

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

June 23, 2010

**CHANGE NOTICE NO. 3**  
**TO**  
**CONTRACT NO. 071B6200287**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>PTD Technology</b> <b>3001 Coolidge Road, Suite 403</b> <b>East Lansing, MI 48823</b> Email:Karl.Meier@PTDtechnology.com	TELEPHONE Karl Meier <b>(517) 333-9363x18</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 335-4804 <b>Pam Platte</b>
Contract Compliance Inspector: Cindy Turben <b>MDIT/MDOT IT Technical Documentation Services</b>	
CONTRACT PERIOD From: <b>July 1, 2006</b> To: <b>June 30, 2011</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>	

**NATURE OF CHANGE(S):**

Effective immediately, per attached vendor letter, rates will **REMAIN** unchanged and the increase due on July 1, 2010, is hereby no longer in effect. Please also note that the buyer has been changed to Pam Platte. All other terms and conditions remain the same.

**AUTHORITY/REASON:**

Per Purchasing Operations and agency agreement.

**TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$4,104,857.20**



PTD Technology  
3001 Coolidge, Suite 403  
East Lansing, Michigan 48823  
Phone: (517) 333-9363  
Fax: (517) 332-3024  
Web: www.PTDtechnology.com

**Solving Your Technology Puzzle**

June 8, 2010

Cindy Turben, Contract Compliance Inspector  
Department of Information Technology  
Constitution Hall, Atrium/South Tower  
PO Box 30026  
Lansing, MI 48909

Dear Ms. Turben:

Per our earlier contract extension agreement, PTD Technology reduced our rate structure for services under contract 071B62000287, IT Technical Documentation Services, for the rate year which began on July 1, 2008, as well as the first of two extension years. Per that agreement, our rates were due to increase back to the base amount as of July 1, 2010.

While our company has been hit hard by the current State and National recession, we are proud of our association with this contract, and our reputation for high quality work provided at very reasonable rates. As the State of Michigan faces yet another budget shortfall, we would like to offer to keep our current reduced rate schedule, and forgo the increase that was due to become effective at month's end. As a result of this, and prior reductions, the total cost savings that the State of Michigan will receive from the price concessions we have made and offered will be significant.

We have discussed this offer with Viji Jayaraman, and she is happy to accept our offer.

If you need anything from PTD Technology to implement this continued rate reduction, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jennifer L. Hogan', with a long horizontal flourish extending to the right.

Jennifer L. Hogan  
VP, Finance

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

September 12, 2008

**CHANGE NOTICE NO. 2  
 TO  
 CONTRACT NO. 071B6200287  
 between  
 THE STATE OF MICHIGAN  
 and**

NAME & ADDRESS OF VENDOR  <b>PTD Technology          3001 Coolidge Road, Suite 403          East Lansing, MI 48823</b>  Email: Karl.Meier@PTDtechnology.com	TELEPHONE Karl Meier <b>(517) 333-9363x18</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-7233 <b>Joann Klasko</b>
Contract Compliance Inspector: Cindy Turben <b>MDIT/MDOT IT Technical Documentation Services</b>	
CONTRACT PERIOD From: <b>July 1, 2006</b> To: <b>June 30, 2011</b>	
TERMS  N/A	SHIPMENT  N/A
F.O.B.  N/A	SHIPPED FROM  N/A
MINIMUM DELIVERY REQUIREMENTS  N/A	

**NATURE OF CHANGE(S):**

**Effective immediately, this contract has been INCREASED by \$1,477,254.00 and EXTENDED to June 30, 2011. All other terms and conditions remain the same.**

**AUTHORITY/REASON:**

**Per Purchasing Operations and agency agreement and Ad Board approval on 9/12/2008.**

**INCREASE: \$1,477,254.00**

**TOTAL REVISED CONTRACT VALUE: \$4,104,857.20**



PTD Technology  
3001 Coolidge, Suite 403  
East Lansing, Michigan 48823  
Phone: (517) 333-9363  
Fax: (517) 332-3024  
Web: www.PTDtechnology.com

**Solving Your Technology Puzzle**

July 30, 2008

Cindy Turben, Contract Compliance Inspector  
Department of Information Technology  
Constitution Hall, Atrium/South Tower  
PO Box 30026  
Lansing, MI 48909

Dear Ms. Turben:

PTD Technology offers to reduce our rate structure for services under contract 071B62000287, IT Technical Documentation Services, for the current rate year which began on July 1, 2008, as well as the first of two extension years, if MDOT-MDIT will agree to exercise their extension options for this contract now, instead of waiting until 6/30/2009.

The current rate structure (as of July 1, 2008) follows:

Expert Technical Writer:	\$67.04
Technical Writer:	\$53.82

In our original bid, during the negotiation process, PTD Technology agreed to reduce the rates for Expert Technical Writers in Year One and Year Two. As a result, the State of Michigan realized savings of \$75,000 for those two years. If our proposal is agreed upon by the State of Michigan, it would result in a further cost savings of \$15,000. So, total savings would be approximately \$90,000.

PTD Technology would propose to reduce the rate for Expert Technical Writer to \$66.28 for the current rate year, which represents the final year of the base contract. We would also honor that reduced rate for the first year extension, and then reinstate the current rate in the second year extension.

If you need anything else to complete this extension, please call and we will respond immediately.

Sincerely,

A handwritten signature in cursive script that reads 'Jennifer L. Hogan'.

Jennifer L. Hogan  
VP, Finance

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

July 27, 2006

**CHANGE NOTICE NO. 1  
 TO  
 CONTRACT NO. 071B6200287  
 between  
 THE STATE OF MICHIGAN  
 and**

NAME & ADDRESS OF VENDOR  <b>PTD Technology          3001 Coolidge Road, Suite 403          East Lansing, MI 48823</b> Email:Karl.Meier@PTDtechnology.com	TELEPHONE Karl Meier <b>(517) 333-9363x18</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-7233 <b>Joann Klasko</b>
Contract Compliance Inspector: Cindy Turben <b>MDIT/MDOT IT Technical Documentation Services</b>	
CONTRACT PERIOD From: <b>July 1, 2006</b> To: <b>June 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>	

**NATURE OF CHANGE(S):**

Effective immediately, this contract has been **INCREASED** by \$15,000.00 for state authorized Travel Expenses to other State MDOT office for documentation purposes. Also correcting contract period to July 1, 2006 through June 30, 2009. Included in this change notice is the revised MDIT/MDOT Standard Information Technology Environment.

**AUTHORITY/REASON:**

Per Purchasing Operations and agency agreement.

**INCREASE: \$15,000.00**

**TOTAL REVISED CONTRACT VALUE: \$2,628,603.20**

The MDIT/MDOT Standard Information Technology Environment consists of the Desktop Environment, Project Management Tools, the Business System Development Environment, the Web / Intranet Site and Application Development Environment, the Security Environment, and the Network Environment. These environments include but are not limited to the following identified IT tools:

**Window XP Desktop Environment**

- Microsoft Office/Office Professional, version XP
- Novell GroupWise 6.5.3 +
- Microsoft Internet Explorer 6.0 +
- Oracle NetServices 9.2.06 +
- Novell Client Service for Netware 4.91 + SP2

**Project Management Tools**

- Niku Version 6.0 or higher (State of Michigan standard)
- Microsoft Project 2002 (on approval of DEPARTMENT OF INFORMATION TECHNOLOGY'S AGENCY SERVICES INFORMATION OFFICER )

**Business System Development Environment - Client/Server & Enterprise Web System Development**

- IBM Rational Suite
- IDEF for business process re-engineering
- Erwin - Data Modeling
- BPWin - Business Process Modeling
- Enterprise application Studio (PowerBuilder 9.x PowerJ 3.x, PowerSite)
- Enterprise Application Server 3.x (Jaguar CTS 3.x, PowerDynamo)

**Development Languages, Tools**

- Powerscript
- Java 2.x
- IBM Websphere, Studio Application Developer for Windows v. 5.1 +
- IBM Rational Suite 2003.06.12.280

**Application Servers**

- Sybase EAS Web Server on Microsoft IIS Web Server, version 5.1 + on Windows 2000
- IBM WebSphere Application Server - Developer Edition
- IBM WebSphere Application Server - Enterprise Edition, v. 5.1.x + for Sun Solaris

**Web / intranet Site and Application Development Environment**

**Development Languages, Tools:**

- JavaScript
- Cold Fusion version 7.0 or higher
- Java 2.X
- IBM WebSphere. Studio Application Developer for Windows v. 5.1.x
- IBM Rational Suite 2003.06.12.280

**Application Servers**

- Cold Fusion, MX Enterprise
- IBM WebSphere Application Server - Developer Edition
- IBM WebSphere Application Server - Enterprise Edition, v. 5.1.x + for Sun Solaris

**Web / intranet Servers:**

- Apache 2.054

IBM HIS 2.0.x  
IIS 5.0

**Web / intranet Development Tools:**

- Adobe Acrobat 6.0+
- Macromedia Dreamweaver 7.0+
- IBM WebSphere Studio Homepage Builder +
- IBM Rational Suite 2003.06.12.280
- Eclipse 3.1

**Web Content Management**

- Vignette Content Manager, version 6+

**Electronic Documents:**

- Adobe Acrobat version 6.0 +

**Document Management**

- FileNET Panagon for document management
- Bentley ProjectWise for CAD file management

**Electronic Forms:**

- Presentation: Adobe Acrobat version 6.0 +
- FileNET Panagon eForms for document management

**Testing Environment**

- TestDirector 7.6 for storing test steps and cases
- WinRunner 7.6 for automating test runs
- LoadRunner 7.6 for load testing

**Security Environment**

- MDIT/MDOT Single Login
- MDIT/MDOT provided SQL security database
- MDOT provided validation and code for PowerBuilder
- Padlock
- Secured Socket Layers
- SecureID (State Security Standard for external network access and high risk Web systems)

MDIT/MDOT requires that its single - login security environment be used for all new client-server software development. Where software is being converted from an existing package, or a client-server application is being purchased, the security mechanism must be approved in writing by the MDIT/MDOT Project Manager and the MDIT Agency Services Officer.

**Network Environment / Hardware**

- Cisco Routers
- IPX and IP routing
- 10 BaseT, 100 BaseT and 1000BaseT Ethernet for desktops
- T-1 or 56K connections
- HP OpenView
- Node Runner
- Cisco and Shiva remote access servers
- GroupWise
- Sun E6900, E4800, E4500 series servers
- Solaris10 or higher
- Oracle 9.2.0.7
- Netware 6.0 → 6.5 SP5
- Netware NFS & Sun NFS 3.0+

- WIN2K server
- Novell Account Manager v2
- Citrix ICA client
- Oracle NetServices 9.2.0.7

All software supplied by the Contractor shall be capable of running concurrently with the MDOT software and all client specific software programs (i.e. LAN, Microsoft Office Suite), without resulting in excessive reduction in production capabilities in the laboratory or management areas. In addition, all client-server applications must be designed to be able to run on a Citrix server, and must behave so that they don't cause conflicts running in a multi-user environment, e.g. temporary work files should be avoided or implemented in a way to not cause conflicts.

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 ACQUISITION SERVICES  
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 530 W. ALLEGAN, LANSING, MI 48933**

**June 22, 2006**

**NOTICE  
 OF  
 CONTRACT NO. 071B62000287  
 between  
 THE STATE OF MICHIGAN  
 and**

NAME & ADDRESS OF VENDOR  <b>PTD Technology</b> <b>3001 Coolidge Road, Suite 403</b> <b>East Lansing, MI 48823</b>  Email: Karl.Meier@PTDtechnology.com	TELEPHONE Karl Meier <b>(517) 333-9363x18</b> VENDOR NUMBER/MAIL CODE  BUYER/CA (517) 241-7233 <b>Joann Klasko</b>
Contract Compliance Inspector: Cindy Turben <b>MDIT/MDOT IT Technical Documentation Services</b>	
CONTRACT PERIOD From: <b>June 28, 2006</b> To: <b>June 27, 2009</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>	

**The terms and conditions of this Contract are enclosed. 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: \$2,613,603.20**

**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. 071B62000287  
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 THE STATE OF MICHIGAN  
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NAME & ADDRESS OF VENDOR  <b>PTD Technology          3001 Coolidge Road, Suite 403          East Lansing, MI 48823</b>  Email: Karl.Meier@PTDtechnology.com	TELEPHONE Karl Meier <b>(517) 333-9363x18</b>  VENDOR NUMBER/MAIL CODE  BUYER/CA (517) 241-7233 <b>Joann Klasko</b>
Contract Compliance Inspector: Cindy Turben <b>MDIT/MDOT IT Technical Documentation Services</b>	
CONTRACT PERIOD From: <b>June 28, 2006</b> To: <b>June 27, 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: <b>The terms and conditions of this Contract are enclosed. 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: \$2,613,603.20</b>	

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Contract Compliance Inspector: <b>Cindy Turben</b> <b>MDIT/MDOT IT Technical Documentation Services</b>	
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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 enclosed. 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: \$2,613,603.20</b>	

**THIS IS NOT AN ORDER. The terms and conditions of this Contract are enclosed. 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.**

**Original contract was awarded on the basis of our inquiry bearing the req No. 084R6200145.**

**FOR THE VENDOR:**

**FOR THE STATE:**

**PTD Technology**  
 \_\_\_\_\_  
 Firm Name

\_\_\_\_\_  
 Authorized Agent Signature

\_\_\_\_\_  
 Authorized Agent (Print or Type)

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature  
**Elise Lancaster**  
 \_\_\_\_\_  
 Name  
**Purchasing Operations**  
 \_\_\_\_\_  
 Division

\_\_\_\_\_  
 Date



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

Invitation to Bid No. 071B6200287  
**MDIT/MDOT IT Technical Documentation**

Buyer Name: Joann Klasko  
Telephone Number: (517)241-7233  
E-Mail Address: KlaskoJ@michigan.gov



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## Article 1 – Statement of Work (SOW)

### 1.0 Project Identification

#### 1.001 PROJECT REQUEST

The State of Michigan (State), through the Department of Management and Budget (DMB), with the assistance of the Department of Information Technology (DIT), has issued this contract for the purpose of securing the services of an experienced and qualified contractor who will provide resources to assist with computer system end-user support services for the Michigan Department of Transportation (MDOT). Such services will include the design and development of end-user reference manuals, training curriculum and manuals, user-support materials, electronic on-line help systems, custom-programmed application macros, and hypertext-linked multi-document reference systems, as well as other IT technical documentation needs. Also included will be the development and presentation of end-user training for custom developed MDOT client/server applications.

