administered prior to all evidentiary examinations. At a minimum these tests shall be maintained by the examiner for no less than one (1) year. Compliance with state and federal law shall be required.

3.5 **Test Location and Conditions**

3.5.1 Conditions under which testing occurs shall be free from distractions that would interfere with the ability of the examinee to appropriately focus on the issues being addressed. The examination site should be relatively free from outside noise and distraction.

3.5.2 Examiners performing live polygraph examinations in public shall not render opinions regarding the truthfulness or deception of the examinees. Examiners shall attempt to ensure that reenactments of polygraph examinations are clearly conveyed as such to viewers.

3.6 **Preparation**

3.6.1 An examiner shall, prior to the examination, dedicate sufficient time to identify the issues and any potential problems in any area of testing.

3.7 **Pretest Practices**

3.7.1 The examiner shall obtain information sufficient to identify the examinee.

3.7.2 The examiner shall obtain the consent of the examinee prior to testing.

3.7.3 Sufficient time shall be spent to ensure that the examinee has a reasonable understanding of the polygraph process and the requirement for cooperation.

3.7.4 Sufficient time shall be spent to discuss the issues to be tested and to allow the examinee to fully explain his or her answers.
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3.7.5 Sufficient time shall be spent to ensure the examinee recognizes and understands each question. Attempts by the examinee to rationalize should be neutralized by a pretest discussion in which the examinee demonstrates he or she understands the test questions to have the same meaning as does the examiner. Questions shall be asked in a form that would prevent a reasonable person, facing a significant issue, from successfully engaging in a rationalization process to avoid culpability.

3.7.6 The examiner shall not express bias in any manner regarding the truthfulness of the examinee prior to the completion of testing.

3.8 **Testing**

3.8.1 A member polygraph examiner shall use a validated testing technique. Evidentiary examinations shall not materially deviate from the protocol of a validated testing technique. Where investigative examinations deviate from the format or protocol of a validated testing technique, such deviation shall, where the test is subjected to quality control by a reviewing examiner, be noted and justified in writing. For the resolution of specific issues, each polygraph examination shall use a validated testing technique.

3.8.2 A stimulation test or acquaintance test shall be required for all evidentiary examinations. A stimulation or acquaintance test should be conducted for all initial examinations for any specific issue or investigative examinations.

3.8.3 Questions shall be asked with clarity and distinctiveness.

3.8.4 Questions shall be balanced in terms of length and impact for each category of questions utilized. Questions used in the assessment of truth and deception shall be preceded and followed by time intervals of not less than 20 seconds. When approved validated research supports the use of another time interval, that time span shall prevail.

3.8.5 Examiners shall collect a sufficient number of charts so as to acquire sufficient data for proper evaluation, in conformance with a validated testing technique.

3.8.6 Nothing in these standards is intended to prevent the use of new or invalidated testing techniques for purposes of research.

3.8.7 Standardized charge markings, recognized and utilized within the polygraph profession should be employed.

3.9 **Scoring**

3.9.1 Examiners shall emply quantitative or numerical scoring for all evidentiary examinations and for all specific issue investigative examinations.

3.9.2 Examiner notes of the test evaluation shall have sufficient clarity and precision so that another examiner could read them.

3.9.3 Examiners shall not disclose the results of the examination until it has been adequately and sufficiently analyzed.

3.9.4 Examiners shall maintain the confidentiality of their work conducted under privilege until a release by the client is obtained.

3.9.5 An examiner subject to a quality control evaluation of a case shall fully disclose all relevant information regarding the case under review. Any doubts as to relevancy shall be resolved through disclosure.

3.10 **Post Conviction Sex Offender Testing**

3.10.1 The practice of post conviction sex offender testing is a specialized subdiscipline in polygraphy, unique in its application. Practitioners are required to satisfy the provisions set forth in the Standards of Practice for investigative examinations, in addition to those standards below.

3.10.2 **Minimum Training**.

3.10.2.1 A minimum of forty (40) hours of post conviction specialized instruction, beyond the basic polygraph examiner training course requirements, shall be requisite to those who practice sexual offender testing.

3.10.3 **Written Examination**

3.10.3.1 A final examination, approved by the American Polygraph Association (APA) or its designated representative, shall be given subsequent to the approved training. The student must pass this written examination to receive a diploma for the training. The written examination shall be properly controlled and protected to prevent exposure of the test questions or answers to any unauthorized persons.

