

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

October 16, 2007

CHANGE NOTICE NO. 1
TO
CONTRACT NO. 071B6200441
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR Maximus 13785 Piccard Drive, Suite 125 Rockville, MD 20850 <p style="text-align: right;">peterrelich@maximus.com</p>	TELEPHONE Peter Relich (909) 215-5855
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-7233 Joann Klasko
Contract Compliance Inspector: Mary Ladd <p style="text-align: center;">WIC IV&V Services - DIT/DCH</p>	
CONTRACT PERIOD From: September 30, 2006 To: September 29, 2009	
TERMS N/A	SHIPMENT N/A
F.O.B. N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	
MISCELLANEOUS INFORMATION:	

NATURE OF CHANGE (S):

Effective immediately, the contract incorporates the attached Deliverable Billing Schedule. All other pricing, specifications, terms and conditions remain the same.

AUTHORITY/REASON:

Per attached vendor letter dated 8/8/2007 and agency request.

TOTAL CONTRACT VALUE REMAINS: \$376,677.00

MAXIMUS[®]

HELPING GOVERNMENT SERVE THE PEOPLE[®]

August 8, 2007

Fenris Daniel
State of Michigan
Michigan Department of Community Health
320 S. Walnut, 6th Floor
Lansing, MI 48913

RE: MAXIMUS Billing Schedule

Dear Mr. Daniel:

This letter is to confirm that, per mutual agreement, MAXIMUS will bill the State of Michigan for services rendered under the above referenced contract per the following deliverable schedule

Deliverable	Billing Amount
MAXIMUS Deliverables	
Quality assurance management plan	1,857.00
Initial Risk management plan	1,813.00
Risk plan monthly report	29,999.00
Monthly Status Report	0.00
Written Assessment of 3 Sigma Deliverables	
Milestone 1 - Project oversight Plans Deliverables	
Detailed Project Plan	1,945.00
Electronic Project Library	951.00
Software Development Approach	1,415.00
Project Status Reports (weekly)	14,328.00
Milestone 2 - Planning deliverables	
Equipment/Technology Acquisition plan	800.00
Technical Architecture plan	800.00
Configuration plan	950.00
Staff training and knowledge transfer plan	950.00
Test plan	1,503.00
Data conversion plan	1,680.00
Application Turnover Plan	1,680.00
Milestone 3 - Application Design and development deliverables	
Application Design Development Plan	2,144.00
Technical Design	5,482.00
User Acceptance Test Cases	2,564.00
User Acceptance Testing	42,800.00
Training materials	1,150.00
Training Data	1,150.00
Online User Aids	752.00
Milestone 4 - Implementation Support Deliverables	
Data conversion	3,360.00
User Training	14,148.00
Post classroom Practice exercise	752.00

Pilot Review Report	906.00
Help Desk Support metrics	906.00
Pilot WIC application implementation	11,053.00
WIC application implementation	21,223.00
Milestone 5 - Turnover and Training deliverables	
Supplemental user acceptance cases	1,945.00
UAT evaluation and recommendations	3,404.00
USDA Audit Evaluation report	11,053.00
Training evaluation methodology	3,537.00
Training Evaluation	42,909.00
Pilot evaluation methodology	6,013.00
Pilot Evaluation Report	5,836.00
Other Work - Work elements not identified in original contract	
Participate in JADs and Review/ comment on JAD documentation (notes, RTM, etc.) - Total	
DUADM04Breast Pump	1,294.00
DUADM07Workflow Management	1,294.00
DUNPE05Communication Message Board	1,294.00
DUNPE09Local Agency Survey	1,294.00
DUPRK01Schedule Certification Appointment	1,294.00
DUPRK09Participant Search	1,294.00
DUPRK02Waiting List	1,294.00
DUPRK04Prior Enrollment and Dual Participation Check	1,294.00
DUEXI01Voter Registration	1,294.00
DUEXI02Immunization	1,294.00
DUPRK03Applicant Information (Demographics)	1,294.00
DUPRK11Transfer Participant	1,294.00
DUPRK14Proxy	1,294.00
DUPRK05Adjunct Eligibility	1,294.00
DUPRK06Income Eligibility	1,294.00
DUFBI01Food Package Assignment	1,294.00
DUNPE04Formulary	1,294.00
DUNUE01Nutrition Education	1,294.00
DUPRK08Dietary Assessment	1,294.00
DUEXI07Participant Notification	1,294.00
DUPRK10Verification of Certification	1,294.00
DUPRK12Participant Termination	1,294.00
DUADM02Referrals	1,294.00
DUADM03Outreach	1,294.00
DUPJF01Project FRESH	1,294.00
DUFBI02Electronics Benefits Transfer	1,294.00
DUFBI03UPC Database	1,294.00
DUNPE01Caseload Management	1,294.00
DUVMO01Vendor Application and Authorization Process	1,294.00
DUVMO02Vendor Training	1,294.00
DUVMO03Vendor Communications	1,294.00
DUVMO06Compliance Investigations and Sanctions	1,294.00
DUADM01Formula Manufacturer Rebates	1,294.00
DUADM06Participant Program Compliance	1,294.00
DUNPE07Quality Assurance ACME	1,294.00

DUNPE12Time Study	1,294.00	
DUPRK07Participant Nutrition and Health Characteristics	1,294.00	
DUEXI03MIHP Interface	1,322.00	
Total - JADS and Review Participation		49,200.00
Participate in TIMS, review and comment on output - Total		
PedNSS & PNSS (data extract)	1,200.00	
Participant characteristics (data extract)	1,200.00	
Stars (data extract)	1,200.00	
Formulary rebate file (data extract)	1,200.00	
GIS Maps	1,200.00	
DCH accounting (report)	1,200.00	
Mailing Services	1,200.00	
UPC Information (Fred's program, store system)	1,200.00	
EBT EFS host	1,200.00	
Licensing System (Dept of Ag.)	1,200.00	
Focus Hope (2 way file exchange)	1,200.00	
Other CSFP agencies (sub category of focus hope)	1,200.00	
MCIR	1,200.00	
WICHealth.org	1,200.00	
MAIN system (extract)	1,200.00	
Item age (project fresh)	1,200.00	
Bridges	1,200.00	
Champs	1,200.00	
MDCH Data Warehouse	1,200.00	
Reports	3,600.00	
Total - TIMS Participation		26,400.00
Participate in, monitor, and review data conversion planning.		9,819.00
Participate in project planning meetings and reviews		
Review system releases - Release 1		3,000.00
Review system releases - Release 2		3,000.00
Review system releases - Release 3		4,000.00
Review system releases - Release 4		4,000.00
Review system releases - Release 5		4,000.00
Review system releases - Release 6		4,000.00
Review system releases - Release 7		4,000.00
Review system releases - Release 8		3,000.00
Review system releases - Release 9		3,000.00
Review system releases - Release10		3,000.00
Assist, Review and monitor implementation planning and roll out		6,000.00
DIT implementation plan		2,000.00
Requirements Validation Trips		4,500.00
Total Billings		376,677.00

We are asking for your acknowledgement and agreement with our understanding through your signature below. Please feel free to contact me if you have any questions or concerns.

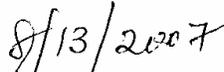
Respectfully,



Peter K. Relich,
Senior Vice President
peterrelich@maximus.com
11419 Sunset Hills Road
Reston, VA 20190
909.215.5855 (telephone)
703.251.8240 (fax)



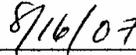
Project Manager Signature
Fenris Daniel



Date Signed



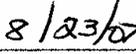
WIC Director Signature
Alethia Carr



Date Signed



MDIT Project Manager Signature
Linda Myers



Date Signed

STATE OF MICHIGAN
 DEPARTMENT OF MANAGEMENT AND BUDGET
 PURCHASING OPERATIONS
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October 20, 2006

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MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION:	

ESTIMATED CONTRACT VALUE: \$376,677.00

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MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>		
MISCELLANEOUS INFORMATION: 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: \$376,677.00		

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. 084R6200188.

FOR THE VENDOR:

Maximus
 Firm Name

 Authorized Agent Signature

 Authorized Agent (Print or Type)

 Date

FOR THE STATE:

 Signature
Greg Farmouth, Acting Director
 Name/Title
**Information Technology Division,
 Purchasing Operations**

 Division

 Date



STATE OF MICHIGAN
Department of Management and Budget
Purchasing Operations

Contract 071B6200441
Independent Validation and Verification Services for the
Women, Infants and Children (WIC) Information System

Buyer Name: Joann Klasko

Telephone Number: (517)241-7233

E-Mail Address: KlaskoJ@michigan.gov



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1.0 Project Identification

1.001 PROJECT REQUEST

The State of Michigan (State), through the Michigan Department of Community Health (MDCH), in coordination with the Michigan Department of Information Technology (MDIT), and with assistance of the Michigan Department of Management & Budget (MDMB), has issued this contract for the services of an Independent Validation and Verification (IV&V) Contractor to assist in project management, quality assurance, and monitoring activities necessary to complete the Women, Infants, & Children (WIC) Program System Replacement project.

The contract is a deliverables based, three (3) year contract with two (2) one year options to extend.

1.002 BACKGROUND

WIC is a health and nutrition program that has demonstrated a positive effect on pregnancy outcomes, infant feeding, child growth, and development. The United States Department of Agriculture (USDA) contracts with the Michigan Department of Community Health, to administer the WIC Program in Michigan. Department of Community Health contracts with local agencies to provide direct program services to the participants.

Benefits provided through the WIC Program to the participants include:

- Nutritious foods
- Nutrition education
- Breastfeeding promotion and education
- Adjunct health care and community resource referrals

Forty-nine agencies with 248 clinics serve approximately 226,000 participants in 83 counties via approximately 2000 WIC authorized retailers throughout the state. For more information on Michigan WIC, refer to the website www.michigan.gov/wic.

The current WIC System, the M-TRACX system, was a solution to the centralized data entry process of the 1980's. The system is not current with today's technology or with the workflow processes followed at most of the local agencies and clinics. The system functions as a data entry system with paper trails to manage the workflow. Extensive manual processes are done at the local agencies and clinics to maintain the participant chart and data. The cost of operation has increased over the years with no increase in service or program enhancements.

