

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

November 24, 2009

**CHANGE NOTICE NO. 4**  
**OF**  
**CONTRACT NO. 071B6200139**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>Forrester Research, Inc.</b> <b>400 Technology Square</b> <b>Cambridge, MA 02139</b>  Email: <a href="mailto:DWILSON@forrester.com">DWILSON@forrester.com</a>	TELEPHONE Derek Wilson <b>(469) 221-5341</b>
	BUYER/CA (517) 373-3993 <b>Dale N. Reif</b>
	Contract Compliance Inspector: Mary Ladd <b>IT Research &amp; Advisory Contract, Department of Information Technology</b>
CONTRACT PERIOD: From: <b>January 1, 2006</b> To: <b>September 30, 2010</b>	
TERMS <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGES:**

Effective immediately, the contract is hereby **INCREASED** by \$24,500.00. All other terms, conditions, specifications and pricing remain the same.

**AUTHORITY/REASON:**

Per agency request, vendor agreement and DMB Purchasing Operations approval.

**INCREASE: \$24,500.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$ 255,500.00**

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

October 1, 2009

**CHANGE NOTICE NO. 3**  
**OF**  
**CONTRACT NO. 071B6200139**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR		TELEPHONE Derek Wilson <b>(469) 221-5341</b>	
<b>Forrester Research, Inc.</b> <b>400 Technology Square</b> <b>Cambridge, MA 02139</b>  Email: <a href="mailto:DWILSON@forrester.com">DWILSON@forrester.com</a>			
		BUYER/CA (517) 373-3993 <b>Dale N. Reif</b>	
Contract Compliance Inspector: Mary Ladd <b>IT Research &amp; Advisory Contract, Department of Information Technology</b>			
CONTRACT PERIOD: From: <b>January 1, 2006</b> To: <b>September 30, 2010</b>			
TERMS	<b>N/A</b>	SHIPMENT	<b>N/A</b>
F.O.B.	<b>N/A</b>	SHIPPED FROM	<b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>			
MISCELLANEOUS INFORMATION:			

**NATURE OF CHANGES:**

Effective immediately, the contract is hereby **EXTENDED** to **September 30, 2010** using an option on the contract. All other terms, conditions, specifications and pricing remain the same.

**AUTHORITY/REASON:**

Per agency request, vendor agreement and DMB Purchasing Operations approval.

**TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$ 231,000.00**

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

November 26, 2008

**CHANGE NOTICE NO. 2**  
**OF**  
**CONTRACT NO. 071B6200139**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR		TELEPHONE Roger Essam <b>617-613-6500</b>
<b>Forrester Research, Inc.</b> <b>400 Technology Square</b> <b>Cambridge, MA 02139</b>  Email: <a href="mailto:ressam@forrester.com">ressam@forrester.com</a>		
		BUYER/CA (517) 373-3993 <b>Dale N. Reif</b>
Contract Compliance Inspector: Mary Ladd <b>IT Research &amp; Advisory Contract, Department of Information Technology</b>		
CONTRACT PERIOD: From: <b>January 1, 2006</b> To: <b>September 30, 2009</b>		
TERMS	<b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B.	<b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>		
MISCELLANEOUS INFORMATION:		

**NATURE OF CHANGES:**

Effective immediately, the contract is hereby **EXTENDED** to September 30, 2009 using an option on the contract. All other terms, conditions, specifications and pricing remain the same.

**AUTHORITY/REASON:**

Per DMB Purchasing Operations and agency request.

**Total Estimated Contract Value Remains: \$ 231,000.00**

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

March 31, 2006

CHANGE NOTICE NO. 1  
 OF  
 CONTRACT NO. 071B6200139  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR		TELEPHONE Roger Essam <b>617-613-6500</b>
<b>Forrester Research, Inc.</b> <b>400 Technology Square</b> <b>Cambridge, MA 02139</b>  Email: <a href="mailto:ressam@forrester.com">ressam@forrester.com</a>		
		BUYER/CA (517) 373-3993 <b>Dale N. Reif</b>
Contract Compliance Inspector: Mary Ladd <b>IT Research &amp; Advisory Contract, Department of Information Technology</b>		
CONTRACT PERIOD: From: <b>January 1, 2006</b> To: <b>September 30, 2008</b>		
TERMS	<b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B.	<b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>		
MISCELLANEOUS INFORMATION:		

**NATURE OF CHANGES:**

Effective immediately, the contract compliance inspector for this contract is hereby Mary Ladd (517) 335-4082 and Scott Ellsworth (517) 241-8852 is the DIT program manager. All other terms, conditions, specifications and pricing remain the same.

**AUTHORITY/REASON:**

Per DMB Purchasing Operations and agency request.

Total Estimated Contract Value Remains: \$ 231,000.00

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

January 1, 2006

NOTICE  
 OF  
 CONTRACT NO. 071B6200139  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR		TELEPHONE Roger Essam <b>617-613-6500</b>
<b>Forrester Research, Inc.</b> <b>400 Technology Square</b> <b>Cambridge, MA 02139</b>  Email: <a href="mailto:ressam@forrester.com">ressam@forrester.com</a>		
		BUYER/CA (517) 373-3993 <b>Dale N. Reif</b>
Contract Compliance Inspector: <b>IT Research &amp; Advisory Contract, Department of Information Technology</b>		
CONTRACT PERIOD: From: <b>January 1, 2006</b> To: <b>September 30, 2008</b>		
TERMS	<b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B.	<b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>		
MISCELLANEOUS INFORMATION:		

The terms and conditions of this Contract are those of **ITB #071I5200386**, this Contract Agreement and the vendor's quote dated September 2, 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: \$ 231,000.00

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

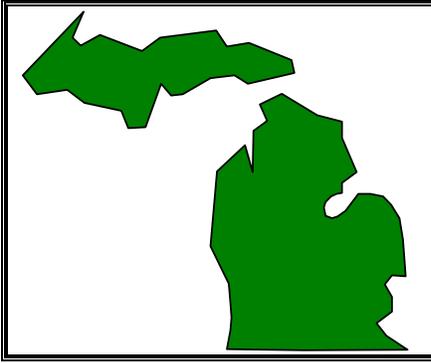
**CONTRACT NO. 071B6200139**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR <b>Forrester Research, Inc.</b> <b>400 Technology Square</b> <b>Cambridge, MA 02139</b>  <a href="mailto:ressam@forrester.com">ressam@forrester.com</a>	TELEPHONE Roger Essam <b>617-613-6500</b>  BUYER/CA (517) 373-3993 <b>Dale N. Reif</b>
Contract Compliance Inspector: <b>IT Research &amp; Advisory Contract, Department of Information Technology</b>	
CONTRACT PERIOD: From: <b>January 1, 2006</b> To: <b>September 30, 2008</b>	
TERMS <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION: <b>The terms and conditions of this Contract are those of <a href="#">ITB #071I5200386</a>, this Contract Agreement and the vendor's quote dated September 2, 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.</b>	
<b>Estimated Contract Value: \$ 231,000.00</b>	

**THIS IS NOT AN ORDER:** This Contract Agreement is awarded on the basis of our inquiry bearing the [ITB No. 071I5200386](#).