3.10.4 **Instructor's Knowledge of the Written Examination Content.**

3.10.4.1 The instructors of the approved course shall be informed of the topic areas, along with a pool of possible test questions, for the final written examination. However, those questions specifically selected for any given final examination shall not be made known to the instructors before the administration of the test to the students.

3.10.7 **In-Test Specifications**

3.10.7.1 All recorded physiological data shall be retained as part of the examination file as long as required by regulation or law, but for a minimum of one (1) year.

3.10.7.2 Each single-issue examination shall employ a technique and format that has been validated through research.

3.10.7.3 Reasonable departures from validated formats are permissible, to the extent that an independent examiner/reviewer would concur that the employed method was not significantly dissimilar from the format validated in research. Any deviations from validated formats shall be fully explained and justified by the examiner in writing where this test is subjected to an independent quality control.

1.101 RESERVED

1.102 RESEARCH AND DEVELOPMENT

Bidder shall discuss their ability to invest in new product development and research to stay current with ongoing demands.

1.103 QUALITY ASSURANCE PROGRAM

Bidders to provide detail regarding any Quality Assurance Program(s) that are currently in place within their organization.

1.2 Service Capabilities

1.205 SECURITY

The resulting Contract may require frequent deliveries to State of Michigan facilities. Bidders shall discuss in their proposals all measures utilized by their firm to ensure the security and safety of these buildings. This shall include, but is not limited to, performance of security background checks on all personnel assigned to State of Michigan facilities (i.e. delivery people) and how they are performed, what the security check consists of, the name of the company that performs the security checks, use of uniforms and ID badges, etc. If security background checks are performed on staff, bidders shall indicate the name of the company that performs the check as well as provide a document stating that each employee has satisfactorily completed a security check and is suitable for assignment to State facilities. Upon request by the State, bidders shall provide the results of all security background checks.

Upon review of the security measures included in a bidder's proposal and if that bidder is awarded the contract, the State will decide whether to issue State ID badges to the bidder's delivery personnel or accept the ID badge issued to delivery personnel by the bidder.

The State may decide to also perform a security background check. If so, bidders will be required to provide to the State a list of all delivery people that will service State of Michigan facilities, including name and date of birth (social security number of driver license number would also be helpful).

The Contractor and its subcontractors shall comply with the security access requirements of individual State facilities.

1.4 Project Price

1.401 PROPOSAL PRICING

See attached Pricing Page.

1.402 QUICK PAYMENT TERMS

The State of Michigan is interested in payment terms that reflect cost savings to the State based on an accelerated payment process. Bidders shall discuss quick payment terms that they are offering to the State (i.e. _____% discount off invoice if paid within _____ days). This will be a factor considered in our award decision.

1.403 PRICE TERM

(X) Fixed with prospective re-determination at an agreed upon time.

Prices quoted are the maximum for a period of 365 days from the date the Contract becomes effective.

Prices are subject to change at the end of each 365-day period. Such changes shall be based on changes in actual costs incurred. Documentation of such changes must be provided with the request for price change in order to substantiate any requested change. Acquisition Services reserves the right to consider various pertinent information sources to evaluate price increase requests (such as the CPI and PPI, US City Average, as published by the US Department of Labor, Bureau of Labor Statistics). Acquisition Services also reserves the right to consider other information related to special economic and/or industry circumstances, when evaluating a price change request. Changes may be either increases or decreases, and may be requested by either party. Approved changes shall be firm for the remainder of the contract period unless further revised at the end of the next 365-day period.

Requests for price changes shall be RECEIVED IN WRITING AT LEAST TEN DAYS PRIOR TO THEIR EFFECTIVE DATE, and are subject to written acceptance before becoming effective. In the event new prices are not acceptable, the CONTRACT may be cancelled. The continued payment of any charges due after September 30th of any fiscal year will be subject to the availability of an appropriation for this purpose.

1.6 Other Terms and Conditions Needed for this Contract

Article 2 – General Terms and Conditions

2.0 Introduction

2.001 GENERAL PURPOSE

The Contract is for Polygraph Testing Services for the State of Michigan. 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. Orders for delivery will be issued directly to the Contractor by various State Agencies on the Purchase Order Contract Release Form. Bids are due and will be publicly identified at the time noted on the Invitation To Bid (ITB) Form.

Indicated on the Invitation To Bid cover page is the "ship to" address for the participating agency. However, if the Contractor and the State agree, additional State agencies may participate should the need develop.