The contractor shall provide up to four Expert Technical Writers and three Junior Technical Writers on an as needed basis to be utilized by MDOT/MDIT. The State also reserves the right to extend these services to the Department of Information Technology for their exclusive use.

#### 1.002 BACKGROUND

MDOT has developed and will continue to develop a number of custom designed, client/server, and strategic support systems. To maximize the efficiency and productivity of the employees using these systems, MDOT must provide users with user reference manuals, electronic help systems, and direct training in these systems as required. As these systems are growing larger and more complex, so is the need for proper end-user support materials. The development of extensive manuals, including detailed graphic representations of the systems and work processes, multiple cross-referenced and cross-linked chapters, table of contents, index, glossary generation; and version control requires specialists skilled in this area. Development of electronic on-line help and support systems requires specialize programming tools and skills in these tools. Development and presentation of effective classes requires skilled and experienced training professionals.

### 1.1 Scope of Work and Deliverables

#### 1.101 IN SCOPE

The scope of this contract is to secure computer system end-user support services for MDOT on an as-needed basis. Michigan Department of Information Technology (DIT) sought a contractor that has a sufficient pool of qualified personnel to meet specifically defined service levels and project deadlines. The scope is to produce creative, high quality documentation, curriculum, materials, and presentations as required by MDOT project plans. Additionally, this agreement is for the contractor to provide effective training to MDOT staff on custom designed MDOT systems as required. MDOT is not obligated to execute the contract for the full amount of hours estimated.

*[Note to potential bidders:*

#### 1.102 OUT OF SCOPE

This agreement does not include systems development or project management. .



## 1.103 TECHNICAL ENVIRONMENT

The MDOT Standard Information Technology Environment consists of the Desktop Environment, Project Management Tools, the Business System Development Environment, the Web / Intranet Site and Application Development Environment, the Security Environment, and the Network Environment.

### **Window NT Desktop Environment**

- Microsoft Office/Office Professional, version XP
- Novell GroupWise 5.5.4
- Microsoft Internet Explorer 5.0 +
- Oracle NetServices
- Novell client service for Netware 5.1

### **Project Management Tools**

- Niku Version 5.2 or higher (State of Michigan standard)
- Microsoft Project 2000 (on approval of DEPARTMENT OF INFORMATION TECHNOLOGY'S AGENCY)

### **Business System Development Environment – Client/Server & Enterprise Web System Development**

- IDEF for business process re-engineering
- Erwin - Data Modeling
- BPWin - Business Process Modeling
- Enterprise application Studio (PowerBuilder 7.x PowerJ 3.x, PowerSite)
- Enterprise Application Server 3.x (Jaguar CTS 3.x, PowerDynamo)

### Development Languages, Tools

- Powerscript
- Java 2.x
- IBM Websphere, Studio Application Developer for Windows v.4+

### Application Servers

- Sybase EAS Web Server on Microsoft IIS Web Server, version 4.0 on NT 4.0
- IBM WebSphere Application Server – Developer Edition
- IBM WebSphere Application Server – Enterprise Edition, v. 4.x + for Sun Solaris

### **Web / intranet Site and Application Development Environment**

#### Development Languages, Tools:

- JavaScript
- Cold Fusion version 4.5 or higher
- Java 2.X
- IBM WebSphere. Studio Application Developer for Windows v. 4.x

### Application Servers

- Cold Fusion, Enterprise Server version 4.5 or higher on Netscape Enterprise Server version 3.51 or greater on NT 4.0
- IBM WebSphere Application Server - Developer Edition
- IBM WebSphere Application Server - Enterprise Edition, v. 4.x + for Sun Solaris

### Web / intranet Servers:

- Netscape Enterprise Server version 3.51 or greater on NT 4.0

Web / intranet Development Tools:

- Adobe Acrobat 5.0+
- Allaire HomeSite 4.5+
- Allaire Cold Fusion Studio 4.5+
- Macromedia Dreamweaver 4.0+
- IBM WebSphere Studio Homepage Builder

Web Content Management

- Vignette Content Manager, version 6

Electronic Documents:

- Adobe Acrobat version 5.0 +

Document Management

- FileNET Panagon for document management
- Bentley ProjectWise for CAD file management

Electronic Forms:

- Presentation: Adobe Acrobat version 5.0 +
- Creation: Omni Form version 4.0 +
- FileNET Panagon eForms for document management

**Testing Environment**

- TestDirector 6.0 for storing test steps and cases
- WinRunner 6.0 for automating test runs
- LoadRunner 6.0 for load testing

**Security Environment**

- MDOT Single Login
- NT validation (Novell NDS for NT, LDAP)
- MDOT provided SQL security database
- MDOT provided validation and code for PowerBuilder
- Padlock
- Secured Socket Layers
- SecureID (State Security Standard for external network access and high risk Web systems)

**Network Environment**

- Cisco Routers
- IPX and IP routing
- 10 BaseT, 100 BaseT and 1000BaseT Ethernet for desktops
- T-1 or 56K connections
- HP OpenView
- Node Runner
- Cisco and Shiva remote access servers
- GroupWise
- Sun 4000/4500 series servers
- Solaris8 or higher
- Oracle8i
- Netware 4.11 and 4.2
- Netware NFS & Sun NFS 3.0+
- NT 4.0 server
- Novell NDS for NT



- Citrix ICA client
- Oracle NetServices

#### 1.104 WORK AND DELIVERABLE

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

Assigned tasks will vary according to the need that exists at any given time. Coordination and involvement with the appropriate MDOT/MDIT staff will take place as required.

##### A. Staff Augmentation

- The contractor will provide the maximum resources per classification with the skill set stated in Article 1.201. Two of the four Expert Technical Writers and two of the Junior Technical Writers must be available to start on the contract start date and will be considered.
- Upon release of a work statement by MDOT/MDIT, the contractor will be responsible to provide actual resumes within (5) days of notification from MDOT/MDIT. MDOT/MDIT reserves the right to conduct interviews before the candidates begin work.
- All personnel provided by the Contractor shall be subject to the rules, regulations, and policies of MDOT and the Michigan Department of Civil Service.
- The Contractor must replace all employees whose work was found to be unsatisfactory as determined by the MDOT/MDIT Project Manager within five (5) business days of notification.

##### B. Project Tasks

The number of projects will vary throughout the Contract period, as will the required tasks. The following tasks are samples but not a complete list of tasks that may be requested of the Contractor employees.

The task list includes the following:

- Design and create user reference material documenting the proper and effective operation of any new custom-designed MDOT computer system.
- Update and refine existing user reference material documenting the proper and effective operation of any existing custom-designed MDOT computer system.
- Design and create curriculum, materials, and presentation outlines for custom end-user training classes for any new or existing custom designed MDOT computer system.
- Design and create electronic on-line help systems accessible to the user from within any new or existing custom-designed MDOT computer system.
- Design and create on-line electronic, document reference systems, through custom macro application programming and/or hypertext linking.
- Train designated MDOT staff on the proper, efficient, and effective use of any new or existing custom-designed MDOT computer systems, including migration classes reflecting change of versions in systems.



## **1. IT Technical Documentation Process**

In developing IT technical documentation, the contractor's documentation specialists will:

1. Assemble a documentation project plan in collaboration with the project manager
2. Perform preliminary research on the system or IT topic
  - Identify internal resources (e.g. Subject Matter Experts (SME) and System Administrators)
  - Identify external resources (e.g. software vendors)
  - Gather all pre-existing documentation on various media
3. Thoroughly document the system, procedure, topic, etc. with appropriate resources identified in steps one and two
4. Perform quality checks and perform edits on the documentation following a peer, technical and business side review
5. Convert finished product to electronically-based, searchable format, such as Online help or PDF.



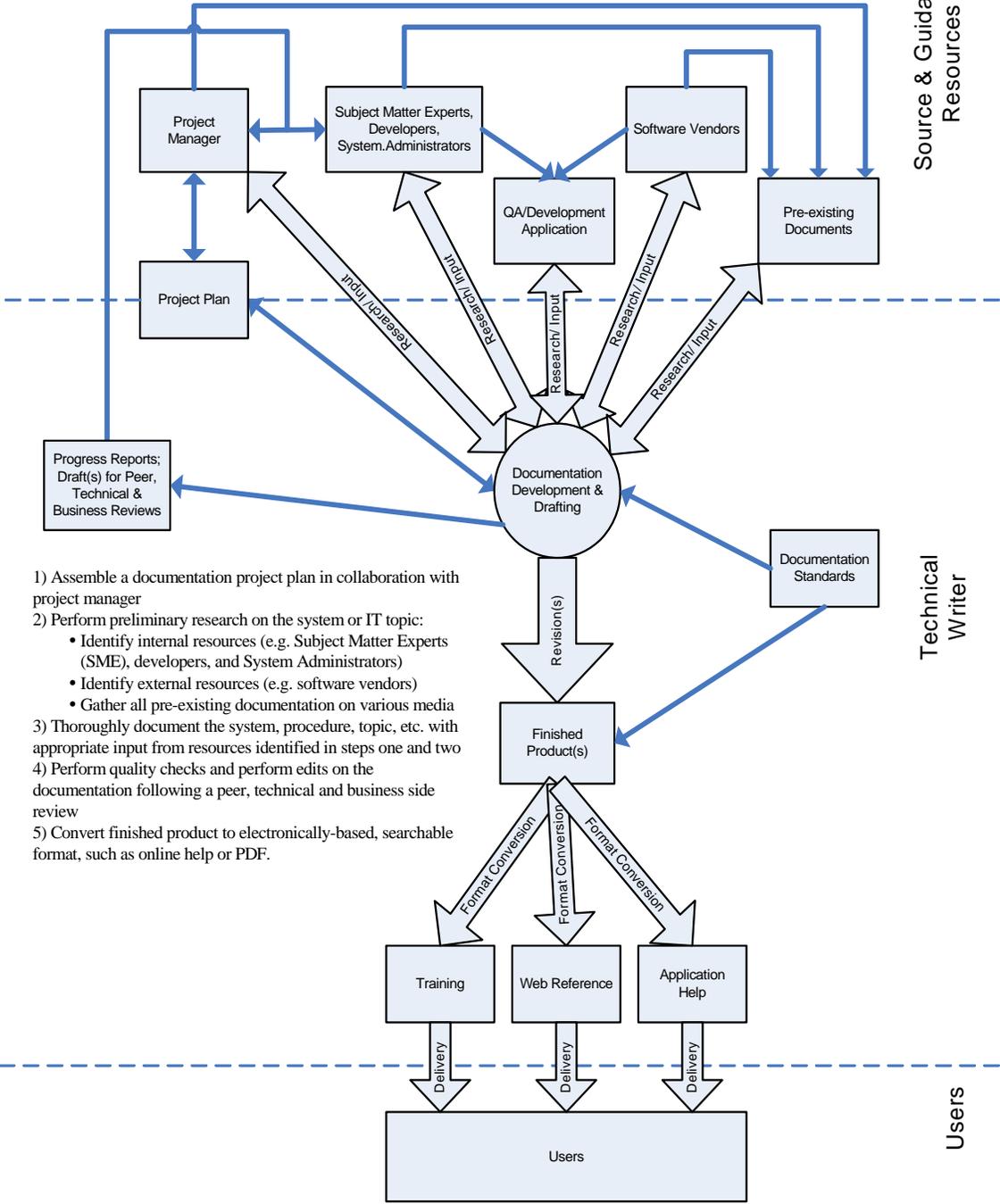
# Technical Writing Process

(High-Level, Typical)

Source & Guidance Resources

Technical Writer

Users



- 1) Assemble a documentation project plan in collaboration with project manager
- 2) Perform preliminary research on the system or IT topic:
  - Identify internal resources (e.g. Subject Matter Experts (SME), developers, and System Administrators)
  - Identify external resources (e.g. software vendors)
  - Gather all pre-existing documentation on various media
- 3) Thoroughly document the system, procedure, topic, etc. with appropriate input from resources identified in steps one and two
- 4) Perform quality checks and perform edits on the documentation following a peer, technical and business side review
- 5) Convert finished product to electronically-based, searchable format, such as online help or PDF.

