

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

February 16, 2006

NOTICE
TO
CONTRACT NO. 071B6200133
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR High Scope Educational Research Foundation 600 North River Street Ypsilanti, MI 48198-2898		TELEPHONE (734) 485-2000 Charles Smith
		BUYER/CA (517) 335-4804 Douglas Collier
Contract Compliance Inspector: Lorraine Thoreson (517) 241-4974 ThoresonL@michigan.gov Continuous Program Improvement and Professional Learning by After-School Program Staff - DOE		
CONTRACT PERIOD: From: December 21, 2005 To: December 31, 2008		
TERMS N/A	SHIPMENT N/A	
F.O.B. N/A	SHIPPED FROM N/A	
MINIMUM DELIVERY REQUIREMENTS N/A		

The terms and conditions of this Contract are those of [ITB #071I6200055](#), this Contract Agreement and the vendor's quote dated 11/30/2005. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.

Estimated Contract Value: **\$189,275.00**

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 DEPARTMENT OF MANAGEMENT AND BUDGET
 ACQUISITION SERVICES
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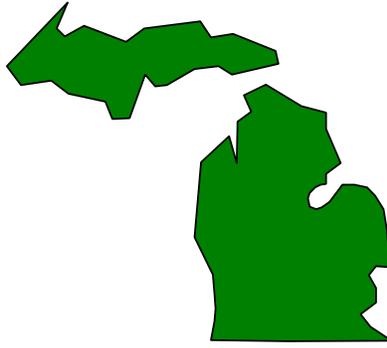
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THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the **ITB No. 071I6200055**. Orders for delivery may be issued directly by the **Department of Education** through the issuance of a Purchase Order Form.

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

<p>FOR THE VENDOR:</p> <p><u>High Scope Educational Research Foundation</u> Firm Name</p> <p>_____ Authorized Agent Signature</p> <p>_____ Authorized Agent (Print or Type)</p> <p>_____ Date</p>	<p>FOR THE STATE:</p> <p>_____ Signature Douglas Collier, CPPB, Buyer Specialist Name</p> <p>_____ Services Division, Acquisition Services Title</p> <p>_____ Date</p>
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**STATE OF MICHIGAN
Department of Management and Budget
Acquisition Services**

Contract No. 071B6200133

(A contract to bring a research validated self-assessment process to be used by all of Michigan's 21st Century Community Learning Centers grantees over three years for purposes of continuous program improvement and professional learning by after-school program staff.)

Buyer Name: Douglas Collier
Telephone Number: (517) 335-4804
E-Mail Address: Collierd1@michigan.gov



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<i>Research Associate, Research Division (Winter 2000-Fall 2003)</i>	17
Assessment systems consultant - Consultation to state, county and city early education agencies and Head Start regarding outcomes assessment, data aggregation, and program improvement mandates at the federal and state levels.	17
Recent Reports and Publication	17
January 1998 to June 2002, March 2004 to present	19
High/Scope Educational Research Foundation Ypsilanti, MI	19
Projects Coordinator [March 2004 to present]	19
Director of Institute for IDEAS [January 1998 – June 2000]	19
Trainer [January 1998 – June 2002]	19
<i>Consultant</i> [June 2000 – June 2002]	19
• Analyzed & improved a research-based tool used to gauge the effectiveness of youth-serving programs	19
May 2003 to Present Back Alley Gourmet Ann Arbor, MI	20
Lead Server for Off-site Events	20
• Provide friendly, efficient service at a variety of events	20
December 2002 to Present Forte-Belanger Catering Troy, MI	20
Off-site Events Service Staff	20
• Supervise & maintain food stations at events for 50 – 2,500 guests	20
• Create and build attractive food buffets using various props and floral arrangements	20



April 2001 to Present **Zingerman’s Catering** Ann Arbor, MI.....20
Lead Server for Off-site Events.....20
 December 2002 to March 2003 **Aerial Associates Photography** Ann Arbor, MI20
Administrative Assistant / Marketing Coordinator / Darkroom Technician.....20
 • Implemented efficient systems of coordinating client requests, billing, and shipping20
 Front of House Manager (150 person capacity).....20
 Assistant Pub Manager (150 person capacity)20
 Kitchen Manager20
 • Secured membership donations to PIRGIM through public outreach campaign20
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Article 1 – Statement of Work (SOW)

1.0 Project Identification

1.001 PROJECT REQUEST

The purpose of this Contract is to obtain services for a research validated self-assessment process to be used by all of Michigan's 21st Century Community Learning Centers (21st CCLC) grantees over three years for purposes of continuous program improvement and professional learning by after-school program staff. This is necessary to complete the requirements of federal funding for the development of a continuous improvement self-assessment instrument and process which will collect data to be used by statewide evaluators and provide for dissemination of the information through technical assistance to the 21st CCLC grant project.

1.002 BACKGROUND

Michigan Department of Education, Office of Early Childhood Education and Family Services, has a total of 52 grant recipients of 21st CCLC. All project grantees are required to participate in a program monitoring process. High/Scope Educational Research Foundation has worked with MDE on prior projects that have included the development of a program quality-monitoring instrument for the Michigan School Readiness Program (PQA). This experience was essential to the development of a monitoring process and training on the Youth Program Quality Assessment (YPQA), the instrument selected by Office of Early Childhood Education and Family Services to be used for the 21st CCLC program monitoring process. High/Scope Educational Research Foundation developed the YPQA. In fiscal year 2004-2005 the High/Scope Educational Research Foundation was contracted to pilot the YPQA tool in a sampling of 21st CCLC sites and train site directors and evaluators on the use of the tool. This process was well received by the 21st CCLC grantees and quite successful. The pilot data revealed that the major differences in program quality occurred at the point of service (i.e., at the youth worker level). The next phase of the continuous program quality improvement system will require a contract to expand the pilot to include all 21st CCLC grantees. In addition, it is necessary to collect data that will show optimum outcomes for students based on this continuous improvement model. Part of this continuous improvement system is to identify interventions necessary to insure high-quality after-school programming in the 21st CCLC sites, such as youth worker credential training.

1.1 Scope of Work and Deliverables

1.101 IN SCOPE

Part I: Communications

I.A. The contractor will support MDE to communicate about quality improvement efforts in the 21st CCLCs by providing training and support materials during annual program kick-offs for the 2005-2006, 2006-2007, and 2007-2008 program years. Training will consist of a 1-hour project update session and a 3-hour content session focused on positive youth development methods. At least three of the contractor's staff will be present to assist for the entire day. Paper materials will be provided to each participant (1,200 participants over three years).

I.B. The contractor will continue to develop an updated power point presentation describing MDE's position of national leadership in the area of quality improvement system building for use by MDE consultants and the contractor staff at meetings and conferences.

Part II: Training for statewide staff

II.A. 21st CCLC Cohort A: The contractor will provide a 2-day research validated assessment tool training for 180 persons at 6 sites around the state during fall 2005.

II.B. 21st CCLC Cohort B: The contractor will provide a 2-day research validated assessment tool training for 300 persons at 10 sites around the state during spring and fall 2006.

II.C. 21st CCLC Cohort C: The contractor will provide a 2-day research validated assessment tool training for 180 persons at 6 sites around the state during spring 2007.



II.D. In FY 08 the contractor will provide 2-day training for 100 persons at 4 sites around the state as catch-up for new staff that have not been trained in the prior two years.

II.E. Following each round of training, each 21st CCLC site will receive a research validated assessment tool packet including a user manual as a site reference and 2 new data collection forms for data collection in that year.

Part III: Data processing and reporting

III.A. Each site that sends staff to a research validated assessment tool training will receive an access code to a web-based data port. This access code will allow the site to enter data and receive a customized local report based on their data.

III.B. After sites enter local data and receive automated reports, this data will be used by the contractor to produce an aggregate report on program quality across all 21st CCLC sites that use the web-based service.

Part IV: Improvement pilot

IV.A-E. The contractor will conduct an improvement pilot designed to demonstrate effectiveness of the two kinds of interventions that are part of the 21st CCLC Quality Improvement System in Michigan. During the 2005-2006 program cycle the contractor's data collectors will collect pre-test and post-test data at approximately 15 sites in three 21st CCLC grantees.

- One set of five sites will be drawn from cohorts B and C and will represent a no-intervention condition for purposes of reference.
- The second set of five sites will be drawn from cohort A and all staff will receive training for the research validated assessment tool and technical assistance on using data for program improvement.
- The third set of five sites will also be drawn from cohort A and will receive both the training as well as 6-day Youth Worker Training.

All of the data collected, as a part of this Improvement Pilot will also be made available to the statewide evaluator's at MSU – bringing the number of 21st CCLC site with outside data collection to nearly 50.

In each subsequent year, the five sites that received the 6-day Youth Worker Training Pilot will receive three consultant days from a content specialist to support implementation of best practice and integration of self-assessment on the research validated assessment tool. Data will be collected in these programs by outside observers again at the end of year three to capture change over the entire three year period at these demonstration programs.

Part V: Consulting to MDE

V.A. The contractor will provide service as requested by the MDE in support of the Quality Improvement System. This work may entail the following: presentation at any 21st CCLC meetings in the state, attendance at briefings with MDE staff or other related state government meetings, work on MDE annual reporting forms, communication and support to the statewide evaluator at MSU, transmission of data and technical collaboration to the statewide evaluator at MSU.

1.102 OUT OF SCOPE

The contractor will not be providing data to the United State Department of Education. The contractor will not collect and analyze data on the number and characteristics of children and families who receive services under the 21st CCLC program. These duties are already contracted by Michigan State University. The contractor will also not provide grant monitoring for the 21st CCLC programs. This duty is performed by the Michigan Department of Education, Office of Early Childhood Education and Family Services, 21st CCLC Consultants.

1.103 ENVIRONMENT

All grantees are required to use a web-based data collection for the statewide and federal reporting system. Each program site provides their own hardware and purchases licensing for required software. The contractor must provide a web-based data port, which allows grantees to enter data and receive a customized local report based on their data to be used for their local evaluation and continuous improvement process. Data collected must be reported in a manner compatible to the Michigan State University evaluation system.



1.104 WORK AND DELIVERABLE

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

Part I: Communications

I.A. The contractor will support MDE to communicate about quality improvement efforts in the 21st CCLCs by providing training and support materials during annual program kick-offs for the 2005-2006, 2006-2007, and 2007-2008 program years. Training will consist of a 1-hour project update session and a 3-hour content session focused on positive youth development methods. At least three of the contractor's staff will be present to assist for the entire day. Paper materials will be provided to each participant (1,200 participants over three years).