2.002 ISSUING OFFICE AND CONTRACT ADMINISTRATOR

The Contract is issued by Acquisition Services, State of Michigan, Department of Management and Budget, hereinafter known as Acquisition Services, for the Michigan Department of Corrections, hereinafter known *as (MDOC)*. Where actions are a combination of those of Acquisition Services and the State agencies, the authority will be known as the State.

Acquisition Services is the sole point of contact in the State with regard to all procurement and contractual matters relating to the commodities and/or services described herein. Acquisition Services is the only office authorized to negotiate, change, modify, amend, alter, clarify, etc., the specifications, terms, and conditions of the Contract. Acquisition Services will remain the SOLE POINT OF CONTACT throughout the procurement process.

Contractor proceeds at its own risk if it takes negotiation, changes, modification, alterations, amendments, clarification, etc., of the specifications, terms, or conditions of the contract from any individual or office other than Acquisition Services and the listed contract administrator

All communications covering this procurement must be addressed to contract administrator indicated below:

Department of Management and Budget
Acquisition Services
Attn: Lymon C. Hunter, CPPB
2nd Floor, Mason Building
P.O. Box 30026
Lansing, Michigan 48909
(517) *(241-1145)*
HunterL@Michigan.gov

2.003 NOTICE

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

2.004 CONTRACT TERM

The term of this Contract will be for three years and will commence with the issuance of a Contract. This will be approximately April 1, 2005 through April 1, 2008.

Option. The State reserves the right to exercise _2_ one-year options, at the sole option of the State. Contractor performance, quality of products, price, cost savings, and the contractor's ability to deliver on time are some of the criteria that will be used as a basis for any decision by Acquisition Services to exercise an option year.

Extension. At the sole option of the State, the contract may also be extended. Contractor performance, quality of products, price, cost savings, and the contractor's ability to deliver on time are some of the criteria that will be used as a basis for any decision by Acquisition Services to exercise an option year.

Written notice will be provided to the Contractor within __60_, provided that the State gives the Contractor a preliminary written notice of its intent to extend at least __60__ days before the contract expires. The preliminary notice does not commit the Government to an extension. If the Government exercises this option, the extended contract shall be considered to include this option clause.

2.005 GOVERNING LAW

The Contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan. By signing this agreement, vendor consents to personal jurisdiction in the state of Michigan. Any dispute arising herein shall be resolved in the State of Michigan.

2.006 APPLICABLE STATUTES

The following statutes, rules, and laws are applicable to the performance of this contract; some statutes are reflected in the clauses of this contract. This list is NOT exhaustive.

MI Uniform Commercial Code (MIUCC) MCL 440. (All sections unless otherwise altered by agreement)
MI OSHA MCL §§ 408.1001 – 408.1094
Freedom of Information Act (FIOA) MCL §§ 15.231, et seq.
Natural Resources and Environmental Protection Act MCL §§ 324.101, et seq.
MI Consumer Protection Act MCL §§ 445.901 – 445.922
Laws relating to wages, payments of wages, and fringe benefits on state projects MCL §§ 408.551 – 408.558, 408.471 – 408.490, 1965 PA 390.
Department of Civil Service Rules and regulations
Elliot Larsen Civil Rights Act MCL §§ 37.2201, et seq.
Persons with disabilities Civil Rights Act MCL §§ 37.1101, et seq.
MCL §§ 423.321, et seq.
MCL § 18.1264 (law regarding debarment)
Davis-Bacon Act (DBA) 40 USCU §§ 276(a), et seq.
Contract Work Hours and Safety Standards Act (CWHSAA) 40 USCS § 327, et seq.
Business Opportunity Act for Persons with Disabilities MCL §§ 450.791 – 450.795
Rules and regulations of the Environmental Protection Agency
Internal Revenue Code
Rules and regulations of the Equal Employment Opportunity Commission (EEOC)
The Civil Rights Act of 1964, USCS Chapter 42
Title VII, 42 USCS §§ 2000e et seq.
The Americans with Disabilities Act (ADA), 42 USCS §§ 12101 et seq.
The Age Discrimination in Employment Act of 1967 (ADEA), 29 USCS §§ 621, 623 et seq.
The Old Workers Benefit and Protection Act of 1990 (OWBPA), 29 USCS §§ 626, et seq.
The Family Medical Leave Act of 1993 (FMLA), 29 USC §§ 651 et seq.
The Fair Labor Standards Act (FLSA), 29 USC §§ 201 et seq.
Pollution Prevention Act of 1990 (PPA) 42 U.S.C. §13106
Sherman Act, 15 U.S.C.S. § 1 et seq.
Robinson-Patman Act, 15 U.S.C.S. § 13 et. seq.
Clayton Act, 15 U.S.C.S. § 14 et seq.