## 2. Business Training Process

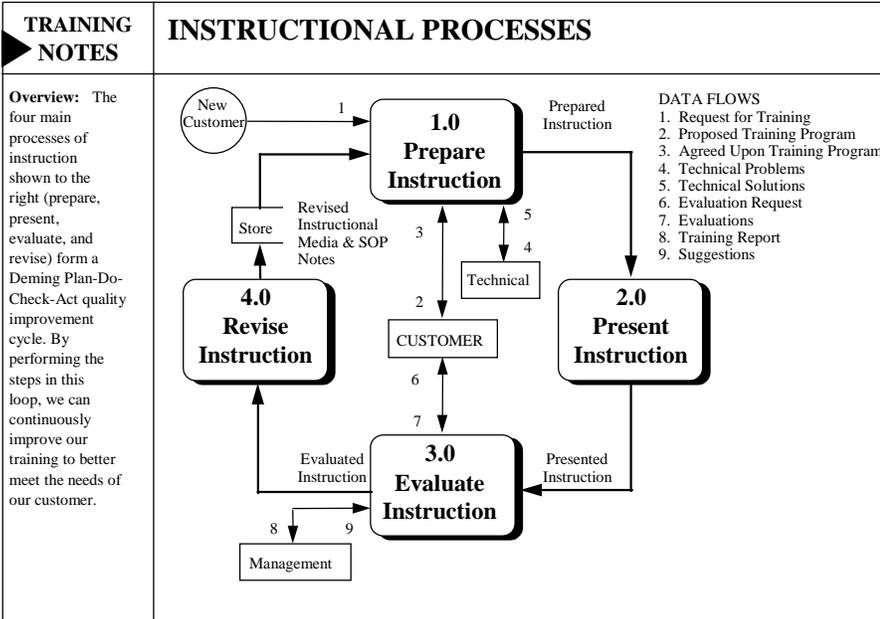
The process for providing training maybe incorporated with the IT Technical Documentation process or as a stand-alone process. For much of the training required, the technical writing staff follows the IT Technical Documentation 5 step process explained above, with the addition of steps specific to the delivery of training. The majority of the training delivered currently at MDOT uses the finalized User’s Manual as the training guide. This method is used in an effort to encourage the students to become familiar with the User’s Manual.



For those instances in which a more traditional approach to training and training material development is required, the contractor’s process follows the contractor’s Training Preparation and Delivery Process in order to develop and deliver the highest quality training:

- 1) Prepare Instruction: this involves preparation of the training guides, instructor manuals, and “quick tip” sheets
- 2) Present Instruction: this is the actual training delivery
- 3) Evaluate Instruction: this step allows the process to be evaluated
- 4) Revise Instruction: adjustments and revisions are made to training based on the evaluation from step three.

### Training Preparation and Delivery Process



All work identified in this CONTRACT will be performed over the life of the project on an as-needed basis, to be provided only upon prior written authorization by the MDOT/MDIT Project Manager(s). Work to be performed on specific applications will be authorized by the Michigan Department Of Information Technology (MDIT) Project Development Team. A statement of work will be developed for each project including job classification, hourly rates, timeframes and costs.

**1.2 Roles and Responsibilities**  
**1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES**

**Contractor Staff**

The Contractor shall provide personnel necessary to perform the services required. The Contractor shall attest the fact that they have up to four Expert Technical Writers and three Junior Technical Writers with sufficient experience and knowledge to provide the needed services outlined in the Work Statement. Personnel should meet or exceed the experience requirements indicated below.

**Expert Technical Writer – As Needed – up to 4 positions**

- Five years experience creating complex documents in Microsoft Word (e.g. master/sub document/ template development; table of contents; index, and cross-referencing processes; hypertext development; graphics handling) and knowledge of direct macro programming, including dialog box development.
- Five years experience using advanced features to create graphic images in complex documents with the following programs: Microsoft PowerPoint version 4.0, Visio version 3.0, Snagit version 3.2, Paintbrush current version (or more current version of the above software).
- Three years experience working in a network environment with multiple operating system and Novell Netware.
- Five years experience in IT technical writing creating reference, training, and technical documentation, and end user support materials.
- Five years experience creating custom documentation in a client/server or web based environment including interactions with multiple stakeholders, such as system users, administrators, analysts, programmers, and development managers.
- Three years experience working with database applications.
- Five years experience creating training curriculum and materials, including outlines, flowcharts, diagrams and general reference material, for advanced technical training in, and in the delivery of advanced technical training for, custom developed, client-server or web-based applications.
- Three years experience in designing and creating electronic on-line help systems.
- Five years experience in classroom training on the proper, efficient, and effective use of computer systems and applications.

**Jr. Technical Writer – As Needed - up to 3 positions**

- Two years experience creating complex documents in Microsoft Word (e.g. master/sub document/ template development; table of contents; index, and cross-referencing processes; hypertext development; graphics handling) and knowledge of direct macro programming, including dialog box development.
- Two years experience using advanced features to create graphic images in complex documents with the following programs: Microsoft PowerPoint version 4.0, Visio version 3.0, Snagit version 3.2, Paintbrush current version (or more current version of the above software).
- Two years experience working in a network environment with multiple operating system and Novell Netware.
- Two years experience in IT technical writing creating reference, training, and technical documentation, and end user support materials.
- Two years experience creating custom documentation in a client/server or web based environment including interactions with multiple stakeholders, such as system users, administrators, analysts, programmers, and development managers.
- Two years experience working with database applications.



- Two years experience creating training curriculum and materials, including outlines, flowcharts, diagrams and general reference material, for advanced technical training in, and in the delivery of advanced technical training for, custom developed, client-server or web-based applications.
- One years experience in designing and creating electronic on-line help systems.
- Two years experience in classroom training on the proper, efficient, and effective use of computer systems and applications.

**\*Note - See Attachment A for Actual Resumes and Representative Resumes**

**Contractor Roles & Responsibilities**

- Provide normal services Monday through Friday, 7:30 a.m. to 4:30 p.m.
- All personnel provided by the Contractor shall be subject to the rules, regulations, and policies of MDOT/MDIT and the Michigan Department of Civil Service.
- Contractor is responsible for parking.

**1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES**

- MDOT will provide office space.
- MDIT will provide computer hardware/software, telephones, duplicating services and facsimile equipment as deemed necessary by MDIT to perform tasks identified in this CONTRACT. Any phone calls, photocopies, and facsimiles not related to the project will be the responsibility of the Contractor.
- The MDOT/MDIT Project Manager, or designee, will be available to coordinate activities and to provide technical input and approvals as needed.
- MDOT/MDIT will provide business area staff as needed.
- MDOT/MDIT will reimburse for travel in accordance with Article 1.6. See travel guidelines @ [http://www.michigan.gov/dmb/0,1607,7-150-9141\\_13132---.00.html](http://www.michigan.gov/dmb/0,1607,7-150-9141_13132---.00.html)

**1.203 OTHER ROLES AND RESPONSIBILITIES**

Reserved

**1.3 Project Plan**

**1.301 PROJECT CONTROL**

- a. The Contractor will carry out computer system end-user support under the overall direction and control of the MDOT/MDIT Project Manager. The MDOT/MDIT Project Manager will review progress reports and will review and approve payments.
- b. Although there will be continuous liaison with the Contractor, the MDOT/MDIT Project Manager shall have contact at a minimum of twice monthly with the Contractor for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise. The objective of this step is to ensure that the MDOT/MDIT Project Manager is promptly informed of progress and the major issues that confront the Contractor throughout the contract. If the MDOT/MDIT project manager determines the contractor's work to be unsatisfactory, the contractor is responsible for providing a replacement.



- c. All project assignments and tasks will be undertaken only upon the prior written authorization of the MDOT/MDIT Project Manager. The written authorization will include a definition of tasks, deliverables, estimated hours, fixed unit price per hour for each personnel classification, extended price for each personnel classification, and maximum price for the authorization and authorization expiration date. Hours authorized for each task may not be exceeded without a change order issued by the MDOT/MDIT Project Manager. Therefore, as the Contractor identifies tasks that they anticipate may exceed the estimated amounts, they should notify the MDOT/MDIT Project Manager so that any work stoppage may be avoided.

**1.302 REPORTS**

- a. The Contractor must submit written bi-weekly summaries or progress reports that outline work accomplished during the reporting period, work to be accomplished during the subsequent reporting period, if known; problems, real or anticipated, which should be brought to the attention of the MDOT/MDIT Project Manager and notification of any significant deviation from the previously agreed upon work plans. All areas of decision making that pertain to this contract must be reviewed in detail with the MDOT/MDIT Project Manager prior to any final decision.
- b. The Contractor will maintain progress and resource schedules for all tasks under this contract. This documentation will include, as appropriate, progress Gantt charts, resource schedule reports, and earned value charts showing budgeted work completed and budgeted work scheduled. The Contractor is responsible for tracking hours expended on each task.
- c. A detailed report shall also be provided in support of all invoices. This report shall describe the work performed during the invoice period for each task identified in the Work Statement as well as the time spent on each task.

**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 issues relating to the provision of services under this Contract. 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 Vendor)
- 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 Contract. 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 will create a risk management plan. A risk management plan format will be submitted to the State for approval within twenty (20) business days after the effective date of the contract resulting from this RFP. 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 monitored and 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

Change management is defined as the process to communicate, assess, monitor, and control all changes to system resources and processes. The State also employs change management in its administration of the Contract.

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

The Contractor must employ change management procedures to handle such things as "out-of-scope" requests or changing business requirements of the State while the system is being implemented.

## 1.5 Acceptance

### 1.501 CRITERIA

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

The format and structure of the technical documents will be evaluated based on but not limited to the criteria listed on the Technical Document Evaluation form found in Attachment 1. The content of the documents will be evaluated by an Agency subject matter expert for acceptance.

### 1.502 FINAL ACCEPTANCE

Acceptance is tied to adequate performance of required Services and/or delivery of the Deliverables.

## 1.6 Compensation and Payment

The basis of payment will be a firm fixed hourly rate within each classification for the duration of this contract, for each contract employee. The consultant will not be paid for any costs attributable to corrections of any errors or omissions that have been determined by the MDOT/MDIT Project Manager to be occasioned by the Consultant.

Travel expense will be paid in accordance with the amounts set forth in the current State of Michigan Standardized Travel Regulations and supported by invoices. The total costs for travel per year will not exceed over \$5,000. All travel reimbursement must be approved by the MDOT/MDIT Project Manager. See travel guidelines @ [http://www.michigan.gov/dmb/0,1607,7-150-9141\\_13132---.00.html](http://www.michigan.gov/dmb/0,1607,7-150-9141_13132---.00.html).



Payment will be made monthly for work performed during the payment period. The contractor shall submit invoices by the 15<sup>th</sup> of each month for the previous month's work. Invoices shall include an attached time sheet with the date, hours worked; project name, purchase order number, and MDOT contract number, if applicable.

MDOT will accept for payment only invoices that are error free as of the invoice date. Any invoicing errors or omissions that are the fault of the Contractor will result in MDOT rejecting such invoices, requiring that the Contractor correct the invoice problems and then create a new invoice, with a new invoice date reflecting that the invoice is being reissued after the corrections have taken place. Under no circumstances will MDOT approve late payment charges when invoices are paid late due to the Contractor's invoicing errors and omissions. Contractors demonstrating a continuing problem with invoicing errors and omissions may be considered in default of contract; resulting in termination of the Contract

All prices/rates quoted in bidder's response to this CONTRACT will be firm for the duration of the Contract. No price changes will be permitted. The Contractor will provide a detailed price proposal in a format where labor, overhead, other direct costs, and the fixed fee for profit are detailed and identified separately.

**PTD Technology (PTD)**

<b>Personnel Classification</b>	<b>Not to Exceed Hours Yearly</b>	<b>Hourly Rate</b>	<b>1 Year Total</b>	<b>3 Year Total</b>
(3) Junior Technical Writer	6240	\$53.82	\$335,836.80	\$1,007,510.40
(4) Expert Technical Writer, Year 1	8320	\$62.00	\$515,840.00	\$515,840.00
(4) Expert Technical Writer, Year 2	8320	\$64.00		\$532,480.00
(4) Expert Technical Writer, Year 3	8320	\$67.04		\$557,772.80
<b>Grand Total</b>		<b>\$851,676.80</b>		<b>\$2,613,603.20</b>



## Article 2 – General Terms and Conditions

### 2.010 Contract Structure and Administration

#### 2.011 Definitions

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

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

#### 2.012 Attachments and Exhibits

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

#### 2.013 Statements of Work

- (a) The parties agree that the Services/Deliverables to be rendered by Contractor pursuant to this Contract (and any future amendments of it) will be defined and described in detail in Statements of Work or Purchase Orders (PO) executed under this Contract. Contractor shall not be obliged or authorized to commence any work to implement a Statement of Work until authorized via a PO issued against this Contract, or an amendment to this Contract (see 2.106). Contractor shall perform in accordance with this Contract, including the Statements of Work/Purchase Orders executed under it.



(b) Unless otherwise agreed by the parties, each Statement of Work (as defined in Article 1) will include, or incorporate by reference to the appropriate Contract Article 1 Attachment containing, the following information:

- a description of the Services to be performed by Contractor under the Statement of Work;
- a project schedule (including the commencement and completion dates for all tasks, subtasks (for all projects of sufficient duration and complexity to warrant sub task breakdown), and Deliverables;
- a list of the Deliverables to be provided, if any, including any particular specifications and acceptance criteria for such Deliverables, and the dates on which the Deliverables are scheduled to be completed and delivered to the State;
- all Deliverable price schedules and other charges associated with the Statement of Work, the overall fixed price for such Statement of Work and any other appropriate pricing and payment terms;
- a specification of Contractor's and the State's respective performance responsibilities with respect to the performance or completion of all tasks, subtasks and Deliverables;
- a listing of any Key Personnel of Contractor and/or its Subcontractors for that Statement of Work and any future Statements of Work;
- any other information or provisions the parties agree to include.

(c) Reserved.

(d) The initial Statements of Work, as of the Effective Date, are attached to this Contract.