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

<b>FOR THE VENDOR:</b>  _____ Firm Name _____ Authorized Agent Signature _____ Authorized Agent (Print or Type) _____ Date	<b>FOR THE STATE:</b>  _____ Signature <b>Greg Faremouth</b> _____ Name <b>IT Division, Buyer</b> _____ Title _____ Date
---	---



**STATE OF MICHIGAN**  
**Department of Management and Budget**  
**Acquisition Services**

Contract Number: 071B6200139  
[IT Research & Advisory Services](#)



*IT Research & Advisory Services*

- Article 1 – Statement of Work (SOW)..... 1**
  - 1.0 Project Identification..... 1
    - 1.001 PROJECT REQUEST ..... 1**
    - 1.002 BACKGROUND..... 1**
  - 1.1 Scope of Work and Deliverables..... 1
    - 1.101 IN SCOPE..... 1**
    - 1.102 OUT OF SCOPE..... 5**
    - 1.103 TECHNICAL ENVIRONMENT ..... 5**
    - 1.104 WORK AND DELIVERABLE ..... 5**
  - 1.2 Roles and Responsibilities..... 6
    - 1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES..... 6**
    - 1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES..... 6**
    - 1.203 OTHER ROLES AND RESPONSIBILITIES ..... 6**
  - 1.3 Project Plan..... 6
    - 1.301 PROJECT PLAN MANAGEMENT ..... 6**
    - 1.302 REPORTS..... 7**
  - 1.4 Project Management..... 7
    - 1.401 ISSUE MANAGEMENT ..... 7**
    - 1.402 RISK MANAGEMENT ..... 7**
    - 1.403 CHANGE MANAGEMENT ..... 8**
  - 1.5 Acceptance ..... 8
    - 1.501 CRITERIA ..... 8**
    - 1.502 ACCEPTANCE of IT Research Advisory Services Subscription ..... 8**
  - 1.6 Compensation and Payment..... 8
- Article 2 – General Terms and Conditions ..... 10**
  - 2.0 Introduction ..... 10
    - 2.001 GENERAL PURPOSE..... 10**
    - 2.002 ISSUING OFFICE AND CONTRACT ADMINISTRATOR ..... 10**
    - 2.003 NOTICE ..... 10**
    - 2.004 CONTRACT TERM ..... 10**
    - 2.005 GOVERNING LAW..... 11**
    - 2.006 APPLICABLE STATUTES..... 11**
    - 2.007 RELATIONSHIP OF THE PARTIES ..... 11**
    - 2.008 HEADINGS..... 11**
    - 2.009 MERGER ..... 11**
    - 2.010 SEVERABILITY..... 12**
    - 2.011 SURVIVORSHIP..... 12**
    - 2.012 NO WAIVER OF DEFAULT ..... 12**
    - 2.013 PURCHASE ORDERS ..... 12**
  - 2.1 Contractor Obligations ..... 12
    - 2.101 ACCOUNTING RECORDS ..... 12**
    - 2.102 NOTIFICATION OF OWNERSHIP ..... 12**
    - 2.103 SOFTWARE COMPLIANCE ..... 13**
    - 2.104 IT STANDARDS ..... 13**
    - 2.105 RESERVED ..... 13**
    - 2.106 PREVAILING WAGE..... 14**
    - 2.107 PAYROLL AND BASIC RECORDS..... 14**
    - 2.108 COMPETITION IN SUB-CONTRACTING..... 14**
    - 2.109 CALL CENTER DISCLOSURE..... 15**
  - 2.2 Contract Performance ..... 15
    - 2.201 RESERVED ..... 15**
    - 2.202 CONTRACT PAYMENT SCHEDULE ..... 15**
    - 2.203 RESERVED ..... 15**
    - 2.204 RESERVED ..... 15**
    - 2.205 ELECTRONIC PAYMENT AVAILABILITY ..... 15**
    - 2.206 RESERVED ..... 15**



- 2.3 Contract Rights and Obligations ..... 15
  - 2.301 **INCURRING COSTS** ..... 15
  - 2.302 **CONTRACTOR RESPONSIBILITIES**..... 15
  - 2.303 **ASSIGNMENT AND DELEGATION** ..... 15
  - 2.304 **TAXES** ..... 16
  - 2.305 **INDEMNIFICATION**..... 16
  - 2.306 **LIMITATION OF LIABILITY** ..... 18
  - 2.307 **CONTRACT DISTRIBUTION** ..... 18
  - 2.308 **FORM, FUNCTION, AND UTILITY** ..... 18
  - 2.309 **ASSIGNMENT OF ANTITRUST CAUSE OF ACTION**..... 18
  - 2.310 **RESERVED** ..... 19
  - 2.311 **TRANSITION ASSISTANCE**..... 21
  - 2.312 **WORK PRODUCT**..... 21
  - 2.313 **RESERVED** ..... 22
  - 2.314 **WEBSITE INCORPORATION**..... 22
- 2.4 Contract Review and Evaluation..... 22
  - 2.401 **CONTRACT COMPLIANCE INSPECTOR** ..... 22
  - 2.402 **PERFORMANCE REVIEWS** ..... 22
  - 2.403 **AUDIT OF CONTRACT COMPLIANCE/ RECORDS AND INSPECTIONS**..... 22
- 2.5 Quality and Warranties..... 22
  - 2.501 **RESERVED** ..... 22
  - 2.502 **RESERVED** ..... 22
  - 2.503 **RESERVED** ..... 22
  - 2.504 **RESERVED** ..... 23
  - 2.505 **CONTRACTOR WARRANTIES**..... 23
  - 2.506 **RESERVED** ..... 24
  - 2.507 **RESERVED** ..... 24
  - 2.508 **RESERVED** ..... 24
  - 2.509 **PHYSICAL MEDIA WARRANTY** ..... 24
- 2.6 Breach of Contract ..... 24
  - 2.601 **BREACH DEFINED**..... 24
  - 2.602 **NOTICE AND THE RIGHT TO CURE**..... 24
  - 2.603 **EXCUSABLE FAILURE** ..... 24
- 2.7 Remedies ..... 25
  - 2.701 **CANCELLATION**..... 25
  - 2.702 **RIGHTS UPON CANCELLATION** ..... 26
  - 2.703 **RESERVED** ..... 28
  - 2.704 **STOP WORK**..... 28
  - 2.705 **SUSPENSION OF WORK**..... 29
- 2.8 Changes, Modifications, and Amendments ..... 29
  - 2.801 **APPROVALS**..... 29
  - 2.802 **TIME EXTENSIONS** ..... 30
  - 2.803 **MODIFICATION**..... 30
  - 2.804 **AUDIT AND RECORDS UPON MODIFICATION** ..... 30
  - 2.805 **CHANGES**..... 30



## **Article 1 – Statement of Work (SOW)**

### **1.0 Project Identification**

#### **1.001 PROJECT REQUEST**

The State of Michigan Department of Information Technology (DIT) needs Information Technology Research and Advisory Services (IT-RAS) to support its information technology operations. This is a firm fixed-price contract for three years, with two possible one-year extensions. Additional services for the acquisition of advice and research subscription services, and consulting-related expertise that support DIT's planning and subsequent acquisition of information resources may be required under this contract on a need basis.