2.007 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.

2.008 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.

2.009 MERGER

This document constitutes the complete, final, and exclusive agreement between the parties. All other prior writings and negotiations are ineffective.

2.010 SEVERABILITY

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

2.011 SURVIVORSHIP

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 the Contract for any reason.

2.012 NO WAIVER OF DEFAULT

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

2.013 PURCHASE ORDERS

Orders for delivery of commodities and/or services may be issued directly by the State Departments through the issuance of a Purchase Order Form referencing this Contract (Blanket Purchase Order) agreement and the terms and conditions contained herein. Contractor is asked to reference the Purchase Order Number on all invoices for payment.

2.1 Vendor/Contractor Obligations

2.101 ACCOUNTING RECORDS

The Contractor and all subcontractors shall maintain all pertinent financial and accounting records and evidence pertaining to the Contract in accordance with generally accepted principles of accounting and other procedures specified by the State of Michigan. Financial and accounting records shall be made available, upon request, to the State of Michigan, its designees, or the Michigan Auditor General at any time during the Contract period and any extension thereof, and for three years from expiration date and final payment on the Contract or extension thereof.

2.102 NOTIFICATION OF OWNERSHIP

The Contractor shall make the following notifications in writing:

1. When the Contractor becomes aware that a change in its ownership or officers has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify Acquisition Services within 30 days.

2. The Contractor shall also notify the Acquisition Services 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.

The Contractor shall:

1. Maintain current, accurate, and complete inventory records of assets and their costs;

2. Provide Acquisition Services or designated representative ready access to the records upon request;

3. Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership or officer changes; and

4. Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership or officer change.

2.104 RESERVED

2.106 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 Consumer and Industry Service, Bureau of Safety and Regulation, Wage/Hour Division 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 the contract. You must also post, in a conspicuous place, the address and telephone number of the Michigan Department of Consumer and Industry Services, 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.

2.107 PAYROLL AND BASIC RECORDS

Payrolls and basic records relating to the performance of this contract shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

The Contractor shall submit a copy of all payrolls to the Contract Administrator upon request. The payrolls submitted shall set out accurately and completely all of the information required to be maintained as indicated above.

The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors upon request from the Contract Administrator

The Contractor or subcontractor shall permit the Contract Administrator or representatives of the Contract Administrator or the State of Michigan to interview employees during working hours on the job.

If the Contractor or subcontractor fails to submit required records or to make them available, the Contract Administrator may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment.

2.108 COMPETITION IN SUB-CONTRACTING

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

2.109 CALL CENTER DISCLOSURE

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

2.2 Contract Performance

2.201 TIME IS OF THE ESSENCE

Contractor/Vendor is on notice that time is of the essence in the performance of this contract. Late performance will be considered a material breach of this contract, giving the State a right to invoke all remedies available to it under this contract.

2.202 CONTRACT PAYMENT SCHEDULE

The specific payment schedule for any Contract(s) entered into, as the State and the Contractor(s) will mutually agree upon the result of this RFP. The schedule should show payment amount and should reflect actual work done by the payment dates, less any penalty cost charges accrued by those dates. As a general policy statements shall be forwarded to the designated representative by the 15th day of the following month.

2.203 POSSIBLE PROGRESS PAYMENTS

The Government 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.

2.205 ELECTRONIC PAYMENT AVAILABILITY

Electronic transfer of funds is available to State contractors. Vendors are encouraged to register with the State of Michigan Office of Financial Management so the State can make payments related to this Contract electronically at www.cpexpress.state.mi.us.

2.3 Contract Rights and Obligations

2.301 INCURRING COSTS

The State of Michigan is not liable for any cost incurred by the Contractor prior to signing of the Contract. The State fiscal year is October 1st through September 30th. The Contractor(s) should realize that payments in any given fiscal year are contingent upon enactment of legislative appropriations. Total liability of the State is limited to terms and conditions of the Contract.

