CONTRACT CHANGE NOTICE

Change Notice Number **8**
to
Contract Number **071B5200320**

CONTRACTOR	
	Unspam Registry Services Inc.
	850 W. Adams, Suite 4e
	Chicago, IL 60607-3096
	Matthew Prince
	(312) 543-3046
	matthew@matthew.unspam.com
	*******1730

STATE			
	Program Administrator	Metzger, Kim	DOS
		(517) 373-2715	
		MetzgerK@michigan.gov	
	Contract Administrator	Malu Natarajan	DTMB
		(517) 284-7030	
		NatarajanM@michigan.gov	

CONTRACT SUMMARY

DESCRIPTION: Michigan Child Protection Registry

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
June 8, 2005	June 8, 2008	2 - 1 Year	August 31, 2016

PAYMENT TERMS	DELIVERY TIMEFRAME
Net 45 Days	N/A

ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
☐ P-card	☐ Direct Voucher (DV)	☐ Other	☐ Yes	☒ No

MINIMUM DELIVERY REQUIREMENTS

N/A

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☒	1 Years	☐		August 31, 2017

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
$ 1.00	$ 0.00	$ 1.00

DESCRIPTION: Effective May 4, 2016, the second option year available on this contract through Change Notice 5 is hereby exercised. The revised contract expiration date is August 31, 2017. All other terms, conditions, specifications and pricing remain the same. Per DTMB request, agency agreement, and DTMB Procurement approval.

Form No. DTMB-3521 (Rev. 5/2015)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract change will not be executed unless form is filed

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

CHANGE NOTICE NO. 7

to

CONTRACT NO. 071B5200320

between

THE STATE OF MICHIGAN

and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Unspam Registry Services, Inc	Eric Langheinrich	eric@unspam.com
4541 South 700 East, Suite 150	PHONE	VENDOR TAX ID # (LAST FOUR DIGITS ONLY)
Salt Lake City, UT 84107	(435) 615-9205	1730

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	**MDOS**	**Kim Metzger**	**(517) 373-2571**	**metzgerk@michigan.gov**
CONTRACT ADMINISTRATOR	**DTMB**	David Hatch	**(517) 284-7044**	**hatchd@michigan.gov**

CONTRACT SUMMARY

DESCRIPTION: Michigan Child Protection Registry

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
June 8, 2005	June 8, 2008	(2) 1-Year Options	August 31, 2015

PAYMENT TERMS	F.O.B.	SHIPPED TO
Net 45 Days	N/A	N/A

ALTERNATE PAYMENT OPTIONS	EXTENDED PURCHASING
☐ P-card ☐ Direct Voucher (DV) ☐ Other	☐ Yes ☒ No

MINIMUM DELIVERY REQUIREMENTS

N/A

DESCRIPTION OF CHANGE NOTICE

EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF EXTENSION/OPTION	EXPIRATION DATE AFTER CHANGE
☐ No ☒ Yes	☒	☐	1-Year	August 31, 2016

CURRENT VALUE	VALUE/COST OF CHANGE NOTICE	ESTIMATED REVISED AGGREGATE CONTRACT VALUE
$1.00	$0.00	$1.00

DESCRIPTION:
Effective September 1, 2015 the 8th option year associated with this Contract is hereby exercised. The revised Contract expiration date is August 31, 2016. Please note the Contract Administrator has been changed to David Hatch. All other terms, conditions, specifications, and pricing remain the same, per Contractor and Agency agreement, and DTMB Procurement approval.

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

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

CHANGE NOTICE NO. 6

to

CONTRACT NO. 071B5200320

between

THE STATE OF MICHIGAN

and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Unspam Registry Services, Inc	Eric Langheinrich	eric@unspam.com
5248 Pinemont Drive, Ste C-210	TELEPHONE	CONTRACTOR #, MAIL CODE
Murray, UT 84123	435-615-9205	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	MDOS	Kim Metzger	517-373-2571	metzgerk@michigan.gov
BUYER	DTMB	Barb Suska	517-284-7026	Suskab2@michigan.gov

CONTRACT SUMMARY:

DESCRIPTION:
Michigan Child Protection Registry

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
June 8, 2005	June 8, 2008	2 one year	August 31, 2015
PAYMENT TERMS	**F.O.B**	**SHIPPED**	**SHIPPED FROM**
Net 45 Days	N/A	N/A	30 Days ARO

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

MINIMUM DELIVERY REQUIREMENTS:
N/A

DESCRIPTION OF CHANGE NOTICE:

EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
☐ No ☐ Yes	☐	☐		

VALUE/COST OF CHANGE NOTICE:	ESTIMATED REVISED AGGREGATE CONTRACT VALUE:

Effective immediately, this contract is updated to reflect changes due to Executive Order # 2014-5 which moves this contract from Department of Licensing and Regulation ("LARA") to the Michigan Department of State. The Contract Compliance Inspector will be Kim Metzger- MDOS
MDOS Project Manager will be Felicia Owns, and the DTMB Project Manager will be Dan Klodt.
All other terms, conditions, specifications and pricing remain the same. Per vendor and agency agreement and

DTMB Procurement approval.

RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
EXECUTIVE OFFICE
LANSING

BRIAN CALLEY
LT. GOVERNOR

EXECUTIVE ORDER
No. 2014 – 5

CHILD PROTECTION REGISTRY

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN DEPARTMENT OF STATE

EXECUTIVE REORGANIZATION

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power in the Governor; and

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, there is a continued need to reorganize the functions among state Departments for efficient administration; and

WHEREAS, programs, agencies, and commissions should be placed among the principal departments on a consistent, logical basis in order to ensure the most efficient use of public dollars and more streamlined services; and

WHEREAS, the Michigan Children's Protection Registry Act, 2004 PA 241, MCL 752.1061 et seq., was created to establish the computer crime of sending certain electronic messages to minors; create a child protection registry; to provide notice of contact points to which a minor has access; to prescribe the powers and duties of certain state agencies and officials; to create a fund and provide for fees; and to provide for penalties and remedies;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan, order the following:

I. TRANSFER OF CHILD PROTECTION REGISTRY

A. The Child Protection Registry is transferred from the Department of Licensing and Regulatory Affairs ("LARA") to the Michigan Department of State. All the authority, powers, duties, functions and responsibilities granted to LARA or its predecessor agencies pursuant to the Michigan Children's Protection Registry Act, 2004 PA 241, MCL 752.1061 et seq., as amended, are transferred to the Michigan Department of State.

B. Any and all statutory or other references to LARA or its predecessor agencies related to the Child Protection Registry not inconsistent with this Order shall be deemed references to the Michigan Department of State.

C. All records and property necessary to execute the activities, powers, duties, functions, and responsibilities of the Michigan Children's Protection Registry Act are transferred from LARA to the Michigan Department of State.

D. All unexpended balances of appropriations, allocations, and other funds used, held, employed, or to be made available to LARA for the activities, powers, duties, functions, and responsibilities transferred by this Order are transferred to the Michigan Department of State.

II. MISCELLANEOUS

A. All rules, orders, contracts, plans, and agreements relating to any function exercised pursuant to the Michigan Children's Protection Registry Act transferred from LARA to the Michigan Department of State by this Order that were lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or rescinded.

B. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity transferred from LARA to the Michigan Department of State by this Order shall not abate by reason of the taking effect of this Order. Any lawfully commenced suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements of Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order shall be effective 60 days after the filing of this Order.

Given under my hand and the Great Seal of the state of Michigan this 20th day of February in the Year of Our Lord, Two Thousand and Fourteen

RICHARD D. SNYDER
GOVERNOR

BY THE GOVERNOR:

SECRETARY OF STATE

FILED WITH SECRETARY OF STATE
ON 2/20/14 AT 1:40 P.M.

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

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

CHANGE NOTICE NO.

to

CONTRACT NO. 07185200320

between

THE STATE OF MICHIGAN

and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Unspam Registry Services, Inc.	Eric Langheinrich	eric@unspam.com
5248 Pinemont Drive, Ste. C-210	TELEPHONE	CONTRACTOR #, MAIL CODE
Murray, UT 84123	(435)615-9205	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:				
BUYER:				

CONTRACT SUMMARY:

DESCRIPTION: Create, host, and maintain a registry of electronic addresses to which minors have access – titled as the Michigan Child Protection Registry

INITIAL EFFECTIVE DATE			
June 5, 2005			
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
	Delivered	N/A	N/A

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

MINIMUM DELIVERY REQUIREMENTS:

DESCRIPTION OF CHANGE NOTICE:

OPTION EXERCISED:	IF YES, EFFECTIVE DATE OF CHANGE:	NEW EXPIRATION DATE:
☐ NO ☐ YES		

PROVIDE THE DETAIL OF THE CHANGE NOTICE

The following changes will be effective September 1, 2012. The term of the contract is extended to August 31, 2015. There will be seven option years available to be exercised at the discretion of the State and can be exercised in blocks of multiple years. In addition to extending the term of the Contract, Unspam will assume additional duties as it relates to promoting and performing the community outreach initiatives. This document will also reflect minor modifications/updates to contractual language referring to toll-free telephone line and Crystal Reporting requirements; modifications to insurance requirements, and changes to vendor compensation and revenue allocation.

The additional outreach initiatives are identified in the attached document identified as "Michigan Children's Protection Registry Community Outreach Initiatives."

The following provisions of the Contract will be modified as follows:

Section 1.1 - (page 2) "Reporting Requirements." The language currently reads "This report shall be accessible in Crystal Reports format for the Department use. . ." Crystal Reporting has never been used. The parties agree that the language should be changed to reflect "This report shall be accessible in a mutually agreed web based real time reporting program for the Department use. . ."

Section 1.101 – (page 1) "Toll-free help line." Since Contract inception, the toll-free help line has only been used by the State of Michigan to ensure that it was in operation, but has not been used by any registrants in using the website or senders in complying with the law. The parties agree to eliminate the requirement to provide a tool-free help line.

Section 1.101 – (page 1) "Public relations campaign." The Contractor will assume additional duties as it relates to promoting and performing the community outreach initiatives. The language shou d read "The Contractor shall conduct a public relations campaign to advertise the availability to the Protect MI Child Registry, and shall perform the duties identified in the attached document "Michigan Children's Protection Registry Community Outreach Initiatives" and any other efforts the parties deem appropriate to effectively promote the program. "

Section 1.101(A) The term "help line" will be deleted from the Contract.

Section 1.103(3) "Toll-free help Line Requirements" describes the requirement for the number, assigns to the State of Michigan, the right to the number at termination of the contract, and specifies specific requirements of the vendor. The modifications in this sections are as follows:
(a) this language references the toll-free number, is no longer applicable and can be deleted.
(b) (i), (ii), (v), (vi) this language references the toll-free number, is no longer applicable and can be deleted.
(c) this provision shall be deleted.
(d) this provision shall be deleted.

Section 1.103(7) – "Payment Methods." As noted with other reporting methods. Crystal Reporting has never been used. The parties agree that the fourth paragraph in this section which states, "The vendor will also provide real-time access to authorized individuals within the Michigan Public Service Commission and the office of the Attorney General, in order to obtain information on the current status of the fees that have been collected. Reports will be in the State's Crystal Reports format" should be modified. The last sentence should states "These reports shall be accessible in a mutually agreed web based real time reporting program." ports

Section 1.104(O) – Toll-Free Help Line will be deleted.

Section 1.302(A)(2) – The language currently reads "This report shall be accessible with Crystal Reports format for the Department use. . ." Again, Crystal Reporting has never been used. The parties agree that the language should be changed to reflect "This report shall be accessible in a mutually agreed web based real time reporting program for the Department use. . ."

Section 1.502 –The last paragraph in this section states in pertinent part ". . . IVR system utilization and performance." IVR system is the interactive voice response system used with the toll-free number. With the elimination of the toll-free telephone number requirement this reference is no longer necessary. This language shall be removed.

Section 1.6 Under Sufficiency of Vendor Fee Retention the language currently reads ". . . the contract further

provides (Section 1.6 Compensation and Payment) that the vendor will retain a portion of each fee collected (initially $0.004 per contact point checked). This language shall be changed to ". . . the contract further provides (Section 1.6 Compensation and Payment) that the vendor will retain a portion of each fee collected (initially $0.0045 per contact point checked).

And ". . . Except where the State requires additional work not described in the contract, such as changes to the database, additional fields, etc., all costs incurred by the vendor pursuant to this contract are covered by the vendor's agreed upon portion of the access fees that are collected ($0.004 initially) This language shall be changed to " . . . Except where the State requires additional work not described in the contract, such as changes to the database, additional fields, etc., all costs incurred by the vendor pursuant to this contract are covered by the vendor's agreed upon portion of the access fees that are collected ($0.0045 initially)."

Under Vendor Compensation the language currently reads "The Vendor is owed compensation under this contract derived from a percentage of the senders access fees collected. Unless otherwise agreed by both parties, the Vendor will receive 60 percent (initially $0.004), while the State will receive 40 percent (initially $0.003) of the fees collected." The language shall be changed to "The Vendor is owed compensation under this contract derived from a percentage of the senders access fees collected. Unless otherwise agreed by both parties, the Vendor will receive 64.3 percent (initially $0.0045), while the State will receive 35.7 percent (initially $0.0025) of the fees collected."

Section 1.7(b) Refers to the "toll-free help line." This reference shall be removed.

Section 3.307 Insurance provisions remain unchanged, except for the following:
6. Umbrella or Excess Liability Insurance – deleted and replaced with

Cyber-Liability Insurance
Minimal Limits: $1,000,000 per occurrence.

Additional Requirements: The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents as additional insureds. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

Note: The original Contract was not numbered correctly. Page 1 and 2 are identified twice. Under Section 1.1, when referring to page 2, it is the first page 2. Under Section 1.101, when referring to page 1, it is the section page 1.

VALUE/COST OF CHANGE NOTICE:	$0
ESTIMATED REVISED AGGREGATE CONTRACT VALUE:	$0

FOR THE CONTRACTOR:	FOR THE STATE:
CEO Authorized Agent Signature	Signature
Unspam Registry Services, Inc. Firm Name	Chief Procurement Officer Name/Title
Eric Langheinrich, CEO Authorized Agent (Print or Type)	Department of Technology, Management and Budget Enter Name of Agency
08/17/2012 Date	8/28/12 Date

Michigan Children's Protection Registry
Community Outreach Initiatives

Below are ideas for a basic outreach campaign that can help raise awareness and grow the Michigan Children's Protection Registry.

Community Relations:
A great way to educate families across Michigan is by building strong community relationships with groups who can help us get Registry information out to their communities. These groups can be family-centered organizations like a Boys and Girls Club or a telecommunications company who employs thousands of people who go home each day to their families. By identifying and working with an organization's internal relations or human resource representative, we can educate millions of families. We will also work to have every single school district and school registered with the Michigan Children's Protection Registry. Here are a few examples of organizations that we would call on to help in our community outreach efforts.

- Community, Family, and Non-profit Organizations
  - Boys and Girls Club
  - Big Brothers Big Sister
  - Safe Kids Michigan
  - Local YMCA
  - 4-H Councils
  - Boys and Girls Scout groups
  - United Way
  - Michigan PTA
  - Michigan Head Start Association

- City, County, and State Departments
  - City Mayor and City Council Offices
  - Michigan Association of Counties
  - Department of Human Services

- Business Groups and Industries
  - Chambers and Associations
  - Automotive Companies
  - Telecommunication Companies
  - Hospitals and Healthcare providers
  - Manufacturers

- Schools and Educational Institutions
  - Michigan Department of Education
  - Michigan School Districts
  - Public, Charter, and Private Schools (K-12)
  - Higher Education Institutions

Establishing Community Partnerships:
Establishing community partnerships will give the Michigan Children's Protection Registry the opportunity to bring on high profile individuals who will continuously advocate and educate families on the Registry. We can identify respected Michigan organizations and individuals who believe in the initiative of giving families the right to choose what information enters the inboxes.