#### **1.002 BACKGROUND**

Michigan's Information Technology Strategic Plan for 2004 to 2007 identified five goals to further the State's vision of a connected Michigan. The Plan, available at ([http://www.michigan.gov/dit/0,1607,7-139-30637\\_30646---,00.html](http://www.michigan.gov/dit/0,1607,7-139-30637_30646---,00.html)), emphasizes statewide operation of all the State's information technology resources and its information, computing and telecommunications assets. The Plan also provides an overview of the State's management and size of the information technology resources. The goals are:

1. Expand Michigan's services to reach anyone, at anytime, from anywhere.
2. Transform Michigan's services through sharing and collaboration.
3. Manage technology to provide better service and faster delivery.
4. Make Michigan a "Great Workplace" and the employer of choice for technology professionals.
5. Create a statewide community of partnerships.

DIT's aggressive approach towards realizing the promise of information technology requires access to comprehensive, objective information and best practices from information technology organizations facing similar challenges to provide risk reduction in its decision-making.

Rapidly evolving technologies and strategies make it impractical to possess the in-house expertise and information required for strategic planning and management decisions. Therefore, readily accessible and specialized research, via various deployment media, describing currently used, developing and emerging trends in technology is needed. Trend information is a critical business need of the State as the State determines its current and future technology- related requirements. DIT also needs expedited response when critical technical issues arise which require timely resolution.

The State has held subscriptions with multiple research and advisory services for fiscal years 2003, 2004, and 2005. Based on current and historical analysis of information needs, utilization, and satisfaction with existing subscriptions, a minimum level of services for future IT-RAS subscriptions has been defined.

### **1.1 Scope of Work and Deliverables**

#### **1.101 IN SCOPE**

The research and advisory subscription services should cross the entire spectrum of computing and telecommunications technologies, including business, management, and governmental perspectives. The expertise should also provide guidance for DIT's strategic planning and budgeting activities when decision-makers need access to research and analysis that will identify and quantify emerging trends and directions in technology. As part of DIT's Technology Partnership Outreach initiative, this contract will also be made available for State of Michigan local units of government (cities, villages, counties, etc).

##### **1.101.1 IT-RAS Subscription**

DIT reserves the right to negotiate services different from those listed below. However, at a minimum, registered users will have unlimited access to the following IT-RAS services:

- A. Unlimited web access to all of Contractor's IT View Research for all DIT employees that hold "IT View Reader" Seats. Unlimited inquiry privilege will be allowed for those holding "IT View Member" Seats. Should DIT choose the Enterprise level arrangement, all seats would have unlimited access to Contractor's Research and Unlimited access to Inquiry.



- B. Under five second search capabilities
- C. Printable Screens along with printable graphs
- D. Site Map on Landing Page
- E. Information Indexed by Document and Title
- F. Searchable by topic, subject, and key word across entire database
- G. Navigation aids, and button, and links to information available
- H. List of topics available with links to information
- I. Ad Hoc analyst inquiries with response provided by telephone or email within 2 days of request
- J. Access to "Video Views" with ability to include non-users
- K. Access to online briefings with ability to include non-users with registered users
- L. Access to Analyst-led Teleconferences for non-users to join users
- M. Ability to send inquiries by telephone and email
- N. Ability to receive research notes via email using email alerts
- O. Responses to written research requests provided within one week
- P. Responses to analyst inquiry requests provided within one week
- Q. Purchasing and product selection
- R. IT Strategic Planning
- S. Security
- T. Disaster Recovery
- U. IT Technical Architecture
- V. Project Management
- W. Application Development
- X. E-Government Solutions
- Y. Broadband
- Z. IT Investment
- AA. Portfolio Management
- BB. IT Organization, Management, Staffing, Governance, Financial Forecasting and Budget Planning
- CC. Metrics and Measurements
- DD. Healthcare & IT
- EE. IT Trends and Emerging Technologies
- FF. Telecommunications and Networking
- GG. Web Services
- HH. CRM
- II. Best Practices
- JJ. Geographic Information Systems
- KK. Contract Negotiations
- LL. Best Practices
- MM. Coaching & Training
- NN. Enterprise Collaboration, Data, Documents, Directories, Workflow, Applications and Communication
- OO. Government Specific Issues, Legislation, Privacy, Funding and Resource Constraints

1.101.2 Document Review  
 Contractor agrees to review documents including strategic plan, architecture, request for proposals, and request for information and technology solutions plans.

1.101.3 Executive Support  
 Contractors Oval Membership provides access for DIT executives to national-level governmental IT Executive Forums and peer groups to promote understanding of Information Resource issues.

1.101.4 Consulting Services as requested in a specific Statement of Work provided by DIT.  
 Contractor will respond to consulting services Statement of Work with a maximum projected cost and a projected timeframe.

1.101.5 Research & Advisory Services and Capabilities  
 Contractor will provide DIT with a wide range of services and solutions (listed below) in a complex IT market with specific expertise in serving the government market and unparalleled understanding of government needs.

**Forrester Wave**

Contractor includes its unique approach in the methodology and presentation of selecting vendor products and services. The Forrester Wave offers:



- A detailed analysis of vendors' products and services based on **transparent, fully accessible criteria**.
- A powerful Excel spreadsheet that allows you to easily compare products and **access in-depth data and analysis about each one**.
- **Customizable tools** to develop a custom shortlist based on your company's unique requirements.

### **Government Coverage**

Contractor began covering government as a vertical area in the second half of 2004. Over the next two years, the Contractor will build out its government research agenda in three ways:

- By hiring more analysts dedicated to government-specific research
- By implementing formal processes to enlist analysts who cover specific "horizontal technologies" (for example, RFID or identity management technology) to provide research for the government agenda; and
- By increasing our survey capabilities to provide more government-specific studies. We will be improving our survey capabilities by increasing the number of government respondents in our Business Techno graphics surveys, by asking questions about attitudes and behaviors regarding eGovernment in our Consumer Techno graphics surveys, and by building segment-specific research panels for federal government, state government, local government, and the technology vendors that service each of those segments.