I.B. The contractor will continue to develop an updated power point presentation describing MDE's position of national leadership in the area of quality improvement system building for use by MDE consultants and the contractor staff at meetings and conferences.

Part II: Training for statewide staff

II.A. 21st CCLC Cohort A: The contractor will provide a 2-day research validated assessment tool training for 180 persons at 6 sites around the state during fall 2005.

II.B. 21st CCLC Cohort B: The contractor will provide a 2-day research validated assessment tool training for 300 persons at 10 sites around the state during spring and fall 2006.

II.C. 21st CCLC Cohort C: The contractor will provide a 2-day research validated assessment tool training for 180 persons at 6 sites around the state during spring 2007.

II.D. In FY 08 the contractor will provide 2-day training for 100 persons at 4 sites around the state as catch-up for new staff that have not been trained in the prior two years.

II.E. Following each round of training, each 21st CCLC site will receive a research validated assessment tool packet including user a manual as a site reference and 2 new data collection forms for data collection in that year.

Part III: Data processing and reporting

III.A. Each site that sends staff to a research validated assessment tool training will receive an access code to a web-based data port. This access code will allow the site to enter data and receive a customized local report based on their data.

III.B. After sites enter local data and receive automated reports, this data will be used by the contractor to produce an aggregate report on program quality across all 21st CCLC sites that use the web-based service.

III.C. Beginning fiscal year '06, if data collection is required vendor will work with The Michigan Department of Information Technology if there are problems related to data.

Part IV: Improvement pilot

IV.A-E. The contractor will conduct an improvement pilot designed to demonstrate effectiveness of the two kinds of interventions that are part of the 21st CCLC Quality Improvement System in Michigan. During the 2005-2006 program cycle the contractor's data collectors will collect pre-test and post-test data at approximately 15 sites in three 21st CCLC grantees.

- One set of five sites will be drawn from cohorts B and C and will represent a no-intervention condition for purposes of reference.
- The second set of five sites will be drawn from cohort A and all staff will receive training for the research validated assessment tool and technical assistance on using data for program improvement.
- The third set of five sites will also be drawn from cohort A and will receive both the training as well as 6-day Youth Worker Training.



All of the data collected, as a part of this Improvement Pilot will also be made available to the statewide evaluator's at MSU – bringing the number of 21st CCLC site with outside data collection to nearly 50.

In each subsequent year, the five sites that received the 6-day Youth Worker Training Pilot will receive three consultant days from a content specialist to support implementation of best practice and integration of self-assessment on the research validated assessment tool. Data will be collected in these programs by outside observers again at the end of year three to capture change over the entire three year period at these demonstration programs.

Part V: Consulting to MDE

V.A. The contractor will provide service as requested by the MDE in support of the Quality Improvement System. This work may entail the following: presentation at any 21st CCLC meetings in the state, attendance at briefings with MDE staff or other related state government meetings, work on MDE annual reporting forms, communication and support to the statewide evaluator at MSU, transmission of data and technical collaboration to the statewide evaluator at MSU.

1.2 Roles and Responsibilities

1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES

Required Key Personnel.

- Three staff will provide training and technical assistance for grantees in using the research validated assessment tool.
- The contractor will provide a staff person to develop and update a power point presentation describing MDE's position of national leadership in the area of quality improvement system building.
- Three staff will provide four 2-day trainings in the use of the research validated assessment tool.
- The contractor will provide staff to manage the web-based data port and provide local automated reports to the grantees.
- The contractor will provide staff to produce an aggregate report on program quality across all 21st CCLC sites that use the web-based service.
- The contractor will provide staff to conduct an improvement pilot that will demonstrate effectiveness of the two kinds of interventions that are part of the 21st CCLC Quality Improvement System.
- The contractor's staff will provide services as requested by MDE in support of the Quality Improvement System, such as, presentation at any 21st CCLC meetings in the state, attendance at briefings with MDE staff or other related state government meetings, work on MDE annual reporting forms, communication and support to the statewide evaluator at MSU, transmission of data and technical collaboration to the statewide evaluator at MSU.

1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES

Michigan Department of Education, Office of Early Childhood Education and Family Services, 21st CCLC Consultants and support staff will provide monitoring of the program sites and monitoring of the contract.

1.203 OTHER ROLES AND RESPONSIBILITIES

Michigan State University, 21st CCLC Evaluation team will collaborate with the contractor to link all evaluation data for the annual report to the United State Department of Education and provide technical assistance to grantees.

1.3 Project Plan

1.301 PROJECT PLAN MANAGEMENT

The contractor should present a project management plan, identifying methods, tools and processes proposed to oversee the project, address issues/changes as they may arise, and keep the appropriate parties apprised of progress.



1.302 REPORTS

The contractor should propose a standard set of reports for managing the project as part of its bid response.

1.4 Project Management

1.401 ISSUE MANAGEMENT

An issues that arise that would endanger the project should be immediately (within two weeks) brought to the attention of the lead 21st CCLC consultant. The contractor must identify the issue management process to be utilized for this project, including responsible parties, phone numbers, email addresses if relevant, and processes.

1.402 RISK MANAGEMENT

The contractor will identify a risk management process to be utilized for this project, including responsible parties, phone numbers, email addresses if relevant, and processes. This risk management process should include: (1) identification of the risk, (2) assigning a level of priority based on the probability of occurrence and impact to the project, (3) definition of mitigation strategies, and (4) monitoring of risk and mitigation strategy.

1.403 CHANGE MANAGEMENT

It is noted that requests for modification of the Contract, whether in scope, pricing, time frames, or a combination of thereof, must be submitted through the Department of Management and Budget, Office of Acquisition Service's Buyer, (see section 2.014) for approval and processing, or denial (see Section 2.101, generally).

If a proposed contract change is approved by the Contract Compliance Inspector, the Contract Compliance Inspector will submit a request for change to the Department of Management and Budget, Acquisition Services Buyer, who will make recommendations to the Director of Acquisition Services regarding ultimate approval/disapproval of change request. If the DMB Acquisition Services Director agrees with the proposed modification, and all required approvals are obtained (including State Administrative Board), the Acquisition Services Buyer will issue an addendum to the Contract, via a Contract Change Notice. **Vendors who provide products or services prior to the issuance of a Contract Change Notice by the DMB Office of Acquisition Services, risk non-payment for the out-of-scope/pricing products and/or services.**

1.5 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.

Listed below are the deliverables expected in this contract. The MDE, Office of Early Childhood Education and Family Services, 21st CCLC consultant coordinating this project will review and accept deliverables upon completion.

Deliverable

Criteria

Part I - Communications

- A. Annual program kick-offs
- B. Power-point presentation regarding overall systems initiative

- Completion of three annual kick-off meetings
- Completion of the power point presentations

Part II – Research validated assessment tool Training (2-day) for Cohorts A, B and C

- A. Training
- B. Site packets for data collection

- Completion of training each year
- Packets provided to all grantees

Part III - Data processing and reporting



- A. Web-based data entry and automated reporting Completion and submission of automated reports to grantees
- B. Annual report to MDE Completion and submission of annual report to MDE

Part IV - Improvement Intervention Pilot

- A. Data collection by trained outside observers Completion of the improvement intervention pilot program.
- B. Technical assistance using research validated assessment tool data for program improvement at 5 sites Completion of the improvement intervention pilot program.
- C. Youth Worker Training (6 day) at 5 sites Completion of the improvement intervention pilot program.
- D. Follow-up support to pilot sites Completion of second and third year follow-up.
- E. Data analysis and reporting Completion of reports submitted to MDE and statewide evaluators.

Part V - Consulting to MDE to support system building

- A. Consulting Satisfactory participation in meetings and conference conducted for the project.

**1.502 FINAL ACCEPTANCE**

Final Acceptance is when the project is completed and functions according to the requirements. Any intermediate acceptance of sub-Deliverables does not complete the requirement of Final Acceptance.

1.6 Compensation and Payment**1.601 COMPENSATION AND PAYMENT ALSO SEE Article 1, Attachment A**

The contractor must list detail of compensation proposed, e.g., hourly rates, number of hours per task, unit prices, cost per task, cost per deliverable, etc. If the list is too long, the document may become an "Attachment" to the Statement of Work. The RFP will result in a firm, fixed unit price contract per deliverable invoiced quarterly.

1.7 Additional Terms and Conditions Specific to this SOW**1.701 ADDITIONAL TERMS AND CONDITIONS SPECIFIC TO THIS SOW**

N/A.



ARTICLE 1B – EVALUATION INFORMATION

REQUIRED VENDOR INFORMATION

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

1B.100 Vendor Information

1B.101 VENDOR NAME AND ADDRESS

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

Name:	<u>High/Scope Educational Research Foundation</u>
Address:	<u>600 N. River St</u>
City, State, Zip:	<u>Ypsilanti MI 48198</u>
Phone:	<u>(734) 485-2000</u>
Web Page:	<u>www.highscope.org</u>

1B.102 LOCATION ADDRESS

Address:	<u>Please see above</u>
City, State, Zip:	<u></u>

1B.103 ORGANIZATION AND YEAR

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

Business Structure:	<u>Corporation</u>
Year established:	<u>1970</u>
Status:	<u>501 (c)(3)</u>

In addition, please provide:

- (a) Company Sales Volume for the last five (5) years
FY 00 thru FY 04 was \$41.426 million
- (b) Size and location of facilities that will be involved in any resulting contract.
10,000 sq. ft. building at address listed above, which has 65 FTE

1B.104 RFP CONTACT

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

Name:	<u>Charles Smith</u>
Address:	<u>600 N River St</u>
City, State, Zip	<u>Ypsilanti MI 48198</u>
Phone:	<u>(734) 485-2000 ext. 250</u>
Fax:	<u>(734) 485-0704</u>
E-Mail	<u>csmith@highscope.org</u>

Note: Person named above will be sole contact for your company to receive the Contract.

Include the name and telephone number of person(s) in your company authorized to expedite any proposed contract with the State.

1B.200 Qualifications

1B.201 Prior Experience (See Vendors proposal in DMB file)

**1B.202 STAFFING**

The written proposal should indicate the competence of personnel whom the Vendor intends to assign to the project as specified Section 1.2. Qualifications will be measured by education and /or experience, with particular reference to experience on projects similar to that described in the RFP. Emphasis will be placed upon the qualifications of Vendor's Project Manager and the Manager's dedicated management time as well as that of other Key Personnel working on this project.