For example: In Utah, we established a partnership with the Miss Utah Organization. Affiliated with the Miss America Organization, a big part of their organization is awareness and education of their Miss Utah's platform. Through this ongoing partnership, we have been able to have each year's reigning Miss Utah speak at public events, media appearances, and interviews on the importance of having a Child Protection Registry.

State and Local Media Outlets:
Whether it's a local PTA newsletter or the front page of the Detroit Free Press, having information on the Registry in the news is important. As we move forward, we can create a press plan that will give us the opportunity to generate news stories surrounding the Registry throughout the year. We will also make sure we are up-to-date with the local news editors and news teams so as we are working on promotional contests or outreach campaigns, we have the best opportunity to get the word out.

Web presence:
Having a web presence will help quickly educate families and get them to the Michigan Children's Protection Registry webpage. As we are reaching out to community groups to education their own internal groups (i.e. a company's employees or a school's parents) we can ask for them to add a permanent link to their website.

In Utah we have established hundreds of permanent Registry links through various organizations like individual schools, school districts, news media outlets, non-profit groups, businesses, interfaith community groups, etc.

Automated Feedback for Michigan Residents
Establishing an automated feedback system will simplify the interactions between residents and the Registry, and allow the State of Michigan to respond to registered families in a faster and more accurate manner.

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
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

October 8, 2010

CHANGE NOTICE NO. 4
TO
CONTRACT NO. 071B5200320
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **Unspam Registry Services, Inc.** **850 W. Adams, Suite 4e** **Chicago, IL 60607-3096** micpr@unspam.com	TELEPHONE Matthew B. Prince **(312) 543-3046** VENDOR NUMBER/MAIL CODE BUYER (517) 241-3215 **Steve Motz**
Contract Administrator: Melanie Ashley **Michigan Child Protection Registry**	
CONTRACT PERIOD: From: **June 8, 2005**	To: **September 30, 2011**
TERMS **Net 45 Days**	SHIPMENT **30 Days ARO**
F.O.B. **Delivered**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

NATURE OF CHANGE (S):

Effective immediately, this contract is hereby EXTENDED to September 30, 2011.
All other terms, conditions, specifications and pricing remain unchanged.

AUTHORITY/REASON:

Per Agency request and Vendor concurrence.

ESTIMATED CONTRACT VALUE REMAINS: $0.00

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

November 24, 2009

CHANGE NOTICE NO. 3
TO
CONTRACT NO. 071B5200320
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **Unspam Registry Services, Inc.** **850 W. Adams, Suite 4e** **Chicago, IL 60607-3096** micpr@unspam.com	TELEPHONE Matthew B. Prince **(312) 543-3046** VENDOR NUMBER/MAIL CODE BUYER (517) 241-3215 **Steve Motz**
Contract Administrator: Melanie Ashley **Michigan Child Protection Registry**	
CONTRACT PERIOD: From: **June 8, 2005**	To: **January 1, 2011**
TERMS **Net 45 Days**	SHIPMENT **30 Days ARO**
F.O.B. **Delivered**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

NATURE OF CHANGE (S):

Effective immediately, the second option year is exercised and this contract is EXTENDED 1 year to January 1, 2011.

Overview of Contract Option Exercised (Change Notice 3)

X	**Option 2**	**(1/2/2010 – 1/1/2011)**

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

AUTHORITY/REASON:

Per Agency request and Vendor concurrence.

ESTIMATED CONTRACT VALUE REMAINS: $0.00

Robin Ancona
Director, Telecommunications Division
Michigan Public Service Commission
P.O. Box 30221
Lansing, Michigan 48909

VIA FAX & U.S. MAIL

UNSpam
1901 Prospector Avenue, Suite 200
Park City, Utah 84060-7217
+1 435.615.9205 (phone)
+1 435.615.9211 (facsimile)

November 05, 2009

Re: Contract 071B5200320 Renewal

Dear Ms. Ancona:

This letter is to acknowledge receipt of the State's option to renew contract 071B5200320 for a period of one year beginning January 2, 2010 pursuant to Section 2.004.

This letter also acknowledges Unspam Registry Services, Inc.'s agreement to the option.

If you have any questions at all, please do not hesitate to contact me by calling (435)615-9205 x305 or by calling my mobile (801)201-9988.

Sincerely,

Eric Langheinrich, CTO
Unspam Registry Services, Inc.

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

October 28, 2008

CHANGE NOTICE NO. 2
TO
CONTRACT NO. 071B5200320
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR	TELEPHONE Matthew B. Prince **(312) 543-3046**
Unspam Registry Services, Inc. **850 W. Adams, Suite 4e** **Chicago, IL 60607-3096** micpr@unspam.com	VENDOR NUMBER/MAIL CODE BUYER (517) 241-3215 **Steve Motz**
Contract Administrator: Melanie Ashley **Michigan Child Protection Registry**	
CONTRACT PERIOD: From: **June 8, 2005** To: **January 1, 2010**	
TERMS **Net 45 Days**	SHIPMENT **30 Days ARO**
F.O.B. **Delivered**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

NATURE OF CHANGE (S):

Effective immediately, this contract is EXTENDED 1 year to January 1, 2010.

Overview of Contract Option Exercised (Change Notice 2)

X	**Option 1**	**(1/2/2009 – 1/1/2010)**

Overview of Remaining Option

	Option 2	**(1/2/2010 – 1/1/2011)**

Article 1, Section 1.202 STATE STAFF ROLES AND RESPONSIBILITIES, is hereby amended to include Robin Ancona (Director of the Telecommunications Division) as designated Agency Project Manager replacing Orjiakor N. Isiogu.

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

AUTHORITY/REASON:

Per Agency request and Vendor concurrence.

ESTIMATED CONTRACT VALUE REMAINS: $0.00

Robin Ancona
Director, Telecommunications Division
Michigan Public Service Commission
P.O. Box 30221
Lansing, Michigan 48909

VIA FAX & U.S. MAIL

1901 Prospector Avenue, Suite 200
Park City, Utah 84060-7217
+1 435.615.9205 (phone)
+1 435.615.9211 (facsimile)

October 15, 2008

Re: Contract 071B5200320 Renewal

Dear Ms. Ancona:

This letter is to acknowledge receipt of the State's option to renew contract 071B5200320 for a period of one year beginning January 2, 2009 pursuant to Section 2.004.

This letter also acknowledges Unspam Registry Services, Inc.'s agreement to the option.

If you have any questions at all, please do not hesitate to contact me by calling (435)615-9205 x305 or by calling my mobile (801)201-9988.

Sincerely,

Eric Langheinrich, CTO
Unspam Registry Services, Inc.

It 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

December 20, 2005

CHANGE NOTICE NO. 1
TO
CONTRACT NO. 071B5200320
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **Unspam Registry Services, Inc.** **850 W. Adams, Suite 4e** **Chicago, IL 60607-3096**	TELEPHONE Matthew B. Prince **(312) 543-3046** VENDOR NUMBER/MAIL CODE BUYER (517) 241-3215 **Steve Motz**
Contract Administrator: Melanie Ashley **Michigan Child Protection Registry**	
CONTRACT PERIOD: From: **June 8, 2005** To: **January 1, 2009**	
TERMS **Net 45 Days**	SHIPMENT **30 Days ARO**
F.O.B. **Delivered**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

NATURE OF CHANGE (S):

Effective immediately this contract is extended through January 1, 2009 per the attached letter. All other terms, conditions, specifications and pricing remain unchanged.

PLEASE NOTE: Buyer has been changed to Steve Motz.

AUTHORITY/REASON:

Per agency and Acquisition Services' approval.

ESTIMATED CONTRACT VALUE REMAINS: $0.00

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT & BUDGET
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

LISA WEBB SHARPE
DIRECTOR

December 16, 2005

Matthew B. Prince
Unspam Registry Services, Inc.
1901 Prospector Avenue, Suite 200
Park City, Utah 84060

Dear Mr. Prince:

Pursuant to your letter dated November 30, 2005 the State acknowledges receipt of Unspam Registry Services Inc.'s ("Unspam") request for an equitable adjustment under Article 2, Section 2.704 of the Michigan Children's Protection Registry Contract (BPO No. 071B5200320) for the stop work order issued by the State to Unspam on August 1, 2005 with extensions requested by the State extending to November 16, 2005 (collectively, the "Stop Work Order").

The Stop Work Order provision reads:

- If a stop work order issued under this section is canceled or the period of the stop work order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the contract price, or both, and the Contract shall be modified, in writing, accordingly, if:

  a) The stop work order results in an increase in the time required for, or in the Contractor's costs properly allocable to the performance of any part of this Contract; and
  b) The Contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.

Per part B of 2.704(2) the Contractor has asserted its right to an equitable adjustment within 30 days of the end of the period of work stoppage. The State agrees to the following terms for an equitable adjustment under Section 2.704:

Both parties agree and acknowledge that by signature, Unspam Registry Services Inc. will relinquish all claims under the Contract for lost revenue, goodwill, or other potential equitable adjustments due as a result of the Stop Work Order and the State will extend the Contract until January 1, 2009 (7 months) as an equitable adjustment under Section 2.704(2).

Unspam Registry Services

By:

Title: Matthew B. Prince, Unspam Registry Service CEO

Date: 12-16-05

Department of Management and Budget (Acquisition Services)

By: Steve Motz

Title: Steve Motz, Buyer

Date: 12·16·05

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

June 17, 2005

NOTICE
TO
CONTRACT NO. 071B5200320
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **Unspam Registry Services, Inc.** **850 W. Adams, Suite 4e** **Chicago, IL 60607-3096**	TELEPHONE Matthew B. Prince **(312) 543-3046** VENDOR NUMBER/MAIL CODE BUYER (517) 241-1646 **Greg Faremouth, CPPB**
Contract Administrator: Melanie Ashley **Michigan Child Protection Registry**	
CONTRACT PERIOD: From: **June 8, 2005** To: **June 8, 2008**	
TERMS **Net 45 Days**	SHIPMENT **30 Days ARO**
F.O.B. **Delivered**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

The terms and conditions of this Contract are enclosed.

Estimated Contract Value: $0.00

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. 071B5200320
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **Unspam Registry Services, Inc.** **850 W. Adams, Suite 4e** **Chicago, IL 60607-3096**	TELEPHONE Matthew B. Prince **(312) 543-3046** VENDOR NUMBER/MAIL CODE BUYER (517) 241-1218 **Greg Faremouth, CPPB**
Contract Administrator: Melanie Ashley **Michigan Child Protection Registry**	
CONTRACT PERIOD: From: **June 8, 2005** To: **June 8, 2008**	
TERMS **Net 45 Days**	SHIPMENT **30 Days ARO**
F.O.B. **Delivered**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	
MISCELLANEOUS INFORMATION: **The terms and conditions of this Contract are enclosed.** **Estimated Contract Value: $0.00**	

FOR THE VENDOR:	**FOR THE STATE:**
Unspam Registry Services, Inc.	
Firm Name	Signature
	Greg Faremouth, Buyer Specialist
Authorized Agent Signature	Name/Title
	IT Division, Acquisition Services
Authorized Agent (Print or Type)	Title
Date	Date

STATE OF MICHIGAN
Department of Management and Budget
Acquisition Services

Contract No. 071B5200320
Protect MI Child

Buyer Name: Greg Faremouth
Telephone Number: 517 241-1646
E-Mail Address: faremouthg@michigan.gov

Protect MI Child

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Article 1 – Statement of Work (SOW)

1.0 Project Identification

1.001 PROJECT REQUEST

Under PA 241 of 2004, the Department of Labor and Economic Growth (DLEG) is required to create, host, and maintain a registry of electronic addresses to which minors have access. It is illegal for senders of adult or other materials which a minor is prohibited by law from purchasing, viewing, possessing, participating in, or otherwise receiving to send such electronic messages to any address listed in the registry. The Registry, to be known as the "Protect MI Child" Registry, will be operated through a secure website created, operated and maintained by a vendor. The Registry must provide a user-friendly registration process with easy access and a quick turnaround for registrants. There will be no charge to register addresses, known as "contact points", in the Registry. Instead, senders will be charged a fee to have their electronic mailing lists checked against the contact points in the registry. The Registry must encourage sender compliance by designing an efficient system that can be operated quickly and in congruence with industry standards where they exist. The vendor must provide real-time access to the system to individuals designated by the Department, provide regular reports and accommodate investigation requirements of DLEG and/or the Attorney General.

1.002 BACKGROUND

On July 21, 2004, Governor Jennifer M. Granholm signed legislation to create a child protection registry that will protect minors from unsolicited and inappropriate electronic mail. The registry will be established by July 1, 2005, and will be operated by the Department of Labor and Economic Growth (DLEG or Department), or contracted to a qualified third party.

Public Act 241 of 2004 (SB 1025) establishes a children's protection registry that will provide safeguards and prevent, to the extent possible, the disclosure of information to children through devices and mediums, such as instant messaging addresses, wireless telephones, and e-mail addresses.

Under the law, a person will be permitted to register addresses to which one or more minors have access. A person will be prohibited from sending a message to a registered address if the primary purpose is to advertise or sell a product or service that a minor is prohibited by law from purchasing, viewing, possessing, participating in, or otherwise receiving.

Violations are subject to criminal penalties. The new law assigns enforcement responsibility to the Department of Attorney General. Civil actions brought by private parties are also authorized.

A related bill, House Bill 5979, now Public Act 242 of 2004, renders a violation of the Michigan Child Protection Registry Act as a violation of Michigan's criminal statute prohibiting unauthorized computer access. The first violation is a misdemeanor. Subsequent violations are felonies.

On March 2, 2005 a Vendor Forum was held at the Michigan Public Service Commission (MPSC) to discuss the Request For Information (RFI), which was issued in regards to the Protect MI Child Registry. Vendors were requested to submit proposals/comments on the RFI by March 4, 2005. The Department of Management and Budget (DMB) received several proposals and comments from vendors. Included in the proposals/comments were questions and concerns on challenges that may need to be addressed in establishing the Registry.

1.1 Scope of Work and Deliverables

1.101 IN SCOPE

Establishment and maintenance of: database, web site, and a toll-free help line.
Provide hosting services.
Registration and renewal of registration for the database for responsible parties.
Registration and renewal of subscription for Senders to access database.
Removal from database for responsible parties.

Confirmation of registration, renewal, and removal of contact points.