### **Consumer & Business Techno graphics Data**

Contractors Consumer Techno graphics Survey is the largest and longest running survey of U.S. Households and their attitudes towards technology. This survey gathers responses from over 70,000 U.S. households and is weighted back to the U.S. Census, thus the database includes a statistically significant sample of Michigan residents. Several years of data has been captured to help the State of Michigan understand how its citizens' attitudes trend towards technology trend over a multiple year period. The survey asks numerous demographic and psychographic questions in addition to those about interacting with government agencies on-line. This data can then be cross-referenced across various segments of citizens to provide insight as to how various citizen groups will respond to e-Government initiatives.

The Business Techno graphics data will assist the State of Michigan in benchmarking its technology purchases, intentions, and IT organizational initiatives vs. other large organizations.

### **TEI (Total Economic Impact)**

TEI is a holistic ROI approach that measures how a solution or initiative not only affects IT but also the company's business units. Its methodology allows technology vendors and IT organizations to identify and maximize the overall value of technology investments and to communicate that value in business terms. The TEI methodology includes four components: Flexibility, Benefits, Cost, and Risk.

### **Analyst Interaction**

To enhance interaction between DIT and Contractors research team, Unlimited Inquiry to analysts, ForrTels, and the Client Resource Center (CRC) are all included in this contract at the Member-client level.

Unlimited Inquiry is a Member's opportunity to learn more from Contractors analysts about topics and technologies covered. This service should be used when looking for additional information, applicability, clarification, updates, or even to challenge an analyst's findings or recommendations.

Contractor offers unparalleled response capability and delivers advice and guidance to fit specific needs. These interactions can be phone calls or written email responses to inquiries, coordinated through a single point of contact — the Client Resource Center — that is dedicated to connecting DIT with Contractors analysts. Client Inquiry is a core interaction and Contractor will make it a priority to provide responses as efficiently and thoroughly as possible.

Contractor's analyst community comprises more than 200 analysts who are responsible for writing research, responding to Inquiries, conducting ForrTels, participating in conferences and Events, and



providing consulting. The analyst community is organized in a collaborative or “orbit” structure. Orbit teams include:

Application Development & Infrastructure	Healthcare & Life Sciences
Computing Systems	Industry Economics and Data
Consumer Markets	IT Management & Services
Customer Experience	IT Value
Devices, Media, & Marketing	Information Delivery
Enterprise Applications	Security
Financial Services	Telecom & Networks
Government	

Contractor has 2 analysts that focus exclusively on Government with five to ten other analysts that contribute to the Government research practice on a regular basis.

<a href="#">Gene Leganza</a>	<a href="#">Enterprise Architectures</a> , <a href="#">IT Management</a> , <a href="#">Management &amp; Organization</a> , <a href="#">Strategic Planning</a>
<a href="#">Alan E. Webber</a>	<a href="#">Management &amp; Organization</a>

Member level clients will have unlimited access to Contractor's analysts through its inquiry process. Contractor is committed to a 48 hour turn-around in responding to DIT requests for an analyst inquiry. Urgent calls will be responded to within 24 hours.

Analyst inquiries are calls that can be responded to by Contractor analysts with limited or no preparation on the part of the Analyst. The analysts may choose to conduct some research prior to addressing an inquiry but this is not required of them. If research is required for a particular call, it may fall beyond the scope of a normal inquiry call.

Contractor currently offers access to 8,416 research reports on Forrester.com. This represents a three year archive and provides deep coverage of all categories listed above such as 550 reports on Security Issues, 422 reports on Application Development, and 291 reports on IT Investment.

1.101.6 Method of Delivery / Personal Features

Contractor will permit users to set up research alerts allowing users to select topic areas, key words, or analysts. When research is published that matches the selected criteria, the research is sent to the recipient’s inbox on a daily basis.

Research articles created by the Contractor can be saved in folders created on the Contractors homepage or by downloading the report as a PDF file and saving on the user’s hard drive.

Contractor will provide an event notification feature that sends updates to user’s inbox of upcoming events.

Contractor will provide DIT clients the ability to customize their personal profile and settings to have only relevant research, events, and offerings forwarded to their personal inbox.

DIT employees that do not hold seats with the Contractor may be included on Contractors Teleconferences as long as a full Member registers for the event and is present for the Teleconference. The Member is the only one that will be given login credentials for these events. Contractor’s First Looks are a summarization of new research that is emailed on a weekly basis. Non-members can register for these email updates to keep abreast of new Research.



Contractor will provide both coaching and training to DIT through Executive Strategy Sessions. The sessions are one to three day sessions on a DIT chosen topic or through a regularly scheduled Boot Camp on topics of interest to a variety of Contractor customers. Contractor also offers private Boot Camp training sessions tailored for the specific needs of DIT.

Contractor will establish a link on DIT's intranet for the purpose of allowing DIT employees the opportunity to register for a seat or receive research alerts and First Looks. Contractor agrees to work with DIT members to identify additional DIT staff that may benefit from access to Contractor's Research and invite these people to register for service.

DIT may use Contractor's syndicated content on DIT's intranet provided Contractor approves of such use.

1.101.7 Customer Support

The following individuals will work with the DIT under the direction of the DIT Account Manager:

Marty Pankau	Sr. Account Manager
Michael Murray	Regional Manager
Tim Walker	Program Manager for Consulting Days

Account Management Team – Contractor operates in a team approach as it relates to servicing clients. The team consists of a team leader (Senior Account Manager) who has the support of a dedicated Account Development Manager (ADM). Account Managers and the ADM also leverage the work of various Product Specialists, Contractor's Client Resource Center (CRC), and Contractor's Research Central group.

The Senior Account Manager will work with clients to ensure that Contractor's staff is addressing the most strategic needs of the State and that Contractor's staff is presenting its capabilities in a manner that aligns with the business objectives of the State. The Senior Account Manager will conduct **Quarterly Partnership Reviews** with DIT that focus on account usage, usage trends, upcoming research of interest, and an understanding of the DIT's business objectives for the quarter ahead. Quarterly reviews will be conducted face to face to modify the quarterly objectives as needed and adjust the service plan accordingly.

The ADM will work with clients on a day-to-day basis addressing any ad-hoc needs that may arise. The ADM is dedicated to assisting clients in obtaining research, scheduling analyst inquiries, and to provide training to clients in a group or in a one-on-one setting.

The Client Resource Center (CRC) is the central resource for clients to access research or to submit inquiries. CRC can be reached by email ([resourcecenter@forrester.com](mailto:resourcecenter@forrester.com)) or phone (1/866-Forrester).

**1.102 OUT OF SCOPE**

Delivery of information technology support services, such as application development, procurement of hardware and software, maintenance of software and/or hardware, testing, and other services not part of research and advisory services are out of scope.

Travel and per-diem expenses for consultants providing IT-RAS under this contract are not considered allowable within the scope of the Contract.