2.302 CONTRACTOR 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 from the anticipated Contract. If any part of the work is to be subcontracted, the 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.

2.303 ASSIGNMENT AND DELEGATION

The Contractor shall not have the right to assign this Contract, to assign its rights under this contract, or delegate any of its duties or obligations under the Contract to any other party (whether by operation of law or otherwise), without the prior written consent of the 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 Director of Acquisition Services.

The Contractor shall not delegate any duties or obligations under the Contract to a subcontractor other than a subcontractor named and approved in the bid unless the Director of Acquisition Services has given written consent to the delegation. **Bidder must obtain the approval of the Director of Acquisition Services before using a place of performance that is different from the address that bidder provided in the bid.**

2.304 TAXES

Sales Tax: For purchases made directly by the State of Michigan, the State is exempt from State and Local Sales Tax. Prices shall not include such taxes. Exemption Certificates for State Sales Tax will be furnished upon request.

Federal Excise Tax: The State of Michigan may be exempt for Federal Excise Tax, or such taxes may be reimbursable, if articles purchased under this Contract are used for the State's exclusive use. Certificates exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent to the Contractor upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices shall not include the Federal Excise Tax.

The State's Tax Exempt Certification is available for vendor viewing upon request to the Contract Administrator.

2.305 INDEMNIFICATION

General Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents, from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

1. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from (1) the product provided or (2) performance of the work, duties, responsibilities, actions or omissions of the Contractor or any of its subcontractors under this Contract.

2. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from a breach by the Contractor of any representation or warranty made by the Contractor in the Contract;

3. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or related to occurrences that the Contractor is required to insure against as provided for in this Contract;

4. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents 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 the 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, however, that this indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused solely by the negligence or reckless or intentional wrongful conduct of the State;

5. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents which results from an act or omission of the Contractor or any of its subcontractors in its or their capacity as an employer of a person.

Patent/Copyright Infringement Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its employees and agents from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements 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 or foreign patent, copyright, trade secret or other proprietary right of any person or entity, which right is enforceable under the laws of the United States. In addition, should the equipment, software, commodity, or service, or the operation thereof, become or in the 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 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.

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.

Indemnification Obligation Not Limited

In any and all claims against the State of Michigan, or any of its agents or employees, by any employee of the Contractor or any of its subcontractors, the indemnification obligation under the Contract shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Contractor or any of its subcontractors under worker's disability compensation acts, disability benefits acts, or other employee benefits acts. This indemnification clause is intended to be comprehensive. Any overlap in sub clauses, 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 sub clause.

Continuation of Indemnification Obligation

The duty to indemnify will continue in full force and affect not withstanding the expiration or early termination of the Contract with respect to any claims based on facts or conditions, which occurred prior to termination.

Indemnification Procedures

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

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

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

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

2.306 LIMITATION OF LIABILITY

Except as set forth herein, neither the Contractor nor the State shall be liable to the other party for indirect or consequential damages, even if such party has been advised of the possibility of such damages. Such limitation as to indirect or consequential damages shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; to Contractor's indemnification obligations (2.305); or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

2.307 CONTRACT DISTRIBUTION

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

2.308 FORM, FUNCTION, AND UTILITY

If the Contract is for use of more than one State agency and if the good or service provided under this Contract do not the meet the form, function, and utility required by a State agency, that agency may, subject to State purchasing policies, procure the good or service from another source.

2.309 ASSIGNMENT OF ANTITRUST CAUSE OF ACTION

For and in consideration of the opportunity to submit a quotation and other good and valuable consideration, the bidder hereby assigns, sells and transfers to the State of Michigan all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of payment and which relate solely to the particular goods, commodities, or services purchased or procured by this State pursuant to this transaction.

2.311 TRANSITION ASSISTANCE

If this Contract is not renewed at the end of this term, or is canceled prior to its expiration, for any reason, the Contractor must provide for up to *90 days* after the expiration or cancellation of this Contract, all reasonable transition assistance requested by the State, to allow for the expired or canceled portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract, (notwithstanding this expiration or cancellation) except for those Contract terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for Contract performance.