M-TRACX is housed on the BULL DPS 9000 mainframe system at the Michigan Information Processing Center (MIPC) in Lansing. Local Agencies, Clinics, and WIC staff operate the system through the GLINK interface provided by the State. The system has served Michigan WIC program for more than 15 years to capture participant data and issue benefits. M-TRACX allows online clinics to enroll participants online, issue automated coupons on demand, maintain participant health data, and has various inquiry options. The local agencies connect to the system utilizing a statewide data communication network. The system processes approximately 10 million WIC coupons per year (includes regular automated and manual WIC and Farmer's Market Nutrition Program [FMNP] coupons). Coupons are paid through the State's Treasury system MAIN. The WIC system, M-TRACX, was recently modified to handle online Electronic Benefits Transfer (EBT) transactions and redemption, being piloted in Jackson County. In addition to M-TRACX, local agencies can use Michigan Off-line Manual System (MOMS), an Access-based application, to produce manual coupons when access to the centralized server is not available.



The State has, through the RFP process, identified and will be contracting with an "Implementation Contractor" to transfer, convert, customize, and implement a web-based system currently in use to perform WIC business functions. The system will support Michigan WIC program areas including: income eligibility, adjunct eligibility, certification and enrollment, nutrition education, appointment scheduling, food package prescription, Electronic Benefits Transfer benefits issuance and redemption, coupon food instrument issuance and redemption, vendor authorization and monitoring, and program administration.

The Implementation Contractor's services are intended to begin in November 2006 with implementation of the system to be completed no later than 30 months after the contract start date. The contract would involve three phases:

Phase I: Design, Development, and Implementation (DDI) (Contract years 1 to 3)

Phase II: Transition (Contract years 3 to 4)

Phase III: Maintenance (Contract years 4 to 5)

The objectives for the Implementation Contractor include:

1. A scalable WIC Management Information System that is fully web-based using open architecture and a relational database management system.
2. A FRED¹-compliant system, which means:
 - a. Currently operational in another state and can be successfully audited by USDA.
 - b. Actually processes WIC participants, manages food issuance and redemption, and manages and determines vendor payments.
 - c. Compliant with Center for Disease Control and Prevention (CDC) recommended data edits and data elements for PedNSS and PNSS (Pediatric and Pregnancy Nutrition Surveillance System).
3. Conversion of all WIC data, not limited to current WIC system M-TRACX data and must interface with existing EBT processes.
4. Design, Development, and Implementation (DDI) of the system, project management and support services, including
 - a. Modification of the application to incorporate functionality required to support Michigan program requirements
 - b. Testing
 - c. Local agency and state program staff training
 - d. Technical knowledge transfer
 - e. Business process change management
 - f. Risk mitigation
 - g. Support and maintenance
 - h. System and process documentation
 - i. Data feeds to the MDCH data warehouse
 - j. Create the interfacing components in the transfer system and modify the transfer system to accomplish the identified business requirements
 - k. Interfaces with the EBT EFS Host to provide the information to enable the issuance and redemption of EBT WIC benefits.
5. Initial implementation (deployment) on a "Pilot" scale to minimally consist of two medium-sized local agencies in the vicinity of Lansing, Michigan.
 - a. The pilots will process all caseload previously handled by the current WIC system M-TRACX.
 - b. WIC clinic personnel will not update participant data in M-TRACX during (or after) the Pilot (i.e. not a parallel Pilot).
6. System Implementation

¹ Functional Requirements Document with Electronic Benefits Transfer



For the duration of Phases I and II of the Implementation Contractor services, the Independent Validation and Verification (IV&V) vendor will assist in project management, quality assurance, and monitoring activities. These activities would include, but are not limited to, project management, and reviewing project deliverables for correctness, consistency, testability and completeness. The IV&V Contractor will also support development of procedures, deliverable approval processes, quality assurance, requirements traceability, and assist in facilitation of State testing, including user acceptance.

The IV&V Vendor objectives are to:

- Provide independent, objective, vendor-neutral, third party review and analysis of the WIC System Replacement Project to
 - Facilitate early detection and correction of errors
 - Enhance management insight into process and product risk
- Assure accurate, complete and timely delivery of services for the WIC Management Information System Project
- Determine if the Project is on track to be completed within the estimated schedule and cost
- Determine the Project met identified requirements by providing the supporting evidence that the system/software provides the appropriate solution.

As further background information and to identify the tasks and deliverables the IV & V vendor will be expected to review and analyze, the WIC System Replacement Project contract.

The vendor is expected to follow State standards and guidelines. Specifically, the State's Project Management Methodology (PMM) must be followed. The PMM may be reviewed at www.michigan.gov/projectmanagement

1.1 Scope of Work and Deliverables

1.101 IN SCOPE

The contractor will validate that the work products developed by the Implementation Contractor meet the State's specified requirements and provide the identified functionality, including verification of the design and implementation of the WIC Management Information System (WIC MIS):

- Review, analyze and report on all deliverables from the Implementation Contractor including the suitability of the proposed deliverables and reports.
- Review Implementation Contractor documentation and work products to ensure that the plans follow State's documented standards, procedures, and guidelines and assure that they meet State's requirements.
- Participate in system development verification tasks as required by the State.
- Assist and review/monitor functional and acceptance testing, review and evaluate various test plans from the Implementation Contractor and the State, identify missing components, review and evaluate proposed test cases, and identify potential problems/associated costs and possible solutions/costs to apply those solutions.
- Develop additional User Acceptance Test cases as required by the State.
- Participate in User Acceptance Testing (UAT) as required by the State.
- Ensure validity and accuracy of test results.
- Perform issue write-up and resolution.
- Participate in verification of work products configurations as defined in the Configuration Management Plan.
- Participate in verification by evaluating processes and work products as defined in Quality Management Plan, as requested by the State, and as described in section 1.104.



- Participate in verification of risks, risks assessment and mitigation as defined in Risk Management Plan.
- Support the State during Pilot and Statewide implementation of the Michigan WIC system.
- Document recommendations and findings as needed; present to State Project Managers.
- Perform Risk Management.
- Track the disposition of prior findings, recommendations and identified deficiencies.
- The vendor will be responsible to ensure that the developed system is compliant with the audit requirements of USDA and the State for data origin, input controls, processing controls, output controls, application access controls, audit controls, and documentation to ensure authorized data is processed completely, accurately, and reliably.

1.102 OUT OF SCOPE

All Independent Verification and Validation (IV&V) activities will be limited to the WIC System Replacement Project. Issues related to current WIC systems and sub-systems are not part of this contract.

Acceptance and satisfaction that the WIC MIS meets the requirements of the end user is the responsibility of the WIC Implementation Contractor and the State of Michigan. The purchasing of equipment and software and hosting services are out of scope on this contract.

1.103 ENVIRONMENT

Overview of Existing State Operating Environments

The legacy core WIC system (M-TRACX) is written in COBOL operating on a Bull DPS 9000 mainframe under the General Comprehensive Operating System (GCOS) and using IDS II file structures. The functionality in the current system includes:

- Participant record keeping (Certification and Enrollment)
- Coupon generation, redemption, and WIC vendor/retailer payment processing
- Online Electronic Benefits Transfer (EBT) Benefits issuance and redemption
- Local Agency, State, and Federal Reporting
- Administrative master data maintenance
- Contractor management, monitoring, and compliance investigations.

The system is operated and maintained by MDIT at a State Data Center. Communication is provided to MDCH and local agency and clinic users throughout the State of Michigan Wide Area Network (SOM-WAN).

The Implementation Contractor will be implementing a WIC transfer solution that has:

- A user interface that is web-based.
- A scalable solution using an open architecture, meaning the State may use a variety of hardware and clustering solutions.
- A relational database and application architecture.
- An online EBT environment.

1.104 WORK AND DELIVERABLES

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



1. Project Kick-off meeting

a. Within 10 days of execution of the contract and issuance of the Purchase Order, the State and the IV&V Contractor will hold a project kick off meeting to:

- i. Establish the working relationship between the IV&V Contractor and the State to initiate the IV& V process, and plan for the relationship with the Implementation Contractor.
- ii. Provide the IV&V Contractor with all the information and materials relevant to the WIC System Replacement project.
- iii. Update the IV&V Contractor with the current status of the project
- iv. Provide direction for the IV&V Contractor to begin its review tasks, including any additional detail for the tasks and the timetable for the completion of those tasks.
- v. Provide a summary of the kickoff meeting five days after the meeting.

Task Deliverable: Summary of kickoff meeting

Key staff will attend the kickoff meeting in Lansing. The kickoff meeting is expected to include a discussion of the following:

- Introduction of key personnel.
- Roles and responsibilities.
- Management and communications approach.
- Major tasks and deliverables.
- Updates on the contract with the Implementation Contractor.
- Other issues critical to the initiation of this project.

This meeting will include a review of the project schedule and a discussion of schedule refinements, a review of milestones and resource requirements, an identification of strategic goals, and a discussion of administrative issues (such as submission of deliverables, schedule of status reports, etc.). the contractor will provide a summary of the kickoff meeting within five days following the meeting.

2. Quality Assurance Management Plan

Task Deliverable: Quality Assurance Management Plan

The Quality Assurance Management Plan must describe the standards, processes, and procedures used to support the consistent delivery of high-quality, professional products and services for the Michigan I.S. Project. The QA Management Plan will be applicable to all products and services provided/supported by the contractor's team. The QA Management Plan will ensure:

1. Top management involvement;
2. Rapid detection and elimination of existing or potential deficiency areas;
3. Built-in quality at the time work or service is performed;
4. The same level of quality consciousness is imparted to all employees through involvement and leadership;
5. Compliance of various products and services equal to, or better than, the established standards/thresholds;



6. Problems are quickly solved;
7. All supporting services are consistently acceptable and of uniform quality; and
8. All reports and deliverables are provided in a timely and acceptable manner.

Quality Assurance Activities:

1. Recommendations for continuous process improvement
2. Establish quality metrics
3. Advisement
4. Risk identification and mitigation
5. Quality assurance recommendations.

Quality Control Activities:

1. Review and compare.
2. Progress tracking.
3. User acceptance test services.
4. Analyzing testing results
5. Quality control recommendations.