For all personnel identified in Section 1.2, Vendor must provide resumes, which shall include detailed, chronological work experience.

Charles Smith: *Director, Youth Development Group*
(15% of time dedicated to this project)

Charles will be the Project Manager on this initiative; creating the design and providing guidance throughout. He will also be the lead person on evaluation of the project and reporting back to the State.

Laenne Thompson: *Projects Coordinator, Youth Development Group*
(25% of time dedicated to this project)

Laenne will be the Projects Coordinator on this initiative; coordinating training and technical assistance, as well as delivering a portion of the training.

Tom Akiva: *Youth Development Specialist, Youth Development Group*
(25% of time dedicated to this project)

Tom will be the Lead trainer on this initiative; focusing on training content and delivering most of the Youth Worker Training sessions and follow-up consultation.

Please see following pages for resumes of each staff listed above.



Key Personnel Resumes

Charles D. Smith

Director, Youth Development Group
High/Scope Educational Research Foundation
600 N. River St, Ypsilanti, MI 48198
734.485.2000x250 / csmith@highscope.org

Education

BA in History, content focus on early development of the welfare state
(conferred 1994, Wayne State University)
M.A. in Political Science, content focus on adult education policy and politics
(conferred 1996, Wayne State University)
Ph.D. in Public Policy, content focus on civic learning in the urban context
(conferred 2003, Wayne State University)

Work Experience Related to Quality Research

Director, Youth Development Division (Fall 2003 – Present):

High/Scope Educational Research Foundation, Ypsilanti, MI
Management of all High/Scope training, research and direct services to youth, youth work staff and teachers, and youth serving organizations.

- Principal investigator, Youth Program Quality Assessment Validation Study - Currently in reporting and publication phase of a four year project funded by the W.T Grant Foundation to develop a validated quality observation instrument, the Youth Program Quality Assessment.
- Lead consultant, Accountability and Improvement Systems Building - Currently enacting multi-year system building contracts with the Michigan Department of Education, Palm Beach County Children's Services Council and the Detroit Youth Sports and Recreation Commission.
- Principal investigator, Small Quality Improvement Evaluations – Currently conducting small-scale evaluations in four Michigan organizations doing arts, civic education, residential camping, and academically focused afterschool programming with the goal of improving High/Scope's ability to support improvement across organizations with different content areas.

Research Associate, Research Division (Winter 2000-Fall 2003)

- **Assessment systems consultant - Consultation to state, county and city early education agencies and Head Start regarding outcomes assessment, data aggregation, and program improvement mandates at the federal and state levels.**
- Principal investigator, Michigan School Readiness Program Evaluation: Phase II - Research project funded by the Michigan Department of Education focused on evaluation of Michigan School Readiness Program. The study was designed to model relationships between elements of the classroom environment and child development for 200 students.
- Lead consultant, Grantee Evaluation Support Project - Training project, funded by the W.K. Kellogg Foundation, focused on building long term evaluation capacity in local early childhood education providers with a focus on the organizational elements which support continuous improvement.
- Comprehensive school reform effects at sites using High/Scope schoolwide reform model: Student achievement trend analysis for standardized achievement tests, qualitative evidence on how the High/Scope classrooms supports higher-order learning behaviors, and analysis of the relationship between classroom implementation and discipline referrals.

Charles D. Smith cont'd

Recent Reports and Publication

Smith. 2005. *The Youth Program Quality Assessment validation study: Findings for instrument validation*. Forthcoming report from the High/Scope Foundation.

Smith. 2005. *Measuring Quality in Michigan's 21st Century afterschool programs: The Youth PQA self-assessment pilot study*. Forthcoming report from the High/Scope Foundation.



Smith 2004. "Doing Positive Youth Development and Asset Building – Year 41." *High/Scope Resource Magazine* (Summer 2004).

Smith, Xiang and Schweinhart. "Effects of Michigan's State Preschool Program Through Age 10." Submission to the *Early Childhood Research Quarterly*, September 2002.

Smith. 2001. "Revalidating the High/Scope Elementary Curriculum a Decade Later, Part II: Higher Order Thinking Skills." *High/Scope Resource Magazine* Vol. 20, No. 5.

Smith. 2001. "Revalidating the High/Scope Elementary Curriculum a Decade Later, Part I: Achievement Tests." *High/Scope Resource Magazine* Vol. 20, No. 4

Schweinhart and Smith. 2001. "Effects of Recent High/Scope Curriculum Support on School Achievement and Reducing Discipline Referrals: Evidence of Effectiveness for the Catalog of School Reform Models at the Northwest Regional Educational Laboratory." High/Scope Press, Ypsilanti, MI.

Xiang, Schwienhart, Hohman, Smith and Storer. *Points of Light: Third Year Report of the Michigan School Readiness Evaluation*. April 2000. High/Scope Press, Ypsilanti, MI.



Key Personnel Resumes

Laenne Kyle Thompson

Projects Coordinator, Youth Development Group
High/Scope Educational Research Foundation
600 N. River St, Ypsilanti, MI 48198
734.485.2000 x243 / laennet@highscope.org

EDUCATION

- 1999 – 2001 **University of Michigan** [Ann Arbor, MI] **B.S. in Natural Resources & Environment**
- Graduated with Honors (GPA 3.55) with a concentration in Natural Resource Policy & Behavior
 - Fieldwork completed at U of M's BioStation
- 1997 – 2000 **Washtenaw Community College** [Ann Arbor, MI]
- Concentration in natural sciences and math
- 1991-1992 **Sarah Lawrence College** [Florence, Italy]
- Concentrations: Italian Language; Medieval & Renaissance Histories; & Italian Cinema
- 1989-1991 **Wesleyan University** [Middletown, CT]
- Majors declared: Italian Studies and Educational Studies

WORK EXPERIENCE

January 1998 to June 2002, March 2004 to present

High/Scope Educational Research Foundation Ypsilanti, MI

Projects Coordinator [March 2004 to present]

- Coordinate long-term projects of the Youth Development Group, including:
 - ✓ Youth PQA data collection for Validation Study and other multi-month projects
 - ✓ Youth PQA training (sometimes delivering the training)
 - ✓ Annual High/Scope Youth Development Group Conference
 - ✓ Annual Conference circuit calendar of presentations and exhibitions
 - ✓ IDEAS to Impact, a 10-month sequence of experiences that supports the development of powerful skill sets and empowered academic, social and civic identities for teens.

Director of Institute for IDEAS [January 1998 – June 2000]

- Performed administrative duties during four 5-week residential Institutes, including organizing community service field trips to local non-profit organizations
- Recruited, hired, supervised and evaluated 30 residential staff members
- Coordinated and integrated Arts & Sciences curriculum for 100 "At-Risk" teenagers
- Collaborated with school principals, counselors and teachers worldwide to recruit students for the Institute
- Facilitated large & small group activities such as ecosystem mapping, plant & bird identification walks, and a cultural festival

Trainer [January 1998 – June 2002]

- Developed a 6-month training course for educators seeking certification in the *High/Scope Approach to Working with Adolescents*
- Presented at MAEO (Michigan Alternative Education Organization) Conferences in 1999 & 2000
- Trained over 600 adults and youths in the *High/Scope Approach*
- Lead alternative school staff through an annual reflection and strategic planning process

Consultant [June 2000 – June 2002]

- Wrote, directed, and produced orientation and public relations videos
- Supported two youth-serving agencies in Kalamazoo through periodic site visits and training workshops
- Analyzed & improved a research-based tool used to gauge the effectiveness of youth-serving programs



May 2003 to Present **Back Alley Gourmet** Ann Arbor, MI

Lead Server for Off-site Events

- Provide friendly, efficient service at a variety of events
- Attend to specific catering needs of high-end clients

December 2002 to Present **Forte-Belanger Catering** Troy, MI

Off-site Events Service Staff

- Supervise & maintain food stations at events for 50 – 2,500 guests
- Create and build attractive food buffets using various props and floral arrangements

April 2001 to Present **Zingerman's Catering** Ann Arbor, MI

Lead Server for Off-site Events

- Manage service staff, oversee set-up and breakdown of indoor and outdoor events for 15 – 300 people
- Provide feedback to production staff & sales managers in order to improve food quality & service

December 2002 to March 2003 **Aerial Associates Photography** Ann Arbor, MI

Administrative Assistant / Marketing Coordinator / Darkroom Technician

- Implemented efficient systems of coordinating client requests, billing, and shipping
- Designed & created direct mail marketing pieces
- Processed & printed high-quality color photographic film & digital images

March 1996 to January 1998 **Seva Restaurant** Ann Arbor, MI

Front of House Manager (150 person capacity)

- Interviewed, hired, scheduled, supervised and evaluated all front-of-house staff
- Supported staff through ownership transition

August 1995 to March 1996 **Arbor Brewing Company** Ann Arbor, MI

Assistant Pub Manager (150 person capacity)

- Interviewed, hired, scheduled, supervised and evaluated all front-of-house staff
- Supported staff through new owner orientation
- Supervised special events, such as beer tastings and fundraisers

May 1995 to August 1995 **Café Pastiche** Ann Arbor, MI

Kitchen Manager

- Hired, scheduled and trained all kitchen staff
- Planned and prepared daily menus
- Supported staff through ownership transition

September 1994 to October 1995 **Laenne's Custom Catering** Ann Arbor, MI

Owner/Caterer

- Coordinated personalized menus for a variety of event types
- Prepared, delivered, set- up, served and cleaned up at events for 15 – 65 people in SE Michigan

May 1993 to June 1993 **High/Scope Camp & Conference Center** Clinton, MI

Cook

- Prepared 3 meals per day for groups of 8-120 people and assisted with menu planning

June 1989 to August 1989 **Public Interest Research Group In Michigan (PIRGIM)** Ann Arbor, MI

Canvasser

- Informed general public of environmental issues in Michigan
- Secured membership donations to PIRGIM through public outreach campaign



Key Personnel Resumes

Thomas M. Akiva

Youth Development Specialist, Youth Development Group
High/Scope Educational Research Foundation
600 N. River St, Ypsilanti, MI 48198
734.485.2000x227 / takiva@highscope.org

EDUCATION & CERTIFICATION

- * Master of Arts in Education, University of Michigan, July 2003
- * Secondary Teaching Certification in Michigan – English and Sociology, May 2003
- * Award for Outstanding Teaching with Technology, MCOATT, Summer 2003
- * Bachelor of Arts in English, Alma College, May 1995

WORK HISTORY

Youth Development Specialist: High/Scope Educational Research Foundation
October 2004 – present. Ypsilanti, Michigan

High/Scope develops and delivers training workshops, assessment instruments, and related products for teachers and youth workers.