**1.103 TECHNICAL ENVIRONMENT**

Contractor will comply with the DIT technical environment standards exhibited at:<http://www.michigan.gov/dit/0,1607,7-139-34305---,00.html>

**1.104 WORK AND DELIVERABLE**

The majority of the work and deliverables will consist of DIT's self-service access to subscription research and advisory document accessible using the Internet. Contractor shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below.

1.104.1 Ad Hoc Analyst Inquiry



DIT Members may make unlimited ad hoc inquiries of analysts on issues and subjects of concern to DIT. Contractor's CRC team will respond within 2 business days to a request from a DIT Member. A time and mechanism will be agreed upon by the analyst to provide response to the inquiry.

#### 1.104.2 Post Award Marketing Plan

Contractor agrees to provide a Post Award Marketing Plan describing how it will market the subscription services and deliverables across DIT. The purpose of the marketing plan is to increase overall utilization of subscription services and to ensure that users know how to use the services and understand the scope of available services. The plan should address marketing for the period following initial contract signing for the subscription and continuing throughout the term of the subscription. Contractor agrees to set up a link on DIT's intranet <http://www.michigan.gov/techtalk> for the purpose of allowing DIT employees the opportunity to register for a seat or receive research alerts and First Looks at Contractor's most recent research. Contractor will also work with DIT members to identify additional DIT staff that may benefit from access to Contractor's Research and invite these people to register.

#### 1.104.3 Consulting Services

Contractor agrees to respond to all requests for consulting services as needed. DIT's statement of work will be responded to with a detailed proposal of Contractor's deliverables, timetable and maximum cost.

### 1.2 Roles and Responsibilities

#### 1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES

The Contractor's project manager will coordinate all services with the State's Project Manager as requested by the State's Project Manager.

#### 1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES

The DIT, Bureau of Strategic Policy is responsible for the administration of the services within the contract. DIT shall provide a Program Manager as a contact for all issues pertaining to the execution of services and deliverables under the contract. The DIT Program Manager shall be:

Trina Anderson  
Michigan Dept. of Information Technology  
BSP Office of Planning & Architecture  
111 South Capitol, Romney Bldg, 4<sup>th</sup> floor  
Lansing, MI 48913  
Phone: 517-241-3432  
E-mail: andersont1@michigan.gov

The DIT Contract Compliance Inspector is responsible for overseeing the proper execution of all terms under the contract and for coordinating a contract change request. The DIT Contract Compliance Inspector shall be:

Reid Sisson  
Michigan Dept. of Information Technology  
BSP Office of Planning & Architecture  
111 South Capitol, Romney Bldg, 4<sup>th</sup> floor  
Lansing, MI 48913  
Phone: 517-241-1638  
E-mail: sissonr@michigan.gov

#### 1.203 OTHER ROLES AND RESPONSIBILITIES

The Department of Management & Budget, Acquisition Services, will be the designated Contract Administrator.

### 1.3 Project Plan

#### 1.301 PROJECT PLAN MANAGEMENT

The Contractor will manage the project in accordance with the best practices and guidelines in PMBOK® (Project Management Body of Knowledge), in the framework outlined in the State of Michigan's Project



Management Methodology (PMM). The Methodology is available at [www.michigan.gov/projectmanagement](http://www.michigan.gov/projectmanagement). The intent of these requirements is to deliver the highest quality solution by deploying and maintaining best practices, methodologies, tools, and knowledge within a structured framework.

Contractor's Project Management Plan will be delivered within the timeframe specified by the state's Program Manager. The plan will reflect the tasks lists identified in each section of the Contract. Contractor will follow a change management process for any changes made to the scope. Contractor will use automated tools to produce

- (a) Staffing tables with names of personnel assigned to Contract tasks.
- (b) Project plans showing tasks, subtasks, deliverables, and the resources required and allocated to each. Updates must include actual time spent on each task and a revised estimate to complete.
- (c) Graphs showing critical events, dependencies and decision points during the course of the Contract. Any tool(s) used by Contractor for such purposes must produce information of a type and in a manner and format that will support reporting in compliance with the State's standard to the extent such standard is described with reasonable detail in the Statement of Work.

The project plan will outline all tasks needed to complete the project, and all resources needed. This project plan will include expected dates and duration of needed resources. The project plan will be reviewed by both the Contractor's Senior Account Manager and the State's Project Manager and updated to include any necessary modification.

### 1.302 REPORTS

Contractor agrees that all report formats will be submitted to the State's Program Manager for approval within twenty business days after the effective date of the contract.

Quarterly utilization reports shall be submitted and include, but are not limited to, the following metrics:

1. Total number of registered users for the quarter
2. Number of research documents retrievals by retrieval method (e.g., web search, push/pull, etc.)
3. Number of research document retrievals by topic area or service
4. Number of analyst inquiries by user (counted by questions resolved, not contact points)
5. Summary of analyst inquiries by topic
6. Number of attendees for teleconferences
7. Summary of Contractor activity and interactions with DIT employees
8. Detail of all engagements for services that exceed the base annual subscription fee, including their billable monetary value.

## 1.4 Project Management

### 1.401 ISSUE MANAGEMENT

An issue is an identified event that if not addressed may affect schedule, scope, quality, or budget. The Contractor shall maintain an issue log for agreed upon consulting projects and for issues relating to the provision of research and advisory services. The issue management log must be communicated to the State's Program Manager on an agreed upon schedule, with email notifications and updates. The issue log must be updated and must contain the following minimum elements:

- Description of issue
- Issue identification date
- Responsibility for resolving issue.
- Priority for issue resolution (to be mutually agreed upon by the State and the Contractor)
- Resources assigned responsibility for resolution
- Resolution date
- Resolution description

### 1.402 RISK MANAGEMENT



A risk is an unknown circumstance or event that, if it occurs, may have a positive or negative impact on the project. Risk management generally involves (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.

The Contractor agrees to create a risk management plan for agreed upon consulting projects. The risk management plan format will be submitted to the State for approval within twenty (20) business days after the effective date of the contract. Once both parties have agreed to the format of the plan, it shall become the standard to follow for the duration of the contract. The plan must be updated bi-weekly, or as agreed upon. The risk management plan will be developed in accordance with the State’s PMM methodology and the PMBOK® (Project Management Institute).

**1.403 CHANGE MANAGEMENT**

Contractor agrees to adhere to the following processes if a change to this Statement of Work (SOW) is required.

- 1.403.1 A Project Change Request (PCR) will be the vehicle for communicating change. The PCR must describe the change; the rationale for the change and the effect the change will have on the contract or agreed upon consulting project.
- 1.403.2 The designated Project Manager of the requesting party will review the proposed change and determine whether to submit the request to the other party.
- 1.403.3 The contractor’s Project Manager and the State will review the proposed change and approve it for further investigation or reject it. Contractor will specify any charges for such investigation. If the investigation is authorized, the State and the contractor will sign the PCR, which will constitute approval for the investigation charges. (The timing of signature by the State Program Manager will be in accordance with the State’s Administrative Board or other applicable approval process). Contractor will invoice the State for any such charges. The investigation will determine the effect that the implementation of the PCR will have on price, schedule and other terms and conditions of the contract.