Quality Assurance Process and Procedures:

The vendor will ensure that all applicable stakeholders have adequate opportunity for input and review at each step of the process. This will be accomplished through:

1. Quality audits.
2. Documentation review coordination.
3. Process analysis.

Problem Reporting, Resolution, and Escalation

The contractor will monitor all phases of the project through deliverable review, attendance at meetings, and through formal and informal discussions with project stakeholders. The following table presents the high-level problem reporting, resolution, and escalation approach:



Exhibit 1-11: High Level Problem Reporting, Resolution, and Escalation Approach				
Priority	Definition	Report to	Resolution	Escalation
Low	Low priority problems are issues that should be corrected to ensure quality, but do not have a significant impact on the project plan.	State PM Status Report (summary)	Should be noted and corrected (if necessary), but will not significantly impact project progress.	Typically, low priority issues allow for “quick fixes” and do not need to be escalated.
Medium	Medium priority problems are items that should be corrected to ensure quality. At the point of identification these problems do not have a significant impact on the project plan, but, if left uncorrected, could escalate to become a critical risk or high priority issue.	State PM Status Report (detail)	Resolution must take place to avoid escalation of the problem.	If resolution does not take place in a reasonable (agreed-upon) timeframe, the problem could become high priority.
High	High priority problems are issues that must be corrected not only to ensure quality, but also to mitigate risks and reduce the possibility of negative project outcomes.	State PM Status Report (detail) Steering Committee	Must be resolved immediately to ensure project remains on critical path.	Depending on the issue, high priority problems could result in contract penalties.

Contractor’s updated Quality Assurance Management Plan shall be provided within 2 weeks of the Implementation Contractor’s contract start date.

3. Risk Management Plan

It is responsibility of the IV & V Contractor to proactively recognize and track project risks in a manner that best allows the project team to avoid or mitigate the risks so that the risks do not affect the goals of the project. The risk management plan shall be provided within two weeks of the Implementation Vendor contract start date. The risk management plan submitted with the proposal must describe, at a minimum, how the risk identification, risk analysis, response planning, monitoring, and control will be structured and performed during the project.

Task Deliverable: Risk Management Plan with documented risks and mitigation approaches

Process Overview

The risk management process entails three phases – **defining the strategy, defining risk mitigation plans and monitoring and control**. The strategy will be defined by the CONTRACTOR’S Project Manager, reviewed and approved by the Michigan Project Manager(s) and/or Sponsor, and communicated to the Project Team. The CONTRACTOR’S Project Manager and appropriate subsets of the Project Team (also known as the Risk Evaluation Team, or RET) will perform the analysis and planning tasks. The Project Team leads have the monitoring and control responsibilities.



To facilitate the process, the following factors should be available:

1. Risk Management Forms
2. Risk Status Summary
3. Project Plan
4. Project Documentation
5. Risk Taxonomy

The following exhibit, Exhibit 1-13: Risk Management Process Overview, provides a summary of the basic sequence of steps of the process.

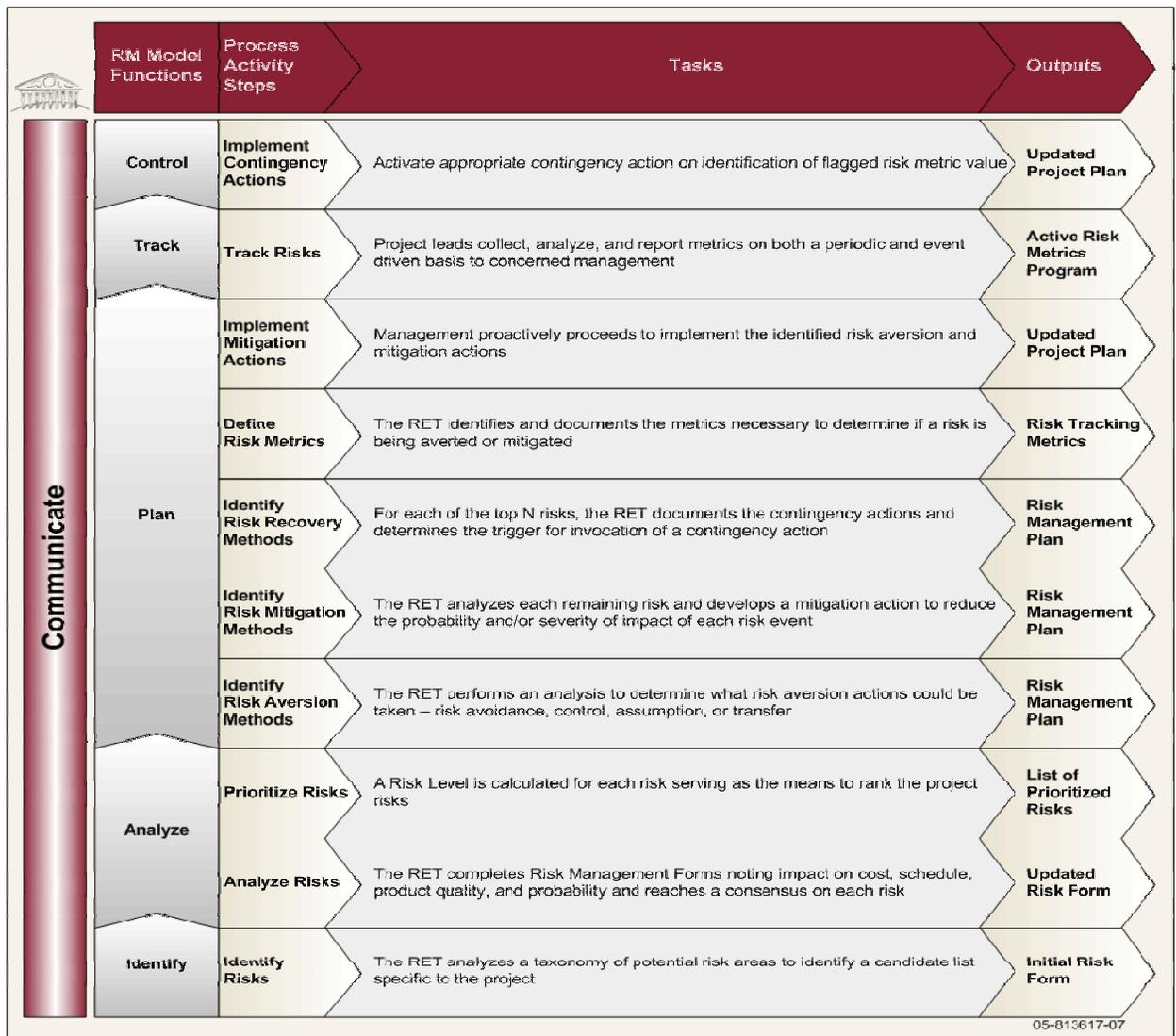


Exhibit 1-13: Risk Management Process Overview



Step 1 – Identify Risks

The Project Manager will conduct a process overview briefing and provides a taxonomy of potential risk areas to the project team. Each member of the team, using the taxonomy as a guide, identifies risks associated with the project and documents them using a Risk Information Form.

Step 2 – Analyze Risks

The team analyzes each identified risk in terms of its effect on cost, schedule, performance, and product quality. They will also determine the severity of impact, rating each risk according to the criticality levels found on the form, and the probability that each risk will occur within its timeframe. The results of this analysis are recorded on the Risk Management Form.

Step 3 – Prioritize Risks

Using the data from Step 2, Analyze Risks, the team determines a Risk Level for each risk by mapping each risk onto a Risk Matrix.

The Risk Levels are defined as:

1. **Tolerable Risk** is a condition where risk is identified as having little or no effect or consequence on project objectives; the probability of occurrence is low enough to cause little or no concern.
2. **Low Risk** is a condition where risk is identified as having minor effects on project objectives; the probability of occurrence is sufficiently low to cause only minor concern.
3. **Medium Risk** is a condition where risk is identified as one that could possibly affect project objectives, cost, or schedule. The probability of occurrence is high enough to require close control of all contributing factors.
4. **High Risk** is the condition where risk is identified as having a high probability of occurrence and the consequence would affect project objectives, cost, and schedule. The probability of occurrence is high enough to require close control of all contributing factors, the establishment of risk actions, and an acceptable fallback position.
5. **INTolerable Risk** is the condition where risk is identified as having a high probability of occurrence, and the consequence would have significant impact on cost, schedule, and/or performance.

At the conclusion of risk prioritization, a consolidated list of risks is created, and the updated Risk Management Forms will be placed under configuration management.

Step 4 – Identify Risk Aversion Methods

Having generated a ranked list of risks, the team performs an analysis to determine what risk aversion actions (that is, risk avoidance, control, assumption, or transfer) could be taken or decisions could be made that would eliminate any of the identified risks. The team assesses, rates, and decides on the possible consequences of inaction and determines if the benefits of acting on a risk justifies the time and money expended.

Step 5 – Identify Risk Mitigation Methods

Risks that make it to this step are considered contingent upon external events. A session is held to determine what actions or decisions can be made that would reduce the probability and/or severity of impact of each risk event. The team documents and details those that are practical and feasible and incorporates them into the project Risk Management Plan.

Step 6 – Identify Risk Recovery Methods

For each of the Intolerable-, High- and Medium-level risks, the team validates the nature of the event that would cause the invocation of a contingency action. Contingency actions for risks are documented in the project Risk Management Plan along with what measurable or observable circumstances must occur to trigger the implementation of the contingency action.



Step 7 – Define Risk Metrics

For each risk, the team determines and documents what measurable or observable event(s) can be tracked to know whether or not the risk is being averted, prevented, or minimized. In addition, the team defines and documents the risk management process measurements to be collected and analyzed on the risk process itself.

Step 8 – Implement Mitigation/Reduction Actions

For each risk, the team conducts the activities necessary to implement the mitigation/reduction actions addressed in Step 5 above. These activities are documented in the project Risk Management Plan for each risk reduction scenario.

Step 9 – Track Risks

The Project Manager will implement reporting procedures that raise attention flags whenever a reported metric or parameter is beyond the pre-established monitor threshold or deviation value. The method and time of collecting and reporting each metric are incorporated into the Risk Management Plan. Status reports will be submitted with options and implementation plans to minimize risks, as applicable.

Step 10 – Implement Contingency Actions

For each risk, if the data collected shows that the entrance criteria have been met, then:

1. The need for implementation of the contingency action should be raised to the Michigan Project Manager
2. The Project Manager needs to reallocate resources, or recommend the reallocation of resources if the risk is based on the Implementation Contractor's work plan, required for the execution of that contingency action

Throughout the project, The contractor will review products and progress to identify risk. THE CONTRACTOR'S updated Risk Management Plan will be provided within 2 weeks of the Implementation Contractor's contract start date. The Vendor also will provide monthly risk issue reports.

4. IV&V Assessments

The IV&V Contractor will perform one (1) IV&V review and assessment on each WIC System Replacement Project deliverable identified by the State's Project Managers.

i. As the Implementation Contractor provides deliverables to the State, the IV&V Contractor must review the materials or documents within six (6) State business days after the receipt date. The receipt date is not counted as one (1) of the six (6) state business days. The IV&V Contractor will provide comments, questions, and other feedback to the State's Project Management Team in written format, outlining the reasons for its determination regarding meeting the requirements.