- * Design, sell, and deliver training workshops to adults from youth development organizations.
- * Coordinate and mentor a cadre of trainers in delivering a training curriculum I wrote.
- * Develop products for grants and sales including assessment instruments, software tools, publications, and training support media.
- * Consult with directors of youth development programs to implement assessment and improvement initiatives.

Distance Learning and Classroom Instructor: Washtenaw Community College

Aug 2004 – present. Ann Arbor, Michigan

English 111 is the introductory composition course, which introduces students to college writing. I have taught the traditional classroom course and I am currently teaching the course completely online.

Internship Coordinator, University Preparatory Academy Middle School

July 2003 – July 2004. Detroit, Michigan

University Preparatory Academy is a public charter school that personalizes curriculum for students and provides real-world learning opportunities. Sixth and seventh grade students participate in job shadows and service learning experiences, and eighth graders participate in six-week internships.

- Facilitated setup, project development, and transportation for over 60 eighth grade internships.
- Coordinated job shadowing and service learning experiences for over 100 seventh and sixth graders.
- Provided training and ongoing support for a staff of 11 teachers.

Instructor for Educational Technology graduate course, University of Michigan

Summer 2003. Ann Arbor, Michigan

Educational Technology is a course for students in the Masters and Certification teacher education program at the University of Michigan.

- Taught 60 graduate students how to use web portfolios, image editing software, web design, and video editing.
- Collaborated with professor to develop the course outline, select software, and assess student work.

**Trainer and Institute Director**, High/Scope Educational Research Foundation

Nov 1998 – May 2002. Ypsilanti, Michigan

Consultant from May 2002 – October 2005.

High/Scope operates the Institute for IDEAS, a summer, residential, educational enrichment program for teenagers from the US and abroad. The Institute focuses on active learning, community building, and raising youths' personal expectations. High/Scope also provides training workshops for teachers and youth workers.

- Supervised operation of the Institute for four consecutive summer sessions.
- Recruited and trained four successful staff teams of 12 and recruited up to 60 students each session.
- Facilitated workshops in progressive education for secondary teachers and youth workers.
- Developed print and web materials including brochures, web pages, grant proposals, and grant reports.

Assistant Producer, The Collaboratory

May 1998 – Nov 1998. Ann Arbor, Michigan and Toledo, Ohio

The Collaboratory was a start-up marketing and design company. Our goal was to gain capital through commercial work and use this to fund film documentaries.

- Designed brochures, a website, and co-wrote business proposals.
- Assisted in creation of a television commercial to promote the city of Toledo.

Copy Coordinator, SB&A Advertising

June 1996 – May 1998. Ann Arbor, Michigan

SB&A provides marketing and advertising for local and national companies.

- Wrote and edited copy for brochures, direct mail, press releases, newsletters, annual reports, and advertisements.
- Created company website and office computer network.

PUBLISHED WORKS

**The Participatory Learning Approach: Learning Methods*. 2005. Ypsilanti, MI: High/Scope Press.

**The Participatory Learning Approach: Interaction and Support Strategies*. 2005. Ypsilanti, MI: High/Scope Press.

**"Spotlight on Eva Solomon" Washtenaw Jewish News, April 2004, Pages 24-26.

**"The Camp Community and the World Community" Camping Magazine, March/April 2002, Pages 30-33.



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

The High/Scope Foundation did not participate in the drafting of this RFP. However, the work described in this RFP is closely aligned with the work that the High/Scope Educational Research Foundation has done for the Michigan Department of Education and numerous other clients around the country for the past decade.

The High/Scope Foundation, through its prior work, has provided several materials relevant to the content of this RFP to the State. These are:

- In 2002, the *High/Scope Youth Program Quality Assessment* (Youth PQA) was presented to staff at the Michigan Department of Education and in subsequent years the instrument has been used by 21st Century afterschool providers around the state. The Youth PQA is a scientifically validated assessment of class room quality that is used for purposes of accountability and staff training. The Youth PQA was developed through a four-year validation study funded by the W.T. Grant Foundation.
- During 2003-2005 the High/Scope Foundation conducted training and provided technical assistance related to the use of the Youth Program Quality Assessment for 21st Century afterschool providers around the state of Michigan. High/Scope staff also provided consulting around the development of a statewide accountability system for 21st Century afterschool providers in the state.
- A report was submitted on September 19, 2005 entitled, *Final Report: Description of Work Completed for the Michigan Department of Education, 21st Century Community Learning Centers Program by the High/Scope Educational Research Foundation during the period October 2003 through July 2005.*
- A report was submitted on September 12, 2005 entitled, *Measuring Quality in Michigan's 21st Century Afterschool Programs: The Youth PQA Self-Assessment Pilot Study.*
- Throughout the 2003-2005 period staff from High/Scope have communicated with staff in the Michigan DOE, Department of Early Childhood Education and Family Services through project updates, presentation of work completed, and recommendations for project adjustments and future action related to ongoing work.

High/Scope staff discussed this proposal with Doug Collier at the Office of management and Budget.

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

- The RFP development results in a "unique solution," having proprietary influence for the benefit of the developer, or a very limited source list. The resulting RFP must be of a nature that displays neutrality and fairness; any implication of impropriety will preclude the developer from participating in the ensuing bid process.
- Retaining information assembled or compiled for the development of the RFP by the developer. The Contractor must share all pertinent information assembled for the RFP development, by making such information equally and fully available to all potential bidders, via the DMB Acquisition Services Buyer.
- The use of information assembled that would lead to an early response to the RFP by the RFP developer. This includes, but is not limited to: assessments, surveys, white papers, RFP draft documents, questionnaires, requirements lists, budgetary figures, presentations, notes from conversations with State personnel, and any other form of information resulting in a competitive advantage.

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

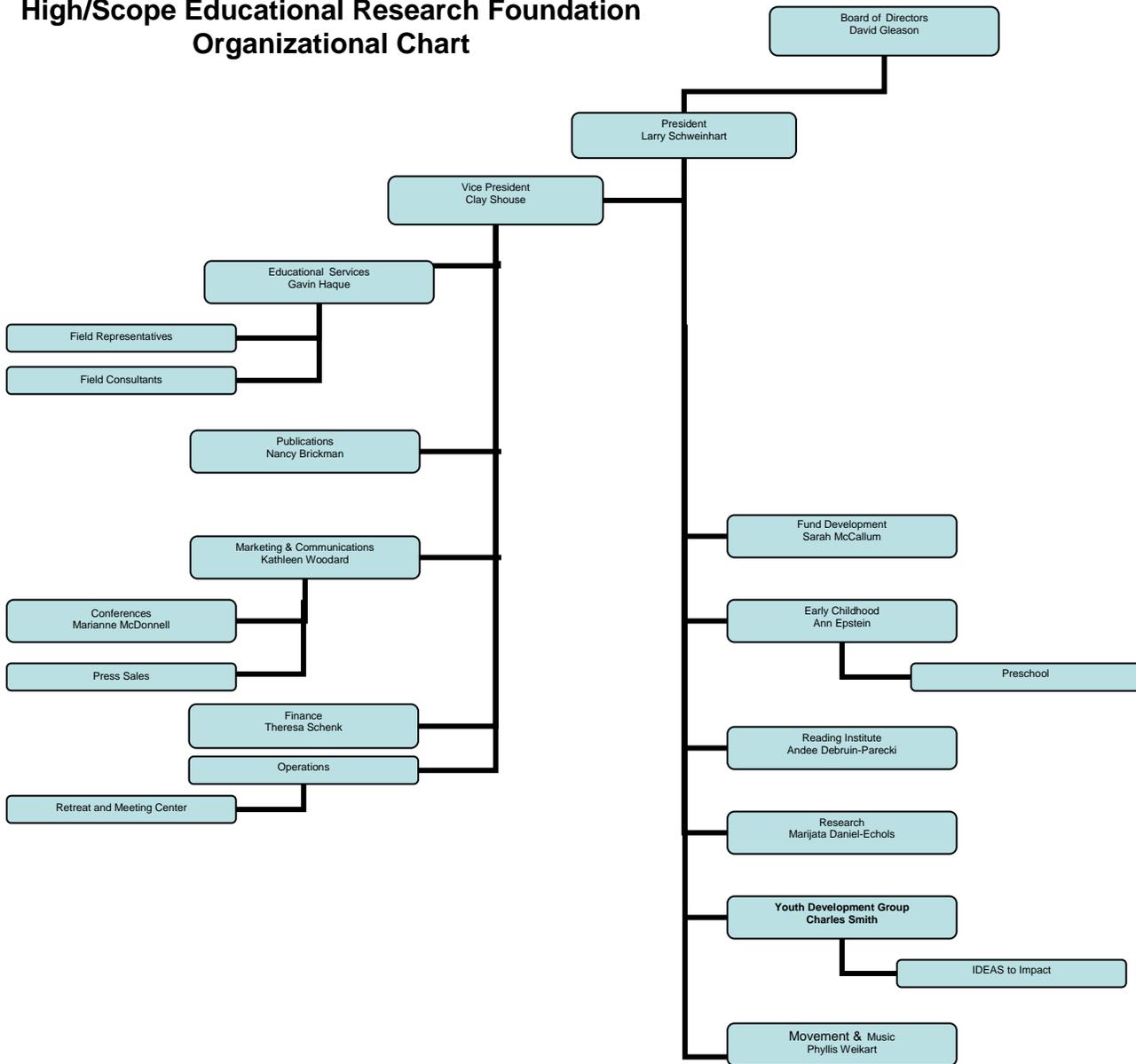
NON-STATE AGENCY REQUIREMENTS - Reserved