A written Change Authorization and/or Project Change Request (PCR) must be signed by both parties to authorize implementation of the investigated changes. Change Authorizations and/or Project Changes Request (PCR) will be processed through the state’s Acquisition Services Office.

If a proposed contract change is approved by DIT, a request for change will be submitted 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. **Providing products or services prior to the issuance of a Contract Change Notice by the DMB, Acquisition Services, will result in non-payment for the products and/or services supplied.**

**1.5 Acceptance**

**1.501 CRITERIA**

**1.502 ACCEPTANCE of IT Research Advisory Services Subscription**

Upon receiving confirmation of full operability with full access to services and that all other acceptance criteria have been met after activation of the contract, the DIT shall sign off to authorize payment of IT-RAS subscription services, at which time all other services under this contract shall become available. Acceptance criteria for separately billable services shall be detailed within their individual respective Statements of Work.

**1.6 Compensation and Payment**

The Contractor will provide a Bundled Option to the state of Michigan for research and advisory services. The Contractor shall invoice the state each fiscal year for the Bundle Option price except year one which shall be prorated to date of execution. The Bundle Option price shall not increase over the life of the contract and shall consist of the following services:



**Bundled Option @ \$84,000.00 per year**

**Three (3) IT View Research Members and Fifteen (15) IT View Reader Seats**

Unlimited access to Forrester's IT View Research

Unlimited inquiry privileges to all Forrester analysts for IT View Members

Unlimited access to ForrTels for Members

**300 Service Units**

2 Forum Seats for Forrester Events

300 Service Units to be used for technology briefings, Boot Camps, or events



## **Article 2 – General Terms and Conditions**

### **2.0 Introduction**

#### **2.001 GENERAL PURPOSE**

The Contract is for Information Technology Research and Advisory Services (IT-RAS) from multiple sources for the State of Michigan. The State anticipates awarding a minimum of two contracts, and no more than four, as the result of this Invitation to Bid. Orders will be issued directly to the Contractor by various State Agencies on the Purchase Order Contract Release Form. Bids are due and will be publicly identified at the time noted on the Invitation To Bid (ITB) Form.

#### **2.002 ISSUING OFFICE AND CONTRACT ADMINISTRATOR**

Acquisition Services, State of Michigan, Department of Management and Budget, hereinafter known as Acquisition Services, for the Department of Information Technology, hereinafter known as DIT, issue the Contract. Where actions are a combination of Acquisition Services and the State agencies, the authority will be known as the State.

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

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

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

Department of Management and Budget  
Acquisition Services  
*Attn: Dale N. Reif*  
2nd Floor, Mason Building  
P.O. Box 30026  
Lansing, Michigan 48909  
*(517) (517-373-3993*  
*reifd@michigan.gov*

#### **2.003 NOTICE**

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

#### **2.004 CONTRACT TERM**

The term of this Contract will be for three (3) years and will commence with the issuance of a Contract. This will be approximately *(October 1, 2005)* through *September 30, 2008*.

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



## 2.005 GOVERNING LAW

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

## 2.006 APPLICABLE STATUTES

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

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

## 2.007 RELATIONSHIP OF THE PARTIES

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

## 2.008 HEADINGS

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

## 2.009 MERGER

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

**2.010 SEVERABILITY**

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

**2.011 SURVIVORSHIP**

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

**2.012 NO WAIVER OF DEFAULT**

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

**2.013 PURCHASE ORDERS**

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

**2.1 Contractor Obligations****2.101 ACCOUNTING RECORDS**

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

**2.102 NOTIFICATION OF OWNERSHIP**

The Contractor shall make the following notifications in writing:

1. When the Contractor becomes aware that a change in its ownership or officers has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify Acquisition Services within 30 days.
2. The Contractor shall also notify the Acquisition Services within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.

The Contractor shall:

1. Maintain current, accurate, and complete inventory records of assets and their costs;
2. Provide Acquisition Services or designated representative ready access to the records upon request;
3. Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership or officer changes; and
4. Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership or officer change.



## 2.103 SOFTWARE COMPLIANCE

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

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

## 2.104 IT STANDARDS

1. EXISTING TECHNOLOGY STANDARDS. The Contractor will adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at <http://michigan.gov/dit>.
2. PM METHODOLOGY STANDARDS. The State has adopted a standard documented Project Management Methodology (PMM) for use on all Information Technology (IT) based projects. This policy is referenced in the document titled "Project Management Methodology" – DMB Administrative Guide Procedure 1380.02 issued June 2000. Contractor may obtain a copy of this procedure, as well as the State of Michigan Project Management Methodology, from the DIT's website at <http://www.michigan.gov/projectmanagement>.

The contractor shall use the State's PPM to manage State of Michigan Information Technology (IT) based projects. The Requesting agency will provide the applicable documentation and internal agency processes for the methodology. If the Contractor requires training on the methodology, those costs shall be the responsibility of the Contractor, unless otherwise stated.

3. ADHERENCE TO PORTAL TECHNOLOGY TOOLS. The State of Michigan, DIT, has adopted the following tools as its Portal Technology development efforts:
  - Vignette Content Management and personalization Tool
  - Inktomi Search Engine
  - E-Pay Payment Processing Module
  - Websphere Commerce Suite for e-Store applications

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

**Alternate tools:** Contractor must submit an exception request to the DIT, Enterprise Application Services Office, e-Michigan Web Development team, for evaluation and approval of each alternate tool prior to proposal evaluation by the State.

## 2.105 RESERVED



## **2.106 PREVAILING WAGE**

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

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

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

## **2.107 PAYROLL AND BASIC RECORDS**

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

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

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

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

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

## **2.108 COMPETITION IN SUB-CONTRACTING**

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



## **2.109 CALL CENTER DISCLOSURE**

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

## **2.2 Contract Performance**

### **2.201 RESERVED**

### **2.202 CONTRACT PAYMENT SCHEDULE**

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

### **2.203 RESERVED**

### **2.204 RESERVED**

### **2.205 ELECTRONIC PAYMENT AVAILABILITY**

Electronic transfer of funds is available to State contractors. Contractor is encouraged to register with the State of Michigan Office of Financial Management so the State can make payments related to this Contract electronically at [www.cpexpress.state.mi.us](http://www.cpexpress.state.mi.us).

### **2.206 RESERVED**

## **2.3 Contract Rights and Obligations**

### **2.301 INCURRING COSTS**

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

### **2.302 CONTRACTOR RESPONSIBILITIES**

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

### **2.303 ASSIGNMENT AND DELEGATION**

The Contractor shall not have the right to assign this Contract, to assign its rights under this contract, or delegate any of its duties or obligations under the Contract to any other party (whether by operation of law or otherwise), without the prior written consent of the State. Any purported assignment in violation of this Section shall be null and void. Further, the Contractor may not assign the right to receive money due under the Contract without the prior written consent of the Director of Acquisition Services.