**2.014 Issuing Office**

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

Joann Klasko  
 Office of Acquisition Services  
 Department of Management and Budget  
 Mason Bldg, 2nd Floor  
 PO Box 30026  
 Lansing, MI 48909  
 KlaskoJ@michigan.gov  
 (517) 241-7233

**2.015 Contract Compliance Inspector**

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

Cindy Turben  
 Department of Information Technology  
 Constitution Hall, Atrium/South Tower  
 PO Box 30026  
 Lansing, MI 48909  
 TurbenC@michigan.gov  
 (517) 335-6069



## 2.016 Project Manager

The following individual will oversee the project:

Name: Viji Jayaraman  
Department of Information Technology  
Murray D. VanWagoner Transportation Bldg., 1<sup>st</sup> Floor  
PO Box 30026  
Lansing, MI 48909  
JayaramanV@michigan.gov  
(517) 241-5792

### 2.020 Contract Objectives/Scope/Background

#### **2.21 Background**

MDOT has developed and will continue to develop a number of custom designed, client/server, and strategic support systems. To maximize the efficiency and productivity of the employees using these systems, MDOT must provide users with user reference manuals, electronic help systems, and direct training in these systems as required. As these systems are growing larger and more complex, so is the need for proper end-user support materials. The development of extensive manuals, including detailed graphic representations of the systems and work processes, multiple cross-referenced and cross-linked chapters, table of contents, index, glossary generation; and version control requires specialists skilled in this area. Development of electronic on-line help and support systems requires specialize programming tools and skills in these tools. Development and presentation of effective classes requires skilled and experienced training professionals.

#### **2.022 Purpose**

The purpose of this project is to secure the services of a contractor who will provide resources to assist with computer system end-user support services for the Michigan Department of Transportation (MDOT) through the Michigan Department of Information Technology (MDIT). These services include the design and development of end-user reference manuals, training curriculum and manuals, user-support materials, electronic on-line help systems, custom-programmed application macros, and hypertext-linked multi-document reference systems, as well as other IT technical documentation needs. Also included will be the development and presentation of end-user training for custom developed MDOT client/server applications. This contract will provide up to four Expert Technical Writers and three Junior Technical Writers on an as needed basis to be utilized by MDOT/MDIT. The State also reserves the right to extend these services to the Department of Information Technology for their exclusive use.

#### **2.023 Objectives and Scope**

The scope of this ITB is to secure computer system end-user support services for MDOT/MDIT on an as-needed basis. The scope is to produce creative, high quality documentation, curriculum, materials, and presentations as required by MDOT project plans. Additionally, this agreement is for the vendor to provide effective training to MDOT staff on custom designed MDOT systems as required. MDOT is not obligated to execute the contract for the full amount of hours estimated in the ITB.

#### **2.024 Interpretation**

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



**2.025 Form, Function and Utility**

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

2.030 Legal Effect and Term

**2.031 Legal Effect**

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

**2.032 Contract Term**

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

**2.033 Renewal(s)**

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

2.040 Contractor Personnel

**2.041 Contractor Personnel**

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

(b) Key Personnel

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

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

(iii) The State will have the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, will introduce the individual to the appropriate State representatives, and will provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State



finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. Additionally, the State's request shall be based on legitimate, good-faith reasons. Proposed alternative for the individual denied, shall be fully qualified for the position.

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

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

For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the liquidated damages amount shall be \$25,000.00 per individual provided Contractor identifies a replacement approved by the State pursuant to **Section 2.041** and assigns the replacement to the Project to shadow the Key Personnel s/he is replacing for a period of at least thirty (30) days prior to such Key Personnel's removal.

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

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

(e) Staffing Levels.

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



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

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

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

#### **2.042 Contractor Identification**

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

#### **2.043 Cooperation with Third Parties**

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

#### **2.044 Subcontracting by Contractor**

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

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



circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.076** for a time agreed upon by the parties.

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

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

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

#### **2.045 Contractor Responsibility for Personnel**

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

#### 2.050 State Standards

#### **2.051 Existing Technology Standards**

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

#### **2.052 PM Methodology Standards**

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

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

#### **2.053 Adherence to Portal Technology Tools**

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

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



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

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

**2.054 Acceptable Use Policy**

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

2.060 Deliverables

**2.061 Ordering**

(a) Any Services/Deliverables to be furnished under this Contract shall be ordered by issuance of written Purchase Orders/Blanket Purchase Order by the State after approval by the Contract Administrator or his/her designee. All orders are subject to the terms and conditions of this Contract. In the event of conflict between an order and this Contract, the Contract shall take precedence as stated in **Section 2.293**. In no event shall any additional terms and conditions contained on a Purchase Order/Blanket Purchase Order be applicable, unless specifically contained in that Purchase Order/Blanket Purchase Order’s accompanying Statement of Work.

(b) (Only used for IT Contracts) DIT will continue to oversee the use of this Contract by End Users. DIT may, in writing, delegate to agencies the authority to submit requests for certain services directly to the Contractor. DIT may also designate, in writing, some services as non-delegated and require DIT review and approval before agency acquisition. DIT will use Contractor provided management reports and periodic random agency audits to monitor and administer contract usage for delegated services.

**2.062 Software**

**Exhibit J** lists the items of software the State is required to purchase for execution the Contract. The list in **Exhibit J** includes all software required to complete the Contract and make the Deliverables operable; if any additional software is required in order for the Deliverables to meet the requirements of this Contract, such software shall be provided to the State by Contractor at no additional charge (except where agreed upon and specified in a Statement of Work or Contract Change Notice). **Exhibit J** also identifies certain items of software to be provided by the State.

**2.63 Hardware**  
Reserved

**2.64 Equipment to be New and Prohibited**  
  
Reserved

2.070 Performance

**2.071 Performance, In General**

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



## 2.072 Time of Performance

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

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

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

## 2.73 Liquidated Damages

Reserved

## 2.074 Bankruptcy

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

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

## 2.075 Time is of the Essence

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

## 2.076 Service Level Agreements (SLAs)

(a) SLAs will be completed with the following operational considerations:

(i) SLAs will not be calculated for individual Incidents where any event of Excusable Failure has occurred as defined in **Section 2.202**,

(ii) SLAs will not be calculated for individual Incidents where loss of service is planned and where the State has received prior notification and/or coordination.

(iii) SLAs will not apply if the applicable Incident could have been prevented through planning proposed by Contractor and not implemented at the request of the State. In order to invoke this consideration, complete documentation relevant to the denied planning proposal must be presented to substantiate the proposal.



(iv) Time period measurements will be based on the time Incidents are received by the Contractor and the time that the State receives notification of resolution based on 24x7x365 time period, except that the time period measurement will be suspended based on the following (“Stop-Clock Conditions”):

1. Time period(s) will not apply where Contractor does not have access to a physical State Location and where access to the State Location is necessary for problem identification and resolution.

2. Time period(s) will not apply where Contractor needs to obtain timely and accurate information or appropriate feedback and is unable to obtain timely and accurate information or appropriate feedback from the State.

(b) Chronic Failure for any Service(s) will be defined as three (3) unscheduled outage(s) or interruption(s) on any individual Service for the same reason or cause or if the same reason or cause was reasonably discoverable in the first instance over a rolling thirty (30) day period. Chronic Failure will result in the State’s option to terminate the effected individual Service(s) and procure them from a different vendor for the chronic location(s) with Contractor to pay the difference in charges for up to three (3) additional months. The termination of the Service will not affect any tiered pricing levels.

(c) Root Cause Analysis will be performed on any Business Critical outage(s) or outage(s) on Services when requested by the Contract Administrator. Contractor will provide its analysis within two (2) weeks of outage(s) and provide a recommendation for resolution.

(d) All decimals shall be rounded to two decimal places with 5 and greater rounding up and 4 and less rounding down unless otherwise specified.

2.080 Delivery and Acceptance of Deliverables

**2.081 Delivery of Deliverables**

**Exhibit G** contains a list of the Deliverables to be prepared and delivered by Contractor including, for each Deliverable, the scheduled delivery date and a designation of whether the Deliverable is a document (“Written Deliverable”) or a Custom Software Deliverable. All Deliverables shall be completed and delivered for State review and written approval and, where applicable, installed in accordance with the State-approved delivery schedule and any other applicable terms and conditions of this Contract.

Prior to delivering any Deliverable to the State, Contractor will first perform all required quality assurance activities, and, in the case of Custom Software Deliverables, System Testing to verify that the Deliverable is complete and in conformance with its specifications. Before delivering a Deliverable to the State, Contractor shall certify to the State that (1) it has performed such quality assurance activities, (2) it has performed any applicable testing, (3) it has corrected all material deficiencies discovered during such quality assurance activities and testing, (4) the Deliverable is in a suitable state of readiness for the State’s review and approval, and (5) the Deliverable/Service has all Critical Security patches/updates applied.

In discharging its obligations under this Section, Contractor shall be at all times (except where the parties agree otherwise in writing) in compliance with Level 3 of the Software Engineering Institute’s Capability Maturity Model for Software (“CMM Level 3”) or its equivalent.

**2.082 Contractor System Testing**

Contractor will be responsible for System Testing each Custom Software Deliverable in Contractor’s development environment prior to turning over the Custom Software Deliverable to the State for User Acceptance Testing and approval. Contractor’s System Testing shall include the following, at a minimum, plus any other testing required by CMM Level 3 or Contractor’s system development methodology:



Contractor will be responsible for performing Unit Testing and incremental Integration Testing of the components of each Custom Software Deliverable.

Contractor's System Testing will also include Integration Testing of each Custom Software Deliverable to ensure proper inter-operation with all prior software Deliverables, interfaces and other components that are intended to inter-operate with such Custom Software Deliverable, and will include Regression Testing, volume and stress testing to ensure that the Custom Software Deliverables are able to meet the State's projected growth in the number and size of transactions to be processed by the Application and number of users, as such projections are set forth in the applicable Statement of Work.

Contractor's System Testing will also include Business Function Testing and Technical Testing of each Application in a simulated production environment. Business Function Testing will include testing of full work streams that flow through the Application as the Application will be incorporated within the State's computing environment. The State shall participate in and provide support for the Business Function Testing to the extent reasonably requested by Contractor. Within ten (10) days before the commencement of Business Function Testing pursuant to this Section, Contractor shall provide the State for State review and written approval Contractor's test plan for Business Function Testing. Within five (5) Business Days following the completion of System Testing pursuant to **Section 2.080**,

Contractor shall provide to the State a testing matrix establishing that testing for each condition identified in the System Testing plans has been conducted and successfully concluded. To the extent that testing occurs on State premises, the State shall be entitled to observe or otherwise participate in testing under this Section as the State may elect.

### **2.083 Approval of Deliverables, In General**

All Deliverables (Written Deliverables and Custom Software Deliverables) require formal written approval by the State, in accordance with the following procedures. Formal approval by the State requires that the Deliverable be confirmed in writing by the State to meet its specifications which, in the case of Custom Software Deliverables, will include the successful completion of State User Acceptance Testing, to be led by the State with the support and assistance of Contractor. The parties acknowledge that the approval process set forth herein will be facilitated by ongoing consultation between the parties, visibility of interim and intermediate Deliverables and collaboration on key decisions.

The State's obligation to comply with any State Review Period is conditioned on the timely delivery of Deliverables being reviewed. If Contractor fails to provide a Deliverable to the State in a timely manner, the State will nevertheless use commercially reasonable efforts to complete its review or testing within the applicable State Review Period.

Before commencement of its review or testing of a Deliverable, the State may inspect the Deliverable to confirm that all components of the Deliverable (e.g., software, associated documentation, and other materials) have been delivered. If the State determines that the Deliverable is incomplete, the State may refuse delivery of the Deliverable without performing any further inspection or testing of the Deliverable. Otherwise, the review period will be deemed to have started on the day the State receives the Deliverable and the applicable certification by Contractor in accordance with **Section 2.080**.

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



If, after three (3) opportunities (the original and two repeat efforts), Contractor is unable to correct all deficiencies preventing State approval of a Deliverable, the State may: (i) demand that Contractor cure the failure and give Contractor additional time to cure the failure at the sole expense of Contractor; or (ii) keep this Contract in force and do, either itself or through other parties, whatever Contractor has failed to do, in which event Contractor shall bear any excess expenditure incurred by the State in so doing beyond the contract price for such Deliverable and will pay the State an additional sum equal to ten percent (10%) of such excess expenditure to cover the State's general expenses without the need to furnish proof in substantiation of such general expenses; or (iii) terminate this Contract for default, either in whole or in part by notice to Contractor (and without the need to afford Contractor any further opportunity to cure). Notwithstanding the foregoing, the State shall not use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.

The State, at any time and in its own discretion, may halt the UAT or approval process if such process reveals deficiencies in or problems with a Deliverable in a sufficient quantity or of a sufficient severity as to make the continuation of such process unproductive or unworkable. In such case, the State may return the applicable Deliverable to Contractor for correction and re-delivery prior to resuming the review or UAT process and, in that event, Contractor will correct the deficiencies in such Deliverable in accordance with the Contract, as the case may be.

Approval in writing of a Deliverable by the State shall be provisional; that is, such approval shall not preclude the State from later identifying deficiencies in, and declining to accept, a subsequent Deliverable based on or which incorporates or inter-operates with an approved Deliverable, to the extent that the results of subsequent review or testing indicate the existence of deficiencies in the subsequent Deliverable, or if the Application of which the subsequent Deliverable is a component otherwise fails to be accepted pursuant to **Section 2.080**.

#### **2.084 Process for Approval of Written Deliverables**

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

#### **2.085 Process for Approval of Custom Software Deliverables**

The State will conduct UAT of each Custom Software Deliverable in accordance with the following procedures to determine whether it meets the criteria for State approval – i.e., whether it conforms to and performs in accordance with its specifications without material deficiencies.

Within thirty (30) days (or such other number of days as the parties may agree to in writing) prior to Contractor's delivery of any Custom Software Deliverable to the State for approval, Contractor shall



provide to the State a set of proposed test plans, including test cases, scripts, data and expected outcomes, for the State's use (which the State may supplement in its own discretion) in conducting UAT of the Custom Software Deliverable. Contractor, upon request by the State, shall provide the State with reasonable assistance and support during the UAT process.