Article 1, Attachment B

Organizational Chart, including Key Personnel

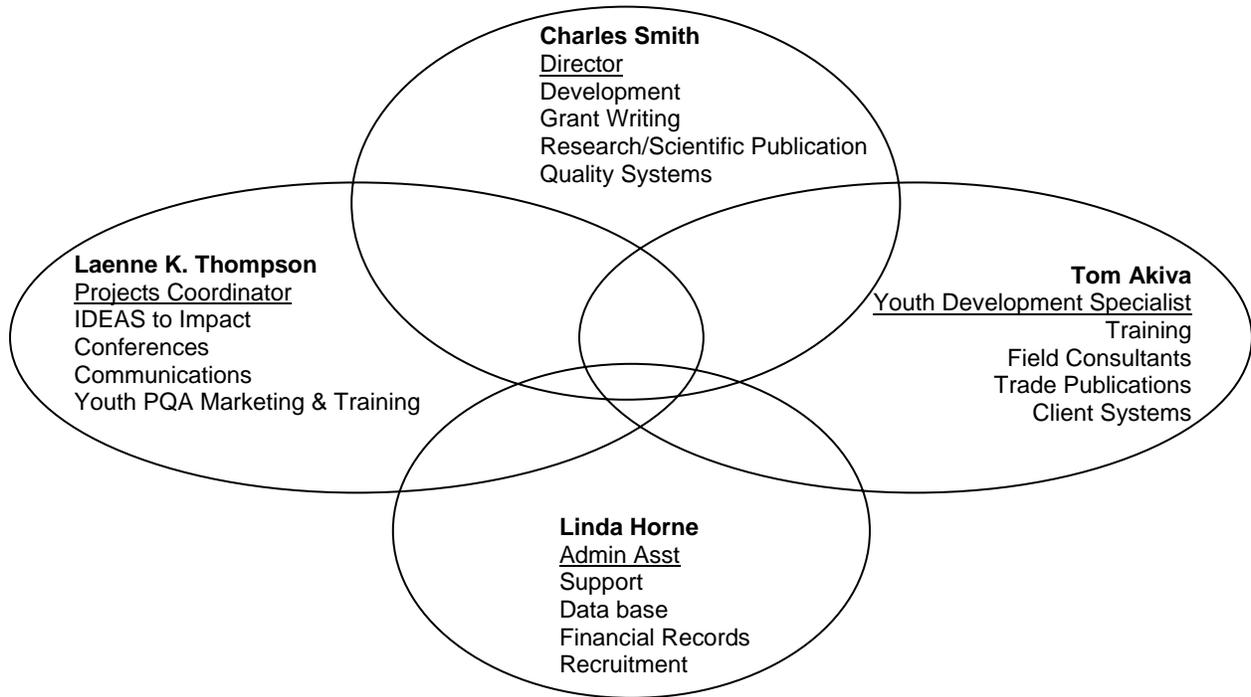
**High/Scope Educational Research Foundation
Organizational Chart**





Article 1, Attachment B
Organizational Chart, including Key Personnel

Youth Development Group Organizational Chart & Responsibilities





Article 1, Attachment C
Labor Rates

Please see Article 1, Attachment A. If more specific rates are needed, High/Scope will provide additional information.

**Article 1, Attachment D**

Deliverables

Part I – Communications

The purpose of this component is to enable MDE to present this state-of-the-art project nationally, and accurately describe the project as it unfolds. This project positions Michigan at the forefront of cutting edge youth development systems, and High/Scope will give MDE tools to communicate this information.

A. Annual program kick-offs

At each annual kick-off meeting, High/Scope will describe the project to-date to the larger 21st Century program providers. Data will be shared and conclusions presented on work completed. Future work will be presented and questions from providers answered. Necessary materials, handout and reports will be provided to attendees.

B. Power-point presentation regarding overall systems initiative

A PowerPoint presentation to describe the project will be created and updated as the project is completed. Data and notable conclusions will be presented. The presentation (or portions thereof) will be shown at kick-off meetings and national and regional conferences attended by High/Scope and State employees alike in order to show Michigan's Department of Education and its programs in a positive and progressive light to others looking to do similar work in their states and programs.

Part II – Research validated assessment tool Training (2-day) for Cohorts A, B and C

The high quality Youth PQA training and companion materials will provide every 21st CCLC in the state with the tools they need to implement the assessment project.

A. Training

21st CCLC site personnel (660 staff) will be given the opportunity to attend a two-day training, Youth PQA Basics, in which they learn how to use the Youth PQA. Staff will also become familiar with the self-assessment protocol in order to use the instrument internally. Each Youth PQA Basics participant will receive a binder containing a wealth of how-to documentation, including: necessary assessment forms, training participant document, and other support materials.

B. Site packets for data collection

Each site will receive a packet containing sufficient copies of the Youth PQA, and guidelines and protocol for usage in each of the three program years.

Part III - Data processing and reporting

This component will make usage of numeric data as easy and effective as possible by utilizing modern computer software. Not only will this component facilitate report generation for the state, it will also help 21st CCLC providers easily make the leap from program data to useful program information.

A. Automatic Score Reporter

Each site will receive a copy of the Youth PQA Automatic Scores Reporter on CD-ROM. This software enables users to enter indicator-level data and the program creates program reports. Users will save their data and send it electronically to High/Scope for compilation.

B. Annual report to MDE

Each year of the project, High/Scope will submit a report containing narrative descriptions of project components, data, and any relevant conclusions or recommendations stemming from what we learn.

Part IV - Improvement Intervention Pilot

The purpose of the improvement pilot is to measure implementation of best practices rooted in the quality improvement tool. We will measure the effects of the PQA Self-Assessment when used alone, and when used in conjunction with best practice training for staff. This pilot will provide valuable information about the effectiveness of the various components of the intervention.

A. Data collection by trained outside observers

High/Scope will send data collectors twice to each participating site—for baseline and post-intervention program quality data. These data collectors will observe staff who are part of each component of the initiative, as selected by intervention sites. The baseline data reports will be available to sites during the intervention.



B. Technical assistance using research validated assessment tool data for program improvement at 5 sites
High/Scope staff will provide consulting and support services to intervention sites as they implement internal assessment systems using the Youth PQA Self Assessment Method.

C. Youth Worker Training (5 days) at 5 sites

High/Scope will lead two types of training workshops: Youth Worker Essentials (3-day) and a custom version of Program Leadership (2-day). Youth Worker Essentials is for line staff who work directly with youth, and Program Leadership helps administrators use the Youth PQA for individual staff improvement.

D. Follow-up support to pilot sites

After the training, High/Scope staff will provide consulting and support services to intervention sites as they use what they've learned from the training and continue to implement Program Self-Assessment with the Youth PQA.

E. Data analysis and reporting

At the end of the intervention, baseline and post- data will be compared and a report presented to MDE. This report will include survey data from staff, and narratives about the intervention, as well as PQA data.

Part V - Consulting to MDE to support system building

Throughout this project, High/Scope will experience countless opportunities to learn about Michigan youth programs and effective processes for program assessment and improvement. We will share the lessons we learn with MDE and together build knowledge for the state and the field of youth development.

Consulting

- ✓ Alignment between the self-assessment process and mandatory reporting by sites to the State
- ✓ Coordination with the Statewide program evaluator at Michigan State University
- ✓ Support to MDE staff as they conduct site visits as they use the Youth PQA as an accountability measure.



Article 1, Attachment E
Project Plan

The plan below describes action steps that fulfill the spirit of this RFP. We intend to help the Michigan Department of Education build a system that supports continuous program improvement and professional learning for all staff in Michigan's 21st Century Programs. This effort will be centered around use of the High/Scope Youth Program Quality Assessment, a scientifically validated quality assessment tool that is completed by observation and interview. The Youth PQA was validated in a recently completed four-year study funded by the W.T. Grant Foundation. Through our extensive experience using program quality assessment tools at the preschool, elementary and youth levels, we know that systemic use of quality assessment can increase impacts on youth development and learning that occurs as a result of participation in afterschool programs. Through this proposal staff will learn about quality and have the tools necessary to assess their own efforts to deliver high quality experiences to youth. Program self-assessment using the Youth PQA is a documented process that facilitates learning by staff and produces reliable and valid scores. In addition to training and technical assistance, High/Scope will conduct an intensive evaluation at several programs where the Youth PQA is implemented enabling us to report to the state about how best to support implementation of best practices in programs across the state, and thus to ensure return on their investment in future years. For more information about the Youth PQA and its process of validation visit the High/Scope Website and see the following reports: Smith, C. 2005. *The Youth Program Quality Assessment Validation Study: Findings for Instrument Validation*; Smith, C. 2005. *Measuring Quality in Michigan's 21st Century Afterschool Programs: The Youth PQA Self-Assessment Pilot Study*.

Although this proposal does not include measurement of child outcomes directly, it does yield production of program quality data of two kinds. First, all programs in the state will produce self-assessment ratings on the Youth PQA, which although primarily for purposes of local improvement planning and staff development, these scores will be relayed with site codes to statewide evaluators at MSU. This self-assessment data will allow High/Scope to report on implementation of best practices and success of improvement efforts over the three year contract period. This system will extend indefinitely as a long term accountability and improvement system for use by the Michigan DOE..

The second source of Youth PQA data that this project will produce is outside observer data through the improvement pilot (see Part IV of the Project Plan). Through this rigorous quality data will be produced at approximately 50 sites during year one of the effort by trained outside observers. This research quality data set will also be relayed to the statewide evaluator at Michigan State University. When this quality data is merged with existing data sets, it will constitute a unique perspective on the relationship between quality experiences and youth outcomes, enabling the Michigan effort to make a substantial contribution to the broader youth development field.

This project consists of five components: Communications; Training for statewide staff; Data processing and reporting; Improvement pilot; and Consulting to MDE. All key personnel involved in the project will be involved in all components of the project, however the following chart details lead personnel for each part:

Component	Lead High/Scope Personnel
I. Communications	Charles Smith
II. Training for Statewide Staff	Laenne Thompson, Charles Smith
III. Data Processing and Reporting	Laenne Thompson, Charles Smith
IV. Improvement Pilot	Laenne Thompson, Tom Akiva
V. Consulting to MDE	Charles Smith

The following outline is provided so that in the project plan that follows, items can be identified with respect to the components of which they are a part.

<p>Part I - Communications</p> <p>I.A. Annual program kick-offs</p> <p>I.B. Power-point presentations regarding overall systems initiative</p> <p>Part II – Youth PQA Training for Cohorts A, B, and C</p> <p>II.A. Training</p> <p>II.B. Site packets</p> <p>Part III – Data processing and reporting</p> <p>III.A. Automatic data entry and reporting</p> <p>III.B. Annual reporting to MDE and data transfer to statewide evaluator at MSU</p>
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Part IV – Improvement Pilot

- IV.A. Data collection by trained outside observers
- IV.B. Technical assistance in using the Youth PQA with the Program Self Assessment Method
- IV.C. Youth worker training at 5 sites
- IV.D. Follow-up support to pilot sites
- IV.E. Data analysis and reporting

Part V – Consulting to MDE

- V.A. Consulting



The following chart details the project and management plans in the order in which they will occur.