2.312 RESERVED

2.313 RESERVED

2.314 WEBSITE INCORPORATION

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

2.4 Contract Review and Evaluation

2.401 CONTRACT COMPLIANCE INSPECTOR

Upon receipt at Acquisition Services of the properly executed Contract Agreement(s), the person named below will be allowed to oversee the Contract performance on a day-to-day basis during the term of the Contract. However, overseeing the Contract implies **no authority to negotiate, change, modify, clarify, amend, or otherwise alter the terms, conditions, and specifications of such Contract(s). That authority is retained by Acquisition Services**. The Contract Compliance Inspector for this project is:

Destinie Shipman, Manager
Michigan Department of Corrections
Community Programs
P.O. Box 30003
Lansing, MI 48909
517.373.3273
Shipmadk@michigan.gov

2.402 PERFORMANCE REVIEWS

Acquisition Services in conjunction with the *(MDOC)* may review with the Contractor their performance under the Contract. Performance reviews shall be conducted quarterly, semi-annually or annually depending on Contractor's past performance with the State. Performance reviews shall include, but not limited to, quality of products/services being delivered and provided, timeliness of delivery, percentage of completion of orders, the amount of back orders, status of such orders, accuracy of billings, customer service, completion and submission of required paperwork, the number of substitutions and the reasons for substitutions, and other requirements of the Contract.

Upon a finding of poor performance, which has been documented by Acquisition Services, the Contractor shall be given an opportunity to respond and take corrective action. If corrective action is not taken in a reasonable amount of time as determined by Acquisition Services, the Contract may be canceled for default. Delivery by the Contractor of unsafe and/or adulterated or off-condition products to any State agency is considered a material breach of Contract subject to the cancellation provisions contained herein.

2.403 AUDIT OF CONTRACT COMPLIANCE/ RECORDS AND INSPECTIONS

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

2.505 CONTRACTOR WARRANTIES

The Contract will contain customary representations and warranties by the Contractor, including, without limitation, the following:

1. The Contractor will perform all services in accordance with high professional standards in the industry;

2. The Contractor will use adequate numbers of qualified individuals with suitable training, education, experience and skill to perform the services;

3. The Contractor will use its best efforts to use efficiently any resources or services necessary to provide the services that are separately chargeable to the State;

4. The Contractor will use its best efforts to perform the services in the most cost effective manner consistent with the required level of quality and performance;

5. The Contractor will perform the services in a manner that does not infringe the proprietary rights of any third party;

6. The Contractor will perform the services in a manner that complies with all applicable laws and regulations;

7. The Contractor has duly authorized the execution, delivery and performance of the Contract;

8. The Contractor is capable in all respects of fulfilling and shall fulfill all of its obligations under this contract.

9. The contract appendices, attachments, and exhibits identify all equipment and software services necessary for the deliverable(s) to perform and operate in compliance with the contract's requirements.

10. The Contractor 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 license use, as applicable, of any and all Deliverables.

11. If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to such items as set forth in this Contract, Contractor shall assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.

12. The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter this contract, on behalf of Contractor.

13. The Contractor is qualified and registered to transact business in all locations where required.

14. Neither the Contractor nor any Affiliates, nor any employee of either, has, shall have, or shall acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor shall notify the State within two (2) days of any such interest that may be incompatible with the interests of the State.

15. All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the ITB or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by such financial statements, reports, other information. Since the respective dates or periods covered by such financial statements, reports, or other information, there have been no material adverse changes in the business, properties, financial condition, or results of operations of Contractor. All written information furnished to the State by or behalf of Contractor in connection with this Contract, including its bid, it true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make such information not misleading.

2.507 RESERVED

2.509 RESERVED

2.6 Breach of Contract

2.601 BREACH DEFINED

Failure to comply with articles, sections, or subsections of this agreement, or making any false statement in this agreement will be considered a material breach of this agreement giving the state authority to invoke any and all remedies available to it under this agreement.

In addition to any remedies available in law and by the terms of this contract, if the Contractor breaches Sections 2.508, 2.509, or 2.510, such a breach may be considered as a default in the performance of a material obligation of this contract.

2.602 NOTICE AND THE RIGHT TO CURE

In the event of a curable breach by the Contractor, the State shall provide the Contractor written notice of the breach and a time period to cure said breach described in the notice. This section requiring notice and an opportunity to cure shall not be applicable in the event of successive or repeated breaches of the same nature 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.

2.603 EXCUSABLE FAILURE

1. Neither party shall be liable for any default or delay in the performance of its obligations under the Contract if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in any country; the failure of the other party to perform its material responsibilities under the Contract (either itself or through another contractor); injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of such party; provided the non-performing party and its subcontractors are without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans. In such event, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its best efforts to recommence performance or observance whenever and to whatever extent possible without delay provided such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.