For the Custom Software Deliverables listed in **Exhibit G**, the State Review Period for conducting UAT will be as indicated in **Exhibit G**. For any other Custom Software Deliverables not listed in **Exhibit G**, the State Review Period shall be the number of days agreed in writing by the parties (failing which it shall be forty-five (45) days by default). The State Review Period for each Custom Software Deliverable will begin when Contractor has delivered the Custom Software Deliverable to the State accompanied by the certification required by **Section 2.080** and the State's inspection of the Deliverable has confirmed that all components of it have been delivered.

The State's UAT will consist of executing test scripts from the proposed testing submitted by

Contractor, but may also include any additional testing deemed appropriate by the State. If the State determines during the UAT that the Custom Software Deliverable contains any deficiencies, the State will notify Contractor of the deficiency by making an entry in an incident reporting system available to both Contractor and the State. Contractor will modify promptly the Custom Software Deliverable to correct the reported deficiencies, conduct appropriate System Testing (including, where applicable, Regression Testing) to confirm the proper correction of the deficiencies and re-deliver the corrected version to the State for re-testing in UAT. Contractor will coordinate the re-delivery of corrected versions of Custom Software Deliverables with the State so as not to disrupt the State's UAT process. The State will promptly re-test the corrected version of the Software Deliverable after receiving it from Contractor.

Within three (3) business days after the end of the State Review Period, the State will give Contractor a written notice indicating the State's approval or rejection of the Custom Software Deliverable according to the criteria and process set out in this **Section 2.080**.

## 2.086 Final Acceptance

"Final Acceptance" shall be considered to occur when the Custom Software Deliverable to be delivered has been approved by the State and has been operating in production without any material deficiency for fourteen (14) consecutive days. If the State elects to defer putting a Custom Software Deliverable into live production for its own reasons, not based on concerns about outstanding material deficiencies in the Deliverable, the State shall nevertheless grant Final Acceptance of the Project.

### 2.090 Financial

## 2.91 Pricing

### (a) Fixed Prices for Services/Deliverables

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

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

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



(c) Services/Deliverables Covered

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

(d) Labor Rates

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

**2.092 Invoicing and Payment Procedures and Terms**

(a) Invoicing and Payment – In General

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

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

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

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

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

(c) Out-of-Pocket Expenses

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

(d) Pro-ration

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

(e) Antitrust Assignment

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



(f) Final Payment

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

### 2.093 State Funding Obligation

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

### 2.094 Holdback Reserved

### 2.095 Electronic Payment Availability

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

[If pricing for your product fluctuates frequently or if this is long term contract, please discuss with OAS buyer other options for pricing.]

## 2.100 Contract Management

### 2.101 Contract Management Responsibility

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

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

### 2.102 Problem and Contract Management Procedures

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

### 2.103 Reports and Meetings

(a) Reports.

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

(i) separately address Contractor's performance in each area of the Services;



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

(b) Meetings.

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

**2.104 System Changes**

Contractor is not responsible for and not authorized to make changes to any State systems without written authorization from the State. Any changes Contractor makes to State systems with the State’s approval shall be done in accordance with applicable State procedures, including security, access and configuration management procedures.

**2.105 Reserved**

**2.106 Change Requests**

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

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

If the State requests or directs the Contractor to perform any services or provide deliverables that are consistent with and similar to the Services/Deliverables being provided by the Contractor under the Contract, but which the Contractor reasonably and in good faith believes are not included within the



Statements of Work, then before performing such services or providing such deliverables, the Contractor shall notify the State in writing that it considers the services or deliverables to be an Additional Service/Deliverable for which the Contractor should receive additional compensation. If the Contractor does not so notify the State, the Contractor shall have no right to claim thereafter that it is entitled to additional compensation for performing that service or providing that deliverable. If the Contractor does so notify the State, then such a service or deliverable shall be governed by the Change Request procedure in this Section.

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

(a) Change Requests

(i) State Requests

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

(ii) Contractor Recommendations

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

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

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

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

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

**2.107 Management Tools** [Any Mandatory Tools should be listed in the Statement of Work]

Contractor will use an automated tool for planning, monitoring and tracking the Contract's progress. In addition, Contractor shall use automated project management tools as reasonably necessary to perform the Services, which tools shall include the capability to produce through the end of the Contract: (i) staffing tables with names of personnel assigned to Contract tasks, (ii) project plans showing tasks, subtasks, Deliverables and the resources required and allocated to each (including detailed plans for all Services to be performed within the next sixty (60) days, updated semi-monthly) and (iii) 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 information is described with reasonable detail in the Statements of Work and to the extent the related work is of sufficient project complexity and duration to warrant such reporting.

### 2.110 Records and Inspections

[You must select one of two options for records and inspections. The other option should be deleted. The first option should be used for an procurement expected to be over \$\$\$. If you have any questions, please discuss this with an OAS buyer.]

#### **2.111a Records and Inspections**

(a) Inspection of Work Performed. The State's authorized representatives shall at all reasonable times and with ten (10) days prior written request, have the right to enter Contractor's premises, or any other places, where the Services are being performed, and shall have access, upon reasonable request, to interim drafts of Deliverables or work-in-progress. Upon ten (10) Days prior written notice and at all reasonable times, the State's representatives shall be allowed to inspect, monitor, or otherwise evaluate the work being performed and to the extent that such access will not reasonably interfere or jeopardize the safety or operation of the systems or facilities. Contractor must provide all reasonable facilities and assistance for the State's representatives.

(b) Examination of Records. Contractor agrees that the State, including its duly authorized representatives, until the expiration of seven (7) years following the creation of the material (collectively, the "Audit Period"), shall, upon twenty (20) days prior written notice, have access to and the right to examine and copy any of Contractor's books, records, documents and papers pertinent to establishing Contractor's compliance with the Contract and with applicable laws and rules, including the State's procurement rules, regulations and procedures, and actual performance of the Contract for the purpose of conducting an audit, examination, excerpt and/or transcription but the State shall not have access to any information deemed confidential to Contractor to the extent such access would require such confidential information to become publicly available. This provision also applies to the books, records, accounts, documents and papers, in print or electronic form, of any parent, affiliated or subsidiary organization of Contractor, or any Subcontractor of Contractor performing services in connection with the Contract.

(c) Retention of Records. Contractor shall maintain at least until the end of the Audit Period all pertinent financial and accounting records (including time sheets and payroll records, and information pertaining to the Contract and to the Services, equipment, and commodities provided under the Contract) pertaining to the Contract in accordance with generally accepted accounting principles and other procedures specified in this Section. Financial and accounting records shall be made available, upon request, to the State at any time during the Audit Period. If an audit, litigation, or other action involving Contractor's records is initiated before the end of the Audit Period, the records must be retained until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later.

(d) Audit Resolution. If necessary, the Contractor and the State shall meet to review each audit report promptly after issuance. The Contractor will respond to each audit report in writing within thirty (30) days from receipt of such report, unless a shorter response time is specified in such report. The Contractor and the State shall develop, agree upon and monitor an action plan to promptly address and resolve any deficiencies, concerns, and/or recommendations in such audit report.

#### **2.111b Records and Inspections**

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



## 2.112 Errors

- (a) If the audit demonstrates any errors in the statements provided to the State, then the amount in error shall be reflected as a credit or debit on the next invoice and in subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried for more than four (4) quarterly statements. If a balance remains after four (4) quarterly statements, then the remaining amount will be due as a payment or refund within forty-five (45) days of the last quarterly statement that the balance appeared on or termination of the contract, whichever is earlier.
- (b) (b) In addition to other available remedies, the difference between the payment received and the correct payment amount is greater than ten percent (10%), then the Contractor shall pay all of the reasonable costs of the audit.

### 2.120 State Responsibilities

#### 2.121 State Performance Obligations

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

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

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

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

### 2.130 Security

#### 2.131 Background Checks

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



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

#### 2.140 Reserved

#### 2.150 Confidentiality

### **2.151 Freedom of Information**

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

### **2.152 Confidentiality**

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

### **2.153 Protection of Confidential Information**

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



## **2.154 Exclusions**

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

## **2.155 No Implied Rights**

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

## **2.156 Remedies**

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

## **2.157 Security Breach Notification**

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

## **2.158 Survival**

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

## **2.159 Destruction of Confidential Information**

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

## **2.160 Proprietary Rights**

## **2.161 Ownership**

**2.161a Ownership of Work Product by State.** All Deliverables shall be owned by the State and shall be considered works made for hire by the Contractor for the State. The State shall own all United States and international copyrights, trademarks, patents or other proprietary rights in the Deliverables.

## **2.162 Source Code Escrow Reserved**



### 2.163 Rights in Data

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

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

### 2.164 Ownership of Materials

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

### 2.165 Standard Software

If applicable and necessary, all Standard Software used in performing the Services shall be provided to the State under a separate license agreement between the State and the owner (or authorized licensor) of such software. Standard Software to be licensed to the State is listed in **Exhibit J**.

### 2.166 Pre-existing Materials for Custom Software Deliverables

Reserved

### 2.167 General Skills

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

### 2.170 Warranties And Representations

### 2.171 Warranties and Representations

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

The Contractor represents and warrants:

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



- (b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.
- (c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under this Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under this Contract, nor their use by the State, will infringe the patent, copyright, trade secret, or other proprietary rights of any third party.
- (d) If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to such items in this Contract, Contractor shall assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.
- (e) The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.
- (f) It is qualified and registered to transact business in all locations where required.
- (g) Neither the Contractor nor any Affiliates, nor any employee of either, has, shall have, or shall acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor shall notify the State within two (2) days of any such interest that may be incompatible with the interests of the State.
- (h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or shall accept anything of value based on an understanding that the actions of the Contractor or Affiliates or employee on behalf of the State would be influenced. Contractor shall not attempt to influence any State employee by the direct or indirect offer of anything of value.
- (i) Neither Contractor nor any Affiliates, nor any employee of either has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Contractor or such Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.
- (j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other bidder; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.
- (k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by such financial statements, reports, other information. Since the respective dates or periods covered by such financial statements, reports, or other information, there have been no material adverse change in the business, properties, financial condition, or results of operations of Contractor.
- (m) All written information furnished to the State by or behalf of Contractor in connection with this Contract, including its bid, 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.



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

#### **2.172 Reserved**

#### **2.173 Software Warranties Reserved**

#### **2.174 Physical Media Warranty [Optional]**

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 (30) 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).

#### **2.175a DISCLAIMER**

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

#### **2.175b Standard Warranties**

##### **(a) Warranty of Merchantability**

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

##### **(b) Warranty of fitness for a particular purpose**

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

##### **(c) Warranty of title**

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

#### **2.176 Consequences For Breach**

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

#### **2.180 Insurance**

#### **2.181 Liability Insurance**

##### **(a) Liability Insurance**

The Contractor is required to provide proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage shall be to protect the State from claims which may arise out of or



result from the Contractor’s performance of services under the terms of this Contract, whether such services are performed by the Contractor, or by any subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

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

All insurance coverage’s 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 coverage’s 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 insured under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer’s attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

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

2.190 Indemnification

**2.191 Indemnification**

(a) General Indemnification

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

(b) Code Indemnification

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

(c) Employee Indemnification

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

(d) Patent/Copyright Infringement Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys’ fees and costs of investigation, litigation, settlement, judgments, interest and penalties)



incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its subcontractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States.

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

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

## **2.192 Continuation of Indemnification Obligations**

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

## **2.193 Indemnification Procedures**

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

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

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



Contractor’s financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State of Michigan, or any of its subdivisions pursuant to this Section, must be coordinated with the Department of Attorney General. In the event the insurer’s attorney represents the State pursuant to this Section, the insurer’s attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

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

2.200 Limits of Liability and Excusable Failure

**2.201 Limits of Liability**

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

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

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

**2.202 Excusable Failure**

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

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



If any of the above-enumerated circumstances substantially prevent, hinder, or delay Contractor's performance of the Services/provision of Deliverables for more than ten (10) Business Days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected Services/Deliverables from an alternate source, and the State shall not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in performance shall continue; (b) the State may terminate any portion of the Contract so affected and the charges payable there under shall be equitably adjusted to reflect those Services/Deliverables terminated; or (c) the State may terminate the affected Statement of Work without liability to Contractor as of a date specified by the State in a written notice of termination to Contractor, except to the extent that the State shall pay for Services/Deliverables provided through the date of termination. Contractor will not have the right to any additional payments from the State as a result of any Excusable Failure occurrence or to payments for Services not rendered/Deliverables not provided as a result of the Excusable Failure condition. Defaults or delays in performance by Contractor which are caused by acts or omissions of its Subcontractors will not relieve Contractor of its obligations under the Contract except to the extent that a Subcontractor is itself subject to an Excusable Failure condition described above and Contractor cannot reasonably circumvent the effect of the Subcontractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

### **2.203 Disaster Recovery**

Contractor and the State recognize that the State provides essential services in times of natural or man-made disasters. Therefore, except as so mandated by Federal disaster response requirements, Contractor personnel dedicated to providing Services/Deliverables under this Contract will provide the State with priority service for repair and work around in the event of a natural or manmade disaster.

#### **2.210 Termination/Cancellation by the State**

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

#### **2.211 Termination for Cause**

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

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

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

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



date, and the rights and obligations of the parties shall be limited to that otherwise provided in this Contract for a termination for convenience.

### **2.212 Termination for Convenience**

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

### **2.213 Non-Appropriation**

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

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

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

### **2.214 Criminal Conviction**

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

### **2.215 Approvals Rescinded**

The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, § 5, and Civil Service Rule 7-1.



Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in such written notice.