- ii. The State and IV&V Contractor will review deliverables separately and meet to discuss findings.
 1. The State will document its deliverable findings prior to the meeting.
 2. The IV&V Contractor will provide a draft of their assessment report to the State prior to the meeting.
 3. A final written critique of the deliverable is the product of this meeting.
 4. The notification of deliverable acceptance or deliverable deficiencies is written and delivered by the State to the Implementation Contractor.



- iii. The IV & V Contractor will assess each deliverable to measure its completeness, correctness and consistency with requirements, reliability, usability (clarity and understandability), and supportability (testability and maintainability). These general criteria will be employed when reviewing any deliverable document. Additional criteria specific to a deliverable and the current phase of the software development lifecycle will also be used for review where approved by the State's Project Managers. Because of its critical nature, the IV&V Contractor will give special attention to the deliverables produced during the Milestone 3 – Application Design and Development activities.

The following lists the Implementation Contractor's deliverables identified in the WIC Management Information System Contract:

1. Milestone 1 – Project Oversight Plans Deliverables
 - a. Detailed Project Plan
 - b. Electronic Project Library
 - c. Quality Management Plan
 - d. Software Development Approach
 - e. Project Staffing & Facility Plan
 - f. Risk Management Plan
 - g. Project State Reports
2. Milestone 2 – Planning Deliverables
 - a. Documentation & Standards Plan
 - b. Equipment/Technology Acquisition Plan
 - c. Technical Architecture Plan
 - d. Capacity Plan
 - e. Configuration Plan
 - f. Installation Plan
 - g. Staff Training & Knowledge Transfer Plan
 - h. Facility & Data Security Plan
 - i. Business Continuity & Disaster Plan
 - j. Test Plan
 - k. Data Conversion Plan
 - l. Application Turnover Plan
 - m. Requirements Validation Document
3. Milestone 3 – Application Design and Development Deliverables
 - a. Application Design Development Plan
 - b. Requirements Overview Document
 - c. Detailed Requirements Document (including gap analysis and requirement traceability matrix)
 - d. Logical & Physical Data Model
 - e. Data Dictionary
 - f. Technical Design



- g. Technical Documentation
 - h. Source Code and Artifacts
 - i. Test Results for Design
 - j. Quality Assurance & Performance Testing
 - k. User Acceptance Test Cases
 - l. User Acceptance Testing
 - m. Training Material
 - n. Training Data
 - o. Online User Aids
4. Milestone 4 – Implementation Support Deliverables
- a. Production Environment
 - b. Data Conversion
 - c. User Training
 - d. Post-Classroom Practice Exercises
 - e. Train the Trainers
 - f. Help Desk Guide
 - g. Pilot Review Report
 - h. Help Desk Support Metrics
 - i. Pilot WIC Application Implementation
 - j. WIC Application Implementation
5. Milestone 5 – Turnover and Transition Deliverables
- a. Updated Turnover Plan
 - b. Final Turnover Report
 - c. Knowledge Transfer Reports
 - d. Updated Application Source Code Artifacts
 - e. Updated Documentation

In the event that defects and recommendations for improvement are identified in the assessment, the IV&V Contractor shall track the Implementation Contractor's activities and perform a follow-up IV&V assessment on the same deliverable if requested by the State. All deliverables and documents produced must be updated throughout the duration of the contract to reflect any changes. These document updates will take the form of a new report issuance containing the appropriate version control numbers.

Task Deliverables: Written Report for Implementation Contractor deliverables

The deliverable review process will include an iterative approach. The contractor and the State will discuss findings and determine final recommendations for deliverable adjustments. The contractor will compile the final decisions and prepare a final critique of the deliverable to be presented to the Implementation Contractor by the State to indicate deliverable acceptance, acceptance upon completion of minor changes, or rejection. If a deliverable is accepted upon completion of minor changes or rejected, the product of the work meeting will serve as a guideline for deliverable changes.



The contractor will track changes to the deliverables based on written recommendations provided by the State to ensure that all deficiencies are addressed. The contractor will conduct an additional review of deliverables that require significant change as requested by the State.

The contractor will review the Implementation Contractor's deliverables within 6 business days of receipt by The contractor. Meetings with the State to discuss deliverables and final critiques resulting from the deliverable will be scheduled and completed in timeframes agreed upon during the project kickoff.

5. System Performance and Testing

The IV & V Contractor shall:

- a. Develop supplemental test cases for User Acceptance Testing. The Contractor must partner with the Implementation Contractor and the State to create these additional test cases. The user acceptance test cases should include data edits and data validation criteria. The State suggests that the Contractor use the approved project tool to manage the test cases. The test plans must be created 45 days before the start of the User Acceptance Testing.
- b. The Contractor shall provide oversight support for the duration of UAT. This support must include both business and technical assistance and must be "dedicated" throughout UAT. The Contractor will perform user acceptance test cases and signoff on the test results at the completion of UAT providing its recommendation to the State Project Managers for formal approval and readiness for production. The Contractor will provide an evaluation of the user acceptance testing and recommendations, if any, for failed testing conditions.
- c. Verify and validate the process used for the capacity analysis of the platform environment by the Implementation Contractor. The capacity analysis must be completed 30 days before the pilot rollout of the system.
 - i. Identify any areas of concern that might have been overlooked.
 - ii. Ensure that all performance risks have been identified.
- d. Assess and make recommendations regarding:
 - i. The types of performance metrics that are planned for measurement during quality assurance and performance test and make recommendations about them.
 - ii. Application and technical architecture changes made to improve performance during system test.
 - iii. Test plans, test cases, test scripts, testing processes and test results and recommendations concerning quality assurance and performance test.
 - iv. The processes developed by the Implementation Contractor for monitoring and measuring performance during the pilot and statewide implementation of WIC Replacement System. The IV&V Contractor will also assess whether or not the performance-monitoring schema has an adverse effect on performance, the delivered application and technical architecture. If the system does not perform acceptably during testing, the IV&V Contractor will make recommendations to improve performance during testing. The IV & V Contractor shall make the assessment available one-week before the start of quality assurance and performance testing.
- e. Analyze and evaluate performance of all components of the system to be delivered, including the technical infrastructure as well as the actual application. Prepare quality assurance and performance test results recommendation documents.
 - i. The documents must include enough information to permit the State to validate that the test plans have been successfully executed. These reports must also document any modifications to be made to the system.



- ii. The document must provide information/metrics on user load, data communication speed, concurrent users, and response time.
- iii. Verify and validate the process and steps by which the performance metrics for the system metrics were determined and how well they match system performance during the quality assurance and performance test of the application. This assessment includes the following areas:
 1. Data communication,
 2. Database(s),
 3. Application and web servers,
 4. Other hardware, and
 5. Application software.
- iv. The evaluation report shall be made available by the IV & V Contractor within one-week of the completion of the task by the Implementation Vendor.

Supplemental User Acceptance Test Cases:

The contractor will work with the State and Implementation Contractor to use the approved project tool and format created for this project when supplying supplemental test cases. The contractor will review the initial test cases provided by the State and the Implementation Contractor to ensure that the quantity and content of test cases is sufficient for a comprehensive test.

UAT Support

The contractor will provide onsite support to the Michigan project for the scheduled user acceptance test. It is anticipated that two test sessions may be required: an initial acceptance test to review all system functionality and uncover defects and a follow-up fix verification and system regression test to ensure that defects identified in the initial test have been corrected appropriately and no new defects have been created. Iterative deployment will be used which may require more than two sessions.

The contractor UAT support at UAT (including the initial and any agreed-upon follow-up rounds of UAT) will include dedicated staff members with the appropriate skills and experience to support UAT activities, including performing test scripts with the State users, monitoring test results, and understanding the criteria necessary to sign off on test results.

User Acceptance Test Results Evaluation Report (with recommendations for failed testing requirements)

Following UAT, the contractor will provide a test evaluation report that includes:

- a. Evaluation of the UAT to assess pre-determined success criteria and evaluate the outcome of the test.
- b. Recommendation for formal approval and readiness for the system (if applicable)
- c. Identification and recommendations for failed testing conditions.

Unless another approach is accepted as part of the Implementation Contractor's Test Plan, the contractor will follow a defect-severity rating system in evaluating the acceptance test that includes logical "categories" or "priority levels" to which defects can be assigned. Below is a defect-severity ranking scheme that may be used based upon approval of the State.



Exhibit 1-17: Sample Defect-Severity Ranking Scheme

Priority	Description	Action
1	Major system defect/ malfunction	Testing is halted until problem is resolved. Once resolved, testing starts over.
2	Defect/major malfunction of processing component	Testing is halted in particular processing component, but continues in other components. Scripts will be adjusted if necessary and problem resolution will be performed. Testing will restart in this component once defect is corrected. Defect will be included as a part of regression testing.
3	Minor function problem	Testing will continue on all aspects of the system. Defect will be included as a part of regression testing.
4	Edit/cosmetic error	No affect on testing. To be corrected prior to system being placed in production environment.
5	All others including design clarifications	No affect on testing. To be addressed as a future system enhancement or design update.

Capacity Analysis Evaluation Report

Management of system capacity is an on-going activity throughout the operational life of the system. The approach to the evaluation of capacity will be to first develop a baseline assessment of the system capacity, both the required and hypothetical maximum. This will be followed up with a plan for the continual monitoring of key capacity metrics to ensure the system is performing as expected in all areas.

It is important that the capacity model touch upon all agreed upon areas of system degradation such as, processor speed, memory capacity and utilization, network band width, storage capacity, application processing characteristics (such as SQL calls), database tuning (keys, table management, space management), cache and buffer sizes, application threads, queue sizes and batch versus on-line utilization.

Once a baseline capacity is determined and the system is configured accordingly, on-going capacity monitoring will take place. The contractors' capacity analysis will be completed 30 days before the pilot rollout of the system.

Assessment of process used for Quality Assurance and Performance testing

The approach to testing evaluation will be to first determine the set of acceptance criteria based upon system requirements and design specifications, then transform them into a series of predefined test scripts (and supporting data configurations) that provide positive demonstration that the system:

- a. Performed the function or met the requirement fully (positive testing)
- b. That the function or requirement was not adversely impacted by incorrect input parameters (negative testing)

In the course of developing test plans and scenarios, the intent will be to verify that the system:

- a. Provides all of the intended functionality
- b. Functionality is provided in a logical and user friendly manner
- c. System functions perform within the bounds of all service level expectations

All test scripts need to be repeatable to allow for repeat testing of failed components and regression testing in the course of system change. To achieve this goal, the test environment must be constructed with a known baseline of data against which tests are to be processed. Test scripts will be highly proscriptive, with exact case identifiers, actions, units of measure, etc. In this way, the expected results can be easily pre-identified and verified against the actual results during the test execution. Exceptions can be noted. Performance metrics and success criteria will be defined prior to the start of the testing process.