The Contractor shall not delegate any duties or obligations under the Contract to a subcontractor other than a subcontractor named and approved in the bid unless the Director of Acquisition Services has given written consent to the delegation.



**Bidder must obtain the approval of the Director of Acquisition Services before using a place of performance that is different from the address that bidder provided in the bid.**

## **2.304 TAXES**

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

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

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

## **2.305 INDEMNIFICATION**

### General Indemnification

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

1. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from (1) the product provided or (2) performance of the work, duties, responsibilities, actions or omissions of the Contractor or any of its subcontractors under this Contract.
2. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from a breach by the Contractor of any representation or warranty made by the Contractor in the Contract;
3. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or related to occurrences that the Contractor is required to insure against as provided for in this Contract;
4. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the Contractor, by any of its subcontractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused solely by the negligence or reckless or intentional wrongful conduct of the State;
5. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents which results from an act or omission of the Contractor or any of its subcontractors in its or their capacity as an employer of a person.

### Patent/Copyright Infringement Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its employees and agents from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any



action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its subcontractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States or foreign patent, copyright, trade secret or other proprietary right of any person or entity, which right is enforceable under the laws of the United States. In addition, should the equipment, software, commodity, or service, or the operation thereof, become or in the Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Contractor, (ii) replace or modify the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

#### Code Indemnification

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

#### Indemnification Obligation Not Limited

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

#### Continuation of Indemnification Obligation

The duty to indemnify will continue in full force and affect notwithstanding the expiration or early termination of the Contract with respect to any claims based on facts or conditions, which occurred prior to termination.

#### Indemnification Procedures

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

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



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

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

**2.306 LIMITATION OF LIABILITY**

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

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

**2.307 CONTRACT DISTRIBUTION**

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

**2.308 FORM, FUNCTION, AND UTILITY**

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

**2.309 ASSIGNMENT OF ANTITRUST CAUSE OF ACTION**

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



2.310 RESERVED

(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](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 INSUREDS on the Commercial General Liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

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



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

3. Workers' compensation coverage must be provided in accordance with applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If 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 ten million dollars (\$10,000,000.00), 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.

### **2.311 TRANSITION ASSISTANCE**

If this Contract is not renewed at the end of this term, or is canceled prior to its expiration, for any reason, the Contractor must provide for up to *30 days* after the expiration or cancellation of this Contract, all reasonable transition assistance requested by the State, to allow for the expired or canceled portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract, (notwithstanding this expiration or cancellation) except for those Contract terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for Contract performance.

### **2.312 WORK PRODUCT**

Work Products shall be considered works made by the Contractor for hire by the State and shall belong exclusively to the State and its designees, unless specifically provided otherwise by mutual agreement of the Contractor and the State. If by operation of law any of the Work Product, including all related intellectual property rights, is not owned in its entirety by the State automatically upon creation thereof, the Contractor agrees to assign, and hereby assigns to the State and its designees the ownership of such Work Product, including all related intellectual property rights. The Contractor agrees to provide, at no additional charge, any assistance and to execute any action reasonably required for the State to perfect its intellectual property rights with respect to the aforementioned Work Product.

Notwithstanding any provision of this Contract to the contrary, any preexisting work or materials including, but not limited to, any routines, libraries, tools, methodologies, processes or technologies (collectively, the "Development Tools") created, adapted or used by the Contractor in its business generally, including any and all associated intellectual property rights, shall be and remain the sole property of the Contractor, and the State shall have no interest in or claim to such preexisting work, materials or Development Tools, except as necessary to exercise its rights in the Work Product. Such rights belonging to the State shall include, but not be limited to, the right to use, execute, reproduce, display, perform and distribute copies of and prepare derivative works based upon the Work Product, and the right to authorize others to do any of the foregoing, irrespective of the existence therein of preexisting work, materials and Development Tools, except as specifically limited herein.

The Contractor and its subcontractors shall be free to use and employ their general skills, knowledge and expertise, and to use, disclose, and employ any generalized ideas, concepts, knowledge, methods, techniques or skills gained or learned during the course of performing the services under this Contract, so long as the Contractor or its subcontractors acquire and apply such information without disclosure of any confidential or proprietary information of the State, and without any unauthorized use or disclosure of any Work Product resulting from this Contract.



2.313 RESERVED

2.314 WEBSITE INCORPORATION

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

2.4 Contract Review and Evaluation

2.401 CONTRACT COMPLIANCE INSPECTOR

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

Reid Sisson  
Michigan Dept. of Information Technology  
Bureau of Strategic Policy  
111 South Capitol  
Romney Bldg, 4<sup>th</sup> floor  
Lansing MI 48913  
Phone: 517-241-1638  
sissonr@michigan.gov

2.402 PERFORMANCE REVIEWS

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

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

2.403 AUDIT OF CONTRACT COMPLIANCE/ RECORDS AND INSPECTIONS

The Contractor agrees that the State may, upon 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.

2.5 Quality and Warranties

2.501 RESERVED

2.502 RESERVED

2.503 RESERVED

**2.504 RESERVED****2.505 CONTRACTOR WARRANTIES**

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

1. The Contractor will perform all services in accordance with high professional standards in the industry;
2. The Contractor will use adequate numbers of qualified individuals with suitable training, education, experience and skill to perform the services;
3. The Contractor will use its best efforts to use efficiently any resources or services necessary to provide the services that are separately chargeable to the State;
4. The Contractor will use its best efforts to perform the services in the most cost effective manner consistent with the required level of quality and performance;
5. The Contractor will perform the services in a manner that does not infringe the proprietary rights of any third party;
6. The Contractor will perform the services in a manner that complies with all applicable laws and regulations;
7. The Contractor has duly authorized the execution, delivery and performance of the Contract;
8. The Contractor is capable in all respects of fulfilling and shall fulfill all of its obligations under this contract.
9. The contract appendices, attachments, and exhibits identify all equipment and software services necessary for the deliverable(s) to perform and operate in compliance with the contract's requirements.
10. The Contractor is the lawful owner or licensee of any Deliverable licensed or sold to the state by Contractor or developed by Contractor under this contract, and Contractor has all of the rights necessary to convey to the state the ownership rights or license use, as applicable, of any and all Deliverables.
11. If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to such items as set forth in this Contract, Contractor shall assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.
12. The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter this contract, on behalf of Contractor.
13. The Contractor is qualified and registered to transact business in all locations where required.
14. Neither the Contractor nor any Affiliates, nor any employee of either, has, shall have, or shall acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor shall notify the State within two (2) days of any such interest that may be incompatible with the interests of the State.
15. All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the ITB or otherwise in connection with the award of this Contract fairly and accurately



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

**2.506 RESERVED**

**2.507 RESERVED**

**2.508 RESERVED**

**2.509 PHYSICAL MEDIA WARRANTY**

Contractor represents and warrants that each licensed copy of the Software provided by the Contractor is free from physical defects in the media that tangibly embodies the copy. This warranty does not apply to defects discovered more than thirty-days after that date of Final Acceptance of the Software by the State. This warranty does not apply to defects arising from acts of Excusable Failure. If the Contractor breaches this warranty, then the State shall be entitled to replacement of the non-compliant copy by Contractor, at Contractor’s expense (including shipping and handling).