## **2.216 Rights and Obligations Upon Termination**

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

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

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

## **2.217 Reservation of Rights**

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

## **2.218 Contractor Transition Responsibilities**

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

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

(b) Information - The Contractor agrees to provide reasonable detailed specifications for all Services/Deliverables needed by the State, or specified third party, to properly provide the



Services/Deliverables required under this Contract. The Contractor will provide the State with asset management data generated from the inception of this Contract through the date on which this Contractor is terminated in a comma-delineated format unless otherwise requested by the State. The Contractor will deliver to the State any remaining owed reports and documentation still in Contractor's possession subject to appropriate payment by the State.

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

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

**2.219 State Transition Responsibilities**

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

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

**2.220 Termination by Contractor**

**2.221 Termination by Contractor**

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

**2.230 Stop Work**

**2.231 Stop Work Orders**

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

**2.232 Cancellation or Expiration of Stop Work Order**

If a stop work order issued under this **Section 2.230** is canceled or the period of the stop work order or any extension thereof expires, Contractor shall resume work. The parties shall agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if: (a) the stop work order results in an increase in the time required for, or in Contractor's costs properly allocable to, the performance of any part of the Contract; and (b)



Contractor asserts its right to an equitable adjustment within thirty (30) calendar days after the end of the period of work stoppage; provided that, if the State decides the facts justify the action, the State may receive and act upon a Contractor proposal submitted at any time before final payment under the Contract. Any adjustment will conform to the requirements of **Section 2.106**.

### **2.233 Allowance of Contractor Costs**

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

#### 2.240 Reserved

#### 2.250 Dispute Resolution

### **2.251 In General**

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

### **2.252 Informal Dispute Resolution**

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

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

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

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

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

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

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



### **2.253 Injunctive Relief**

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

### **2.254 Continued Performance**

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

### 2.260 Federal and State Contract Requirements

### **2.261 Nondiscrimination**

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

### **2.262 Unfair Labor Practices**

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

### **2.263 Workplace Safety and Discriminatory Harassment**

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

### 2.270 Litigation

### **2.271 Disclosure of Litigation**

(a) Disclosure. Contractor must disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each Subcontractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Contractor (and each Subcontractor) must notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions thereto, to which Contractor (or, to the extent Contractor is aware, any Subcontractor hereunder) is a party, and which involves: (i) disputes that might reasonably be expected to



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

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

- (i) the ability of Contractor (or a Subcontractor hereunder) to continue to perform this Contract in accordance with its terms and conditions, or
- (ii) whether Contractor (or a Subcontractor hereunder) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in such Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then Contractor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that:
  - (A) Contractor and/or its Subcontractors hereunder will be able to continue to perform this Contract and any Statements of Work in accordance with its terms and conditions, and
  - (B) Contractor and/or its Subcontractors hereunder have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in such Proceeding.

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

- (1) Within thirty (30) days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor shall notify the Office of Acquisition Services.
- (2) Contractor shall also notify the Office of Acquisition Services within thirty (30) days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.
- (3) Contractor shall also notify Acquisition Services within thirty (30) days whenever changes to company affiliations occur.

**2.272 Governing Law**

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

**2.273 Compliance with Laws**

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

**2.274 Jurisdiction**

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



## 2.280 Environmental Provision

### **2.281 Environmental Provision**

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

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

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

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

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

## 2.290 General

### **2.291 Amendments**

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



### 2.292 Assignment

(a) Neither party shall have the right to assign the Contract, or to assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign the Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign the Contract to an affiliate so long as such affiliate is adequately capitalized and can provide adequate assurances that such affiliate can perform the Contract. Any purported assignment in violation of this Section shall be null and void. It is the policy of the State of Michigan to withhold consent from proposed assignments, subcontracts, or novations when such transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

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

### 2.293 Entire Contract; Order of Precedence

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

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

### 2.294 Headings

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

### 2.295 Relationship of the Parties (Independent Contractor Relationship)

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

### 2.296 Notices

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

State:

State of Michigan  
Office of Acquisition Services  
Attention: Joann Klasko  
PO Box 30026  
530 West Allegan  
Lansing, Michigan 48909



with a copy to:  
 State of Michigan  
 Department of Information Technology  
 Attention: Cindy Turben  
 525 W, Allegan  
 Constitution Hall, Atrium, South Tower  
 Lansing, Michigan 48909

Contractor(s):  
 Name  
 Address

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

(b) Binding Commitments

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

**2.297 Media Releases and Contract Distribution**

(a) Media Releases

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

(b) Contract Distribution

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

**2.298 Reformation and Severability**

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

**2.299 Consents and Approvals**

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

**2.300 No Waiver of Default**

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

**2.301 Survival**

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



### **2.302 Covenant of Good Faith**

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

### **2.303 Permits**

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

### **2.304 Website Incorporation**

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

### **2.305 Taxes**

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

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

### **2.306 Prevailing Wage**

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

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

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



### **2.307 Call Center Disclosure**

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

### **2.308 Future Bidding Preclusion**

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

*2.310 Reserved*

*2.320 Extended Purchasing*

### **2.321 MiDEAL**

Public Act 431 of 1984 permits DMB to provide purchasing services to any city, village, county, township, school district, intermediate school district, non-profit hospital, institution of higher education, community, or junior college. A current listing of approved program members is available at: <http://www.michigan.gov/doingbusiness/0,1607,7-146-6586-16656--,00.html>. Unless otherwise stated, it is the responsibility of the Contractor to ensure that the non-state agency is an authorized purchaser before extending the Contract pricing.

The Contractor will supply Contract Services and equipment at the established State of Michigan contract prices and terms to the extent applicable and where available. Inasmuch as these are non-state agencies, all invoices will be submitted to and payment remitted by the local unit of government on a direct and individual basis.

To the extent that authorized local units of government purchase quantities of Services and/or equipment under this Contract, the quantities of Services and/or equipment purchased will be included in determining the appropriate rate wherever tiered pricing based on quantity is provided.

### **2.322 Reserved**

*2.330 Federal Grant Requirements*

### **2.331 Federal Grant Requirements**

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

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



## 2.332 Additional Terms and Conditions

### FEDERAL HIGHWAY ADMINISTRATION (FHWA) ADHERANCE

The following clauses only apply when issued contracts are funded, partially or fully, by the Federal Highway Administration (FHWA). Bidders proposals will be rejected if the Bidder will not accept Contracts funded by the FHWA.

1. The Contractor's signature on this contract constitutes the Contractor's certification of "status" under penalty of perjury under the laws of the United States in respect to 49 CFR Part 29 pursuant to Executive Order 12549.

The certification, which is included as a part of this Contract as Attachment "A", is Appendix A\* of 49 CFR part 29, and applies to the Contractor (referred to in Appendix A\* as 'the prospective primary participant').

The Contractor is responsible for obtaining the same certification from all subcontractors under this Contract by inserting the following paragraph in all subcontracts:

"The subcontractor's signature on the Contract constitutes the subcontractor's certification of 'status' under penalty of perjury under the laws of the United States in respect to 49 CFR part 29 pursuant to Executive Order 12549. The certification, which is included as a part of this Contract as Attachment 'B' is Appendix B of 49 CFR Part 29."

This certification is required of all subcontractors, testing laboratories, and other lower tier participants that the contractor enters into a written arrangement for the procurement of goods or services provided for in a contract.

2. For Contracts in excess of One Hundred Thousand Dollars (\$100,000):
  - a. The Contractor stipulates that any facility to be utilized in the performance of this Contract, unless such Contract is exempt under the Clean Air Act, as amended (42 U.S.C. 7401 et seq., as amended including Pub L. 101-549), and under the Clean Water Act, as amended (33 U.S.C. 1251 et seq., as amended, including Pub. L. 100-4), Executive Order 11738, and regulations in implementation thereof (40 CRF Part 15), is not listed, on; the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities Pursuant to 40 CFR 15.20.
  - b. The Contractor agrees to comply with all the requirements of the Clean Air Act and the Clean Water Act and all regulations and guidelines listed there under related to Contractor and Services under this contract.
  - c. The Contractor shall promptly notify the Department and the U.S. EPA Assistant Administrator for Enforcement of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility to be utilized for this Contract is under consideration to be listed on the EPA List of Violating Facilities.
  - d. The Contractor agrees to include or cause to be included the requirements if the preceding three paragraphs (a), (b), and (c), in every nonexempt subcontract.
3. The Contractor shall agree that no otherwise qualified handicapped individual in the United States, as defined in Section 1630.2 Americans with Disabilities Act, Title 42, USC 1201, shall solely by reason of their handicap, be excluded from the participation in, be denied the benefits



of, or be subjected to discrimination under any program or activity receiving benefits under this Agreement.

Information regarding 49 CFR part 29 can be found @

[http://straylight.law.cornell.edu/uscode/html/uscode31/usc\\_sec\\_31\\_00001352----000-.html](http://straylight.law.cornell.edu/uscode/html/uscode31/usc_sec_31_00001352----000-.html)

[http://www.archives.gov/federal\\_register/codification/executive\\_order/12549.html](http://www.archives.gov/federal_register/codification/executive_order/12549.html)

[http://www.archives.gov/federal\\_register/executive\\_orders/pdf/12869.pdf](http://www.archives.gov/federal_register/executive_orders/pdf/12869.pdf)

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



**Attachment A – Resumes – Actual and Representative**

**Four (4) Expert Technical Writers (Two Actual/Two Representative)**

The contractor will provide two Actual Expert Technical Writer and two Representative Expert Technical Writer Resumes for the contract.. These Expert Technical Writers are:

- 1. Laura McDonough - Actual
- 2. Nathan Walworth - Actual
- 3. Laurie Pietravallo – Representative
- 4. Becky Scott – Representative

Resumes for the contract - Expert Technical Writer – follow.

**Laura McDonough– Actual EXPERT TECHNICAL WRITER**

**PROFESSIONAL EXPERIENCE SUMMARY – Expert Technical Writer**

SKILL/KNOWLEDGE	RFP Skills Required (Years)	Candidate Experience
Experience creating *complex documents in Microsoft Word (i.g. master/sub document/ template development, table of contents, index and cross-referencing processes, hypertext development, graphics handling) and a knowledge of direct macro programming, including dialog box development.	5	6
Experience using advanced features to create graphic images in *complex create graphic images in *complex documents with the following programs: Microsoft PowerPoint version 4.0, Visio version 3.0, Snagit version 3.2, Paintbrush current version. (or more current version of the above software)	5	22
Experience working in a network environment with multiple operating systems and Novell Netware.	3	6
Experience in IT technical writing creating reference, training, and technical documentation, and end user support materials.	5	22
Experience creating custom documentation, in a client/server or web based environment including interactions with multiple stakeholders, such as system users, administrators, analysts, programmers, and development managers.	5	20
Experience working with database applications.	3	22
Experience creating training curriculum and materials, including outlines, flowcharts, diagrams and general reference material, for advanced technical training in, and in the delivery of advanced technical training client-server or web-based applications.	5	16
Experience in designing and creating electronic on-line help systems.	3	6
Experience in classroom training on the proper, efficient, and effective use computer systems and applications.	5	16



**PROJECT EXPERIENCE DETAIL (Completed Last 3 Years)**

Project Name	Traffic Crash Reporting System
Project Start and End Dates	May 2003 to March 2005 (Phase 1 to 3)
Project Budget	\$41,876
Project Summary (Overall Project Description)	<p>The Traffic Crash Reporting System (TCRS) is a computer software application that collects vehicle crash data from all parts of Michigan. The primary objective of TCRS is to provide crash information that is accurate, complete, and detailed, in a timely manner. TCRS is used by several State departments, including:</p> <ul style="list-style-type: none"> <li>▪ The Michigan Department of Transportation (MDOT),</li> <li>▪ The Michigan State Police (MSP), and</li> <li>▪ The Michigan Department of State (MDOS).</li> </ul> <p>There are two versions of TCRS:</p> <ul style="list-style-type: none"> <li>▪ A client/server version. This version is used by State employees in the MDOS, MSP, and MDOT departments.</li> <li>▪ A Web version. This version is used by State employees and by local law enforcement agencies.</li> </ul>
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	<p>The technical writer was responsible for creating a user guide and context sensitive online help. This included working with the development team to understand how the software worked, and working with the business area to understand the processes automated by the software.</p>

Project Name	Maintenance Activity Reporting System
Project Start and End Dates	October 2004 to June 2006
Project Budget	\$11,552
Project Summary (Overall Project Description)	<p>The Maintenance Activity Reporting System (MARS) is a complete set of tools used to plan, schedule, measure and report the costs and accomplishment of highway maintenance work. The data that is gathered, stored and reported on in MARS is used for planning purposes, or it can form the basis for requests for funding to meet our road and bridge maintenance needs. The data helps provide detailed explanations of highway maintenance activities for both the public and the state legislature.</p>
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	<p>The technical writer created a series of manuals for the MARS package of software tools:</p> <ul style="list-style-type: none"> <li>▪ A user guide for the Excel spreadsheet used to plan and budget highway maintenance activities performed by state employees</li> <li>▪ A user guide for the Excel spreadsheet used to plan and budget highway maintenance activities performed by local agencies (e.g. county road commissions, cities, townships)</li> <li>▪ A user guide for entering maintenance-related information in DCDS, the state of Michigan's Data Collection and Distribution System. Highway maintenance accomplishment data is stored in DCDS, along with employee hours, leave, and equipment</li> </ul>



	<p>usage.</p> <ul style="list-style-type: none"> <li>▪ All manuals were converted to PDF files; links and/or bookmarks were added to provide easy navigation. All manuals were posted on the intranet.</li> </ul> <p>This included working with the development team to understand how the software worked, and working with the business area to understand the processes automated by the software.</p>
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Project Name	WebFANCY
Project Start and End Dates	March 2003 to July 2003
Project Budget	\$7,500
Project Summary (Overall Project Description)	WebFANCY is a web-based financial reporting system. It was developed for, and is used by, employees at the Michigan Department of Transportation (MDOT). WebFANCY is used to create a wide variety of financial reports with varying levels of expenditure and budget detail.
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	The technical writer created a user manual and a system administration manual. This included working with the development team to understand how the software worked, and working with the business area to understand the processes automated by the software. In addition, the manuals were converted to PDF files and links and/or bookmarks were added to provide easy navigation. The manuals were posted on the intranet.