Project Component	Management Plan
YEAR ONE: 2006	
<p><u>Youth PQA trainings for Cohort A (II.A)</u> Training workshops will occur for approximately 180 persons in 6 locations around the state.</p>	<ul style="list-style-type: none"> ▪ MDE will set up training logistics (dates, venues, announcements) ▪ High/Scope will provide all training materials, trainers, site packets, and oversee delivery of the trainings
<p><u>Improvement Pilot (IV)</u> This pilot seeks to measure the effectiveness of two levels of program improvement interventions. The pilot involves 15 sites, representing 3 groups: 1. A no-intervention group (5 sites) 2. A Youth PQA Self-Assessment only group (5 sites) 3. A Youth PQA + Youth Worker Training group (5 sites) Groups 2 and 3 will also receive Technical Assistance from High/Scope: consultation in utilizing the intervention tools. All of the Youth PQA data collected as a part of this Improvement Pilot will also be made available to the statewide evaluator's at MSU – bringing the number of 21st CCLC site with outside data collection to nearly 50.</p>	<p>High/Scope will be responsible for all aspects of this component.</p> <ul style="list-style-type: none"> ▪ Laenne Thompson will coordinate data collection at all sites. ▪ Tom Akiva will head up training and technical assistance
<p><u>Youth PQA trainings for Cohort B (II.A)</u> Training workshops will occur for approximately 300 persons in 10 locations around the state.</p>	<ul style="list-style-type: none"> ▪ MDE will set up training logistics (dates, venues, announcements) ▪ High/Scope will provide all training materials, trainers, and oversee delivery of the trainings
<p><u>Annual Program Kickoff (I.A)</u> High/Scope will provide training and support materials during annual program kickoff for the 2006-2007 program year. Training will consist of a 1-hour project update session and a 3-hour content session focused on positive youth development methods.</p>	<ul style="list-style-type: none"> ▪ High/Scope will provide training and support materials before and on the day of the kickoff ▪ At least three High/Scope staff will be present to assist for the entire day. Paper materials will be provided to each participant (1,200 participants over three years).
<p><u>Annual Report 2006 (III.B)</u> After sites enter local Youth PQA data and receive automated reports, this data will be used by High/Scope to produce an aggregate report on program quality across all 21st CCLC sites. Data sets will also be transferred to the statewide evaluator at MSU for investigation of relationships to youth outcomes such as attendance, academic gains, and pro-social attitudes.</p>	<ul style="list-style-type: none"> ▪ High/Scope will manage this item.
YEAR TWO: 2007	
<p><u>Youth PQA trainings for Cohort C</u> Training workshops will occur for approximately 180 persons in 6 locations around the state.</p>	<ul style="list-style-type: none"> ▪ MDE will set up training logistics (dates, venues, announcements) ▪ High/Scope will provide all training materials, trainers, site packets, and oversee delivery of the trainings



Project Component	Management Plan
<p><u>Annual Program Kickoff</u> High/Scope will provide training and support materials during annual program kickoff for the 2007-2008 program year. Training will consist of a 1-hour project update session and a 3-hour content session focused on positive youth development methods.</p>	<ul style="list-style-type: none"> ▪ High/Scope will provide training and support materials before and on the day of the kickoff ▪ At least three High/Scope staff will be present to assist for the entire day. Paper materials will be provided to each participant (1,200 participants over three years).
<p><u>Improvement Pilot ongoing support (IV)</u> The five sites that received the Youth Worker Training Pilot will receive three consultant days from a High/Scope content specialist to support implementation of best practice and integration of self-assessment on the Youth PQA.</p>	<ul style="list-style-type: none"> ▪ High/Scope will manage this item
<p><u>Annual Report 2007 (III.B)</u> After sites enter local Youth PQA data and receive automated reports, this data will be used by High/Scope to produce an aggregate report on program quality across all 21st CCLC sites. Data sets will also be transferred to the statewide evaluator at MSU for investigation of relationships to youth outcomes such as attendance, academic gains, and pro-social attitudes.</p>	<ul style="list-style-type: none"> ▪ High/Scope will manage this item.
YEAR THREE: 2008	
<p><u>Youth PQA trainings Catch-up (II.A)</u> Training workshops will occur in 4 locations around the state for approximately 100 new staff that have not been trained in the prior two years.</p>	<ul style="list-style-type: none"> ▪ MDE will set up training logistics (dates, venues, announcements) ▪ High/Scope will provide all training materials, trainers, site packets, and oversee delivery of the trainings
<p><u>Improvement Pilot Final Data collection (IV.E)</u> Data will be collected in these programs by outside observers again at the end of year three to capture change over the entire three year period at these demonstration programs.</p>	<ul style="list-style-type: none"> ▪ High/Scope will manage this item
<p><u>Improvement Pilot ongoing support (IV)</u> The five sites that received the Youth Worker Training Pilot will receive three consultant days from a High/Scope content specialist to support implementation of best practice and integration of self-assessment on the Youth PQA.</p>	<ul style="list-style-type: none"> ▪ High/Scope will manage this item
<p><u>Annual Report 2008 (III.B)</u> After sites enter local Youth PQA data and receive automated reports, this data will be used by High/Scope to produce an aggregate report on program quality across all 21st CCLC sites. Data sets will also be transferred to the statewide evaluator at MSU for investigation of relationships to youth outcomes such as attendance, academic gains, and pro-social attitudes.</p>	<ul style="list-style-type: none"> ▪ High/Scope will manage this item.
ONGOING	
<p><u>Power Point Presentations (I.B)</u> High/Scope will continue to develop an updated power point presentations describing MDE's position of national leadership in the area of quality improvement system building for use by MDE consultants and High/Scope staff at meetings and conferences.</p>	<ul style="list-style-type: none"> ▪ High/Scope will manage this item
<p><u>Site Packets (II.B)</u> Each 21st CCLC site will receive a Youth PQA packet including the published User Manual as a site reference and 2 new data collection forms for data collection in that year.</p>	<ul style="list-style-type: none"> ▪ High/Scope will manage this item



<p><u>Automatic Data Reporter (III.A.)</u> As part of the site packet, each site that sends staff to Youth PQA training will receive access to a computerized data reporting system. This system will provide site reports, and also prepare data for High/Scope to use in developing aggregate reports</p>	<p>High/Scope will manage this item.</p>
<p><u>Consulting to MDE (V)</u> This work may entail the following: presentation at any 21st CCLC meetings in the state, attendance at briefings with MDE staff or other related state government meetings, work on MDE annual reporting forms, communication and support to the statewide evaluator at MSU, transmission of data and technical collaboration to the statewide evaluator at MSU.</p>	<ul style="list-style-type: none"> ▪ High/Scope will provide service as requested by the MDE in support of the Quality Improvement System.

Additional Pieces to Project Management Plan

1.302 Reports

Reports for this project are described in the Deliverables Section (please see Article 1, Attachment D). In addition to those reports mentioned, High/Scope would be happy to provide an additional report(s) and/or presentation(s) to the State as an unanticipated need arises, e.g., for a specific conference or kick-off event. These additional report(s) and/or presentation(s) would be at no additional cost.

1.401 Issue Management

If an issue arises that would endanger the project, please contact Charles Smith at the High/Scope Educational Research Foundation.
(734) 485-2000 ext. 250 phone
csmith@highscope.org email

As Project Manager, Charles Smith will determine the best course of action to address the issue and amend the project (if necessary) to the satisfaction of the State.

1.402 Risk Management

The following table provides examples of anticipated risks and suggestions for mitigating and monitoring. In the event a risk occurs and the State has a concern, please contact Charles Smith at the High/Scope Educational Research Foundation
(734) 485-2000 ext. 250 phone
csmith@highscope.org email

Risk	Level of Priority/Probability of Occurrence	Mitigation Strategies	Monitoring of Risk & Strategy
Training event cancelled because of inclement weather	High Priority/ Low Probability of Occurrence	Re-schedule training as soon as possible.	Projects Coordinator will monitor to insure all training takes place in a timely fashion.
Report(s) may be delayed.	High Priority/ Low Probability of Occurrence	1. Communicate all deadlines to involved parties including, but not limited to: *Statewide program evaluator *Provider sites *Training participants 2. Bring the matter to the attention of the lead 21 st CCLC consultant.	Project Manager will communicate with appropriate parties and manage the project so as to meet the deadlines laid out in the Project Management Plan.



Article 1, Attachment F (Reserved)
Service Level Agreement



Article 2 – General Terms and Conditions

2.010 Contract Structure and Administration

2.011 Definitions

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

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

2.012 Attachments and Exhibits

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

2.013 Statements of Work

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



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

2.014 Issuing Office

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

Douglas Collier
Office of Acquisition Services
Department of Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
Email collierd1@michigan.gov
Phone 517/ 335-4804

2.015 Contract Compliance Inspector

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

[CCI]
Lorraine Thoreson
Department of Education
Office of Early Childhood Education and Family Services
Hannah Building, 2nd Floor
PO Box 30008
Lansing, MI 48909
Email Thoresonl@michigan.gov
Phone: 517-241-4974
Fax: 517-335-0592

2.016 Project Manager

The following individual will oversee the project:



Lorraine Thoreson
Department of Education
Office of Early Childhood Education and Family Services
Hannah Building, 2nd Floor
PO Box 30008
Lansing, MI 48909
Email Thoresonl@michigan.gov
Phone: 517-241-4974
Fax: 517-335-0592

2.020 Contract Objectives/Scope/Background

2.021 Background Reserved See section I

2.022 Purpose Reserved See section I

2.023 Objectives and Scope Reserved See section I

2.024 Interpretation

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

2.025 Form, Function and Utility

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

2.030 Legal Effect and Term

2.031 Legal Effect

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

2.032 Contract Term

This Contract is for a period of three **(3) years** commencing on the date that the last signature required to make the Contract enforceable is obtained. All outstanding Purchase Orders shall also expire upon the termination (cancellation for any of the reasons listed in 2.210) of the Contract, unless otherwise extended pursuant to the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

2.033 Renewal(s)



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

2.040 Contractor Personnel

2.041 Contractor Personnel

(a) Personnel Qualifications. All persons assigned by Contractor to the performance of Services under this Contract shall be employees of Contractor or its majority-owned (directly or indirectly, at any tier) subsidiaries (or a State-approved Subcontractor) and shall be fully qualified to perform the work assigned to them. Contractor shall include a similar provision in any subcontract entered into with a Subcontractor. For the purposes of this Contract, independent contractors engaged by Contractor solely in a staff augmentation role shall be treated by the State as if they were employees of Contractor for this Contract only; however, the State understands that the relationship between Contractor and Subcontractor is an independent contractor relationship.