**2.6 Breach of Contract**

**2.601 BREACH DEFINED**

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

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

**2.602 NOTICE AND THE RIGHT TO CURE**

In the event of a curable breach by the Contractor, the State shall provide the Contractor written notice of the breach and a time period to cure said breach described in the notice. This section requiring notice and an opportunity to cure shall not be applicable in the event of successive or repeated breaches of the same nature or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage or destruction of any real or tangible personal property.

**2.603 EXCUSABLE FAILURE**

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



2. If any of the above enumerated circumstances substantially prevent, hinder, or delay performance of the services necessary for the performance of the State's functions for more than 14 consecutive days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected services from an alternate source, and the State shall not be liable for payments for the unperformed services under the Contract for so long as the delay in performance shall continue; (b) the State may cancel any portions of the Contract so affected and the charges payable hereunder shall be equitably adjusted to reflect those services canceled; or (c) the Contract will be canceled without liability of the State to the Contractor as of the date specified by the State in a written notice of cancellation to the Contractor. The Contractor will not have the right to any additional payments from the State as a result of any excusable failure occurrence or to payments for services not rendered as a result of the excusable failure condition. Defaults or delays in performance by the Contractor which are caused by acts or omissions of its subcontractors will not relieve the Contractor of its obligations under the Contract except to the extent that a subcontractor is itself subject to any excusable failure condition described above and the Contractor cannot reasonably circumvent the effect of the subcontractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

## 2.7 Remedies

### 2.701 CANCELLATION

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

1. Material Breach by the Contractor. In the event that the Contractor breaches any of its material duties or obligations under the Contract, which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State, or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of cancellation to the Contractor, cancel this Contract in whole or in part, for cause, as of the date specified in the notice of cancellation.

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

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

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

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



3. Non-Appropriation. In the event that funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available. The Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this project. If funds are not appropriated or otherwise made available, the State shall have the right to cancel this Contract at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of cancellation to the Contractor. The State shall give the Contractor written notice of such non-appropriation or unavailability within 30 days after it receives notice of such non-appropriation or unavailability.
4. Criminal Conviction. In the event the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or subcontract; or convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects upon the Contractor's business integrity.
5. Approvals Rescinded. The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, section 5, and Civil Service Rule 7. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in such written notice.

## 2.702 RIGHTS UPON CANCELLATION

### A. Rights and Obligations Upon Termination

- (1) 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 equipment and software 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 and other Developed Materials 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.
- (2) 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 partially completed Deliverables, on a percentage of completion basis. 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.
- (3.) If any such termination by the State is for cause, the State shall have the right to set-off against any amounts due Contractor the amount of any damages for which Contractor is liable to the State under this Contract or pursuant to law or equity.



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

**B. Termination Assistance**

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

**C. Reservation of Rights**

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

**D. End of Contract Transition**

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

- (1) Personnel - The Contractor shall work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties, to effect an orderly transition. The Contractor shall allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by the Contract. In addition, during or following the transition period, in the event the State requires the Services of the Contractor's subcontractors, as necessary to meet its needs, Contractor agrees to reasonably, and with good-faith, work with the State to use the Services of Contractor's subcontractors.
- (2) Knowledgeable Personnel. Contractor will make available to the State or a Third Party Provider knowledgeable personnel familiar with the operational processes and procedures used to deliver products and services to the State. The Contractor personnel will work with the State or third party to help develop a mutually agreeable transition plan, work to transition the process of ordering, shipping and invoicing equipment and services to the State.
- (3) Information - The Contractor agrees to provide reasonable detailed specifications for all Services needed by the State, or specified third party, to properly provide the services required under the Contract. The Contractor will also provide any licenses required to perform the Services under the Contract.



- (4) Software. - The Contractor shall reasonably assist the State in the acquisition of any Contractor software required to perform the Services under the Contract. This shall include any documentation being used by the Contractor to perform the Services under the Contract. If the State transfers any software licenses to the Contractor, those licenses shall, upon expiration of the Contract, transfer back to the State at their current revision level.
- (5) Payment - If the transition results from a termination for any reason, the termination provisions of the Contract shall govern reimbursement. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after Contract expiration that result from transition operations). The hourly rates or fixed price to be charged will be agreed upon prior to the work commencing.
- (6) Single Point of Contact. Contractor will maintain a Single Point of Contact (SPOC) for the State after termination of the Contract until all product and service obligations have expired.

**E. Transition out of this Contract**

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

**2.703 RESERVED**

**2.704 STOP WORK**

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



- a) Cancel the stop work order; or
  - b) Cancel the work covered by the stop work order as provided in the cancellation section of this Contract.
2. If a stop work order issued under this section is canceled or the period of the stop work order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the contract price, or both, and the Contract shall be modified, in writing, accordingly, if:
- a) The stop work order results in an increase in the time required for, or in the Contractor's costs properly allocable to the performance of any part of this Contract; and
  - b) The Contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage; provided that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.
3. If the stop work order is not canceled and the work covered by the stop work order is canceled for reasons other than material breach, the State shall allow reasonable costs resulting from the stop work order in arriving at the cancellation settlement.
4. If a stop work order is not canceled and the work covered by the stop work order is canceled for material breach, the State shall not allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop work order.

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

**2.705 SUSPENSION OF WORK**

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

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

A claim under this clause shall not be allowed:

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

**2.8 Changes, Modifications, and Amendments**

**2.801 APPROVALS**

The Contract may not be modified, amended, extended, or augmented except by a writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party.



## 2.802 TIME EXTENSIONS

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

## 2.803 MODIFICATION

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

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

## 2.804 AUDIT AND RECORDS UPON MODIFICATION

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

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

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

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

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

## 2.805 CHANGES

- (a) The Contract Administrator may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes:
  - (1) In the specifications (including drawings and designs);
  - (2) In the method or manner of performance of the work;
  - (3) In the Government-furnished facilities, equipment, materials, services, or site; or
  - (4) Directing acceleration in the performance of the work.



- (a) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contract Administrator that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contract Administrator written notice stating:
  - (1) The date, circumstances, and source of the order; and
  - (2) That the Contractor regards the order as a change order.
  
- (b) Except as provided in this clause, no order, statement, or conduct of the Contract Administrator shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.