The contractor will monitor all testing procedures to ensure that all of the predefined scripts are performed fully, in the sequence indicated, and the results are recorded. Errors in the test execution procedure will be noted and, if necessary, test scripts will be repeated. At the conclusion of the test cycle, the contractor will evaluate the test results based on the documentation gathered during the test process. Recommendations will be provided.

The contractor will make the assessment available one-week before the start of quality assurance and performance testing.

Quality Assurance and Performance Testing Evaluation Report

The contractor will analyze system quality and performance tests through a detailed and systematic review of system test results. Prior to initiating a test, a test plan will be provided by the Implementation Contractor. The contractor will participate in testing and conduct an analysis of test reports and results. The contractor will submit the evaluation report within one week of the completion of the task by the Implementation Contractor.

6. USDA Audit Requirements

The Contractor will be responsible to ensure that the developed system is compliant with the audit requirements of USDA and State for data origin, input controls, processing controls, output controls, application access controls, audit controls, and documentation to ensure authorized data is processed completely, accurately, and reliably. The Contractor will provide recommendations to correct any deviations that may be found during the course of the project. The contractor will initiate the audit testing process, conduct/oversee the audit testing, and provide recommendations for corrections, if any. The recommendations must be provided at least 45 days before the pilot rollout of the system so that any recommended changes can be incorporated.

Task Deliverable: Evaluation Report indicating avenues for correction, if any.

Using guidance from USDA and the State regarding system audits, the contractor will review the system prior to pilot to provide verification that the system is compliant with audit requirements. If deficiencies exist, the contractor will provide a written recommendations report that:

1. Identifies the deficiency
2. References the requirement(s) that is not appropriately met by the system
3. Recommends corrections to correct deviations

The contractor will work with FNS and the State auditors to secure a checklist of specific audit points that must be examined. These will be incorporated into the system requirements, verified against the system specifications, and validated during system testing.

Most of the audit requirements are contained or implied in the Federal WIC System Requirements (FRED) document and as such will be contained in the requirements documentation that is the baseline for the system under development.

During and immediately following the initial round of User Acceptance Testing, the contractor staff will perform additional testing to validate that the developed system is compliant with audit requirements, and controls are built into the system to verify and validate traceability and clear audit trails of all changes made to records within the system. The IV & V Contractor will provide recommendations at least 45 days before the pilot rollout begins.



7. Training Evaluation

The IV & V Contractor shall:

a. The Contractor shall partner with the State to provide support during the training activity of the project. The IV&V Contractor shall be responsible for designing a method to collect information from trainees and their supervisors to evaluate the effectiveness of the end-user training. The training evaluation methodology should be made available two weeks before the start of training for pilot implementation.

b. Provide an evaluation of the training made by the Implementation Contractor.

i. The IV&V Contractor will evaluate the effectiveness of training, preferably using a standard four level evaluation approach:

- Level 1 - Trainee Satisfaction - collected at completion of training
- Level 2 - Pre-Test and Post-Test Skills - evaluated at the point of training
- Level 3 - Impact on Job Performance - evaluated randomly based on 'On The Job' or OTJ evaluations when the trainee is back on the job
- Level 4 - Organizational Training Impact - sampled randomly and measured throughout the life of the contract

i. This evaluation process may yield updates and modifications to improve the training approach, curriculum, and materials to ensure training goals are met.

ii. A Training Evaluation Report is required within 45 days after the conclusion of the classroom training. This report shall cover all aspects of the training activity, including:

1. Final information from the classroom training reporting.
2. Demonstration that all training sessions were held, training covered all the areas required in the approved Training Plan, and the Implementation Contractor made a concerted effort to include all personnel required to be trained by MDCH.
3. Gap analysis of the difference between the pre-training state and desired state of worker proficiency in using the system to perform their daily responsibilities.
4. Evaluation levels 3 and 4 with statewide analysis.

Task Deliverables:

Training Evaluation Methodology

The contractors' methodology involves:

1. Attending a sample of training classes (during pilot training and pre-implementation training) to acquire first-hand knowledge of training approach and instructor/ learner interactions.
2. Anonymous survey of learners to identify areas in which training is successful, as well as areas in which training needs improvement.
3. Analyzing survey results based on various learner attributes, such as "all learners," "learners that are clerical staff," or "learners that are nutrition staff (RD, nutritionist)" to identify trends or areas in which specialized groups have unique training needs.
4. Working with the Implementation Contractor to build training evaluation time into the training curriculum to ensure learners have sufficient time to complete surveys/ evaluations.

The contractor will work with the State and Implementation Contractor to define the approach for training. The methodology for training evaluation will be clearly defined and presented to the State at least two weeks prior to the start of pilot training.



Evaluation of Training

The contractor will attend a sample of training events during the pilot training and provide initial feedback. As the State prepares for implementation beyond the pilot, the contractor will attend a sample of training events during the initial phases of the rollout. The Implementation Contractor's training plan must allow adequate time for evaluation.

The contractor will evaluate the training provided by the Implementation Contractor using the standard, four-level approach.

Level 1: Trainee satisfaction/ reaction data will be collected at the time of training through paper or web-based surveys; typically these surveys include specific questions and a rating scale, as well as open-ended questions. Questions related to trainee/ learner satisfaction will be targeted at key training areas, such as the facilitator/ instructor, the learning environment, depth of training (i.e., was it detailed enough or too detailed?), level of learner participation, content and process, or other attributes.

Level 2: Pre- and post- test results will measure the learning that took place during training. To measure the knowledge and attitudes of the learners, the contractor will use "tests" or surveys, similar to those described in Level 1 to include objective tests (such as multiple choice, true-false, or matching questions).

Level 3: The on the job, or behavior, assessment is intended to evaluate if the learner has transferred the knowledge from training to the real world/ workplace. The evaluation may include a survey, supervisory input, or interviews with the sample of staff members. Level 3 evaluation will be based on specific learning objectives identified in the Implementation Contractor's training plan and the skills required to achieve the objective.

Level 4: The organizational training impact, or results, will survey a sample of learners after they have been using the system for a period of time to determine the results. The State has requested that Level 4 be measured throughout the remainder of the contract. The expectation is four iterations of assessing the organizational training impact through the remainder of the project.

Training Evaluation Report

The contractor will assess the Level 1 and Level 2 results immediately upon completion of final training events. Results of the first three levels of evaluation will be provided within 45 days of the last training class; initial evaluation of level 4 will also be provided at that time. Because Levels 3 and 4 require users to work with the system in an operational environment for a period of time after implementation, ongoing assessment after the initial training evaluation report will be needed. The contractor will update the initial training evaluation report iteratively upon completion of Level 3 and Level 4 assessments. Four assessments of Level 4 factors between the time of system implementation and the end of the contract are expected. The contractor will provide the final evaluation of Level 4 components at a time agreed upon by the State, but prior to the end of the contract.

The evaluation report shall include at a minimum:

1. Final information from the classroom training reporting. This includes results from Level 1 training assessments.
2. Demonstration that all training sessions were held, training covered all the areas required in the approved Training Plan, and the Implementation Contractor made a concerted effort to include all personnel required to be trained by MDCH. This includes the verification that training took place according to the approved plans.
3. Gap analysis of the difference between the pre-training state and desired state of worker proficiency in using the system to perform their daily responsibilities. This presents results from Level 2 assessment.
4. Evaluation levels 3 and 4 with statewide analysis. This presents results from the post-training evaluations and will present data from a sample of learners/ staff members statewide. This



section will be updated throughout the remainder of the contract as iterative evaluations take place.

8. Pilot and Statewide Michigan WIC System Implementation

a. The Contractor shall create a methodology to evaluate the pilot and document the same for State to review 30 days before the start of pilot.

b. The Contractor shall partner with the State and Implementation Contractor to support pilot and statewide implementation of the WIC application. The Contractor shall partner with the State and Implementation Contractor to support Pilot implementation of the WIC application. The Contractor must assist the State to assess the success of the Pilot. The pilot evaluation report will be provided 30 days after the completion of the pilot or 120 days from the start of the pilot, whichever is earlier.

Task Deliverables:

Pilot Evaluation Methodology

The contractors' pilot evaluation methodology will include the following components:

1. Verify pilot readiness.
2. Establish pilot quantifiable success criteria (e.g., criteria may be defined to assess the speed, reliability, and accuracy of the system, as well as the retention of knowledge from training, or ability to serve participants).
3. Collect information from the pilot to assess quantitative success factors, as well as qualitative factors.
4. Compile findings from pilot and prepare a pilot report.
5. Provide recommendations based on findings from the pilot (e.g., recommendations may include go/no go recommendation or adjustments to training, set up, or other preparation factors).

Pilot Support

Prior to pilot, the contractor will monitor the conduct of data conversion to ensure it conforms to approved plans and schedules, and that the data is properly loaded to the new system before pilot begins. Major problems will be reported to the States immediately and a summary of problems identified will be provided as applicable to meet schedule requirements.

The contractor will use a site readiness checklist to ensure that all items are examined and a go/no go implementation determination for pilot can be easily made. The checklist will include:

1. Acceptance of MOU between the State and local agencies (as applicable);
2. Facility readiness;
3. Network cabling;
4. Hardware and equipment;
5. Software installation;
6. User training completion;
7. Food instrument/ EBT card stock and other necessary inventory;
8. Telecommunications access; and
9. Satellite clinic-specific requirements, such as a plan for transportation of equipment and clinic setup.

For the initial pilot phase, the contractor will provide on-site support to pilot agencies for a limited period of time. The vendor will provide issue resolution assistance and assess system and equipment performance.



Special attention will focus on participant certification activities, accessing up-to-date participant data, food instrument/ EBT issuance, and system administration/ maintenance activities.

To monitor the progress of the pilot implementation a comprehensive pilot acceptance test/review will be performed. During this test, the contractor shall observe the day-to-day operations of the system in various settings in order to determine the impact of the system on various stakeholders. During the pilot visits, the vendor will gather information and feedback to answer key questions such as:

1. Are WIC staff at the local agencies/clinics properly trained on system functions and features?
2. Are WIC staff able to navigate the system effectively to enter new participant data and update existing participant records?
3. Does the system impose any obstacles to participant service or other WIC activities?
4. Does the system meet operational requirements in terms of response times, performance, and availability?
5. Does the telecommunication system operate properly?
6. Are system security measures being appropriately maintained to ensure participant data privacy?