**EDUCATION AND TRAINING**

<b>Education</b>	
Degree	Bachelor of Science (Cum Laude)
Program	Education
University	Michigan State University

<b>Technical or Professional Training</b>	
Course Name	Information Mapping
Topic	Information Mapping
Date taken	2000
Course Name	Database Management
Topic	Database Management
Date taken	1988

**Nathan Walworth – Actual EXPERT TECHNICAL WRITER**

**PROFESSIONAL EXPERIENCE SUMMARY – Expert Technical Writer**

SKILL/KNOWLEDGE	RFP Skills Required (Years)	Candidate Experience
Experience creating *complex documents in Microsoft Word (i.g. master/sub document/ template development, table of contents, index and cross-referencing processes, hypertext development, graphics handling) and a knowledge of direct	5	7



macro programming, including dialog box development.		
Experience using advanced features to create graphic images in *complex create graphic images in *complex documents with the following programs: Microsoft PowerPoint version 4.0, Visio version 3.0, Snagit version 3.2, Paintbrush current version. (or more current version of the above software)	5	7
Experience working in a network environment with multiple operating systems and Novell Netware.	3	9
Experience in IT technical writing creating reference, training, and technical documentation, and end user support materials.	5	5
Experience creating custom documentation, in a client/server or web based environment including interactions with multiple stakeholders, such as system users, administrators, analysts, programmers, and development managers.	5	3
Experience working with database applications.	3	9
Experience creating training curriculum and materials, including outlines, flowcharts, diagrams and general reference material, for advanced technical training in, and in the delivery of advanced technical training client-server or web-based applications.	5	4
Experience in designing and creating electronic on-line help systems.	3	3
Experience in classroom training on the proper, efficient, and effective use computer systems and applications.	5	10

**PROJECT EXPERIENCE DETAIL (Completed Last 3 Years)**

Project Name	EDMS FileNet Real Estate Workflow
Project Start and End Dates	August 2004 to June 2006
Project Budget	\$19,638
Project Summary (Overall Project Description)	The Electronic Document Management System, Real Estate Workflow Project (EDMS RE) was undertaken to automate the engineering review required for the sale of excess property by the Michigan Department of Transportation (MDOT). By converting a complex manual paper process into a fully electronic workflow using off-the-shelf document management software MDOT is saving time and money while eliminating errors. This project is paving the way for similar conversions and greater savings throughout the department.
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	Worked with technical & business project managers, lead support person, and users to deliver and/or assist in delivery of: <ul style="list-style-type: none"> <li>• Survey questions</li> <li>• User Acceptance Testing (UAT)</li> <li>• Training of statewide Real Estate users</li> </ul>



	Primary responsibility for delivery of: <ul style="list-style-type: none"> <li>• Comprehensive Workflow Manual</li> <li>• Role-based training/reference guides</li> <li>• Project Award Case Study</li> </ul>
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Project Name	MDOT Strategic Plan
Project Start and End Dates	January 2005 to April 2007
Project Budget	\$19,816
Project Summary (Overall Project Description)	The aim of the Strategic Plan is to provide both high-level visionary guidance and practical proactive direction for the Michigan Department of Transportation as it plans, develops and implements an enhanced and integrated transportation system over the next several years. The intention is that MDOT, by working with collaborative partners to identify, develop, and deploy appropriate tools and methods, would be a globally-recognized leader in leveraging innovative strategies and technologies to maximize the safety and efficiency of the transportation system for the ultimate benefit of all.
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	Detailed documentation of session discussions  Team reports as needed (including timelines, process diagrams, session synopses, introductory and explanatory material): <ul style="list-style-type: none"> <li>• Session content reports to design team and other team members</li> <li>• Interim Report to MDOT Leadership Team</li> <li>• Final report to Executive 5</li> <li>• Final report to Leadership team</li> <li>• Comprehensive “White Paper” report to implementation coordination team</li> </ul>

Project Name	MAP Project Information System (MPINS)
Project Start and End Dates	April 2005 to June 2006
Project Budget	\$32,061
Project Summary (Overall Project Description)	MPINS enables electronic management of jobs and tasks from concept to completion, including: creating/submitting concepts, creating/submitting job and phase changes, and reviewing/approving job adds and job changes. MPINS provides crucial functionality that is central to MDOT’s core operational activities.
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	Worked with Technical & Business Project managers, developers, and users to deliver and/or assist in delivery of: <ul style="list-style-type: none"> <li>• Comprehensive user manual</li> <li>• Programming guides</li> <li>• Training of statewide users</li> <li>• Newsletters</li> <li>• Web site content management</li> </ul>



	<ul style="list-style-type: none"> <li>Documentation and reporting of User Requirement Session</li> </ul>
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**EDUCATION AND TRAINING**

Education	
Degree	Bachelor of Arts
Program	Education
University	Siena Heights College

**Laurie Pietravalle – Representative EXPERT TECHNICAL WRITER**

**PROFESSIONAL EXPERIENCE SUMMARY – Expert Technical Writer**

SKILL/KNOWLEDGE	RFP Skills Required (Years)	Candidate Experience
Experience creating *complex documents in Microsoft Word (i.g. master/sub document/ template development, table of contents, index and cross-referencing processes, hypertext development, graphics handling) and a knowledge of direct macro programming, including dialog box development.	5	9
Experience using advanced features to create graphic images in *complex create graphic images in *complex documents with the following programs: Microsoft PowerPoint version 4.0, Visio version 3.0, Snagit version 3.2, Paintbrush current version. (or more current version of the above software)	5	5
Experience working in a network environment with multiple operating systems and Novell Netware.	3	15
Experience in IT technical writing creating reference, training, and technical documentation, and end user support materials.	5	9
Experience creating custom documentation, in a client/server or web based environment including interactions with multiple stakeholders, such as system users, administrators, analysts, programmers, and development managers.	5	4
Experience working with database applications.	3	5
Experience creating training curriculum and materials, including outlines, flowcharts, diagrams and general reference material, for advanced technical training in, and in the delivery of advanced technical training client-server or web-based applications.	5	8
Experience in designing and creating electronic on-line help systems.	3	5
Experience in classroom training on the proper, efficient, and effective use computer systems and applications.	5	11



**PROJECT EXPERIENCE DETAIL (Completed Last 3 Years)**

Project Name	Local Agency Payment System (LAPS), MDOT
Project Start and End Dates	October 2005 to June 2006
Project Budget	\$16,093
Project Summary (Overall Project Description)	This system streamlines the payment process for local agency maintenance contracts by collecting routine and non-routine bills submitted by local contract agencies, validating billing transactions against MDOT data, assisting in the review and approval.
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	Reformat, restructure, update, edit grammar and procedure, new screenshots using Snag-it user documentation in Quick Read template (Word) and PDF. Work done with no edits or recommendations submitted, PM edited document after final draft document submitted. Review of application and a preliminary review before project began.

Project Name	RTCOS, MDOT
Project Start and End Dates	March 2005 to May 2006
Project Budget	\$25,758
Project Summary (Overall Project Description)	Re-hosting the Traffic Control System
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	<p>Part one user manual complete, and partially revised with new changes.</p> <p>Part two entails creating new documentation, training and documenting process. Usability and Testing, interviews (for information on business process), Quick Reference Guides.</p> <p>Create user documentation and procedural (process) documentation for new web-based application. Use Work, snag-it, Acrobat for PDF final document. Work with Business owners, Super Users, Developer to create user documentation and process. Active role in testing and usability. Training. Work directly with Business owner and developer and super users.</p>

Project Name	Act 51 County Reporting System
Project Start and End Dates	October 2005 to March 2006
Project Budget	\$8,007
Project Summary (Overall Project Description)	Michigan Public Act 51 of 1997 requires County Road Commissions to submit annual financial reports to MDOT and they are due May 2 each year. To assist counties in complying with the requirement, MDOT has provided free software to the counties - the Act 51 County Reporting



	System.
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	Responsible for User Guide and Administrative manual. Reformat, update, edit grammar and structure, new screenshots using Snag-it user documentation in Quick Read template (word) and PDF. Recommendation to use format done on MARS project and TCO – PDF file accepted. PM supplied suggested edits and notes on procedural changes.

**EDUCATION AND TRAINING**

Education	
Degree	Bachelor of Science
Program	
University	University of Connecticut

Technical or Professional Training	
Course Name	HTML Coding
Topic	HTML Coding
Date taken	2000
Course Name	Instructional Design, Training and Development
Topic	Instructional Design, Training and Development
Date taken	2002

**Becky Scott – Representative EXPERT TECHNICAL WRITER**

**PROFESSIONAL EXPERIENCE SUMMARY – Expert Technical Writer**

SKILL/KNOWLEDGE	RFP Skills Required (Years)	Candidate Experience
Experience creating *complex documents in Microsoft Word (i.g. master/sub document/ template development, table of contents, index and cross-referencing processes, hypertext development, graphics handling) and a knowledge of direct macro programming, including dialog box development.	5	15
Experience using advanced features to create graphic images in *complex create graphic images in *complex documents with the following programs: Microsoft PowerPoint version 4.0, Visio version 3.0, Snagit version 3.2, Paintbrush current version. (or more current version of the above software)	5	15
Experience working in a network environment with multiple operating systems and Novell Netware.	3	15
Experience in IT technical writing creating reference, training, and technical documentation, and end user support materials.	5	20
Experience creating custom documentation, in a client/server or web based environment including interactions with multiple stakeholders, such as system users, administrators, analysts, programmers, and development managers.	5	15



Experience working with database applications.	3	20
Experience creating training curriculum and materials, including outlines, flowcharts, diagrams and general reference material, for advanced technical training in, and in the delivery of advanced technical training client-server or web-based applications.	5	10
Experience in designing and creating electronic on-line help systems.	3	10
Experience in classroom training on the proper, efficient, and effective use computer systems and applications.	5	1

**PROJECT EXPERIENCE DETAIL (Completed Last 3 Years)**

Project Name	Anderson Economic Group
Project Start and End Dates	March 2004 through September 2004 (part-time); update in October 2005
Project Budget	\$8,000
Project Summary (Overall Project Description)	Create and update an automatically generated book
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	Starting from Excel and Access files, write XSLT scripts to transform exported data into a format that could be opened in an Adobe FrameMaker file. Design the FrameMaker template and prepare the FrameMaker EDD and RW files to enable the data to be correctly imported into FrameMaker. Update the book design as categories of data are changed and/or added. Create a user guide to show client how to set up the system template on the client's computer, and how to initiate the export/import data process.

Project Name	Robert Half International
Project Start and End Dates	April 2005 through July 2005
Project Budget	\$10,000
Project Summary (Overall Project Description)	Document a website company
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	Document the computer structure, code, and clients of a website company that was relocating and replacing key programmers. Use an intranet Wiki site to collect input from the programmers and create a software development kit (SDK). Candidate created an outline for the data and a schedule for information input. Candidate also authored information based on programmer interviews. Project was completed to client satisfaction early and under budget.



Project Name	Custom Business Solutions
Project Start and End Dates	September 2004 through December 2004
Project Budget	\$15,000
Project Summary (Overall Project Description)	Document an online health enrollment system
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	Create an administrator manual and employee cheat sheet for an online health enrollment system. Candidate learned how to use the system through trial and by studying a reference manual. Project was completed on time and within budget.

**EDUCATION AND TRAINING**

<b>Education</b>	
Degree	Bachelor of Arts; Bachelor of Science
Program	Journalism; Engineering Arts
University	Michigan State University

<b>Technical or Professional Training</b>	
Course Name	Advanced XML and XSLT,
Topic	XML and XSLT
Date taken	May 2004

Course Name	XML and FrameMaker
Topic	XML and FrameMaker
Date taken	March 2004

**Three (3) Technical Writer Resumes (Two Actual/One Representative)**

The contractor is providing two Actual Technical Writer and one Representative Technical Writer Resumes in response to the contract. These Technical Writers are:

1. Lori Chapman - Actual
2. Leslie Dunham – Actual
3. Sharon Martin – Representative

Resumes for the 3 Technical Writer – Resume Template” follow.



**Lori Chapman – Actual JUNIOR TECHNICAL WRITER**

**PROFESSIONAL EXPERIENCE SUMMARY – Technical Writer**

SKILL/KNOWLEDGE	RFP Skills Required (Years)	Candidate Experience
Experience creating *complex documents in Microsoft Word (i.g. master/sub document/ template development, table of contents, index and cross-referencing processes, hypertext development, graphics handling) and a knowledge of direct macro programming, including dialog box development.	2	1
Experience using advanced features to create graphic images in *complex create graphic images in *complex documents with the following programs: Microsoft PowerPoint version 4.0, Visio version 3.0, Snagit version 3.2, Paintbrush current version. (or more current version of the above software)	2	3
Experience working in a network environment with multiple operating systems and Novell Netware.	2	5
Experience in IT technical writing creating reference, training, and technical documentation, and end user support materials.	2	4
Experience creating custom documentation, in a client/server or web based environment including interactions with multiple stakeholders, such as system users, administrators, analysts, programmers, and development managers.	2	2
Experience working with database applications.	2	3
Experience creating training curriculum and materials, including outlines, flowcharts, diagrams and general reference material, for advanced technical training in, and in the delivery of advanced technical training client-server or web-based applications.	2	3
Experience in designing and creating electronic on-line help systems.	1	0
Experience in classroom training on the proper, efficient, and effective use computer systems and applications.	2	4

**PROJECT EXPERIENCE DETAIL (Completed Last 3 Years)**

Project Name	Peer Assisted Study Sessions (PASS) – Learning Support Office, Lansing Community College
Project Start and End Dates	December 2003 to June 2005
Project Budget	Unknown
Project Summary (Overall Project Description)	Train IT students to perform group study sessions using collaborative learning techniques.



Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	Leader – Coordinator <ul style="list-style-type: none"> <li>• Find, train, maintain leaders</li> <li>• Create and maintain database</li> <li>• Develop and implement an exemplary and comprehensive Supplemental Instruction program for Information Technology courses</li> <li>• Create web helps</li> <li>• Report to Perkins Grant Committee</li> </ul>
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Project Name	Advanced Technology Institute – Lansing Community College
Project Start and End Dates	May 2004 to December 2005
Project Budget	Unknown
Project Summary (Overall Project Description)	Create programs for “at risk” students who are interested in studying IT as a curriculum.
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	Responsible for developing and executing new program at LCC with students, faculty, dean and technicians. <ul style="list-style-type: none"> <li>• Recruitment of students</li> <li>• Tutor Coordinator</li> <li>• Development of tutoring curriculum</li> <li>• Faculty support for creating online instruction (in Camtasia)</li> </ul>

Project Name	Delta Township District Library IT Education
Project Start and End Dates	May 1998 to October 2002
Project Budget	Unknown
Project Summary (Overall Project Description)	Creation and delivery of computer classes to library patrons.
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	<ul style="list-style-type: none"> <li>• Develop and provide computer classes on a variety of subjects</li> <li>• Produced training materials and in-library help materials</li> <li>• Train the Trainer activities for SIRSI automated check out system</li> </ul>

**EDUCATION AND TRAINING**

<b>Education</b>	
Degree	Associates Degree
Program	Computer Support Specialist
University	Lansing Community College

<b>Technical or Professional Training</b>	
Course Name	Transforming Learning Through Teaching
Topic	Adult Learning
Date taken	Spring 2005



**Leslie Dunham – Actual JUNIOR TECHNICAL WRITER**

**PROFESSIONAL EXPERIENCE SUMMARY – Technical Writer**

SKILL/KNOWLEDGE	RFP Skills Required (Years)	Candidate Experience
Experience creating *complex documents in Microsoft Word (i.g. master/sub document/ template development, table of contents, index and cross-referencing processes, hypertext development, graphics handling) and a knowledge of direct macro programming, including dialog box development.	2	6
Experience using advanced features to create graphic images in *complex create graphic images in *complex documents with the following programs: Microsoft PowerPoint version 4.0, Visio version 3.0, Snagit version 3.2, Paintbrush current version. (or more current version of the above software)	2	5
Experience working in a network environment with multiple operating systems and Novell Netware.	2	5
Experience in IT technical writing creating reference, training, and technical documentation, and end user support materials.	2	8
Experience creating custom documentation, in a client/server or web based environment including interactions with multiple stakeholders, such as system users, administrators, analysts, programmers, and development managers.	2	5
Experience working with database applications.	2	4
Experience creating training curriculum and materials, including outlines, flowcharts, diagrams and general reference material, for advanced technical training in, and in the delivery of advanced technical training client-server or web-based applications.	2	4
Experience in designing and creating electronic on-line help systems.	1	3
Experience in classroom training on the proper, efficient, and effective use computer systems and applications.	2	9

**PROJECT EXPERIENCE DETAIL (Completed Last 3 Years)**

Project Name	MiCSES Instructor/Site Support
Project Start and End Dates	December 2002 to June 2003
Project Budget	Unknown
Project Summary (Overall Project Description)	Implementation, Training and Support of Statewide, centralized Child Support system



Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	<ul style="list-style-type: none"> <li>• Created learning strategies and new business practices</li> <li>• Performed and documented gap analysis</li> <li>• Trained and supported county FOC government offices throughout Michigan</li> </ul>
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Project Name	Technology Instructor
Project Start and End Dates	September 2002 to November 2004
Project Budget	Unknown
Project Summary (Overall Project Description)	Technology Instructor
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	Responsible for the development and delivery of Web Design/Internet, business and Microsoft Office classes.

Project Name	Global Crossing/Frontier Communications
Project Start and End Dates	May 1999 to September 2001
Project Budget	Unknown
Project Summary (Overall Project Description)	Technical Process Training and Lead Educator
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	<ul style="list-style-type: none"> <li>• Developed and presented IT and Business process classes</li> <li>• Processed needs/gap analysis and wrote technical documentation such as User manuals, job aides, policies and procedures</li> <li>• Created web site design and development functions</li> </ul>

**EDUCATION AND TRAINING**

<b>Education</b>	
Degree	Bachelor of Science
Program	Information Systems/Human Resource Management
University	Rochville University

Degree	Associates Degree
Topic	Project Management
University	Rochville University

<b>Technical or Professional Training</b>	
Course Name	Training Manager/Instructional Designer/Developer Professional Certification
Topic	Training Manager/Instructional Designer/Developer
Date taken	2004

**Sharon Martin Representative JUNIOR TECHNICAL WRITER**

**PROFESSIONAL EXPERIENCE SUMMARY – Technical Writer**

SKILL/KNOWLEDGE	RFP Skills Required (Years)	Candidate Experience
Experience creating *complex documents in Microsoft Word (i.g. master/sub document/ template development, table of contents, index and cross-referencing processes, hypertext development, graphics handling) and a knowledge of direct macro programming, including dialog box development.	2	4
Experience using advanced features to create graphic images in *complex create graphic images in *complex documents with the following programs: Microsoft PowerPoint version 4.0, Visio version 3.0, Snagit version 3.2, Paintbrush current version. (or more current version of the above software)	2	2
Experience working in a network environment with multiple operating systems and Novell Netware.	2	9
Experience in IT technical writing creating reference, training, and technical documentation, and end user support materials.	2	4
Experience creating custom documentation, in a client/server or web based environment including interactions with multiple stakeholders, such as system users, administrators, analysts, programmers, and development managers.	2	4
Experience working with database applications.	2	5
Experience creating training curriculum and materials, including outlines, flowcharts, diagrams and general reference material, for advanced technical training in, and in the delivery of advanced technical training client-server or web-based applications.	2	4
Experience in designing and creating electronic on-line help systems.	1	2
Experience in classroom training on the proper, efficient, and effective use computer systems and applications.	2	0

**PROJECT EXPERIENCE DETAIL (Completed Last 3 Years)**

Project Name	Daimler Chrysler Learning Management System (LMS)
Project Start and End Dates	January 2004 – December 2004
Project Budget	Unknown
Project Summary (Overall Project Description)	The Daimler Chrysler LMS was a complex system used to schedule and track employee training. Employees could use the system to view courses, schedule a course, and track their progress. They could also view certificate programs and which courses they needed to take to become certified in particular areas. Administrators could manage employees' records in the system and track their



	progress. There were many levels of administrators ("super" administrators, instructors, managers), each with access to different functions in the system.
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	Writer and editor for Help section, which was developed in RoboHelp; maintained French and Spanish versions of the Help section; also performed quality assurance testing of the system.

Project Name	Gillette Soft-Skills Online Training Course
Project Start and End Dates	September 2004 - November 2004
Project Budget	Unknown
Project Summary (Overall Project Description)	The Gillette soft-skills online training course consisted of seven modules that discussed topics such as managing change, employee motivation, and dealing with workplace challenges.
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	Editor for all seven modules of the course; also performed quality assurance testing on the course.

Project Name	Motorola Six Sigma Training Course
Project Start and End Dates	January 2003 – November 2003
Project Budget	Unknown
Project Summary (Overall Project Description)	The Six Sigma online course taught the complex Six Sigma quality process to Motorola employees. It explained how to analyze development processes and find and control defects to improve quality. It was an online version of the classroom course. Employees could take the online course at any time and refer to it as needed.
Specific Duties and Responsibilities (Candidates Role, Duties and Responsibilities Within Project)	Writer for two training modules within the entire course (which consisted of several modules); editor and quality assurance analyst for other modules; organized, wrote, and edited short supplemental modules for the primary course.

**EDUCATION AND TRAINING**

<b>Education</b>	
Degree	Bachelor of Arts, honors
Program	English
University	Michigan State University

<b>Technical or Professional Training</b>	
Course Name	Instructional Design Training – Novations Learning
Topic	Instructional Design
Date taken	June - August 2000



In addition to the Technical Writers asked for in this contract, STAFFING indicates that, “(E)mphasis will be placed upon the qualifications of Contractor’s Project Manager and the Manager’s dedicated management time as well as that of other key personnel working on this project.” The contractor will have a key management staff member overseeing the project and contract management of this project. Jennifer Hogan, MBA, will be the primary contact for the MDOT/MDIT Project Manager. Dedicated project management time is estimated at approximately twenty five percent. Ms. Hogan’s resume is presented with the chronological resumes for the Technical Writers in Appendix B.



*Jennifer L. Hogan*

**Project – Contracts Manager**

**Project Name:** MDOT IT Technical Documentation

**Contact Person:** Coleen Hines: 517-335-2464

**Project Description:**

During PTD’s tenure, our staff has worked on a number of IT technical documentation and training development and presentation of end-user training projects at the Michigan Department of Transportation (MDOT).

The results of PTD’s partnership with MDOT have been in the propagation of more streamlined, secure, error-free, time and cost effective methods and procedures than in the previous manual, paper-based procedures. Incorporating high level IT technical documentation into the information technology process has helped MDOT fully realize the potential and cost efficiencies of those systems.

**Duties and Responsibilities:**

Responsible for the project and contracts management for IT Technical Documentation contract. This encompasses meetings with project and management staff from MDOT and documentation analysts from PTD as needed to manage the project. In addition, responsible for matching appropriate PTD Technology candidates with MDOT needs. Also assists PTD’s customer service coordinator in providing customer follow up and support. Contracts management includes tracking resulting Statements of Work (SOW) and working with MDOT/MDIT contracts management staff.

**Project Name:** MiCSES

**Contact Person:** Geoff Ruonavaara: 517-241-9710

**Project Description:**

PTD Technology has supplied IT technical documentation, training and training development, systems development, testing, data center management and support services to the Michigan Child Support Enforcement System (MiCSES) since 1991. Currently, PTD staff is responsible for the preparation, design and development of electronic and hard copy training curriculum, policy and system documentation, reference materials, client specific exercises utilizing custom data models, courseware and tools for the MiCSES system. This includes the development and delivery of instructor-led, workshop and web-based training for end-users and internal staff of the MiCSES. Tools used include Microsoft Office Suite, Macromedia MX Suite (Dreamweaver, Fireworks, Flash), Robo Demo (Captivate), as well as Adobe Acrobat and HTML.

**Duties and Responsibilities:**

Responsible for the project and contracts management for IT staff performing services for MiCSES. This encompasses meetings with project and management staff from prime contractor and IT staff from PTD as needed to manage the project. In addition, responsible for matching appropriate PTD Technology candidates with MiCSES needs. Also assists PTD’s customer service coordinator in providing customer follow up and support. Contracts management includes tracking resulting Statements of Work (SOW) and master contract changes.

**CHRONOLOGICAL EXPERIENCE**

***PTD Technology***

***Projects – Contracts Manager***

*May 1996 to Present*

Responsible for implementing and maintaining policies and procedures, including employee recruitment, training and development. Responsible for managing off-site personnel, and maintaining relationships with clients.



Responsible for the project and contracts management for staff augmentation contracts. This encompasses meetings with project and management staff from off site contract clients and IT staff from PTD as needed to manage the project. In addition, responsible for matching appropriate PTD Technology candidates with client needs. Also assists PTD's customer service coordinator in providing customer follow up and support. Contracts management includes tracking resulting Statements of Work (SOW) and working with appropriate contracts management staff.

Responsible for the formulation of contracts, business partnerships, or other legal documents. Also review incoming contracts, or other legal documents.

As Vice President of Finance, responsible for financial management, tracking and reporting for the corporation, including management of investments, review, and financial reporting.

***Northern Virginia Community College  
Adjunct Faculty  
1995***

Responsible for the development of curriculum, quiz and testing materials. Taught Micro and Macro Economics.

***International Business Machines (IBM), Bethesda, Maryland  
Dealer Liaison  
1993 to 1994***

Initiated and maintained business relationships between IBM and local and national personal computer dealers.

***International Business Machines (IBM), Monterey, California  
Systems Engineer  
1991 to 1993***

Developed and implemented plans and solutions to customers. Provided guidance to customers through education, skills transfer and training assistance. Responsible for event planning for major launch of IBM software products. Liaison for IBM software product user groups in the Monterey area.

***International Business Machines (IBM), Columbia, South Carolina  
Marketing Representative  
1989 to 1991***

Analyzed business operations, identified opportunities, and marketed IBM solutions to a diverse, cross-industry customer set. Attended extensive IBM marketing and solution training, consistently performing the top 25%. Responsible for multi-million dollar territory.

***Michigan State Boundary Commission, State of Michigan  
Senior Analyst  
1985 to 1987***

Compiled and analyzed statistics and economic impact data for use at public hearings concerning statewide boundary disputes.

***Office of Systems and Computer Services, State of Michigan  
Analyst  
1985***

Documented computer programs and rewrote computer manuals. Worked with the Information Center to develop documentation standards.



EDUCATION

M.B.A., University of South Carolina  
B.A., Economics, Michigan State University

PROFESSIONAL  
TRAINING

Professional Qualifying Program. Certified Administrator  
of the Myers-Briggs Type Indicator (MBTI).  
IBM Sales School  
IBM Systems Engineer Program (AIX, TCP/IP, PC)