2. If any of the above enumerated circumstances substantially prevent, hinder, or delay performance of the services necessary for the performance of the State's functions for more than 14 consecutive 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 from an alternate source, and the State shall not be liable for payments for the unperformed services under the Contract for so long as the delay in performance shall continue; (b) the State may cancel any portions of the Contract so affected and the charges payable hereunder shall be equitably adjusted to reflect those services canceled; or (c) the Contract will be canceled without liability of the State to the Contractor as of the date specified by the State in a written notice of cancellation to the Contractor. 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 as a result of the excusable failure condition. Defaults or delays in performance by the Contractor which are caused by acts or omissions of its subcontractors will not relieve the Contractor of its obligations under the Contract except to the extent that a subcontractor is itself subject to any excusable failure condition described above and the 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.

2.7 Remedies

2.701 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, which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State, or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of 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 not be excluded by any other terms otherwise included in the Contract.

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

2.702 RIGHTS UPON CANCELLATION

Termination Assistance. If this Contract (or any Statement of Work issued under it) is terminated for any reason prior to completion, Contractor agrees to provide for up to six (6) months after the termination all reasonable termination assistance requested by the State to facilitate the orderly transfer of such Services to the State or its designees in a manner designed to minimize interruption and adverse effect. Such termination assistance will be deemed by the parties to be governed by the terms and conditions of this Contract (notwithstanding its termination) other than any terms or conditions that do not reasonably apply to such termination assistance. Such termination assistance shall be at no additional charge to the State if the termination is for Contractor's Default pursuant to Section 2.602; otherwise the State shall compensate Contractor for such termination assistance on a time and materials basis in accordance with the Amendment Labor Ratesidentified within this Contract agreement.

B. Termination Assistance

If the Contract (or any Statement of Work issued under it) is terminated for any reason before completion, Contractor agrees to provide for up to two-hundred seventy (270) calendar days after the termination all reasonable termination assistance requested by the State to facilitate the orderly transfer of such Services to the State or its designees in a manner designed to minimize interruption and adverse effect. Such termination assistance will be deemed by the parties to be governed by the terms and conditions of the Contract (notwithstanding its termination) other than any terms or conditions that do not reasonably apply to such termination assistance. The State shall compensate Contractor for such termination assistance at the same rates and charges set forth in the Contract on a time and materials basis in accordance with the Labor Rates indicated within Contractors pricing section. If the Contract is terminated by Contractor under **Section 20**, then Contractor may condition its provision of termination assistance under this Section on reasonable assurances of payment by the State for such assistance, and any other amounts owed under the Contract.

C. Reservation of Rights

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

D. End of Contract Transition

In the event the Contract is terminated, for convenience or cause, or upon expiration, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. In the event of termination or the expiration of the Contract, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed 270 calendar days. These efforts shall include, but are not limited to, the following:

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

(2) Knowledgeable Personnel. Contractor will make available to the State or a Third Party Provider knowledgeable personnel familiar with the operational processes and procedures used to deliver products and services to the State. The Contractor personnel will work with the State or third party to help develop a mutually agreeable transition plan, work to transition the process of ordering, shipping and invoicing equipment and services to the State.

(3) Information - The Contractor agrees to provide reasonable detailed specifications for all Services needed by the State, or specified third party, to properly provide the services required under the Contract. The Contractor will also provide any licenses required to perform the Services under the Contract.

(4) Software. - The Contractor shall reasonably assist the State in the acquisition of any Contractor software required to perform the Services under the Contract. This shall include any documentation being used by the Contractor to perform the Services under the Contract. If the State transfers any software licenses to the Contractor, those licenses shall, upon expiration of the Contract, transfer back to the State at their current revision level.

(5) Payment - If the transition results from a termination for any reason, reimbursement shall be governed by the termination provisions of the 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). The hourly rates or fixed price to be charged will be agreed upon prior to the work commencing.

(6) Single Point of Contact. Contractor will maintain a Single Point of Contact (SPOC) for the State after termination of the Contract until all product and service obligations have expired.