The contractor will also review the system reports provided by the Implementation Contractor and perform system reviews to ensure that performance and timing are appropriate and meet performance measures as required in their contract.

The vendor will evaluate the progress of the pilot and recommend solutions to issues that are raised.

Statewide Implementation

During system implementation, the contractor will provide onsite staff support at a sample of local agencies. The vendor will establish a protocol with the State and Implementation Contractor for monitoring ongoing operations for the balance of the contract period. Ongoing monitoring activities will be based on the agreed upon assessment areas.

As part of implementation support, the contractor will provide the State with findings and recommendations through regular status reports; critical risks, problems, or issues will be reported immediately.

NOTE: Please See Section 1.501 Criteria for more information on acceptance of deliverables – both document and services deliverables.

1.2 Roles and Responsibilities

1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES

A. Contractor Staff Requirements, Roles, and Responsibilities

Contractor shall provide sufficient, qualified staff to perform the work and deliverables described in Sections 1.101 and 1.104 of this Contract. All persons assigned to this contract shall be employees, or subcontractors, of the Contractor and, in the case of key personnel, meet the qualifications in Appendix C – Minimum Qualifications for Key Personnel. The Contractor must include a similar provision in any contract with any subcontractor selected to perform work under this project.

All subcontracting must be acknowledged and conveyed to MDCH and MDIT with documentation that states the subcontracted personnel are qualified, trained and experienced for all work that they will be doing in association with MDCH. The subcontracting must be approved by the MDCH due to the sensitive nature of data. Subcontracted personnel that meet all requirements set forth by MDCH will be considered as the Contractor's personnel. All contracted staff must act professionally, respect patient confidentiality and follow all Health Insurance Portability and Accountability Act (HIPAA) regulations. Contractor must conduct a background check of all proposed staff to meet MDIT requirements.



Contractor shall:

- a. Develop a complete understanding of the WIC Information System Contract statement of work and the expected Implementation Contractor deliverables.
- b. Understand the high level features of the WIC Information System and determine the expectations about the format and traceability of the software requirements.
- c. Validate and trace business requirements.
- d. Understand the internal information technology governance structure and areas of responsibility.
- e. Determine the quality attributes and content expected of each IV&V deliverable for acceptance.
- f. Determine the plans, process, and practices to be utilized on the WIC Information System and understand the technical architecture of the proposed system.
- g. Determine the expectations about the configuration and quality of the implementation and deployment views of the system architecture.
- h. Understand the MDIT and federal standards that must be adhered to, including the quality standards for the configuration management activities of the project.
- i. Keep all of its IV&V artifacts in the standard version control or configuration management tool utilized by the WIC Information System Project. At a minimum, each IV&V artifact must be checked into the project's Electronic Library at the time of delivery.
- j. Partner with the State and Implementation Contractor to support Pilot implementation of the WIC application. The IV&V Contractor must assist the State to assess the success of the Pilot. Partner with the State and Implementation Contractor to support statewide implementation of the WIC application.
- k. Partner with the State to provide support during the training activity of the project.
- l. Advise the State on project-related matters.
- m. Be responsive to program or system-related problems or opportunities.
- n. Provide best alternative recommendations for issue resolution.
- o. Provide information to assess the merits of an alternative process or solution.
- p. Recommend best practices or additional activities that will add value to the IV & V process.
- q. Additional activities must be priced separately from required activities.
- r. Assure and provide project review to ensure that the project goals and objectives are met.
- s. Assist the State's Project Managers as requested in assigned project management and quality assurance activities.
- t. Consult with identified MDIT and MDCH technical management to communicate its recommendations regarding the configuration and quality of the implementation and deployment of the system architecture.
- u. Provide personnel with the ability to work professionally with the users, administrators, MDCH WIC Division, MDIT personnel associated with MDCH WIC Division, WIC Division-contracted local WIC programs, and other State agencies serving the citizens of the State of Michigan.
- v. Provide personnel with abilities to work with state and local agency personnel that have wide ranges of application and computer-related knowledge.
- w. Provide personnel with the ability to work with the Implementation (System Development) Contractor.
- x. Provide personnel with the ability to train and/or educate while assisting MDCH personnel.



- y. Provide personnel with the ability to document and act on customer suggestions and complaints.
- z. Provide personnel with technical and managerial capabilities that demonstrate understanding of technology and how to use technology to leverage program processes to gain operational efficiencies that will benefit the State.
- aa. Review all the documents created by the Implementation Contractor and provide recommendations to the State in a format approved by the State.

B. Key Personnel

The key personnel is:

- Quality Assurance Manager / Project Manager

Mr. Haught will serve as the Quality Assurance Manager / Project Manager for this engagement.

C. Approval of Key Personnel

The State Project Manager(s) shall have the absolute right to approve or disapprove the Contractor's and any subcontractor's key personnel assigned to this contract. The State Project Manager may also approve or disapprove any proposed changes in key staff or require the removal or reassignment of any key Contractor employee or subcontractor personnel found unacceptable by the State.

1. Notice of Change to Key Personnel

The Contractor shall notify the State Project Manager in writing of any changes in key personnel at least 30 days prior to the change, except in the case of immediate risk to the health and safety of project staff, or in the case of unlawful security breaches. The Contractor shall, upon request, provide MDCH and MDIT with a resume of any members of its staff or a subcontractor's staff assigned to or proposed to be assigned to any part of this contract.

D. Replacement of Personnel at the State's Request

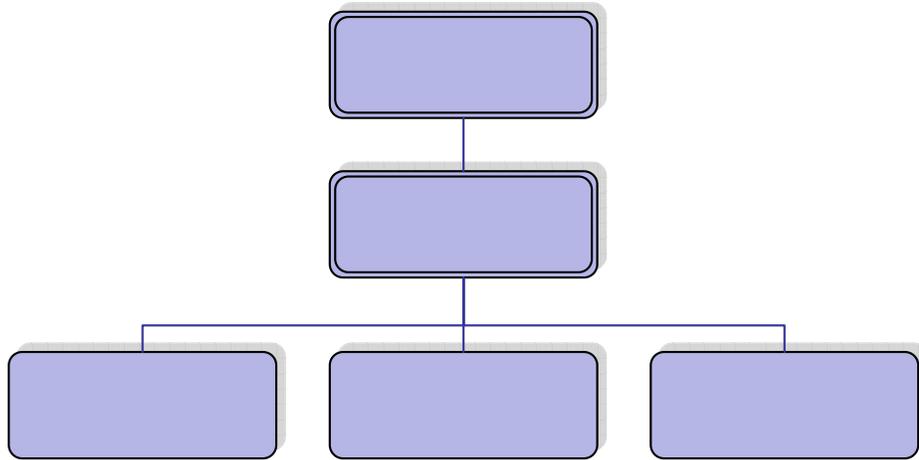
The State reserves the right to require the Contractor to replace Contractor employees who the State judges to be incompetent, careless, unsuitable or otherwise objectionable, or whose continued use is deemed contrary to the best interests of the State. Before a written request is issued it will be discussed by authorized representatives of the State and the Contractor. Upon receipt of a written request from an authorized representative of the State, the Contractor will be required to proceed with the replacement. The replacement request will include the desired replacement date and the reason for the request. The Contractor will use its best efforts to effect the replacement in a manner that does not degrade service quality. This provision will not be deemed to give the State the right to require the Contractor to terminate any Contractor employee; it is intended to give the State only the right to require that the Contractor discontinue using an employee in the performance of services for the State.

Any replacement personnel assigned by the Contractor to perform services under the Contract will have qualifications for the assigned position that equal or exceed those of the person being replaced.

E. Staffing

Project Team Organization

The following organizational chart depicts the structure of the contractors project team.



In the contractor’s project management organization scheme, the contractor project manager is responsible for the project team and administration of project tasks

Project Team Roles and Responsibilities

The **Officer-in-Charge** will be tasked with the following:

1. Provide executive review of deliverables
2. Provide WIC IS and IV&V/QA expertise and guidance to the project team
3. Be available to consult with the Michigan Project Manager and Steering Committee

Should a problem occur within the contractor’s team that cannot be addressed or resolved within the project management team, the contractor’s Project Manager will escalate the issue through a chain of assigned corporate contacts starting with the Officer-in-Charge. Similarly, should a problem occur on the project that the State feels cannot be resolved at the project level, the State Project Manager(s) will have access to the Officer-in-Charge.

The **Project Manager** will be primarily responsible for the management of project logistics (scheduling, resources, task coordination), management of key milestone events, completion of deliverables and compliance with all contractual obligations. The Project Manager serves as the primary point of contact with the State and will be involved in the all tasks and deliverables. He will schedule and coordinate the involvement of the contractor’s resources and will provide on-site support as necessary throughout the project. He will oversee project team staff and their activities. The Project Manager reports directly to the Officer-in-Charge. The Project Manager will be responsible for committing resources to the project as necessary and as well as resolving disputes. Any issue that cannot be resolved by the Project Manager will be escalated to the Officer-in-Charge.

The **IV&V/QA Analyst** positions will support the project team throughout the project by providing documentation reviews, onsite support, WIC Program expertise, and project risk and issue monitoring. Staff will support the project manager in project management activities as needed.

The **Information Systems Specialist** will support the project team throughout the project by providing documentation reviews, onsite support, and technical guidance.

1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES



A. State Project Team

The State will guide the IV & V Contractor in project activities. The State will provide Project Managers from MDCH and MDIT. The Project Managers from the State will provide expertise, assistance, and technical leadership in all matters such as policy, organization and staff, environment, data, information processing, current systems, acceptance testing, and so forth. The State's Project Managers will work closely with the IV & V Contractor.

The State will also provide:

- Access to state staff that has been involved with the WIC Information System project;
- Copies of all hardcopy and softcopy documentation related to the WIC Information System project; including deliverables created by the Implementation Contractor.
- Office space for onsite IV&V activities to include:
 - Cubicle
 - Desk and chair
 - Telephone
 - Power and network connections

Contractor must provide all materials to be used by their staff, including:

- Hardware and licensed software meeting State security standards and requirements
- Office supplies and equipment such as printer, paper, fax machines
- Long distance telephone service.