Agency Goals	***Protect MI Child***
Real time access	The Department of Labor and Economic Growth shall require the vendor to provide real time access to the information in the database to the staff in the department responsible for implementation of the Act and also provide real time access to the information in the database to the attorney general for investigation purposes.
Monitoring	The Department of Labor and Economic Growth shall monitor the activities of the vendor in maintaining the database and facilitate access to the information in the database to the appropriate department and attorney general personnel.
Reporting requirements	The vendor shall provide a monthly report to the Department indicating the activity for the month related to the number of contact points registered each month along with the year to date totals, the expiration dates of the contact points, schools and institutions registering contact points, operating expenses, number of contact points checked against the registry, number and listing of entities requesting access to the registry. This report shall be accessible in Crystal Reports format for the Department use and any modifications to the format as deemed necessary by the Attorney General shall be made on 90 days notice on an ongoing basis. Please refer to section 1.302 Reports, for further specific information on the reporting requirements.
Report accessibility	The vendor shall make available the monthly reports to the attorney general staff and perform an annual audit of the revenues and expenditures of the registry program and provide a copy of the audit report to the Department and the attorney general.
Database requirements	The vendor shall provide a database extensive enough to be able to meet the Registration Requirements of the Child Protection Registry Act. Based on the 2003 results from the Census Bureau for the State of Michigan. There are 2,538,920 youths under the age of 18 in the state of Michigan and each youth could have more than one address. There is a total population of 10,079, 985 in the State of Michigan that would qualify for the Child Protection Registry Act. Each person could also have more than one address. Refer to Section 1.103 (1) and (2), as well as Section 1.104 for further specific information on the database requirements.
Website requirements	The vendor must provide adequate redundant websites and bandwidth to be able to support the requirements of the Child Protection Registry Act. The vendor also must provide accommodations for submissions, problems, and complaints from the parents, guardians, institutions and senders.
Secure transfer method	The vendor must provide a secure and reliable FTP program or equivalent mechanism that will transfer data to permitted entities. The vendor will develop a process that can be used live by the MPSC to download information for its use.
Toll-free help line	The vendor must provide a toll-free help line, which will have automated responses, and may also have the opportunity for senders and registrants to be able to contact live support staff if the State and the Vendor mutually determine such live support staff to be necessary after 180 days of the Protect MI Child Registry's operation. The purpose of the toll-free help line is to assist senders and registrants who may have questions to assist in problems that may occur (such as registration problems, complaint filing inquiries, etc), and address unforeseen issues throughout the duration of the Protect MI Child program.
Public relations campaign	The department shall conduct a public relations campaign to advertise the availability of the Protect MI Child Registry.

A. Compliance Accountability

The State will not be held accountable for non-compliance and/or non-registry by senders and/or registrants. The State will also not be held accountable for the money that may be lost due to the non-compliance. It will be the responsibility of the vendor to develop a website, help line, and registry system, which encourages compliance and registry, by both senders and registrants, at the highest level.

B. State Acknowledgements of Technical Limitations

The State recognizes and acknowledges that the services provided by the Vendor are only registry administration and compliance tool services and do not constitute an email suppression service, an email filter service, or any similar service. That State further acknowledges and recognizes that senders comparing their email lists against the registry, may extrapolate valid information on addresses that are listed on the registry and that the Vendor has no duty to ensure that senders will not misappropriate the data received. The State also recognizes and acknowledges that the Vendor has no duty to verify that a minor has access to any registered contact point.

1.102 OUT OF SCOPE

Services currently provided by the national "Do Not Call" list are outside of the scope of work, with the exception of providing a link to the "Do Not Call" list on the Protect MI Child website.

1.103 TECHNICAL ENVIRONMENT

1. Web Site Requirements: Website development should have the "look and feel" of the State website and conform to all State web development standards. The vendor must create and maintain a secure website that meets all State defined requirements including: Look and feel standards for static web pages; State and Federal security and privacy requirements; State and Federal ADA requirements. They can be found at:http://www.michigan.gov/documents/Look_and_Feel_Standards_2003v2_72379_7.0.pdf

(a) Technical Specifications

All user views for input, output, and any related information should be presented using the Michigan.Gov portal, with data exchange between the portal and the application being sent in XML in a web services model.

For the duration of this contract, the vendor will allow the State use of domain names such as protectMIchild.com, ProtectMIChild.net, and ProtectMIChild.org, for promotion of the Protect MI Child Registry. Also, the vendor will work with the State to register any domains including filing for a .gov registration. Unless specifically authorized by the State, none of the domain names listed above will be used for a purpose other than linking to a ProtectMIChild.gov site for which registration will be sought for the duration of the contract. Within 15 days of the execution of this Agreement, the State will deliver from the Chief Information Officer of the State, or her designee, a letter authorizing a registration of an appropriate .gov domain or domains.

(b) Web Accessibility Standards

The vendor must provide web applications in conformance with Michigan Web Accessibility Standards, which can be found at
http://www.michigan.gov/documents/Usability_guidelines_2003v1_72381_7.pdf

The vendor's sites will operate on the Microsoft Internet Explorer, Firefox/Mozilla, Netscape, AOL, Safari, Opera, and other industry standards-complaint browsers, which must be described by the vendor. The vendor will support all HTML4.0+ browsers, and have already successfully tested a mock-up version of the Registry on browsers back to Netscape 2.0. The vendor will support screen resolutions down to 640 x 480 pixels. The vendor will provide a site that will downgrade well to text-based browsers such as Lynx, or text-readers designed for the visually impaired. The vendor will also either design a WEP-based version of their site, or architect the site in such a way that it adapts well to mobile devices.

(c) The vendor must provide adequate redundant websites and bandwidth to be able to support the requirements of the Michigan Children's Protection Registry Act. The vendor also must provide commercially reasonable accommodations for submissions, problems, and complaints from responsible parties and senders.

(d) Web Site Registration

(i) The vendor must design, implement and maintain a web site accessible through the State of Michigan Portal system and other sites as determined by the Department that will allow responsible parties to register, amend and delete their registrations, and check their status in the Registry.

(ii) Only those responsible parties who have registered a contact point may request to have that registration updated or terminated. If a parent wishes to have his/her child excluded from a group registration such as a domain name registered by a school, that parent must contact the school and make a request to the school to have that
child removed from the registry. The school will then have to contact the vendor and submit an updated request. The parent will not be allowed to make the request directly to the vendor.

The Vendor has no duty to manage the communication and adjudication between parents and schools. The Vendor will only be responsible for taking direction from the school's responsible party in such circumstances.

(iii) If custody or guardianship of a minor changes in a way that affects a registered contact point, this issue must be resolved privately among the individuals involved. In cases where confusion

over guardianship. etc., is unresolved, the vendor may remove the registered contact point from the Registry database.

(iv) The vendor must design, implement and maintain a web site accessed through the State of Michigan's computer system and other sites as determined by the Department that will allow Senders to register as a subscriber to the Protect MI Child Registry, renew, amend or delete their subscription, to check their status as a subscriber, and to pay their subscription fee

(v)The vendor will design a site that adheres not only to the guidelines established by Michigan, but also embodies the clean and familiar spirit of the Federal Do-Not-Call site

(vi) The vendor will design sites that are very accessible. At a minimum, all sites will comply with Section 508 of the Federal Rehabilitation Act and the W3C's Content Accessibility Guidelines. Where possible, the vendor will design public pages of its sites to achieve Bobby AAA compliance.

(vii) The vendor will also work with the State to refine the image and perception of the registry, and make available the vendor's media relations resources, including possible logos that may exist subject to reasonable limitations in accordance with the maintenance of the Vendor's rights under federal and state trademark laws. However, the State reserves the right to not include additional information such as the logos. The vendor will also work with the State to help promote the Protect MI Child Registry.

(viii) The vendor shall have a registration process, which features the following:

(a) a Registry website through which responsible parties may initially register as well as renew or change the registration status of any registered contact points;

(b) a confirmation process verifying that the responsible party has control over any registered contact points, whether they are email addresses, instant message ids, facsimile numbers, or mobile device numbers;

(c) a system to verify registrants are Michigan residents through IP address mapping, zip and area code verification;

(d) a mechanism for responsible parties to register new addresses, renew contact points whose registrations are set to expire, or remove already-registered contact points;

(e) and an email notification process whereby responsible parties may be alerted whenever a registered address is due to expire, or if there has been any change in a registered contact point's status.

(ix) The vendor will only retain children's actual addresses long enough to send the initial confirmation message. Once completed, the vendor will place a hashed value derived from each registered contact, and the original will then be expunged from the system. The information will be expunged not only by deleting it from the system, but also by overwriting the contact point with random data thereby taking reasonable efforts to prevent recovery. As required in the Michigan Children's Protection Registry Rules, addresses for registrants are required. They must be kept for the duration of time that is outlined in the contract (Section 1.103 (4) Record Retention). The system must be constructed in a way that allows for proper audit methods. Please refer to Section 2.403: Audit of Contract Compliance/Records and Inspections.

(x) The vendor will require a minor's contact point address, as well as the approximate date of birth (month and year) for registration. All communication between registrants and the web servers will be encrypted using a minimum of 128-bit secure socket layers (SSL). Confirmation of the individual registering the contact point will take place by the vendor.

(xi) The vendor must develop a system that is designed from the beginning to stop abuse (in regards to pranks, etc) and limit its harm if it occurs. The vendor will verify every registration via the contact point, regardless of the type of contact point, before it is added to the registry. Moreover, the vendor will log all transactions and have built-in mechanisms that track suspicious behavior. The vendor can restrict access to known abusers and roll back any transactions they may have initiated. The vendor will work with the state to create guidelines under which these anti-abuse measures will be enforced. The State recognizes and acknowledges that these anti-abuse mechanisms are not foolproof. While the Vendor will use commercially reasonable anti-abuse mechanisms, the state acknowledges that such abuse may still occur.

(xii) The vendor shall design a website that has the look and feel of the mock webpages that were proposed by the vendor in its April 1, 2005 response to the Department of Management and Budget ITB No. 071I5200177. The vendor will work with the State in refining these sites/pages.

(e) Informational Links

The vendor shall provide hyperlinks from the website to such other appropriate sites as the Department shall approve.

(i) The vendor will work to educate registrants that the system merely creates a tool to help prosecutors and help legitimate marketers avoid sending inappropriate materials to children. Explaining what the Protect MI Child Registry can and cannot do, as well as setting realistic expectations of the benefits that registrants can expect, is important throughout the registration process, as well as during any interaction with users of the toll-free number.

(ii) The website will contain information for users including answers to frequently asked questions. An email address and contact form will be provided where registrants can send their questions. The vendor will respond to these questions in a timely manner. The vendor will include instructions and links to the State's do-not-call program in order to route visitors looking for that service to the appropriate website.

(iii) The website will contain information indicating that services provided through the website are only registry administration and compliance tool services and do not constitute an email suppression service, an email filter service, or any similar service. The vendor will provide a disclosure, acknowledgement, and release to registrants that there is a possibility that Senders who subscribe to the registry may extrapolate valid information on addresses that are listed on the registry and use it in a manner proscribed by law. If this occurs, neither the Vendor nor the State of Michigan can be held liable.
Vendor has no duty or ability to ensure that senders will not misappropriate the data received.

(f) Educational Information for Responsible Parties and Contact Points
The vendor shall include on the web site such educational information, as the Department shall approve to advise persons of their rights under the Act or other related consumer protection issues. The vendor is encouraged but not required to propose additional information or functionality on the website that will increase the use of the Registry by responsible parties.

(g) Educational Information for Senders
The vendor shall include on the web site such information as the Department shall approve to advise Senders of their responsibilities under the Act. The vendor is encouraged but not required to propose additional information or functionality on the website that will increase the use of the Registry by senders.

The vendor will provide information via the Protect MI Child website as well as a customer service phone number where senders can seek information on complying with the Michigan Children's Protection Registry.

(h) On-line Services
(i) The vendor may be required to provide an application that will allow responsible parties and senders to file a complaint with the Office of the Attorney General on-line.
(ii) The vendor must provide downloadable complaint forms, which the complainant may print and mail. The Vendor will have no duty to process or enter the data from any complaint printed complaint form. The form will specify that that it is to be mailed directly to the Attorney General's office.
(iii) The vendor must provide an email address which both senders and responsible parties may use to contact the vendor, in order to inquire about information on the purpose and use of Protect MI Child, complaint information, registry information, website navigation issues, etc.
(i) After an initial 120-day grace period after beginning operation of the registry, the Protect MI Child website shall not be "down" for over an hour of unscheduled time in a month, nor more than 3 hours during any given quarter, excluding scheduled maintenance times. However, during the grace period, the vendor is expected to adhere to these commercially reasonably requirements.

2. Database Requirements
(a) The vendor shall provide a database extensive enough to be able to meet the registration requirements of the Michigan Children's Protection Registry Act. There are 2,538,920 youths under the age of 18 in the state of Michigan and each youth could have more than one address. There is a total population of 10,079, 985 in the State of Michigan that could qualify for the Michigan Children's Protection Registry Act. Each person could also have more than one address.
(b) Section 1.104 specifies required fields for the Protect MI Child Registry database. These fields shall accommodate information on contact points, responsible parties and senders as necessary to implement these rules consistent with the Protect MI Child Act.
(c) Required Updates
(i) The vendor shall ensure that data entered into the Registry, Sender and Enforcement databases is accurate, based on submitted data from Senders and Responsible Parties, and up to date.

(ii) The vendor agrees to the following criteria: All verified contact point data must be updated within 24 hours of receipt of the verification. The vendor shall enter all verified registration requests within 24 hours of receipt of the verification.

(iii) All Sender data must be updated within 24 hours of receipt.

(iv) The vendor must include any verified additions, amendments or deletions to the sender database within five business days of receipt of the verification.

(vii) The vendor must remove duplicates. No less than quarterly, the vendor shall ensure that any duplicate records have been purged from the databases. The state acknowledges that duplicates are any contact points that are exactly the same. The state acknowledges that the vendor has no duty or ability to determine whether multiple contact points resolve to the same destination (e.g., two phone numbers that ring the same line, two email addresses that end up in the same inbox, etc.).

(viii) On a monthly basis, the vendor will ensure that all contact points, which have surpassed the 18-year age limit, according to information provided by responsible parties are removed from the databases. The state acknowledges that the vendor is relying on the information provided during registration and has no duty or ability to verify the actual age of the user of the registered contact points.

(d) Enforcement Database

(i) The fields required to support the enforcement of the Act may be modified but, at a minimum, should allow for tracking of the following:

(A) Name of complainant
(B) Telephone number of complainant
(C) Case number
(D) Progress notes
(E) Final disposition of case
(F) The contact point that received the prohibited information
(G) Name of minor who received the prohibited information
(H) Mailing address of the recipient
(I) Email address of the complainant
(J) Any information about the message itself (screen shots, the actual message, URL's contained in the message, etc.)

(ii) Authorized officials from the Michigan Public Service Commission and the Office of the Attorney General will have 24-hour access through the administration website to the complaint data and summary reports. Vendor will work with the Michigan Attorney General to store records and data in such manner as the Attorney General reasonably requires. These reports will summarize both the content of the complaints received over the last week as well as, to a commercially reasonable extent, information that may identity the worst offenders targeting Michigan's children. The vendor will work with the State to refine these reports to best serve the agencies that will enforce the law. The vendor will also perform a first-level automated research on the source of the messages that were sent. The vendor will utilize its Project Honey Pot system and query other anti-spam resources to the extent that the State and the vendor determine is reasonably advisable. The vendor will advise the State of any significant findings from its anti-spam research efforts.

(iii) The vendor's complaint reporting system will have at least three public interfaces:

(A) An email address to which prohibited messages may be forwarded

(B) a website through which prohibited messages may be reported and complaints filed, and

(C) an ADA-compliant PDF form which may be downloaded, printed, filled out, and mailed in to the Attorney General's Office.

The vendor will utilize an on-line complaint form similar to the mockup provided in its April 1, 2005 response to ITB No. 017I5200177.

(e) Down Time

(i) Unscheduled down time

Not withstanding the 120-day grace period for other sections of this contract, there will be an initial 90-day grace period after the implementation of the registry's operation, databases shall not be "down" for over an hour of unscheduled time in a month, nor more than 3 hours during any given quarter, excluding scheduled maintenance time. If the database is found to be "down" for over the allowed timeframe, the vendor must notify the MPSC Program Analyst, currently Ryan McAnany @ 517-241-6139 that it is "down" and also notify the MPSC when it is returned to service after down time.