(b) Key Personnel

(i) In discharging its obligations under this Contract, Contractor shall provide the named Key Personnel on the terms indicated. **Exhibit C** provides an organization chart showing the roles of certain Key Personnel, if any.

(ii) Key Personnel shall be dedicated as defined in **Exhibit C** to the Project for its duration in the applicable Statement of Work with respect to other individuals designated as Key Personnel for that Statement of Work.

(iii) The State will have the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, will introduce the individual to the appropriate State representatives, and will provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. Additionally, the State's request shall be based on legitimate, good-faith reasons. Proposed alternative for the individual denied, shall be fully qualified for the position.

(iv) Contractor shall not remove any Key Personnel from their assigned roles or the Contract without the prior written consent of the State. If the Contractor does remove Key Personnel without the prior written consent of the State, it shall be considered an unauthorized removal ("Unauthorized Removal"). It shall not be considered an Unauthorized Removal if Key Personnel must be replaced for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation or for cause termination of the Key Personnel's employment. It shall not be considered an Unauthorized Removal if Key Personnel must be replaced because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides thirty (30) days of shadowing unless parties agree to a different time period. The Contractor with the State shall review any Key Personnel replacements, and appropriate transition planning will be established. Any Unauthorized Removal may be considered by the State to be a material breach of the Contract, in respect of which the State may elect to exercise its rights under **Section 2.210**.

(v) It is acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of the Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 2.210**, the State may assess liquidated damages against Contractor as specified below.

For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the liquidated damages amount shall be \$0.00 per individual provided Contractor identifies a replacement approved by the State pursuant to **Section 2.041** and assigns the replacement to the Project to shadow the Key Personnel s/he is replacing for a period of at least thirty (30) days prior to such Key Personnel's removal.



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

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

(e) Staffing Levels.

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

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

(f) Personnel Turnover. The Parties agree that it is in their best interests to keep the turnover rate of employees of Contractor and its Subcontractors who are performing the Services to a reasonable minimum. Accordingly, if the State determines that the turnover rate of such employees is excessive and so notifies Contractor, Contractor will meet with the State to discuss the reasons for the turnover rate and otherwise use commercially reasonable efforts to minimize such turnover rate. If requested to do so by the State, Contractor will submit to the State its proposals for reducing the turnover rate to an acceptable level. In any event, notwithstanding the turnover of personnel, Contractor remains obligated to perform the Services without degradation and in accordance with the State-approved Contract schedule.

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

2.042 Contractor Identification

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

2.043 Cooperation with Third Parties

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



2.044 Subcontracting by Contractor

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

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

(c) In any subcontracts entered into by Contractor for the performance of the Services, Contractor shall require the Subcontractor, to the extent of the Services to be performed by the Subcontractor, to be bound to Contractor by the terms of this Contract and to assume toward Contractor all of the obligations and responsibilities that Contractor, by this Contract, assumes toward the State. The State reserves the right to receive copies of and review all subcontracts, although Contractor may delete or mask any proprietary information, including pricing, contained in such contracts before providing them to the State. The management of any Subcontractor will be the responsibility of Contractor, and Contractor shall remain responsible for the performance of its Subcontractors to the same extent as if Contractor had not subcontracted such performance. Contractor shall make all payments to Subcontractors or suppliers of Contractor. Except as otherwise agreed in writing by the State and Contractor, the State will not be obligated to direct payments for the Services other than to Contractor. The State's written approval of any Subcontractor engaged by Contractor to perform any obligation under this Contract shall not relieve Contractor of any obligations or performance required under this Contract. Attached as **Exhibit E** is a list of the Subcontractors, if any, approved by the State as of the execution of this Contract, together with a copy of the applicable subcontract.

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

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

2.045 Contractor Responsibility for Personnel

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

2.050 State Standards

2.051 Existing Technology Standards

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

2.052 PM Methodology Standards

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



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

2.053 Adherence to Portal Technology Tools

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

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

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

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

2.054 Acceptable Use Policy

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

2.060 Deliverables

2.061 Ordering (Reserved)

2.062 Software (Reserved)

2.063 Hardware (Reserved)

2.064 Equipment to be New and Prohibited Products (Reserved)

2.070 Performance

2.071 Performance, In General

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

2.072 Time of Performance

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

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



(c) If Contractor believes that a delay in performance by the State has caused or will cause Contractor to be unable to perform its obligations in accordance with specified Contract time periods, Contractor shall notify the State in a timely manner and shall use commercially reasonable efforts to perform its obligations in accordance with such Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent such delay is caused by the State.

2.074 Bankruptcy

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

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

2.075 Time is of the Essence

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

2.76 Service Level Agreements (SLAs) Reserved

2.080 Delivery and Acceptance of Deliverables

2.081 Delivery Responsibilities (Reserved)

2.082 Delivery of Deliverables

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

2.083 Testing (Reserved)

2.084 Approval of Deliverables, In General

(a) All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, in accordance with the following procedures. Formal approval by the State requires that the Deliverable be confirmed in writing by the State to meet its specifications, which will include the successful completion of Testing as applicable in **Section 2.083**, to be led by the State with the support and assistance of Contractor.



The parties acknowledge that the approval process set forth herein will be facilitated by ongoing consultation between the parties, visibility of interim and intermediate Deliverables and collaboration on key decisions.

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

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

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

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

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

2.085 Process For Approval of Written Deliverables

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

**2.086 Process for Approval of Services**

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

2.087 Process for Approval of Physical Deliverables

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

2.088 Final Acceptance

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

2.080 Delivery and Acceptance of Deliverables

2.081 Delivery of Deliverables (Reserved)**2.082 Contractor System Testing (Reserved)****2.083 Approval of Deliverables, In General (Reserved)****2.084 Process for Approval of Written Deliverables (Reserved)****2.085 Process for Approval of Custom Software Deliverables (Reserved)****2.086 Final Acceptance (Reserved)**

2.090 Financial**2.091 Pricing**

(a) Fixed Prices for Services/Deliverables

Each Statement of Work/PO issued under this Contract shall specify (or indicate by reference to the appropriate Contract Exhibit) the firm, fixed prices for all Services/Deliverables, and the associated payment milestones and payment amounts. To the extent the parties agree that certain specific Services will be provided on a time and materials basis, such Services shall be provided at the Amendment Labor Rates (**Article 1, Attachment C**). The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

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

If the scope of the Services/Deliverables under any Statement of Work issued under this Contract is subsequently reduced by the State, the parties shall negotiate an equitable reduction in Contractor's charges under such Statement of Work commensurate with the reduction in scope, using the rates in **Article 1, Attachment C** Unless specifically identified in an applicable Statement of Work.

(c) Services/Deliverables Covered

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

(d) Labor Rates

All time and material charges will be at the rates specified in **Article 1, Attachment C**.

2.092 Invoicing and Payment Procedures and Terms

(a) Invoicing and Payment – In General

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

(ii) Each Contractor invoice will show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. The charges for Services billed on a time and materials basis shall be determined based on the actual number of hours of Services performed, at the applicable Labor Rates specified in **Article 1, Attachment C**. Invoices for Services performed on a time and materials basis will show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 2.094**.

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

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

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

(c) Out-of-Pocket Expenses

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

(d) Pro-ration

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



(e) Antitrust Assignment

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

(f) Final Payment

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

2.093 State Funding Obligation

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

2.094 Holdback (Reserved)

2.095 Electronic Payment Availability

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

2.100 Contract Management

2.101 Contract Management Responsibility

(a) Contractor shall have overall responsibility for managing and successfully performing and completing the Services/Deliverables, subject to the overall direction and supervision of the State and with the participation and support of the State as specified in this Contract. Contractor's duties will include monitoring and reporting the State's performance of its participation and support responsibilities (as well as Contractor's own responsibilities) and providing timely notice to the State in Contractor's reasonable opinion if the State's failure to perform its responsibilities in accordance with **Article 1, Attachment E** (Project Plan) is likely to delay the timely achievement of any Contract tasks.

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

2.102 Problem and Contract Management Procedures

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

2.103 Reports and Meetings

(a) Reports.

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



- (i) separately address Contractor's performance in each area of the Services;
- (ii) for each area of the Services, assess the degree to which Contractor has attained or failed to attain the pertinent objectives in that area, including on-time completion and delivery of Deliverables;
- (iii) explain the reasons for any failure to achieve on-time completion and delivery of Deliverables and include a plan for corrective action where appropriate;
- (iv) describe any circumstances that Contractor anticipates will impair or prevent on-time completion and delivery of Deliverables in upcoming reporting periods;
- (v) include plans for corrective action or risk mitigation where appropriate and describe the status of ongoing problem resolution efforts;
- (vi) provide reports setting forth a comparison of actual hours spent by Contractor (including its augmented personnel and Subcontractors) in performing the Project versus hours budgeted by Contractor.
- (vii) set forth a record of the material personnel changes that pertain to the Services and describe planned changes during the upcoming month that may affect the Services.
- (viii) include such documentation and other information may be mutually agreed to verify compliance with, and meeting the objectives of, this Contract.
- (ix) set forth an updated schedule that provides information on the status of upcoming Deliverables, expected dates of delivery (or redelivery) of such Deliverables and estimates on timing for completion of the Project.
- (x) contractor will comply with the reporting requirements in section (1).

(b) Meetings.

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

2.104 System Changes (Reserved)

2.105 Reserved

2.106 Change Requests

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

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

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

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



(a) Change Requests

(i) State Requests

If the State should require Contractor to perform New Work, Additional Services or make changes to the Services that would affect the Contract completion schedule or the amount of compensation due Contractor (a "Change"), the State shall submit a written request for Contractor to furnish a proposal for carrying out the requested Change (a "Change Request").

(ii) Contractor Recommendations

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

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

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

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

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

2.107 Management Tools (Reserved)

2.110 Records and Inspections

2.111a Reserved

2.111b Records and Inspections

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

2.112 Errors

(a) If the audit demonstrates any errors in the statements provided to the State, then the amount in error shall be reflected as a credit or debit on the next invoice and in subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried for more than four (4) quarterly statements.



If a balance remains after four (4) quarterly statements, then the remaining amount will be due as a payment or refund within forty-five (45) days of the last quarterly statement that the balance appeared on or termination of the contract, whichever is earlier.