1.203 OTHER ROLES AND RESPONSIBILITIES

None

1.3 Project Plan

1.301 PROJECT PLAN MANAGEMENT

The project plan submitted by the Implementation Vendor will be the single plan for the WIC Information System project. The plan will be followed by all participants in the project. It will be reviewed and updated by both the State team and the IV&V Contractor. The IV&V vendor's ability to accomplish tasks and meet milestones depends directly on the submission and completion of deliverables by the Implementation Contractor. The contractor will be involved in discussions and decision-making sessions that relate to any project changes.

Careful monitoring of the Implementation Contractor project plan will allow the contractor to track project changes to ensure that schedule changes are agreed-upon with the State and do not hinder the critical path for the project.

1.302 REPORTS

A. The IV&V Contractor must submit written monthly 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 MDCH and MDIT Project Managers 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 MDCH and MDIT Project Managers prior to any final decision. Each monthly progress report will contain the following:

- 1) Project schedule status. Identify if the project is on schedule or if there is any deviation from the previously agreed upon schedule. If the project has deviated from the previously agreed upon schedule, identify the reason for the deviation and the affected areas. Identify in detail the steps that will be taken to resolve the deviation. Also, specify any schedule adjustments that have resulted from the deviation.



- 2) Activities of the past month - Summarize the actions taken and progress made on the project during the past month.
- 3) Activities of the following month - Summarize the actions planned for the following month in order to meet the project delivery and performance schedule requirements.
- 4) Deliverables - Identify deliverables delivered to MDCH in the past month and deliverables planned for delivery to MDCH in the following month.
- 5) Issues - Identify problems, difficulties, either anticipated or encountered, and suggested solutions.
- 6) Resolution of prior issues - Identify resolutions to issues identified in previous progress reports.
- 7) Percentage completed. Indicate the percentage completed for each task defined in the work plan during the past month, the total percentage completed for each task, total percentage completed for the development phase, and the total percentage completed for the project phase.

- B. The IV&V Contractor will maintain progress and resource schedules for all tasks under this contract. This documentation will include, as appropriate, resource schedule reports, and progress reports. The IV&V Contractor is responsible for tracking hours expended on each task.
- C. All documentation prepared by the IV&V Contractor must be submitted to MDCH and/or MDIT as both a printed hard copy and in Microsoft Word electronic format. MDCH/MDIT and the IV&V Contractor must mutually agree upon alternative electronic formats.
- D. The IV&V Contractor's name, logo, or other company identifier may not appear on documentation delivered to the State without written authorization from the Contract Administrator. An exception to this will be transmittal of cover letters showing delivery of said documents and invoices.
- E. All documentation submitted to MDCH or MDIT by the IV&V Contractor must contain a title page with the following information:

- Contract Number
- Contract Expiration Date
- Task Name (if applicable)
- Deliverable Name
- Name of Contractor
- Contractor Project Director
- Date of Deliverable or Report
- Time Period of Deliverable Or Report

- F. All reports and deliverables to be furnished by the IV&V Contractor will be delivered to the MDCH and MDIT Project Managers and are subject to approval by the MDCH and MDIT Project Managers. The IV&V Contractor will inspect all reports and deliverables for both accuracy and adequacy prior to delivery.

1.4 Project Management

1.401 ISSUE MANAGEMENT

Through deliverable review as well as participation in meetings, conference calls, testing, and implementation activities, the contractor will document and track issues and identify possible resolutions to these issues. It is our understanding that the Implementation Contractor will also be tracking issues. In order to avoid duplication of efforts, we have determined that the contractor should track and resolve (when applicable) the following:



1. All issues related to the IV&V/ QA efforts. This would include any issue that would delay completion of a deliverable or prevent us from performing a required task. An example would be a delay in the receipt of a deliverable on the critical path that we are required to review.
2. Any project issues that the contractor has identified and reported to the State and the Implementation Contractor. This would include any issues identified in the system or documentation, issued encountered during testing, training, and rollout, and identification of schedule slippage.
3. Any project issues that the State would like the contractor to track within the scope of our contract. This would include issues that the State identifies and would like the contractor to research further within the scope of the IV&V contract.

The contractor will track all issues in a spreadsheet and include the listing with monthly status reports. The spreadsheet will identify for each issue:

1. Issue Description
2. Date identified
3. Severity – High, Medium, Low
4. Responsible party
5. Resolution (proposed and/or actual)
6. Date Resolved

Based primarily on the severity and age of the issue, issues may need to be escalated to allow for an acceptable resolution. Escalation may proceed through the following channels:

1. Communication of issue to State Project Management and documentation of issue in status report.
2. Meeting with State Project Management and Implementation Contractor Project Management to discuss issue and resolution.
3. Submission of a technical memorandum that documents the issue, the risk or impact on the project, and recommended strategies for mitigation or avoidance of the risk, and the actual activities that have (or have not) taken place to address the risk.
4. Meeting with the Project Sponsor/ Steering Committee to discuss issue and resolution.

1.402 RISK MANAGEMENT

Risks will be documented in an automated tool, such as an excel spreadsheet, that can be shared with stakeholders as needed. Contingency plans to implement, should the risk occur, will be captured in the risk tracking tool. The risk prevention actions and contingency plans may be customized prior to approval by the State. The identified risks will be reviewed at status meetings and an assessment of potential risks will be provided in the vendor's status report. The review of risks includes the following:

1. Technical Risks: This category of risk includes response time performance, security and privacy considerations, maintainability, scalability, interface requirements, and implementation and conversion considerations.
2. Economic and Business Risks: This risk category relates to two areas. The first – economic risks – includes changes in the funding streams and failure to maintain the project within budget. The second – business risks – focuses on those risks that affect the enterprise as a whole.
3. Scope Creep Risk: The contractor will manager scope by maintaining a rigorous process using tools such as the requirements traceability matrix and the risk tracking spreadsheet. Changes in requirements will be analyzed and tradeoffs agreed to.



4. Operational and User Risks: The contractor, as part of the validation and verification processes, will continually review the system development processes to ensure that the development is focused on meeting the requirements.
5. Schedule Risks: Project plans and the plans the Implementation Contractor develops, focus on completing small measurable milestones. This facilitates the review and assessment of the contractor's ability to meet major milestones and quality standards. It will provide both the State and the Implementation Contractor management staff the ability to make corrective actions during the milestone preparation timeframe and thus reduces the risk of schedule delay.

Risk assessment is a continual process that will be performed on an ongoing basis throughout the project lifecycle; these monitoring and controlling tasks will begin during the planning phase and continue through project execution. The Contractor Project Manager will have primary responsibility for identifying and analyzing risks, as well as providing applicable recommendations for addressing risks. Depending on the risk, the State Project Managers or Implementation Contractor Project Manager may need to be involved for consensus on identification and analysis.

The Risk Management process includes the following steps:

- Step 1 – Identify Risks
- Step 2 – Analyze Risks
- Step 3 – Prioritize Risks
- Step 4 – Identify Risk Aversion Methods

- Step 5 – Identify Risk Mitigation Methods
- Step 6 – Identify Risk Recovery Methods
- Step 7 – Define Risk Metrics
- Step 8 – Implement Mitigation/Reduction Actions
- Step 9 – Track Risks
- Step 10 – Implement Contingency Actions

1.403 CHANGE MANAGEMENT

Controlling scope and providing for system changes that result from legislative mandates, agency request, or IV&V Contractor suggestions is extremely important to the State in maintaining project accountability.

For enhancements and change orders requested by the State, the IV&V Contractor will provide to the State its cost estimate, including review time and/or any incremental changes for the State's review prior to implementing any requested changes. The cost estimate will be provided by hour, utilizing the hourly rate for the labor grades provided in the IV&V Contract. The IV&V Contractor will provide its cost estimate for enhancements and change orders requested by the State within two weeks of receiving the request. If the IV&V Contractor is unable to provide an accurate estimate within two weeks, the IV&V Contractor will provide, within a two week timeframe, a date when a complete estimate will be delivered to the State. Work will not begin on the enhancement and/or change order by the IV&V Contractor until written approval is received from the State in the form of a Contract Change Notice issued by the Department of Management & Budget, Purchasing Operations. Change control is ongoing throughout the duration of the contract.

If a proposed contract change is approved by the Contract Administrator, the Contract Administrator will submit a request for change to the Department of Management and Budget, Purchasing Operations Buyer, who will make recommendations to the Director of Purchasing Operations regarding ultimate approval/disapproval of change request. If the DMB Purchasing Operations Director agrees with the proposed modification, and all required approvals are obtained (including State Administrative Board), the Purchasing Operations 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 Purchasing Operations, risk non-payment for the out-of-scope/pricing products and/or services.

The IV&V vendor will identify and document the affected processes, procedures, and organizational units and the areas of impact, if there is the need for an adjustment to a task or activity. The approach and methodology for addressing change will be documented in a change management plan.

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 Contract. Also see Section 1.104 IV & V Assessments and Task Deliverables

Document Deliverables

1. Documents include, but are not limited to, plans, review documents, project schedules, and status reports.
2. Draft documents are not accepted as final deliverables.
3. Each deliverable will be complete within itself and will be consistent with previously produced deliverables.
4. The State will have ten (10) business days to review each IV&V Contractor deliverable. If more than two (2) deliverables are presented to the State in the same business day, the State will extend the review period as mutually agreed by the IV&V Contractor and the State.
 - a. The receipt date is not included in the review period.
 - b. The State will provide the IV&V Contractor with a signed acceptance letter for accepted deliverables.
 - c. If a deliverable is determined to be unacceptable, the State will identify the deficiencies in writing to the IV&V Contractor.
 - d. The IV & V Contractor will have five (5) business days to correct identified deficiencies.
 - e. This cycle will repeat until the IV&V deliverable is accepted by the State.

Service Deliverables

1. The services will be accepted in accordance with the requirements of this contract. See section 1.104 4 –IV & V Assessments and Task Deliverables.
2. MDCH and MDIT will review a Request for Approval of Services within 30 days from completion or implementation. Approvals will be written and signed by both the MDCH and MDIT Project Managers. Unacceptable issues will be documented and submitted to the Contractor within 30 days. After issues are resolved or waived, the Contractor will resubmit a Request for Approval of Services for approval within 30 days of receipt.

1.502 FINAL ACCEPTANCE

The following criteria will be used by the State to determine Final Acceptance under this ITB.

1. All documents, software and services are delivered and accepted by both MDCH and MDIT in accordance with the requirements of this contract and the accepted Contractor's proposal.
2. All bills related to this contract have been submitted and approved for payment.