(ii) Scheduled down time

The vendor is required to explain its plan for scheduled down time, in order to make necessary repairs, upgrades, and routine maintenance to the system.

a) The vendor will take only those components of the system in need of service offline
b) Scheduled maintenance will occur between midnight and 6:00am
c) Schedule downtime will average no more than an average of 5 hours per week in any one month period, to a maximum monthly average of 15 hours of scheduled downtime
d) The State will be notified of the scheduled downtime (notification of scheduled downtime will be made to MPSC Program Analyst)

(f) Secure Registry Database Software (core design requirements) the vendor shall use commercially reasonable efforts to do the following:

i) Secure the registry to discourage abuse by rogue senders or Internet criminals, and to protect registrant privacy
ii) Ensure that compliance by legitimate marketers is easy and unthreatening
iii) Prevent an unconstitutional chilling effect on compliant marketers or their customers
iv) Provide a tool to assist law enforcement in bringing cost-effective prosecutions against the senders of inappropriate messages to Michigan's children
v) Streamline registry maintenance to make the system's upkeep easy and inexpensive
vi) Using one-way hashing and hash salting to add extra security. However, the vendor must maintain information that allows for tracking, enforcement, and auditing purposes by the State, and to provide this information to the State upon request. Refer to Section 2.403: Audit of Contract Compliance/Records and Inspections.

(g) Hardware Security, the vendor shall do the following:

i) Housing the Protect MI Child Registry in a secure, Michigan-based network control center
ii) Provide a redundant, out-of-area back-up data center to provide a fallover service in case of an emergency
    1) Data centers should include the following or reasonably similar equivalents:
        a. Secure card key access, hand-scan systems, and/or thumb-print scanners limiting access to only authorized personnel
        b. 24x7x365 on-site monitoring by NOC and/or security staff
        c. Security padlocked server cabinets
        d. Motion-activated closed circuit video cameras covering the entire facility
        e. Redundant power supply and backup generators with proven 100 percent uptime track records
        f. ATS (Automatic Transfer Switch) and ATO (Automatic Throw-Over) to switch between Public Service grid and generator as needed
        g. Climate-controlled environment to keep environment at constant temperature and humidity
        h. Anti-static raised flooring with designated cable runs
        i. State-of-the-art smoke detection and fire suppression systems
        j. Meet the commercially reasonable requirements for security and reliability

(h) Hardened Hardware Implementation, the vendor will provide:

i) The Protect MI Child Registry be implemented as a multi-server system
ii) At least two firewalls be placed between the core database and the Internet
iii) No sensitive information will ever be stored on any publicly accessible server
iv) Provide a registry hardware schematic that includes the following features:
    i. The core database sitting off the Internet and on its own private network behind at least two hardware firewalls
    ii. Port-restricted communication between the database server and the web, communication, and scrub-processing servers
    iii. A variable number of registrant web and communication servers scaled to meet load requirements
    iv. A variable number of scrub-processing servers added for at least every 1,000 marketers complying with the law
    v. Nightly off-site backup of the system data
    vi. Servers running hardened enterprise Linux
    vii. Database and scrub-processing servers running configured and hardened for speed and security
    viii. Point-in-time database design to prevent data loss and allow for system rollbacks

ix. Hardware-RAID enabled data storage implementation

(i) Hardware Specifications, the vendor shall provide at a minimum the following:
- i) Web Servers: 512 MB RAM, 40 GB ATA drive, Hardened Enterprise-class Linux OS, cluster configuration
- ii) Scrub-processing servers: 2 GB RAM, 80 GB ATA drive, Hardened Enterprise-class Linux OS, cluster configuration
- iii) Master database server: Multi-processor, 2GB RAM, 4x SCSI RAID Level 5, Hardened Enterprise-class Linux OS
- iv) Create organized load-balanced farms so potential bottlenecks are limited for the overall system in regards to both web servers and scrub-processing servers

(j) Secure & Scalable Software, the vendor shall provide (according to/ in compliance with the Department of Information Technology's and other State approved standards):
- i) J2SE 5.0 (Java 1.5.0) application language platform and marketer compliance Applet
- ii) PHP 5.0.3 web application development language
- iii) PostgreSQL 8.0.1 database
- iv) Apache 2.0.53 Web Server
- v) SQLite 2.8.16 webspace caching environment
- vi) Qmail 1.05 e-mail transport agent
- vii) Jabber 1.4.3 instant messenging multi-platform client application
- viii) HylaFAX 4.2.1 fax server
- ix) Perl 5.8.0 for Jabber and HylaFAX intermessenging

(k) The state acknowledges that the registry website and system will be housed on its own domain outside of the state of Michigan's Michigan.gov portal. While the registry system will be designed to be compatible with the state's existing websites, the registry system will not run under IBM's WebSphere.

(l) Robust Network Architecture, the vendor shall provide:
- i) Automatic switchover in case of network connection outage
- ii) Dual, mirrored networks and hardware status 24x7x365
- iii) Active network intrusion monitoring and threat containment

(m) Connectivity and Availability, and Redundancy the vendor shall provide
- i) Direct private-line access to at least 80% of Internet connections without requiring connections through the slower, public backbone
- ii) Redundant network connections to multiple Tier 1 service providers assuring virtually 100 percent uptime
- iii) Multiple direct backbone connections to providers such as UUNet, 360 Networks, Level 3, and CommX Exchange to ensure against outages even due to upstream provider failure
- iv) Establish a fallover data center, which also features the same robust security and connection as the primary data center.

(n) Data Backup & Disaster Recovery, the vendor shall provide:
- i) The registry data and transactions are stored in a data-base that supports Point-In-Time Recovery
- ii) Data will be backed up on a nightly basis and replicated on a standby database server
  If corruption occurs or a segment of data is compromised, the database will either be restored from the backup, rolled back to an acceptable point in time, or replaced by the replicated server. In the event both the master and replicated server are compromised, the maximum data loss is one forty-eight hour period between backups. The vendor's systems are configured to keep copies of all logs and reports. The vendor will also conduct backups every night to help ensure a more secure 24-hour backup system.

3. Toll-free Help Line Requirements

(a) A toll-free number is required to assist registrant and sender use of the Protect MI Child Registry. The telephone number used shall become the property of the State of Michigan upon termination of the contract.

(b) The Vendor will implement and provide a toll-free help line to assist registrants in using the website and senders in complying with the law. The help line will be implemented as an interactive voice response (IVR) system. Commercially reasonable efforts will be made to have the IVR system operational beginning July 1, 2005. The IVR system will be implemented to answer frequently asked questions and facilitate communications between the public and the vendor on

behalf of the State. The initial decision and response tree of the IVR will be designed by the Vendor and presented to the state for review in accordance with the Work Plan.

(i) The toll-free help line will be available at least 20 hours per day, including the hours between 8:00 AM and 8:00 PM, or unless downtime is scheduled in accordance with the provisions of this contract. The toll-free help will begin operation as a 20 port system, capable of handling 20 simultaneous calls or an estimated 2,000 calls per day (assuming an average call time of 8 minutes, and 90% of the load occurring between 8:00 AM and 8:00 PM).

(ii) The Vendor will monitor the port-utilization of the system and make adjustments on a weekly basis according to the following metric:

(1) During no 1-hour period should, on average, the IVR exceed 90% port-utilization.
(2) During no 8:00 AM to 8:00 PM period should, on average, the IVR exceed 80% port-utilization.

The Vendor will increase the number of ports weekly if, during the preceding week, either of the above metrics are exceeded. The Vendor may decrease the number of ports weekly if the decrease for the upcoming week would not have caused either of the above metrics to be exceeded during the preceding week.

(iii) The Vendor will implement an online customer feedback system and interactive customer support system. Through the customer feedback system, registrants will be able to send queries regarding problems or questions they have. Registrants will be asked to include an email address and daytime telephone number (which is optional for the sender/registrant to provide). The Vendor will respond to these queries within 24-hours of receiving them. The preferred method of response will be via electronic mail. However, for the few questions that cannot be answered via that method, the Vendor will, at its sole discretion, place a support telephone call to the registrant.

(iv) The Vendor will track the queries submitted via the online support system and, where necessary, make changes to both the IVR system's decision and response tree as well as the interactive customer support system. The vendor will work with the State to address queries that may be outside of the scope of the vendor's ability to answer.

(v) After 180 days of registry operation, the Vendor will meet with the state to review the feedback from the customer support systems and develop a plan for any modifications to the customer support system. The Vendor will discuss the implementation of live operator support if it is reasonably demonstrated to be necessary based on the first 180 days of operation. If the Department is deluged by phone calls regarding the Protect MI Child Registry before the 180 days have elapsed, the vendor will work with the Department to resolve the problem. Possible remedies may include, but are not limited to, enhancing IVR responsiveness, expanding public education efforts or re-examining the issue of live telephone support. The state agrees that at no time will the Vendor be required either (1) to take registrations via the toll-free help line; or (2) store recordings of the phone calls.

(vi) The vendor may temporarily suspend some or all toll-free help line in the case of an injunction or other legal action that bars the collection of fees from marketers under the statute for a period of time greater than 30 days. The vendor will work with the State and properly notify the State at least 21 days prior to a possible suspension of some or all of the call center support services. In a circumstance of a partial suspension, the vendor will work cooperatively with the State in determining which portions of the toll-free help line to suspend. In consultation with the state, the Vendor may block access to telephone numbers or individuals who abuse the toll-free help line.

(c) Opt-out Functionality from Current Department Do Not Call Hot Line.
The vendor must be required to allow calls to the states's "Do Not Call" Hotline, but which are looking to participate in the Protect MI Child Registry, to be forwarded from the Do Not Call hotline to the vendor's telephone based solution. The state acknowledges that the vendor does not run the Do Not Call hotline and can therefore only make the technical systems to accept such forwarded calls available. The vendor shall bear no liability and incur no penalties if transfers from the Do Not Call Hotline result in dropped calls, longer wait times, or busy signals.

(d) Busy Signals and Wait Times
A registrant or sender calling the toll-free help line should not encounter busy signals or be placed in hold or queue for an unreasonable amount of time. The vendor will propose a solution to these problems.

4. Record Retention
The vendor shall securely store all transaction logs of Internet transactions, and all mail and facsimiles received in an easily accessible manner for at least 60 days and in an archive for the period of the contract, unless directed otherwise by the Department. The State recognizes and acknowledges that transaction logs will expunge all clear-text contact point references. The State also recognizes that records of responsible parties are not hashed, but stored in clear-text

databases. The Department shall have access to the vendor's records, accounts, books, and documents relating the duties of the vendor under the contract. The vendor shall make records available as requested by the Department during the contract period and for six (6) years after the termination thereof. The Department or its agents may audit or inspect the books, accounts, and records relating to the vendor's duties under the contract (Also, refer to Section 2.403: Audit of Contract Compliance/Records and Inspection). The vendor will retain at least two copies of all logs kept by the system, and retain other records in accordance with this contract and industry standard procedures. Any audit or inspection must take place on the vendor's premises and the records will remain the property of the vendor. The vendor may be responsible for any reasonable travel costs that are in regards to audits performed outside of the state of Michigan to a maximum of $5,000 per year. Travel costs for audits will be charged in accordance with the State of Michigan Schedule of Travel Rates for Classified and Unclassified Employees, as updated annually.

5. Technical Requirements
The vendor must provide the following:

(a) Electronic documentation shall be provided using the Microsoft Office suite (XP version) or PDF creation software unless otherwise agreed to.

(b) The bidder must identify their proposed technology environment. Please include strategy for:

- Hardware architecture (including manufacturer and model)
- Storage architecture (including database and file storage)
- Software architecture
- Include all software titles and versions that will be used to deliver the contractual services.
- Security architecture
- Audit tracking for database management system and all file handling
- Backup and Recovery solution and processes (including redundant storage, retention schedules, recovery processes and timeframes)
- Disaster recovery solution (including any off-site storage solution and locations for disaster recovery and retention schedules)
- Growth capacity.
- Include uptime availability for technical hosting environments that will be implemented with this Contract.

(c) Browser Requirements
For private internet sites which require secured login, software must work with a Web browser that supports HTML 4.0 and later (Example: Internet Explorer 3.02 [and greater] / Netscape Navigator 3.0 [and greater])

The vendor will also develop a site in such a way that adapts well to mobile devices per Michigan Children's Protection Registry Rules NO. R484.501

6. Security Requirements

- The vendor's overall security plan, and data management processes need to be defined, including employee policies, intrusion detection, audit trails, firewall technology, infrastructure risk, threats, vulnerabilities, etc.

All data and document handling under this contract are highly sensitive. All electronic transfer of data, if any, needs to be encrypted with a minimum of 128-bit encryption.

The vendor will implement systems to detect intrusion detection from outside attackers or unauthorized employees. The intrusion detection will be deployed at the data center level and the individual server level. The vendor will keep up-to-date with all operating system patches and security updates. The vendor will deploy industry leading anti-virus protection in order to prevent the infection of the servers.

The State will conduct an initial security assessment prior to the operation of the Registry. The vendor will conduct a third party security certification of its systems at least once per year. The third party certification is an independent assessment generally against Federal IT security guidelines (NIST 800 series), more specifically, NIST 800-37 "Guide for the Security Certification and Accreditation of Federal Information Systems" and NIST 800-53 "Recommended Security Controls for Federal Information Systems," as appropriate for the particular nature of the Protect MI Child Registry. The first third party certification will not be required until 180 days after the registry begins operation. This certification may include the following:

- Risk Assessment

- Intrusion Detection
- Viruses and other Malicious Logic
- Firewalls
- Irregularities and Illegal Acts
- Security Assessment (penetration testing and vulnerability analysis)

The results of the certification will be provided to the PSC Project Manager, as well as the State's Chief Information Security Officer. Many third party IT auditors can certify to the federal requirements (HIPPA certification is based on the same NIST guidelines). The costs will be the responsibility of the vendor and not the State to a maximum of $5,000 per year.

State's Security Guidelines
All Contractor personnel must comply with State's Security Guidelines published on http://www.michigan.gov/dit/0,1607,7-139-30639_30655---,00.html. (For example, 1310.02 Information Processing Security; 1460.00 Acceptable Use Agreements; etc.)

Contractor's staff assigned to the project will also be expected to:

- Sign non-disclosure agreements
- Sign acceptable use and security agreements
- The vendor agrees to perform background checks on their employees

Acceptable Use Policy and Security Agreement
All Contractor personnel will also be expected to comply with the State's acceptable use policies for State IT equipment and resources. Furthermore, Contractor personnel will be expected to sign an annual State of Michigan Contractor Security Agreement, which can be found at: http://www.michigan.gov/documents/DIT-0928_87468_7.dot, before the Contractor personnel will be accepted as a resource to perform work for the State. It is expected the Contractor will present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff will be expected to comply with all Physical Security procedures in place within the facilities where they are working. Additional information on the State's Security Policy (1410.17) and the Acceptable Use Policy (1460.00) can be located at: http://www.michigan.gov/techtalk/0,1607,7-167-22160---,00.html.

7. Payment Methods
The vendor shall collect registry access fees directly from the senders**.** The state's share of the access fees collected for compliance with the Protect MI Child Registry shall be transferred to the Michigan Department of Labor and Economic Growth on a monthly basis for crediting to the Michigan Children's Protection Registry Fund. Unless otherwise specified by the Department, these monthly fee transfers will be made via paper check and mailed to the following address within five business days after the close of the month:

Department of Labor and Economic Growth
Revenue Services Unit
General Office Building, 3rd Floor
7150 Harris Drive
Lansing, MI 48910.

A clear notation that the funds are intended for transfer into the Michigan Children's Protection Registry Fund, 2004 PA 241, must accompany the fee transfer check. In addition, the monthly fee transfer check must be accompanied by a statement from the vendor's financial institution depicting the revenue transaction for that month in a way that allows for a complete reconciliation of the monthly revenue flow. A copy of a standard bank account statement shall be considered sufficient to meet the requirement in the previous sentence**,** unless otherwise specified by the Department of Labor and Economic Growth Revenue Services Unit. This statement must be sent at least contemporaneously to the Michigan Public Service Commission Project Manager. The process for the transfer of fees from the vendor to the State will be re-evaluated periodically and may be changed upon reasonable notice to the vendor. The Department anticipates an initial evaluation approximately three months after the Registry becomes operational.