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

2.120 State Responsibilities

2.121 State Performance Obligations

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

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

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

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

2.130 Security

2.131 Background Checks

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

All Contractor personnel will also be expected to comply with the State's security and acceptable use policies for State IT equipment and resources. See <http://www.michigan.gov/ditservice/0,1607,7-179-25781-73760--,00.html>. Furthermore, Contractor personnel will be expected to agree to the State's security and acceptable use policies before the Contractor personnel will be accepted as a resource to perform work for the State. It is expected the Contractor will present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff will be expected to comply with all Physical Security procedures in place within the facilities where they are working.

2.140 Reserved



2.150 Confidentiality

2.151 Freedom of Information

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

2.152 Confidentiality

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

2.153 Protection of Confidential Information

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

2.154 Exclusions

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



2.155 No Implied Rights

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

2.156 Remedies

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

2.157 Security Breach Notification

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

2.158 Survival

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

2.159 Destruction of Confidential Information

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

2.160 Proprietary Rights (Reserved)

2.161a Ownership (Reserved)

Ownership of Work Product by State. All Deliverables shall be owned by the State and shall be considered works made for hire by the Contractor for the State. The State shall own all United States and international copyrights, trademarks, patents or other proprietary rights in the Deliverables.

Vesting of Rights. With the sole exception of any preexisting licensed works identified in **Exhibit J**, the Contractor shall assign, and upon creation of each Deliverable automatically assigns, to the State, ownership of all United States and international copyrights, trademarks, patents, or other proprietary rights in each and every Deliverable, whether or not registered by the Contractor, insofar as any such Deliverable, by operation of law, may not be considered work made for hire by the Contractor for the State. From time to time upon State's request, the Contractor and/or its personnel shall confirm such assignment by execution and delivery of the assignments, confirmations of assignment, or other written instruments as the State may request. The State shall have the right to obtain and hold in its own name all copyright, trademark, and patent registrations and other evidence of rights that may be available for Deliverables.

2.161b Cross-License (Reserved)



(Option 1 – Deliverables only) (Reserved)

(Option II – Deliverables and Derivative Works) (Reserved)

2.161c License (Reserved)

2.162 Source Code Escrow (Reserved)

2.163 Rights in Data

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

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

2.164 Ownership of Materials

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

2.165 Standard Software (Reserved)

2.166 Pre-existing Materials for Custom Software Deliverables (Reserved)

2.167 General Skills

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

2.170 Warranties And Representations



2.171 Warranties and Representations

[Additional Contract specific warranties may be included here, such as specific industry standards, professional standards, etc.]

The Contractor represents and warrants:

(a) It is capable in all respects of fulfilling and shall fulfill all of its obligations under this Contract. The performance of all obligations under this Contract shall be provided in a timely, professional, and workman-like manner and shall meet the performance and operational standards required under this Contract.

(b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.

(c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under this Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under this Contract, nor their use by the State, will infringe the patent, copyright, trade secret, or other proprietary rights of any third party.

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

(e) The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.

(f) It is qualified and registered to transact business in all locations where required.

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

(h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or shall accept anything of value based on an understanding that the actions of the Contractor or Affiliates or employee on behalf of the State would be influenced. Contractor shall not attempt to influence any State employee by the direct or indirect offer of anything of value.

(i) Neither Contractor nor any Affiliates, nor any employee of either has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Contractor or such Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.

(j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other bidder; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.

(k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by such financial statements, reports, other information. Since the respective dates or periods covered by such financial statements, reports, or other information, there have been no material adverse change in the business, properties, financial condition, or results of operations of Contractor.



(m) All written information furnished to the State by or behalf of Contractor in connection with this Contract, including its bid, 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.

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

2.172 Software Warranties (Reserved)

2.173 Equipment Warranty (Reserved)

2.174 Physical Media Warranty (Reserved)

2.175a DISCLAIMER

THE FOREGOING EXPRESS WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES AND EACH PARTY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

2.175b Standard Warranties

(a) Warranty of Merchantability

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

(b) Warranty of fitness for a particular purpose

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

(c) Warranty of title

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

2.176 Consequences For Breach

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



2.180 Insurance

2.181 Liability Insurance

(a) Liability Insurance

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

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

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

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

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

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

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

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

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

1. Commercial General Liability with the following minimum coverage:

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

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



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

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

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

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

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

4. Employers liability insurance with the following minimum limits:

\$100,000 each accident

\$100,000 each employee by disease

\$500,000 aggregate disease

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

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

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

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

(b) Subcontractors

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

(c) Certificates of Insurance and Other Requirements

Contractor shall furnish to the Office of Acquisition Services certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor shall provide evidence that the State and its agents, officers and employees are listed as additional insureds under each commercial general liability and commercial automobile liability policy.



In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

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

2.190 Indemnification

2.191 Indemnification

(a) General Indemnification

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

(b) Code Indemnification

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

(c) Employee Indemnification

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

(d) Patent/Copyright Infringement Indemnification

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

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



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

2.192 Continuation of Indemnification Obligations

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

2.193 Indemnification Procedures

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

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

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

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

2.200 Limits of Liability and Excusable Failure

2.201 Limits of Liability

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



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

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

2.202 Excusable Failure

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

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

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

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

2.203 Disaster Recovery (Reserved)

2.210 Termination/Cancellation by the State

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

2.211 Termination for Cause

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



the State may, having provided written notice of termination to Contractor, terminate this Contract in whole or in part, for cause, as of the date specified in the notice of termination.

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

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

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

2.212 Termination for Convenience

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

2.213 Non-Appropriation

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

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

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

**2.214 Criminal Conviction**

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

2.215 Approvals Rescinded

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

2.216 Rights and Obligations Upon Termination

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

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

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

2.217 Reservation of Rights

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

2.218 Contractor Transition Responsibilities

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



(a) Personnel - The Contractor shall work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties, to effect an orderly transition. The Contractor shall allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by this Contract. In addition, during or following the transition period, in the event the State requires the Services of the Contractor's subcontractors or vendors, as necessary to meet its needs, Contractor agrees to reasonably, and with good-faith, work with the State to use the Services of Contractor's subcontractors or vendors. Contractor will notify all of Contractor's subcontractors of procedures to be followed during transition.

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

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

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

2.219 State Transition Responsibilities

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

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

2.220 Termination by Contractor

2.221 Termination by Contractor

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

2.230 Stop Work

2.231 Stop Work Orders

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



2.232 Cancellation or Expiration of Stop Work Order

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

2.233 Allowance of Contractor Costs

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

2.240 Reserved

2.250 Dispute Resolution

2.251 In General

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

2.252 Informal Dispute Resolution

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

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

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

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

(iv) Following the completion of this process within sixty (60) calendar days, the Director of Acquisition Services, DMB, or designee, shall issue a written opinion regarding the issue(s) in dispute within thirty (30) calendar days. The opinion regarding the dispute shall be considered the State's final action and the exhaustion of administrative remedies.

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



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

2.253 Injunctive Relief

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

2.254 Continued Performance

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

2.260 Federal and State Contract Requirements

2.261 Nondiscrimination

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

2.262 Unfair Labor Practices

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

2.263 Workplace Safety and Discriminatory Harassment

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

2.270 Litigation

2.271 Disclosure of Litigation

(a) Disclosure. Contractor must disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each Subcontractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act.



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

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

(i) the ability of Contractor (or a Subcontractor hereunder) to continue to perform this Contract in accordance with its terms and conditions, or

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

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

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

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

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

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

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

2.272 Governing Law

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

2.273 Compliance with Laws

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

2.274 Jurisdiction

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



2.280 Environmental Provision

2.281 Environmental Provision

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

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

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

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

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

2.290 General

2.291 Amendments

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

2.292 Assignment

(a) Neither party shall have the right to assign the Contract, or to assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign the Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign the Contract to an affiliate so long as such affiliate is adequately capitalized and can provide adequate assurances that such affiliate can perform the Contract. Any purported assignment in violation of this Section shall be null and void.



It is the policy of the State of Michigan to withhold consent from proposed assignments, subcontracts, or novations when such transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

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

2.293 Entire Contract; Order of Precedence

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

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

2.294 Headings

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

2.295 Relationship of the Parties (Independent Contractor Relationship)

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

2.296 Notices

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

State: Douglas S Collier
State of Michigan
Office of Acquisition Services
Attention:
PO Box 30026
530 West Allegan
Lansing, Michigan 48909

with a copy to:

State of Michigan
Michigan Department of Education
Early Childhood Education & Family Services
Attention: Gary Schafer
PO Box 30008
Lansing, Michigan 48909-



Contractor(s):

Charles Smith
600 N River St
Ypsilanti MI 48198

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

(b) Binding Commitments

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

2.297 Media Releases and Contract Distribution

(a) Media Releases

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

(b) Contract Distribution

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

2.298 Reformation and Severability

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

2.299 Consents and Approvals

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

2.300 No Waiver of Default

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

2.301 Survival

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

2.302 Covenant of Good Faith

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

**2.303 Permits**

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

2.304 Website Incorporation

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

2.305 Taxes

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

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

2.306 Prevailing Wage

The rates of wages and fringe benefits to be paid each class of individuals employed by the Contractor, its subcontractors, their subcontractors, and all persons involved with the performance of this Contract in privity of contract with the Contractor shall not be less than the wage rates and fringe benefits established by the Michigan Department of Labor and Economic Development, Wage and Hour Bureau, schedule of occupational classification and wage rates and fringe benefits for the local where the work is to be performed. The term Contractor shall include all general contractors, prime contractors, project managers, trade contractors, and all of their contractors or subcontractors and persons in privity of contract with them.

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

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

2.307 Call Center Disclosure

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

2.308 Future Bidding Preclusion

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

**2.310 Reserved****2.320 Extended Purchasing Reserved****2.330 Federal Grant Requirements****2.331 Federal Grant Requirements**

Federal funding requires the development of a monitoring process, monitoring instrument and data collection system, and dissemination of the information through technical assistance to the 21st Century Community Learning Centers.

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

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

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

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

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

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



Exhibit A

Approved Subcontractors

High/Scope does not anticipate the use of subcontractors for this project.



Exhibit B
Approved Hardware

High/Scope does not anticipate the need for specific hardware for this project; however, should the State require it, High/Scope would look into incorporating this into the scope of work for a fee to be paid to High/Scope.



Exhibit C
Approved Software

High/Scope does not anticipate the need for specific software for this project; however, should the State require it, High/Scope would look into incorporating this into the scope of work for a fee to be paid to High/Scope.