E. Transition out of this Contract

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

(i) Cooperating with any contractors, vendors, or other entities with whom the State contracts to meet its telecommunication needs, for at least two hundred and seventy (270) days after the termination of this Contract;
(ii) Reserved.
(iii) Providing the State with all asset management data generated from the inception of this Contract through the date on which this Contract is terminated, in a comma-deliminated format unless otherwise required by the Program Office;
(iv) Reconciling all accounts between the State and the Contractor;
(v) Allowing the State to request the winding up of any pending or ongoing projects at the price to which the State and the Contractor agreed at the inception of the project;
(vi) Freezing all non-critical software changes;
(vii) Notifying all of the Contractor's subcontractors of procedures to be followed during the transition out phase;
(viii) Assisting with the communications network turnover, if applicable;
(ix) Assisting in the execution of a parallel operation until the effective date of termination of this Contract
(x) Answering questions regarding post-migration services;
(xi) Delivering to the State any remaining owed reports and documentation still in the Contractor's possession.

(2) 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:

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

2.705 SUSPENSION OF WORK

The Contract Administrator may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contract Administrator determines appropriate for the convenience of the Government.

If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contract Administrator in the administration of this contract, or (2) by the Contract Administrator's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

A claim under this clause shall not be allowed:

(1) For any costs incurred more than 20 days before the Contractor shall have notified the Contract Administrator in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and
(2) Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

2.8 Changes, Modifications, and Amendments

2.801 APPROVALS

The 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.

2.802 TIME EXTENTIONS

Time extensions for contract changes will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of performance as described in the statement of work. The change order granting the time extension may provide that the contract completion date will be extended only for those specific elements related to the changed work and that the remaining contract completion dates for all other portions of the work will not be altered. The change order also may provide an equitable readjustment of liquidated damages under the new completion schedule.

2.803 MODIFICATION

Acquisition Services reserves the right to modify this contract at any time during the contract term. Such modification may include changing the locations to be serviced, additional locations to be serviced, method or manner of performance of the work, number of days service is to be performed, addition or deletion of tasks to be performed, addition or deletion of items, and/or any other modifications deemed necessary. Any changes in pricing proposed by the Contractor resulting from the proposed changes are subject to acceptance by the State. Changes may be increases or decreases. IN THE EVENT PRICES ARE NOT ACCEPTABLE TO THE STATE, THE CONTRACT SHALL BE SUBJECT TO COMPETITIVE BIDDING BASED UPON THE NEW SPECIFICATION.

The State reserves the right to add an item(s) that is not described on the item listing and is available from the Contract vendor. The item(s) may be included on the Contract, only if prior written approval has been granted by Acquisition Services.

2.804 AUDIT AND RECORDS UPON MODIFICATION

DEFINITION: records includes books, documents, accounting procedures and practices, and other data, regardless of whether such items are in written form, electronic form, or in any other form

Contractor shall be required to submit cost or pricing data with the pricing of any modification of this contract to the Contract Administrator in Acquisition Services. Data may include accounting records, payroll records, employee time sheets, and other information the state deems necessary to perform a fair evaluation of the modification proposal. Contract Administrator or authorized representative of the state shall have the right to examine and audit all of the contractor's records, including computations and projections, related to:

1. The proposal for modification;
2. The discussions conducted on the proposal, including those related to negotiation;
3. Pricing of the modification; or
4. Performance of the modification.

Contractor shall make available at its office at all reasonable times the materials described in the paragraphs above.

If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.

2.805 CHANGES

(a) The Contract Administrator may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes:

(1) In the specifications (including drawings and designs);
(2) In the method or manner of performance of the work;
(3) In the Government-furnished facilities, equipment, materials, services, or site; or
(4) Directing acceleration in the performance of the work.

(a) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contract Administrator that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contract Administrator written notice stating:

(1) The date, circumstances, and source of the order; and
(2) That the Contractor regards the order as a change order.

(b) Except as provided in this clause, no order, statement, or conduct of the Contract Administrator shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

PRICING PAGE

POLYGRAPH TESTING

MUSKEGON COUNTY

Item Listing	Description	Unit Price
1	Initial Full Examination	$450.00
2	Follow Up/Maintenance Exam	$400.00
3	Deceptive/Inconclusive Retest	$350.00
4	Failure to Show (without 24 hr. notification)	$200.00
	Total Bid Amount:	**$78,900.00**

A P A Membership number: 3084

Contact Person for Pond Consulting Services, Inc.:

NAME/TITLE: Patrick J, Pond
TELEPHONE: 269.329.2028
FACSIMILE: 269.329.2048
TOLL FREE #: 800.858.3584
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