The vendor will also provide real-time access to authorized individuals within the Michigan Public Service Commission and the Office of the Attorney General, in order to obtain information on the current status of the fees that have been collected. Reports will be in the State's Crystal Reports format.

The vendor will use industry standard electronic payment processing and clearing services. Upon the award of the contract, the vendor will contract with a Michigan based acquiring financial institution (bank) to enable online credit card

authorization and payment processing. The vendor will encrypt transactions between the senders and the vendor with 128-bit encryption. The vendor will accept a broad range of payments electronically, including credit cards, debit cards and checks. The vendor will not be required to accept purchase card levels 2 & 3. The vendor intends that Senders will remain on their site for the transaction and not be transferred to another website for payment processing. The vendor will send payment requests through the vendor's processor to the issuing financial institution (bank). The processor will act as the intermediary between the issuing bank and the acquiring bank to settle each payment request.

In order to discourage frequent account transactions, the vendor may require senders to pay a minimum per transaction of $50. Senders who pay less than the minimum transaction fee, may be required to pay any bank transaction fee which will be associated with the amount that is paid to the vendor for deposit.

The state acknowledges that the vendor has been asked to create a payment processing system specific to the implementation of the Protect MI Child Registry, and the vendor is not obligated to use the state's existing payment processing system.

The vendor will enable its payment processor transaction reporting and data tools so that they can appropriately serve the record keeping and reporting requirements of the State. The vendor will keep all data reasonably requested by the state in writing for at least 6 years after the termination of the contract with the State. The payment processing and security features will be activated by adding a small piece of HTML code to the Protect MI Child Registry website. The vendor will include an industry standard seal in order to assure senders that the information they transmit to the vendor is protected. The vendor will have all records reasonably available to the State for the purpose of audits as well.

The vendor's payment processing system will enable anti-fraud efforts. The vendor's system will use techniques to attack electronic transaction fraud on two main fronts. The vendor will use techniques to limit either "fly by night" operations or fraudsters from getting access to returned information from the registry. The vendor will employ high risk payment filters, unusual order filters, high risk address, filters, high risk customer filters, and international order filters. The vendor will also use the buyer authentication programs that are run by Visa (Verified by Visa) and MasterCard (the MasterCard SecureCode) or similar offered equivalents in the event these programs are cancelled or otherwise restructured. The vendor will store sender data in password-protected databases that are not internet accessible. In addition, the vendor will strictly limit access to the financial records database to authorized employees and maintain records of any such access.

The vendor will collect the fees from senders on behalf of the State. The vendor will allow payment by senders via major credit card or check. All financial transactions with senders taking place online will be encrypted using secure socket layers (SSL). Use of the scrubbing mechanism will not be activated for a sender until their identities have been verified and their funds have cleared. No fee will be charged to parents or schools wishing to register addresses on the registry.

The vendor will create an internal account for each sender complying with the law. These internal accounts will keep track of the transactions between the registry provider and the sender, including both credits for deposits made and debits for scrubbing done. As senders use the scrub-processing system to clean their lists, credits will be deducted from the senders' accounts. If insufficient credits exist in a sender's account to process a list of a given size, the sender will be prompted to deposit funds for additional credits before the list will be processed. Fees will only be considered collected after a credit has been used by a sender.

The vendor will have transaction records that will be backed up on a scheduled basis to prevent any difficulties associated with data loss. The vendor will work with the State to provide periodic summaries of transactions with information the state may reasonably require to track compliance levels, receipts and the overall success of the program. The vendor must provide a payment processing and settlement system that allows for easy recording keeping and auditing.

1.104 WORK AND DELIVERABLES

A. Contractor acknowledges that all work performed under this Contract must be in compliance with the Michigan Children's Protection Registry Rules (Protect MI Child Rules) that were filed with the Secretary of State on May 13, 2005 as may be amended from time to time. See Michigan Administrative Code R484.501 through R484.512.

B. Definitions

1. "Children's Protection Registry Fund" means a separate fund created in the state treasury to be administered by the department under section 4 of 2004 PA 241, MCL 752.1064. The fund shall serve as a repository for fees collected under section 3 of the Michigan Children's Protection Registry Act.
2. "Cohort" means a logical grouping of minors represented by a group registrant. Uses of cohorts include, but are not limited to, schools choosing to register each graduating class with a designated birth year.
3. "Contact point" means any electronic identification to which messages can be sent, including any of the following:

a. An instant message identity.
b. A wireless telephone number.
c. A pager number.
d. A facsimile number.
e. An electronic mail address.
f. Other electronic addresses subject to rules promulgated under 2004 PA 241, MCL 752.1063 by the department.

4. “Department” means the Michigan department of labor and economic growth.
5. "Digital media" means any magnetic or electronic storage device, including but not limited to, hard disks, floppy diskettes, backup media, CD-Roms, DVD-Roms, Zip disks, optical disks, printer buffers, smart cards, memory calculators, electronic dialers, Bernoulli drives, or electronic notebooks
6. “Group registrant” means a school or other entity primarily serving minors who registers 1 or more contact points on behalf of its minor constituency.
7. “Internet domain name” means a registered and easily identifiable alias for a globally unique, hierarchical numerical reference to an Internet host or service, assigned through centralized Internet authorities, comprising a series of character strings separated by periods.
8. “Minor” means an individual under the age of 18 years.
9. “Person” means an individual, corporation, association, partnership, or any other legal entity.
10. “Prohibited message” means any message, whether direct or indirect, with the primary purpose of advertising or presenting, or otherwise linking to a message that advertises or presents, a product or service that a minor is prohibited by law from purchasing, viewing, possessing, participating in, or otherwise receiving. This includes, but is not limited to, sexually explicit materials, tobacco products, illegal drugs, gambling opportunities, and alcoholic beverages.
11. “Protect MI Child Act” means the Michigan Children’s Protection Registry Act, 2004 PA 241, MCL 752.1061 to 752.1068.
12. “Registry” or “Protect MI Child Registry” means the child protection registry created under section 3 of 2004 PA 241, MCL 752.1063.
13. “Responsible party” means a parent, guardian, individual, or group registrant who is responsible for a contact point to which a minor may have access or authorized user of the contact point.
14. “Sender” means any person who conveys, seeks to convey, or attempts to convey, directly or indirectly, a prohibited message.
15. “State” means the state of Michigan.
16**. “Vendor” and “Contractor” mean Unspam Registry Services, Inc., its heirs, successors and assigns.**
17. “Website” means a particular company, user, or organization's HTML pages collectively accessible on the World Wide Web through a web server. A website is accessible through a unique Internet address or uniform resource locator (URL).

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

1. All registrations, including amendments, renewals, and deletions related thereto, shall be made through 1 or more secure and encrypted websites to be established and operated by the department or under contract to the department.
2. Transactions for both registrants and senders shall be accommodated through the department’s website.

D. Registration process and required information.

1. A responsible party may register contact points by the following means:

a. The preferred method of registration shall be through the department website.
b. Group registrants may also register by other means as determined by the department.
c. If a responsible party chooses to register using an alternative medium, which may include digital media, approved by the department, then the information that is submitted shall be entered into the department website for official registry.
d. If a registrant has a problem using the preferred methods of registration, accommodations may be made.

2. The following are required fields for information on minors submitted by individual registrants:
a. The following fields for the following contact points shall be provided:
(1) Electronic mail address or addresses.
(2) Numbers including mobile phone, pager, and facsimile.

(3) Instant message identity.
(4) Other information required to adequately identify the contact point.
(5) Duplicate entries are two identical contact points. Two or more contact points may resolve to the same destination. Each contact point that resolves to the same destination must be registered in order for that destination to receive protection.

b. Birth date or cohort year
c. Submission date and time stamp.
d. The vendor is under no duty to verify the accuracy of the information provided to register a contact point.

3. The following are required fields for information on the responsible party who submits an individual registration:
a. Full name.
b. Mailing address.
c. Telephone number or numbers at which the party can be contacted.
d. Electronic mail address.

4. A responsible party may, as an individual registrant, submit contact points for at least 25 contact points at any one time. Responsible parties wishing to register more than 25 contact points may complete the form multiple times. There may be more than one contact point per minor.

The vendor will develop an option for responsible parties to have an umbrella account, which would be responsible for all the contact points that are registered under it.

5. The following are required fields for information on minors submitted by group registrants:

a. Fields for the following contact points shall be provided:
(1) Electronic mail address or addresses.
(2) Numbers including mobile telephone, pager, and facsimile.
(3) Internet domain name if entire suffix is to be blocked.
(4) Instant message identity.
(5) Other information required to adequately identify the contact point.
(6) Duplicate entries are two identical contact points. Two or more contact points may resolve to the same destination. Each contact point that resolves to the same destination must be registered in order for that destination to receive protection.
(7) Case sensitivity will not be taken into account by the Vendor for email or instant messenger contact points.

b. Birth date or cohort year.
c. Submission date and time stamp.
d. The vendor is under no duty to verify the accuracy of the information provided to register a contact point.

6. The following are required fields for information on the responsible party who submits a group registration:
a. Full name.
b. Title.
c. Organization name.
d. Mailing address.
e. Telephone numbers where the party may be contacted.
f. Electronic mail address.

E. Tenure of registration.

1. Registered contact points shall be valid for 3 years, or until the end of the birth month a minor or cohort turns 18, based on the information provided during registration, whichever comes sooner.

2. The vendor's system will automatically expire registrations after three years or when the youngest user of a registered contact point reaches the age of 18, based on the information provided during registration, whichever comes first. A renewal request may be made by a registrant at any time. If a renewal request is made, or if the same contact point is reregistered, the 3-year clock is reset. One month before a registration is scheduled to expire at the end of the 3-year period, the vendor's system will send a notice to a notification email address if provided by the responsible party. At that time, the registrant may choose to renew a registration.

F. Options for group registrants.

1. Group registrants may register 1 or more contact points with the department. Group registrants shall have all of the following options:
   a. Register individual contact points for all group members.
   b. Register an entire Internet domain name suffix.
   c. Register group members in cohorts.

2. Domain-Wide Registration
The vendor will develop a system that allows domain-wide registrations through a private website under Michigan.gov. Access to this private website is to be given only to school administrators and other officials to manage the registration and maintenance process. Before adding or altering a domain-wide registration for schools, the vendor will follow up with the registrant via a phone call and letter to the administrative contact listed in the domain's WHOIS registration or other authoritative record in order to prevent fraudulent registrations or modifications. The State recognizes and acknowledges that this process may potentially delay the domain's inclusion on the Protect MI Child Registry beyond the time frames outlined elsewhere in this contract.

3. Individual Address Opt-Out
A school that has registered its entire domain may specify under the vendor's system that individual addresses within the domain be considered exempt from registration. For example, if a parent wishes to exempt their child (*david@det.k12.mi.us*) from the Michigan Children's Protection Registry, the school may respond to that request as the owner of the domain and exempt that address from registration. This may be done, through the private administration website, before or after the domain itself is registered.

G. Confirmation of registration.
1. Before the registration is complete and entered into the database, the vendor will send a confirmation message to the responsible party and contact points.

2. The confirmation message will include the following information:
   a. A brief explanation of the Protect MI Child Registry
   b. All of the information that was initially submitted by the party, to the extent made by possible by certain mediums (Instant Messages, SMS, etc.) The State acknowledges that certain mediums may not allow the same space capacity as others, thus allowing for shorter and less detailed confirmation messages to be sent through those mediums.
   c. The effective date of the registration
   d. The date after which they can begin to receive legal protection from prohibited messages
   e. The date of expiration of the registration
   f. Information on removal from the Registry
   g. Information on renewal of the registration
   h. Contact information for the vendor
   i. Contact information for the Department
   j. Contact information for disputes; and
   k. Messages will be limited to essential confirmation information on certain mediums (Instant Messages, SMS, etc.).

The department may require changes to the content of the confirmation message, consistent with the technical limitations of each medium, upon reasonable notice to the vendor.

3. Confirmation/Registration methods provided by the vendor:
   a. Electronic Mail Address Registration
   Email addresses that are registered are confirmed before they are officially added to the Protect MI Child Registry by the vendor's system sending an email to the registered account. These email confirmation messages will typically be sent out within one hour of a registration being submitted, and will remain active for at least 48 hours. The email contains two mechanisms whereby the address can be confirmed: 1) a link, or 2) a 7-digit confirmation code which may be entered on the Protect MI Child Registry website. (The vendor will work with large ISPs prior to the July 1, 2005 launch date to prevent blocking of the system's confirmation messages. However, the Vendor is not responsible for any blocking by an ISP, an email filter or other mechanism that prevents delivery.)

   b. Instant Messenger ID Registration
   Much like email, the vendor will send a confirmation containing both a link and 7-digit confirmation code to instant messenger ids. These messages are queued and sent when the id next logs into

the system. The vendor will work with these providers (supported under the Jabber multi-client messenging platform) in order to ensure that confirmation messages sent by the Protect MI Child Registry system are not blocked as "spim" (*i.e.,* spam sent over instant messenger). However, the Vendor is not responsible for any blocking by a private Instant Messenger Network administrators or supporting software. The state acknowledges that the launch of the registry for certain Instant Messenger ids may be delayed if the providers for these services (e.g., MSN, Yahoo, AOL) block the sending of confirmation messages through their networks. If the vendor has exhausted all commercially reasonable means for gaining cooperation with instant message providers, the State will attempt to work with the vendor to persuade the proper providers to allow for the confirmation messages to be sent.

c. Mobile Phone/Pager Registration
The vendor will send a 7-digit confirmation code to mobile phones and pagers. The vendor will use SMTP2SMS technology in order to deliver messages to all the mobile phone and pager vendors that service Michigan customers. The vendor will ensure that confirmation messages are kept under the limit for characters for SMS messages in order to ensure they can be read and their instructions followed in order to complete a registration. These mobile SMS confirmation messages will typically be sent out within one hour of a registration being submitted, and will remain active for at least 48 hours. The vendor may change the time depending on the State requirements. However, the Vendor is not responsible for any blocking by private Mobile Phone Network administrators or their supporting software. The state acknowledges that the launch of the registry for certain mobile phone and pager numbers may be delayed if the providers for these services (e.g., Cingular, Verizon, T-Mobile, etc.) block the sending of confirmation messages through their networks. . If the vendor has exhausted all commercially reasonable means for gaining cooperation with immobile phone / pager providers, the State will attempt to work with the vendor to persuade the proper providers to allow for the confirmation messages to be sent.

d. Facsimile Number Registration
The vendor will send only a 7-digit confirmation code to facsimile machines. The vendor will use HylaFAX messenging software, or the equivalent, in order to send fax messages. These messages are queued and sent out in the order of their registration. The vendor will adjust the number of outgoing fax servers depending on the level of fax registration and expect fax messages to be sent out within 24 hours of a registration within the first month of the launch of facsimile registration, and within 1 hour after that.

4. Confirmation messages will be sent via electronic mail whenever possible**.**

5. Responsible Party Notification Account.
The vendor will have the capability of establishing a Responsible Party Notification Account (Notification Account) for each responsible party. This account will automatically be set up as a default when a responsible party registers a contact point. A responsible party will have the ability to opt out of establishing a Notification Account. Changes in status to any contact points associated with the Notification Account will be sent to the electronic mail address provided under the Notification Account.

H. Renewals of registered contact points.
1. The vendor shall offer a convenient process for renewals that provides for uninterrupted listing in the registry of contact points to which minors have access.
2. The vendor will establish an electronic mail notification process whereby responsible party notification accounts may be alerted whenever a registered contact point is due to expire.
3. Responsible parties may renew their registrations through the same business channels offered for the original registration or other means deemed acceptable and commercially reasonable by the Department and the Vendor.
4. The process of confirming renewal registrations will be mutually agreed upon by the Department and the vendor.

I. Amendments and Deletions
1. Amendments to contact point or registrant information shall be accommodated at any time upon request of the responsible party who initially requested registration of a contact point.

2. Unless renewed, contact points shall automatically be deleted from the registry when the affected minor or cohort reaches the age of 18, based on the information provided by the responsible party during registration, or after 3 years, whichever comes sooner.

3. Early deletion of registered contact points shall be accommodated upon request of any of the following to be verified by commercially reasonable means:

a. The responsible party who initially requested registration of the contact point.
b. The owner of an address that is erroneously listed as a contact point in the registry.
c. The department based upon such additional criteria as it may establish.

4. Confirmations of amendments and deletions will be handled in the same manner as confirmation of registrations.

5. Updates to the master database will occur within 24 hours.

6. If a Responsible Party Notification Account has been established, that Notification Account will be alerted to any change in status of a registered contact point.

J. Confirmation of Sender Subscriptions

1. Information Required from Senders

a. The vendor must obtain the following information from subscribing senders:

(1). Legal name of company
(2). Mailing address of the principal place of business
(3). Name, address and title of contact person
(4). EIN # / FEIN #, Social Security number or the equivalent
(5). Contact telephone number, e-mail address and fax number, if applicable.
(6). Nature of business
(7). Business name and contact information used in interactions with the public, if different than above.
(8). Domain name(s) used for publicly-accessible site(s).

b. The vendor will make random audits of this information in order to verify its accuracy. If any of the technical alarms are setoff by a sender, the vendor will check the validity of their identification information before restoring their access to the registry access system.

2. The vendor will use its double-blind compliance process when comparing sender lists with the Registry database.

3. The Vendor will provide senders with confirmation of their subscription to the Registry following acceptance of their payment and collection of the required information.

4. The Vendor is required to include, with the confirmation, instructional information for Senders regarding their obligations under the Act. The Department shall approve the text of any such information.

K. Ease of Sender Compliance

1. The vendor will provide a user-friendly process for sender subscriptions, renewals and amendments. Confirmations of renewals and amendments will be handled in the same manner as initial subscriptions.

2. The vendor will provide a toll-free number for Senders to contact with questions about the Registry**.** A website will also be established by the Contractor to provide the status of request processing and exchange other information needed to manage processes relating to Registry access.

L. Access to the Protect MI Child Registry

No sender or other person, except as designated by the department, may obtain access to the Protect MI Child Registry until payment is received**.**

M. Direct Mailings to Alleged Violating Senders

The vendor will make direct mailings to senders who are reported in violation of 2004 PA 241. These mailings will inform the senders of applicable laws and regulations and advise senders of what they need to do to become compliant. The mailings will become part of the standard feedback process after a complaint has been registered. The content of these mailings must be approved by the State. The State will provide a standard feedback letter to the vendor, for the vendor to mail to senders. The direct mailings will be at no additional cost to the State of Michigan.

N. Processing and Security Requirements

1. The vendor will use a variety of mechanisms that involve security and compliance measures. The State recognizes and acknowledges that although commercially reasonable means will be used to detect and deter abuse, that abuse may still occur and the Vendor will not be financially, legally or contractually responsible for such misuse or abuse.

   a. Batched Processing

   The vendor's system must process a sender's list as a batch. This means that results are not provided to the sender on a message-by-message basis. Instead, results are only returned after an entire list has been checked. This allows the vendor to check the entirety of the transaction before the vendor reveals any valid information derived from the registry. If during the scrubbing process any potential concerns arise, the vendor's system will automatically stop the process and prompt senders to follow instructions to verify their identity and explain the event that triggered the warning event. Depending on the triggering event, the vendor should be able to either release the scrubbing process or lock the sender out of the system.

   b. Dictionary Attack Prevention

   The vendor's system will, to the extent commercially reasonable, include the seeding of the registry with what is referred to as "landmine" addresses. If a sender checks one of these landmine addresses then the vendor should stop the scrubbing process. There is no reason senders should have a landmine address on their mailing lists, so if the vendor discovers one, a sender can be blocked from further access to the Protect MI Child Registry unless they can provide additional information to explain their behavior and reconfirm their identities. The vendor will utilize its Project Honey Pot system to the extent that the State and the Vendor determine is reasonably advisable for the monitoring of these spamtrap addresses.

   c. Statistical Monitoring

   In addition to landmine addresses, the vendor's system will watch senders' behavior for abnormal statistical behavior to prevent dictionary attacks and other abuses of the system. For example, if a sender typically checks 5,000 addresses each month, and then checks 50,000, the vendor's system will flag the process. The vendor's system will ask the sender to confirm its identity using commercially reasonable means before the vendor returns any results. The vendor's system will also watch for the ratio of the number of domains used to create the addresses being checked to the total number of addresses. If the vendor's system witnesses behavior statistically consistent with a dictionary attack as determined by reasonable metrics, the system will stop the processing of addresses before any results are returned.

   d. Ongoing Compliance Monitoring

   The vendor will also regularly verify the behavior of allegedly compliant senders. The vendor will use tagged addresses to sign up for materials from senders that provide such options using the Protect MI Child Registry. Each address will be uniquely associated with the particular sender to which it was provided. After a variable period of time, the vendor will include these tagged addresses on the registry and ensure senders remove them from their mailing list in a timely manner. The vendor will then track such addresses to ensure that the allegedly compliant sender removes the address within the period of time specified by the statute. Information about compliance, including the rates at which various senders remove addresses from their lists, will be included with the reports provided to the Department with copies provided to the Attorney General's Office.

2. The vendor's database must support the storage of additional information about senders complying with the law as required by the State.

3. The vendor's approach to managing access to the Registry will be specifically designed to reduce the possibility of a chilling effect on senders. The Vendor makes no representation or warranty regarding the constitutionality of the Protect MI Child Registry or its proposed implementation. The vendor's patent-pending technique uses its hashing technology to "fingerprint" each address in a sender's internal list before it is transmitted to the State. This process takes place locally on the sender's own computer via an

online Java Applet or desktop registry interface tool. Once hashed, each fingerprint is transmitted to the State's scrub-processing servers. When the sender's data is received, the scrub-processing servers check to see if the fingerprints transmitted appear anywhere on the Protect MI Child Registry. Since the hashing mechanism will always create the same unique fingerprint for the same address, if there is a match, the sender is notified that the address must be removed from the sender's mailing list. However, if there is not a match, no information about the identities of the individuals on the sender's list has been revealed to the state.

4. The vendor's system will notify senders as to which entries on their submitted lists appear on the Protect MI Child Registry and, thus, are covered by the provisions of 2004 PA 241. The State acknowledges that persons comparing their electronic mail lists against the Registry may extrapolate valid information on contact points that are listed on the Registry and that the Vendor has no duty to ensure that senders will not misappropriate the data received. The vendor does have a duty to use commercially reasonable means to communicate clearly to senders that they are prohibited by law from using, selling or disclosing any list of registered contact points that they may derive from use of the Registry.

5. The vendor will establish a monitoring system that will attempt to detect any senders who try to sell or otherwise distribute a list of registered contact points.

6. The vendor must use commercially reasonable means to prevent information contained in the databases from being subject to public inspection or disclosure except upon direction of the Department.

7. The vendor shall not transfer, sell, or otherwise use in any manner not contemplated by the contract, the databases, information about the registered contact points or senders, or any information obtained in performing the requirements of the contract. The vendor warrants that it will act at all times in compliance with the confidentiality provisions of the Act.

O. Toll-Free Help Line

The vendor will provide the toll-free help line as specified in section 1.103 (3) Toll-free help line requirements.

P. Department Monitoring and Related Vendor Requirements

1. The vendor will provide real time access to the information in the Registry database(s) to Department and Attorney General staff members.

2. Except for scheduled downtime, emergency maintenance and outages outside the reasonable control of the Vendor, the vendor must provide the Department without charge, 24 hour per day, seven-day per week access to all databases via a secure web browser interface. Access must also be provided to the Office of the Attorney General without charge.

3. If requested by the Department, the vendor will provide without charge a copy of the database in either its natural format or a flat ASCII format on disk or in such other digital or electronic media, as the Department shall reasonably request.

4. The vendor agrees that the Department may review, inspect and approve all the services provided by the vendor under the contract, including but not limited to, the databases, at any time to insure that services are being performed in conformity with the contract.

5. The vendor will permit Department employees or its agents to tour the vendor's place of business during normal business hours.

Q. Reports

1. Routine reports will be provided as described in Section 1.302 of this Contract.

1.2 Roles and Responsibilities

1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES

A. Start-Up Costs

The vendor will advance the costs of start up and initial operations of the Registry (start-up costs). The vendor represents that it has $500,000 budgeted for this purpose. The vendor shall bear the risk of loss for start up costs

B. Contractor Staffing Structure

The vendor will describe the framework of its staff, with staff roles and responsibilities clearly identified. The staff framework must be implemented at the time the contract is awarded.

C. Contractor will perform work as described elsewhere in this contract.

1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES

A. The designated Agency Project Manager is Orjiakor N. Isiogu. Mr. Isiogu will have final sign off on all tasks and deliverables set forth in statement of work / contract.

B. The designated DIT Contract Liaison is Melanie Ashley.

1.203 OTHER ROLES AND RESPONSIBILITIES

The designated Agency Analyst is Ryan McAnany. Mr. McAnany will report directly to the Agency Project Manager, Mr. Isiogu. Mr. McAnany will analyze all information that is obtained from the vendor. Mr. McAnany will oversee and coordinate the establishment of the Agency's database and the information that is placed into that database.

1.3 Project Plan

1.301 PROJECT PLAN MANAGEMENT

a. The Vendor will carry out this project under the direction and control of the Michigan Public Service Commission, DLEG, in consultation with the Department of Information Technology (DIT).

b. Although there will be continuous liaison with the Vendor team, the project manager, or his designee, will speak weekly at minimum (conference call acceptable), with the Vendor's project manager for the purpose of reviewing progress and providing necessary guidance to the Vendor in solving problems which arise. The Vendor will submit brief bi-weekly 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 Manager; and notification of any significant deviation from previously agreed-upon work plans. These reports should be sent via email to PSC and DIT Project Manager. A copy of this report will be forwarded to the named buyer in Acquisition Services.

c. At the signing of the Contract, the Vendor will submit a work plan using Microsoft Project to MPSC Project Manager for final approval. This implementation plan must be in agreement with Article 4 as proposed by the bidder and accepted by the State for Contract, and must include the following:

1) The Vendor's staffing table (Appendix A) with names, title of personnel assigned to the project, and percentage of their time they will be assigned to this project. This must be in agreement with staffing of accepted proposal.

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

3) The time-phased plan showing each event, task, decision point, and timelines in the work plan.

4) The vendor's project organizational structure.

e. The vendor will provide a project plan in Microsoft Project format to the Michigan Public Service Commission. The project plan will include all phases of the project lifecycle and will document project milestones and timelines. The project plan should be similar to the sample timelines that were provided by the vendor in their proposal. The vendor will include as part of the project plan a complete staffing table including resource allocation at the project and task levels. The vendor will begin registration of contact points by July 1, 2005.

1.302 REPORTS

A. Reporting

(1) The Department shall require the vendor to provide a monthly report to the Department indicating the activity for the month, along with quarterly, year-to-date and cumulative totals, related to:

(a) The number of contact points
(b) The expiration dates of the contact points
(c) Group registrants that have registered contact points

(d) Fees collected from senders
(e) The dollar amount transferred to the Children's Protection Registry Fund
(f) Aggregated operating expenses
(g) Number of contact points checked against the Registry. The vendor is also responsible for making sure there are no duplicated contact points. The vendor must remove duplicates. No less than quarterly, the vendor shall ensure, through reports, that any duplicate records have been purged from the databases.
(h)Number, listing and location of senders requesting access to the registry
(i) Number of contact points that signed up and their type (i.e. Instant Message, Mobile Phone, Email, etc.).
(j) The number of records deleted. The vendor must provide a list of any contact points not entered/deleted within 30 days of the responsible party's request and subsequent verification.
(k) Methods and results of service quality checks.
(l) Complaint activity reports in regards to the registry itself, as well as to the prohibited messages that the contact points may have received.
(m) Any other pertinent information the Department deems reasonably necessary to monitor the implementation of this registry process. Notwithstanding anything to the contrary in this contract, in no event will the Department have access or will vendor provide access, to vendor's internal cost records, profit and loss statements, or other internal financial statements.
(n) Significant accomplishments, as well as work to be accomplished during the next reporting period.

(2) This report shall be accessible with Crystal Reports format for the Department use.
(3) The Department shall reserve the right to change or update reporting requirements or formats as necessary and expect compliance by the vendor upon reasonable notice. Any modifications to the format as deemed necessary by the Attorney General shall be made on 90 days notice on an ongoing basis.
(4) The Department shall make reports available to the Attorney General staff and perform an annual audit of the revenues at the State's expense and expenditures of the Registry program and provide a copy of the audit report to the Attorney General.
(5) The vendor must file an annual report with the Department as specified in its contract with the Department. It should contain at least a summary presentation of the information required in the monthly reports.
(6) A final report as described in the contract must be submitted to the State project manager within 30 days following the contract period expiration.
(7) Ad hoc reports as requested
The vendor will work with the Department on reasonably requested ad hoc reports.
(8) Quality Assurance reports.
The vendor shall provide such reports as determined by the Department as part of the vendor's approved Quality Assurance plan.
(9) The vendor will provide bi-weekly reports to the MPSC, as well copies of these reports to the Office of the Attorney General. The reports will be in Crystal Report format. Among the reports, the vendor will provide are at least: A) a registry activity report, B) a compliance/revenue report, and C) a complaint activity report. The vendor will also provide 24-hour access via the administrative portion of the Child Protection Registry website to real-time data on registry performance (which will include registrations, deletions, compliance levels, revenue, complaint reporting, etc.).
(10) The vendor will provide a project plan in Microsoft Project format to the MPSC. The project plan will include all phases of the project lifecycle and will document project milestones and timelines. The vendor will include as part of the project plan, a complete staffing table including resource allocation at the project and task levels.
(11) The vendor will be required to use reports that are similar to the style to the example reports which were provided to the State in its April 1, 2005 response to the ITB No. 071I5200177. The vendor will work with the State to refine the reports.

1.4 Project Management

1.401 ISSUE MANAGEMENT

Issues are those events that endanger this project. It includes imminent threats and events that may have already occurred. Notwithstanding the procedures outlined below, the vendor may take immediate steps to rectify any issue which threatens to impair the functionality of the registry.

Once the vendor has identified an issue, the administration contractor shall follow these steps:

1. Immediately communicate the issue in writing to the DIT Contract Administrator and the MPSC Project Manager.
2. The vendor will log the issue into an issue tracking system.
3. The vendor will identify what steps have been taken to correct the issue, identify any steps that need to be taken going forward to correct the issue, and identify any additional resources that may be needed. Also, the vendor will identify recommendations for improvements that should be made and how those will be implemented.

4. For any action that would result in additional resources being allocated by the State, or would materially change the functionality of the registry system, the vendor will receive the approval of the DIT Contract Administrator before commencing the action.
5. The vendor will keep the DIT Contract Administrator and MPSC Project Manager informed on the status of an issue based on the frequency established by the DIT Contract Administrator.
6. At least monthly, the vendor will provide a listing of all issues with their current status, deadlines to correct and actual dates of completion that have occurred over the previous six months, and notification of any significant deviation from previously agreed-upon work plans to the DIT Contract Administrator, as well as the MPSC.
7. The vendor agrees to document and address all issues in accordance with the requirements herein this contract. Issues will be tracked as part of the regular project updates provided throughout the project lifecycle. Issues will be tracked based on an agreed project plan. The vendor will maintain issue logs including issue, project impact, timeline impact, escalation contacts, resolution plan, and resolution timeline. Issues include any significant problems encountered including real or anticipated problems that should be brought to the attention of the State project manager.

1.402 RISK MANAGEMENT

Timeline for the project will begin with the opening of registration for e-mail addresses July 1, 2005, or at a launch date thereafter chosen by the Department. Subsequently, the project will follow the Project Plan and will be monitored by the MPSC Project Manager on a weekly, if not daily, basis. The vendor will provide regular project updates to the MPSC Project Manager at a mutually agreed upon interval.

1.403 CHANGE MANAGEMENT

Contracts awarded may be modified, provided that any changes proposed by either party are requested in writing and mutually agreed to by the official representative of the vendor shown in the contract and MPSC Project Manager. This request is not valid until all parties sign it, and the Issuing Office issues a Contract Change Notice..

Any changes to timelines or project deliverables shall be proposed to the Contract Administrator for approval prior to the change taking effect.

Alternations to the Statement of Work

If either of the parties wishes to alter the Specifications or the Statement of Work the following procedure will apply:

(a) The person who requests the change (the Originator) will forward to the PSC Project Manager or designee, a Change Control Request Form. Include a priority/classification on the request. This form must be completed as commercially reasonable as possible. It may be necessary at times if a significant amount of detail is required to include a Statement of Work (SOW).
(b) The PSC Project Manager or designee will assign a number to and log each Change Control Request.
(c) The PSC Project Analyst will consult with the PSC Project Manager.
(d) The PSC Project Manager or designee will send the Change Control Request (and SOW if included) to the vendor.
(e) The vendor will determine a cost and estimated time to complete and send this info back to the PSC Project Manager or designee. The PSC Project Analyst and Manager will review the information.
(f) The PSC Project Manager or designee will negotiate the final price with the vendor and determine if the change will be made.
(g) If it has been determined that the change will be made , the PSC Project Manager and vendor will sign the Change Control Request.
(h) If not, the change will not be implemented or an alternative may be developed.
(i) The PSC Project Manager or designee will send the signed Change Control Request (and SOW, if it was included), along with the vendor quote to the DIT Contract Administrator. The Contract Administrator will track the costs of all changes.
(j) The DIT Contract Administrator will send the vendor and the PSC Project Manager, the approved Change Control Request (and SOW, if it was included).
(k) Upon approval of the Change Control Request, work can begin at the scheduled time.

Changes to the Contract

Any changes to the contract shall be proposed to the Contract Administrator in writing and will require approval by DIT, PSC, DMB Acquisition Services, and possibly the State Budget Office and State Administrative Board. The administration contractor, and any of its subcontractors, 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.

1.5 Acceptance

1.501 CRITERIA

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

A website review must be conducted and the site must be approved by the e-Michigan Web Development Division and the Office of Enterprise Security. Early coordination with these two offices should be made to eliminate the potential of last minute problems.

There is also a list of criteria, as described in 1.502, that must be fulfilled, in order to obtain final acceptance.

1.502 FINAL ACCEPTANCE

Final acceptance is when the project has been fully implemented and functions according to the requirements of the contract. The vendor must meet and fully complete the following criteria before final acceptance has been granted:

A) Section 1.101 In Scope
B) Section 1.102 Out of Scope
C) Section 1.103 Technical Environment
D) Section 1.104 Work and Deliverable
E) Section 1.201 Contractor Staff, Roles, and Responsibilities
F) Section 1.301 Project Management
G) Section 1.302 Reports
H) Section 1.403 Change Management
I) Section 1.6 Compensation and Payment

The State will begin a performance review after an initial 120-day period. The initial 120-days following implementation should be used to establish performance baselines. During the initial 120-day period, the vendor will provide regular updates to the Michigan Public Service Commission. At the end of the 120-day period, the vendor will provide the Michigan Public Service Commission with a report outlining performance metrics and defining the performance baselines for key system areas including individual registration, contact point registration, list processing, IVR system utilization and performance, and overall system performance. If successful completions of the criteria and performance baselines and metrics have been attained, the vendor shall then be granted final acceptance.

1.6 Compensation and Payment

Sufficiency of Vendor Fee Retention

The Michigan Children's Protection Registry Act (2004 PA 241) provides that the Registry operations will be funded through a sender access fee assessed by the department for each contact point checked. Section 1.103 (7) Payment Methods of this contract provides that the vendor will collect the sender fees on behalf of the department. The contract further provides (Section 1.6 Compensation and Payment) that the vendor will retain a portion of each fee collected (initially $0.004 per contact point checked).

Except where the State requires additional work not described in the contract, such as changes to the database, additional fields, etc., all costs incurred by the vendor pursuant to this contract are covered by the vendor's agreed upon portion of the access fees that are collected ($0.004 initially).

Fee Schedule

The initial fee for the Protect MI Child Registry will be set at $0.007 per contact point checked against the registry, for each time a contact point is checked against the registry. While the State may adjust the sender access fee upward or downward, at no point during the operation of the registry under this contract may the Vendor's portion of the fee collected drop below the amount that would have been owed the Vendor at the initial fee ($0.007) unless mutually agreed upon by the State and the Vendor.

Vendor Compensation and Revenue Allocation

The Vendor is owed compensation under this contract derived from a percentage of the sender access fees collected. Unless otherwise agreed to by both parties, the Vendor will receive 60 percent (initially $0.004), while the State will receive 40 percent (initially $0.003) of the fees collected.

If the State requires additional work, the Vendor will be compensated at a rate of $130 per hour.

Over-Collections

Upon application and documentation by a sender, the Vendor shall investigate any case of over-collection within fifteen (15) business days of receipt. In the event that the Vendor reasonably determines that an over-collection has been made, the Vendor will notify the sender of its determination and give the sender an option to have the over-collection refunded or applied to future checks against the Protect MI Child Registry. Upon determination of an over-collection, the State shall allow the Vendor to offset any over-collection amounts that have already been remitted to the State against future payments to the State. In the event future payments to the State will not or are unlikely to occur, the State shall remit any received over-collection funds to the Vendor for a refund or future application. The Vendor shall not be required to refund any funds collected from any over-collection of a sender that has been determined to be abusing or otherwise circumventing the requirements under the Protect MI Child Registry. The criteria to be used to determine abuse or circumvention by a sender will be determined in consultation with the Department. In the event of a final adjudication by a court of competent jurisdiction that the Protect MI Child Registry is unconstitutional or otherwise unenforceable, the Vendor owes no duty to refund any funds collected through the Protect MI Registry program prior to the ruling.

Accessibility of Financial Records

All financial records of the vendor, in regards to the Protect MI Child Registry, must be available to the State upon reasonable requests by the state, and may be subject to audit reviews. (refer to Section 2.403: Audit of Contract Compliance/Records and Inspections)

1.7 Penalties

After an initial 120-day grace period after each of the services below commences operations, the State may apply penalties to the vendor, for non-compliance in the following areas:

The MPSC Departmental Analyst will review and analyze information and data that is received from the vendor. If the Departmental Analyst determines that the vendor is performing below-level and not within this contract, the analyst will then make a recommendation and justification to the MPSC Project Manager, as well as the vendor, as to whether penalties should be enforced. The vendor will have one (1) business week to make an appeal to the MPSC Project Manager, as to why there should not be an issue of penalties. The MPSC Project Manager will then make a determination of the assessment of penalties. If the MPSC Project Manager has not been contacted within the designated timeframe, the assessment of penalties may move forward.

(a) Reporting Requirements, Report Accessibility, Database Requirements, and Website Requirements
Failure of the vendor to adhere to contract requirements, as listed above, will result in penalty.

(i) For the first consecutive thirty (30) day period that the vendor is not in compliance (includes failure to provide) with the contract requirements the vendor may be penalized $0-$500 for each field that is not in compliance.

(ii) For the second (non-consecutive) thirty (30) day period that the vendor is not in compliance (includes failure to provide) with the contract requirements (which are mentioned above), the vendor may be penalized $0-$1,000 for each field that is not in compliance. For example, if all requirements were in compliance, except for the website requirements, the vendor may be penalized $0-$1,000, based on the situation of non-compliance.

(iii) If the vendor is not in compliance (includes failure to provide) with the contract requirements, as mentioned above, for more than two non-consecutive thirty (30) day periods, it may be penalized $0-$3,000 for each requirement that is not in compliance, with a possible termination of the contract. For example, if the fields of report accessibility and database requirements are not in compliance and it has been three or more months (non-consecutive) that requirements have not been in compliance, then the vendor may be faced with a penalty of $0-$3000 for each requirement, with also a possibility of a termination of the contract.

(iv) In no event will aggregate penalties of all kinds exceed the amount of revenue generated by the Vendor as a direct result of providing services under this Agreement during the immediately preceding thirty (30) day period.

(b) Down Time

Databases and the toll-free help line shall not be “down" for over an hour of unscheduled time in a month, nor more than 3 hours during any given quarter, excluding scheduled maintenance times, outages beyond the reasonable control of vendor, and outages of the State’s system. Failure of the vendor to adhere to the “down time” requirements will result in penalty.

i) For the amount of “down time” in a month that exceeds the allowable monthly limit, the vendor will be penalized based on the average monthly revenue (amr) multiplied by 2, divided by 60 (60 minutes in an hour)

multiplied by the number of minutes of excess “down time”. For example, if the average monthly revenue was $1,000 and the excess “down time” was 10 minutes, the penalty would be: 1000 x 2 / 60 x 10 = $333.
ii)If the database is found to exceed the allowable limit of unscheduled time in more than two consecutive quarters, the vendor may be faced with the possibility of a termination of contract.
iii)In no event will aggregate penalties of all kinds exceed the amount of revenue generated by the Vendor as a direct result of providing services under this Agreement during the immediately preceding thirty (30) day period.

1.8 Additional Terms and Conditions Specific to this SOW

Reserved

Article 2 – General Terms and Conditions

2.0 Introduction

2.001 GENERAL PURPOSE

The Contractor is required to create, host, and maintain a registry of electronic addresses to which minors have access for the State of Michigan. Orders will be issued directly to the Contractor by various State Agencies on the Purchase Order Contract Release Form.

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 Department of Information Technology, hereinafter known *as DIT.* 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: Greg Faremouth
2nd Floor, Mason Building
P.O. Box 30026
Lansing, Michigan 48909
(517) 241-1646
faremouthg@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 (3) years and will commence with the issuance of a Contract. This will be approximately 06/08/05 through 06/08/08.

Option. The State and the contractor reserve the right to exercise 2 one-year options. At the sole option of the State, the Contractor shall be requested to allow exercise of the option. The Contractor shall have the right to accept or decline the offer from the State.

Extension. Upon the mutual agreement of both parties at least ninety (90) days prior to the expiration of the contract term, 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 seek an extension.

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.

AND

Acquisition Services has given the State Departments approval to make payments for commodities and services purchased from this contract through Direct Voucher. For this reason, the Contractor may be asked to reference the Blanket Purchase Order/Contract number rather than a Purchase Order Number when invoicing 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 Chief Executive Officer, Chief Operating Officer or Chief Technical Officer or a change in ownership of at least 10% of the equity interests of the Contractor has occurred or is certain to occur, the Contractor shall notify Acquisition Services within 30 days.

2. The Contractor shall also notify the Acquisition Services within 30 days whenever assets of the company increase or decrease in the aggregate by 10% or more as a result of a change of the Chief Executive Officer, Chief Operating Officer or Chief Technical Officer.

The Contractor shall as required for tax purposes:

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 reasonable 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.

2.103 SOFTWARE COMPLIANCE

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

The software design, to insure year 2000 compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately show 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.

2.104 IT STANDARDS

1. EXISTING TECHNOLOGY STANDARDS. Except as agreed upon elsewhere in this contract, the Contractor will adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at http://michigan.gov/dit.

2. PM METHODOLOGY STANDARDS. The vendor will use the PMI Project Management Methodology.

3. ADHERENCE TO PORTAL TECHNOLOGY TOOLS. The State of Michigan, Department of Information Technology, has adopted the following tools as its Portal Technology development efforts:

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

Except as agreed upon elsewhere in this Contract Vendors will use the Portal Technology Tools to implement web content management and deployment efforts for agencies. Tools used for web-based application development must work in conjunction with Vignette and Inktomi. The interaction with Vignette and Inktomi must be coordinated with the Department of Information Technology, Enterprise Application Services Office, e-Michigan Web Development team.

Under special circumstances vendors that are compelled to use alternate tools must submit an exception request to the Department of Information Technology, Enterprise Application Services Office, e-Michigan Web Development team, for evaluation and approval of each alternate tool prior to proposal evaluation by the State.

(If the solution is to be hosted on the michigan.gov hosted environment, then the application may need to be compliant with Websphere, or need to be evaluated for compatibility with Webshpere.)

The state acknowledges that since the child protection registry will be housed outside of the Michigan.gov portal, the system will not be built under Websphere. The system will be designed to interface with Websphere and other portal technologies for links back to the Michigan.gov portal.

2.105 PERFORMANCE AND RELIABILTIY EVALUATION (PARE)

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.

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. Contractor's rates for this Contract will be included as part of the pricing schedule incorporated herein.

2.108 COMPETITION IN SUB-CONTRACTING

The Contractor shall select subcontractors (including suppliers) on a reasonably competitive basis to a 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 agrees to perform its obligations under this Contract in accordance with the Contract's specifications and the delivery commitments made in Contractor's project plans. Vendor will provide a Project Plan at the time of signing.

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.

2.204 POSSIBLE PERFORMANCE-BASED PAYMENTS (Actual performance rendered)

Reserved

2.205 ELECTRONIC PAYMENT AVAILABILITY

Reserved

2.206 PERFORMANCE OF WORK BY CONTRACTOR

Reserved

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.

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 without the prior written consent of the State. The Contractor may assign this Contract to any, subsidiary or parent of the Contractor without consent of the State. If however the contractor wants to assign contract to entity outside of it's direct parent or subsidiary then the contractor must receive written consent from state. The State may not unreasonably withhold its consent to assignment and will respond to any request for assignment in a timely fashion. 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.

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 INDEMINIFICATION

General Indemnification

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

The contractor shall not be responsible for any indemnification of the State for claims arising out of the general application of the Child Protection Registry law, e.g. a challenge to the law's constitutionality.

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.

Employee Indemnification

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

Patent/Copyright Infringement Indemnification

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

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

charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

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

Continuation of Indemnification Obligations

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

Indemnification Procedures

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

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

(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim and to monitor and advise the State about the status and progress of the defense; (ii) Contractor shall, at the request of the State, demonstrate to the reasonable satisfaction of the State, Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) Contractor shall periodically advise the State about the status and progress of the defense and (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

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

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

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

2.307 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. The State shall also be responsible for any additional fees and costs not covered under this contract.

2.312 WORK PRODUCT

Work Product shall be considered works made by the Contractor for hire by the State and shall belong exclusively to the State and its designees, unless specifically provided otherwise by mutual agreement of the Contractor and the State. Work Product under this contract is limited to: (1) All stored data representing Michigan registrants including any contact point data, responsible party data, and group registration data for the State; (2) HTML code to generate all website pages specific to the Michigan Child Protection Registry ("Michigan Webpages") created by the vendor for the State; (3) Text of all Michigan Webpages authored by the vendor for the State; (4) Visual elements of all Michigan Webpages created by the vendor for the State; (5) Text of confirmation email, instant messenger, facsimile, and mobile phone messages authored by the vendor for the State; (6) Michigan-specific scripts and recordings for any automated toll free help line; and (7) Any text of Michigan-specific promotional materials created by the vendor for the State. Although the following list of exclusions is not intended to be exhaustive or complete, Work Product specifically excludes: (1) the processes, methodologies, algorithms, and salt values used to store, hash, retrieve, check, or process contact points or other data; (2) any and all proprietary systems described under the Vendor's patent applications dated January 23, 2003 and April 26, 2004; (3) any software developed prior to this contract; and (4) any innovations, developments, or enhancements to these systems developed during the term of this contract.

Notwithstanding any provision of this Contract to the contrary, any work or materials including, but not limited to, any routines, libraries, tools, methodologies, processes or technologies (collectively, the "Development Tools") created, adapted or used by the Contractor in its business generally, including any and all associated intellectual property rights, shall be and remain the sole property of the Contractor, and the State shall have no interest in or claim to such work, materials or Development Tools.
The Contractor and its subcontractors shall be free to use and employ their general skills, knowledge and expertise, and to use, disclose, and employ any generalized ideas, concepts, knowledge, methods, techniques or skills gained or learned during the course of performing the services under this Contract, so

long as the Contractor or its subcontractors acquire and apply such information without disclosure of any confidential or proprietary information of the State, and without any unauthorized use or disclosure of any Work Product resulting from this Contract.

2.313 PROPRIETARY RIGHTS

Notwithstanding anything to the contrary in this Agreement, the vendor (i) will retain all right, title and interest in and to all know-how, intellectual property, methodologies, processes, technologies, algorithms, software or development tools used in performing the vendor's services under this contract which are based on trade secrets or proprietary information of the vendor, are developed or created by or on behalf of the vendor without reference to or use of the intellectual property of the state or are otherwise owned or licensed by the vendor (collectively, "Tools"), and (ii) will retain ownership of any vendor-owned software or Tools that are used in producing the developed software and become embedded therein. No licenses will be deemed to have been granted by either party to any of its patents, trade secrets, trademarks or copyrights, except as otherwise expressly provided in this agreement.

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 been approved in accordance with other provisions of this contract.

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:

Melanie Ashley, Contract Administrator
Department of Information Technology
Contracts and Procurement Services
7285 Parsons Dr.
Operations Center, 1SC
Lansing, MI 48913
Maashle@michigan.gov
Voice: 517-636-6407
Fax: 517-636-6303

2.402 PERFORMANCE REVIEWS

Acquisition Services in conjunction with the *DIT* 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 reasonable notice of at least two (2) business days, 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 make available to the State, on a timely basis, the records and related supporting schedules necessary to conduct an independent audit of the vendor's compliance with the requirements set forth in this contract.

2.5 Quality and Warranties

2.501 PROHIBITED PRODUCTS

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

2.502 *Reserved*

2.503 *Reserved*

2.504 *Reserved*

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 commercially reasonable 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 reasonable 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 reasonable best efforts to perform the services in a reasonably 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 materially 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 contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter this contract, on behalf of Contractor.

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

12. 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.

13. 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.

14. Except as otherwise expressly provided in this section, vendor makes no representations or warranties, express or implied, regarding any matter, including the merchantability, suitability, originality, fitness for a particular use or purpose, or results to be derived from the use, or any information technology service, software, hardware or other materials provided under this agreement, or that the operation of any such service, software, hardware or other materials will be uninterrupted or error-free.

2.506 KEY STAFF

The State reserves the right to recommend reassignment of personnel reasonably deemed unsatisfactory by the State. For this Section 2.506, Key Personnel includes only the Contractor's Chief Executive Officer, Chief Operating Officer, Chief Technical Officer and the Project Manager designated by the Contractor.

The Contractor shall not remove or reassign, without the State's prior written approval, which shall not be unreasonably withheld, any of the Key Personnel until such time as the Key Personnel have materially completed their planned and assigned responsibilities in connection with the Contractor's obligations under this Contract. The prohibition against removal or reassignment shall not apply where Key Personnel must be replaced for reasons beyond the reasonable control of the Contractor including but not limited to illness, disability, resignation or termination of the Key Personnel's employment.

2.508 EQUIPMENT WARRANTY

Reserved

2.509 PHYSICAL MEDIA WARRANTY

2.6 Breach of Contract

2.601 BREACH DEFINED

Failure to comply with articles, sections, or subsections of this agreement in all material respects, or making any material false statement that has a material adverse effect on the State 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

A. Rights and Obligations Upon Termination

(1) If this Contract is terminated by the State for any reason, the Contractor shall (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from this Contract that may be in Contractor's possession, (c) return all materials and property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to a commercially reasonable extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.

(2) Regardless of the basis for the termination, the State shall not be obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.

(3.) If any such termination by the State is for cause, the State shall have the right to set-off against any amounts due Contractor the amount of any damages for which Contractor is liable to the State under this Contract or pursuant to law or equity.

(4.) Upon a good faith termination, the State shall have the right to assume, at its option, any and all subcontracts and agreements for services and materials provided under this Contract to the extent that such Contracts permit assumption, and may further pursue completion of the Services under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

(5) In the event of termination, the anticipation for termination, or on the basis of a plan for non-renewal, and for a period of 2 years thereafter, the State will not induce or attempt to influence directly or indirectly, any employee at Contractor or any of Contractors' affiliates or subcontractors to terminate his employment or engagement with Contractor or to work for me

or any other person or entity. In addition, the State will not disclose any confidential information provided by contractor to any other person or entity in the event of termination, anticipation for termination or on the basis of a plan for non-renewal.

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 one-hundred twenty (120) 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. Contractor and State will use reasonable efforts to come to mutual agreement regarding termination assistance to govern the one-hundred twenty (120) calendar day period.

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 one-hundred twenty (120) 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.

(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 an optional termination licensing agreement to the State to license to the State the vendor's proprietary software and systems used to implement the double-blind compliance process.

(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 one-hundred twenty (120) days after the termination of this Contract or the duration of the termination license, if applicable;
(ii) Reserved.
(iii) 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) Providing continued service operation under the contract until the effective date of termination, provided the Contractor can continue to collect the fees due to it under the pricing regime set forth in Section 1.6 of this Agreement.
(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.

F. License Upon Termination

Upon termination, Unspam agrees to license to the State its proprietary software and systems used to implement the double-blind compliance process according to the following general terms. The license shall be non-exclusive and shall be limited to the operations of the Protect MI Child Registry. The termination license shall be revocable upon a breach by the State of the license terms, including, but not limited to, failure to make payments under the license. The term of the termination license shall be up to 10 years with two options to the State to renew for additional terms of up to 10 years each. The price, terms and conditions for the license will be negotiated at the time of termination. These terms and conditions will reflect customary terms and conditions for commercial software licensing.

2.703 LIQUIDATED DAMAGES

Reserved

2.704 STOP WORK

1. The State may, at any time, by written stop work order to the Contractor, require that the Contractor stop all, or any part, of the work called for by this Contract for a period of up to 90 days after the stop work order is delivered to the Contractor, and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate that it is issued under this section. Upon receipt of the stop work order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State shall either:

a) Cancel the stop work order; or
b) Cancel the work covered by the stop work order as provided in the cancellation section of this Contract.

2. If a stop work order issued under this section is canceled or the period of the stop work order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the contract price, or both, and the Contract shall be modified, in writing, accordingly, if:

a) The stop work order results in an increase in the time required for, or in the Contractor's costs properly allocable to the performance of any part of this Contract; and

b) The Contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.

3. If the stop work order is not canceled and the work covered by the stop work order is canceled for reasons other than material breach, the State shall allow reasonable costs resulting from the stop work order in arriving at the cancellation settlement.

4. If a stop work order is not canceled and the work covered by the stop work order is canceled for material breach, the State shall not allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop work order.

An appropriate equitable adjustment may be made in any related contract of the Contractor that provides for adjustment and is affected by any stop work order under this section. The State shall not be liable to the Contractor for loss of profits because of a stop work order issued under this section.

2.705 SUSPENSION OF WORK

Reserved

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

Reserved

2.804 AUDIT AND RECORDS UPON CHANGES

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

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

[See Article 1, Section 1.403]3.1 Disclosure Issues

3.101 CONFIDENTIALITY

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

Protection of Confidential Information

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

News releases

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

Exclusions

Notwithstanding the foregoing, the provisions of this Section will not apply to any particular information which the State or Contractor can demonstrate (i) was, at the time of disclosure to it, in the public domain; (ii) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure to it without an obligation of confidentiality; (iv) was received after disclosure to it from a third party who had a lawful right to disclose such information to it without any obligation to restrict its further disclosure; or (v) was independently developed by the receiving party without reference to Confidential Information of the furnishing party. Further, the provisions of this Section will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose such Confidential Information, provided that the receiving party (i) promptly provides the furnishing party with notice of the legal request, and (ii) assists the furnishing party in resisting or limiting the scope of such disclosure as reasonably requested by the furnishing party. Notwithstanding the foregoing, this confidentiality provision will not apply to any communication by the Contractor and its (i) legal counsel; (ii) investors or (iii) accountants. In addition, Contractor shall be able to disclose information as part of any proposed financial transaction involving Contractor, or in Contractor's marketing materials upon reasonable notice to the State.

No Implied Rights

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

Remedies

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

Survival

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

Destruction of Confidential Information

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

_____ (Initial)

3.103 DISCLOSURE OF LITIGATION

The Contractor shall notify to the best of its knowledge the State in its bid proposal, if it, or any of its subcontractors, or their officers, directors, or key personnel under this Contract, have ever been convicted of a felony, or any crime involving moral turpitude, including, but not limited to fraud, misappropriation or deception. Contractor shall promptly notify the State of any criminal litigation, investigations or proceeding which may have arisen or may arise involving the Contractor or any of the Contractor's subcontractor, or any of the foregoing entities' then current officers or directors during the term of this Contract and three years thereafter.

The Contractor shall notify the State in its bid proposal, and promptly thereafter as otherwise applicable, of any civil litigation, arbitration, proceeding, or judgments that may have arisen against it or its subcontractors during the five years proceeding its bid proposal, or which may occur during the term of this Contract or three years thereafter, which involve (1) products or services similar to those provided to the State under this Contract and which either involve a claim in excess of $250,000 or which otherwise may affect the viability or financial stability of the Contractor , or (2) a claim or written allegation of fraud by the Contractor or any subcontractor hereunder, arising out of their business activities, or (3) a claim or written allegation that the Contractor or any subcontractor hereunder violated any federal, state or local statute, regulation or ordinance. Multiple lawsuits and or judgments against the Contractor or subcontractor, in any an amount less than $250,000 shall be disclosed to the State to the extent they affect the financial solvency and integrity of the Contractor or subcontractor.

All notices under subsection 1 and 2 herein shall be provided in writing to the State within fifteen business days after the Contractor learns about any such criminal or civil investigations and within fifteen days after the commencement of any proceeding, litigation, or arbitration, as otherwise applicable. Details of settlements, which are prevented from disclosure by the terms of the settlement, shall be annotated as such. Semi-annually, during the term of the Contract, and thereafter for three years, Contractor shall certify that it is in compliance with this Section. Contractor may rely on similar good faith certifications of its subcontractors, which certifications shall be available for inspection at the option of the State.

Assurances - In the event that such investigation, litigation, arbitration or other proceedings disclosed to the State pursuant to this Section, or of which the State otherwise becomes aware, during the term of this Contract, causes the State to be reasonably concerned about:

a. The ability of the Contractor or its subcontractor to continue to perform this Contract in accordance with its terms and conditions, or

b. Whether the Contractor or its subcontractor in performing services is engaged in conduct which is similar in nature to conduct alleged in such investigation, litigation, arbitration or other proceedings,

which conduct would constitute a breach of this Contract or violation of Michigan or Federal law, regulation or public policy, then

The Contractor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that: (a) the Contractor or its subcontractors hereunder will be able to continue to perform this Contract in accordance with its terms and conditions, (b) the Contractor or its subcontractors will not engage in conduct in performing services under this Contract which is similar in nature to the conduct alleged in any such litigation, arbitration or other proceedings.

*** The Contractor's failure to fully and timely comply with the terms of this section, including providing reasonable assurances satisfactory to the State, may constitute a material breach of this Contract.

_____ (Initial)

3.2 Vendor/Contractor Compliance with Laws

3.201 GENERALLY

Contractor/vendor shall keep informed of federal, state, and local laws, ordinances, rules, regulations, orders, and decrees of bodies or tribunals having any jurisdiction/authority that in any manner affects those engaged in or employed on the work done under this agreement or that in any manner affects the conduct of the work done under this agreement. Contractor shall observe and comply with such laws, ordinances, rules, regulations, orders, and decrees. Contractor shall indemnify the state for any civil claim or liabilities arising from a violation of such laws, ordinances, rules, regulations, orders, or decrees, whether by itself or its employees, even if wholly or in part caused by a violation of such laws, ordinances, rules, regulations, orders, or decrees by the state or its agents or representatives.

3.303 WORKPLACE DISCRIMINATION

The Contractor represents and warrants that in performing services for the State pursuant to this Contract, the Contractor agrees not to discriminate against any employee or applicant for employment, with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental handicap or disability. The Contractor further agrees that every subcontract entered into for the performance of any Contract or purchase order resulting here from will contain a provision requiring non-discrimination in employment, as herein specified, binding upon each subcontractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 Public Act 453, as amended, MCL 37.2201, et seq., and the Persons With Disabilities Civil Rights Act, 1976 Public Act 220, as amended, MCL 37.1101, et seq., and any breach thereof may be regarded as a material breach of the Contract or purchase order.

Vendor hereby represents that in performing this contract it will not violate The Civil Rights Act of 1964, USCS Chapter 42, including, but not limited to, Title VII, 42 USCS §§ 2000e et seq.; the Americans with Disabilities Act (ADA), 42 USCS §§ 12101 et seq.; or 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.; or the Fair Labor Standards Act (FLSA), 29 USC §§ 201 et seq.

3.304 LABOR RELATIONS

Pursuant to 1980 Public Act 278, as amended, MCL 423.231, et seq., the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an **unfair labor practice** compiled pursuant to Section 2 of the Act. A Contractor of the State, in relation to the Contract, shall not enter into a Contract with a subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to Section 4 of 1980 Public Act 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of the Contractor as an employer, or the name of the subcontractor, manufacturer or supplier of the Contractor appears in the register.

The Contractor represents and warrants that the company does not appear in the current register of employers failing to correct an unfair labor practice.

_____ (Initial)

3.307 LIABILITY INSURANCE

A. <u>Insurance</u>

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

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

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

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

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

See www.michigan.gov/cis

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

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

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

1. Commercial General Liability with the following minimum coverage:

$2,000,000	General Aggregate Limit other than Products/Completed Operations
$2,000,000	Products/Completed Operations Aggregate Limit
$1,000,000	Personal & Advertising Injury Limit
$1,000,000	Each Occurrence Limit
$500,000	Fire Damage Limit (any one fire)

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

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

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

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

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

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

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

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

6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars ($5,000,000.00), which shall apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.

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

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

B. <u>Subcontractors</u>

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

C. <u>Certificates of Insurance and Other Requirements</u>

Contractor shall furnish to the Office of Acquisition Services certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). Before the Contract is signed, and not less than 20 days before the insurance

expiration date every year thereafter, the Contractor shall provide evidence that the State and its agents, officers and employees are listed as additional insured's, but only to the extent of liabilities assumed by Contractor as set forth in Indemnification Section of this Contract, under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

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