1.6 Compensation and Payment

1.601 COMPENSATION AND PAYMENT

The contract awarded is fixed price. MDCH/MDIT will reimburse the IV&V Contractor in accordance with the agreed upon deliverable price. All invoices should reflect actual work done. Specific details of invoices and payment will be agreed upon between MDCH/MDIT and the IV&V Contractor after the proposed Contract Agreement has been signed and accepted by both the IV&V Contractor and the Director of Purchasing,



Department of Management and Budget. This activity will occur only upon the specific written direction from the Purchasing Operations.

Both MDCH/MDIT will review all work for acceptance within 30 days from completion and/or receipt. The Contractor will not be paid for any costs attributable to corrections of any errors or omissions that have been determined by both the MDCH and MDIT Project Managers to be occasioned by the Contractor. Payments will not be made until work is accepted.

1.7 Additional Terms and Conditions Specific to this SOW

1.701 ADDITIONAL TERMS AND CONDITIONS SPECIFIC TO THIS SOW

1. The State reserves the right to require, and each Contractor must plan to conduct prior to the selection of a winning Contractor, oral presentations on the content of its proposal. The Contractor's Project Manager and other key Contractor personnel proposed for this project will conduct these oral presentations. If it is determined by the State that oral presentations are to be conducted, they will be held at a time and/or location to be determined by the State. The Contractor will be responsible for its own travel and accommodations.

A list of Contractor participants and copies of the agenda and all presentation materials including, but not limited to, overheads and handouts should accompany the oral presentation, are the responsibility of the Contractor. All presentation materials and meeting minutes will be considered part of the Contractor's proposal. The State will schedule these presentations. The inability of a Contractor to meet a schedule for oral presentations may result in the Contractor's disqualification.

2. The Contractor, during the performance of services detailed in this Contract, will be responsible for any loss or damage to original documents belonging to MDCH that are in the Contractor's possession. Restoration of lost or damaged original documents shall be at the Contractor's expense.
3. All questions which may arise as to the quality and acceptability of work, the manner of performance and rate of progress of the work, the interpretation of designs and specifications, and as to the satisfactory and acceptable fulfillment of the terms of this agreement shall be decided by both of the MDCH and MDIT Project Managers.
4. The Contractor shall agree that it will not volunteer, offer, or sell its services to any litigant against MDCH with respect to any services that it has agreed to perform for MDCH, provided that this provision shall not apply either when the Contractor is issued a valid subpoena to testify in a judicial or administrative proceeding or when the enforcement of this provision would cause the Contractor to be in violation of any Michigan or Federal law.
5. Individuals assigned by the Contractor are employees of that Contractor, and are not, under any circumstances or conditions, employees of the State.
6. MDCH will retain the right to release outright or request the replacement of any Contractor representative who is working at an inferior level of performance, as reasonably determined by the MDCH and/or MDIT Project Manager. The Contractor will be given 24 hours advance notice of this action. The Contractor shall provide an acceptable replacement within five (5) working days of notice of this release.
7. The Contractor will assume full responsibility for the behavior of its employees and will remove any of its employees from MDCH or MDIT premises at the request of both the MDCH or MDIT Project Manager.



8. The key personnel assigned to the project may not be replaced during the course of the project without the prior approval of both the State Project Managers. Both of the State Project Managers and/or their representatives may interview candidates prior to this approval.
9. The Contractor shall use all MDCH/MDIT software in accordance with applicable license agreements and any further restrictions imposed by MDCH or MDIT. Contractors shall not make any unauthorized copies of any MDCH/MDIT licensed software under any circumstances. Contractors found copying or knowingly using copyrighted software other than for backup purposes, are subject to removal. Contractors shall not provide software to any outsiders including consultants, local governmental units and others when this would be in violation of law or copyright or license agreements.
10. The Contractor will certify in writing that they are in conformance with applicable federal and state civil rights laws and practices, equal employment opportunity for all persons regardless of race, creed, color, religion, national origin, gender or handicap. The Contractor will also certify in writing that it is in conformance with the requirements of the Americans With Disabilities Act. Failure to comply with the aforementioned laws may result in the termination of the Contract.
11. The Contractor's name, logo, or other company identifier may not appear on documentation delivered to the State without written authorization from the Contract Administrator. An exception to this will be the transmittal of cover letters showing delivery of said documents.
12. The Contractor is responsible for maintaining the confidentiality of their passwords and is liable for any harm resulting from disclosing or allowing disclosure of any password. Any conduct that restricts or inhibits the legitimate business use of MDCH/MDIT systems or networks is prohibited. Each person must use MDCH/MDIT systems and networks for lawful purposes only. Specifically prohibited is any use of MDCH systems or disclosure of MDCH data which would constitute a criminal offense, give rise to civil liability, violate any MDCH, MDIT, or State of Michigan policy, or otherwise violate any applicable local, state or federal law. This also applies to any computer systems or networks that are accessed from MDCH/MDIT computer systems and networks.
13. MDIT has developed, and will continue to develop during the course of this effort, a growing number of information technology standards. The Contractor must follow any and all standards adopted by MDIT. Where standards do not exist, the final acceptance of any new technique, technology, or design will rest with the MDIT Project Manager. The acceptance of any new technique, technology, or design by the MDIT Project Manager must be in writing. Current IT Standards are available at (<http://www.michigan.gov/dit/0,1607,7-139-34305---,00.html>). MDIT will provide the applicable standards to the Contractor as well as notices of changes that occur during the life of the contract.
14. MDCH, in accordance with Title VI of the Civil Rights Act of 1964, 78 stat. 252, 42 U.S.C. 2000d to 2000d-4, hereby notifies all respondents that in any Contract entered into pursuant to this Invitation to Bid, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.
15. MDCH reserves the right to interview and approve the Contractor's personnel. MDCH reserves the right to reject any proposed staff member and require the appointment of a satisfactory Contractor staff member, as well as to require verification of a proposed staff member's skills through demonstration and/or testing.
16. The Contractor shall use and take advantage of existing data sources created by other MDCH automation projects. These data sources shall not be duplicated without prior written approval by the MDCH and MDIT Project Managers.



17. The Contractor will not be limited to the tasks identified in this document or work plan, and may supplement them with an alternate list of tasks or sub-tasks that will still permit the proper development of the project. Any additions or modifications of the tasks by the Contractor must be so noted, along with reasons the changes were necessary. Changes and modifications are subject to written approval by the MDCH and MDIT Project Managers.
18. The State will not pay for any travel costs as it is expected that the key personnel(s) will be based in Lansing area to perform the work. The State will provide necessary onsite accommodations with necessary equipment. The State and Contractor will negotiate the required presence by the Contractor at the State offices
19. All products (software, documents, and other) will remain in the public domain. The Contractor will have no claim or rights over the work products developed under this Contract.
20. U.S. Department of Agriculture Food and Nutrition Service (FNS) will have royalty free rights to use software and documentation developed.
21. The Contractor must be compliant with:
 - a. Executive Order 11246 related to "Equal Employment Opportunity"
 - b. Copeland "Anti-Kickback Act" (18 U.S.C. 874)
 - c. Anti-Lobbying Act
 - d. Debarment (suspension) requirements
 - e. Section 306 of the Clean Air Act
 - f. Section 308 of the Clean Water Act

The contractor certifies that we are in conformance with applicable federal and state civil rights laws and practices, equal employment opportunity for all persons regardless of race, creed, color, religion, national origin, gender or handicap. We also certify we are in conformance with the requirements of the Americans With Disabilities Act.



Article 1, Attachment A

Pricing

<u>Ref #</u>	<u>IV & V Activity</u>	<u>Deliverable</u>	<u>Not to Exceed Cost (of Activity, Deliverable, Initial Assessment)</u>	<u>Not to Exceed Cost of any Follow-up Assessment</u>
1	Project Kickoff meeting	a. Summary of kickoff meeting	N/A	N/A
2	Quality Assurance Management Plan	a. Quality Assurance Management Plan	1,857.00	\$680.00
3	Risk Management	a. Risk Management Plan with documented risks and mitigation approaches	1,813.00	\$660.00
		b. Risk Issues Monthly Report (currently indicating the cost of two years reporting)	\$1200/mo not to exceed \$29,999	
4	IV & V Assessments of Implementation Contractor Deliverables			
	Milestone 1 – Written Assessments of:	a. Detailed Project Plan	1,945.00	\$540.00
		b. Electronic Project Library	951.00	\$270.00
		c. Quality Management Plan	1,150.00	\$360.00
		d. Software Development Approach	1,415.00	\$640.00
		e. Project Staffing & Facility Plan	1,238.00	\$640.00
		Risk Management Plan	1,415.00	\$640.00
		Project Status Reports	14,328.00	N/A



	Milestone 2 - Written Assessments of:	a. Documentation & Standards Plan	0.00	\$0.00
		b. Equipment/Technology Acquisition Plan	0.00	\$0.00
		c. Technical Architecture Plan	0.00	\$0.00
		d. Capacity Plan	0.00	\$0.00
		e. Configuration Plan	0.00	\$0.00
		f. Installation Plan	0.00	\$0.00
		g. Staff Training & Knowledge Transfer Plan	0.00	\$0.00
		h. Facility & Data Security Plan	0.00	\$0.00
		i. Business Continuity & Disaster Plan	0.00	\$0.00
		j. Test Plan	1,503.00	\$640.00
		k. Data Conversion Plan	1,680.00	\$640.00
		l. Application Turnover Plan	1,680.00	\$640.00
		m. Requirements Validation Document	1,901.00	\$640.00
	Milestone 3 - Written Assessments of:	a. Application Design Development Plan	2,144.00	\$640.00
		b. Requirements Overview Document	N/A	N/A
		c. Detailed Requirements Document (including gap analysis and requirement traceability matrix)	5,792.00	\$2,360.00
		d. Logical & Physical Data Model	2,874.00	\$1,200.00
		e. Data Dictionary	1,791.00	\$760.00
		f. Technical Design	5,482.00	\$1,840.00
		g. Technical Documentation	3,360.00	\$1,200.00
		h. Source Code and Artifacts	0.00	\$0.00
		i. Test Results for Design	2,741.00	\$960.00
		j. Quality Assurance & Performance Testing	3,205.00	\$960.00
		k. User Acceptance Test Cases	2,564.00	\$1,000.00
		l. User Acceptance Testing	42,800.00	\$5,760.00
		m. Training Material	1,150.00	\$680.00
		n. Training Data	1,150.00	\$680.00
		o. Online User Aids	752.00	\$340.00

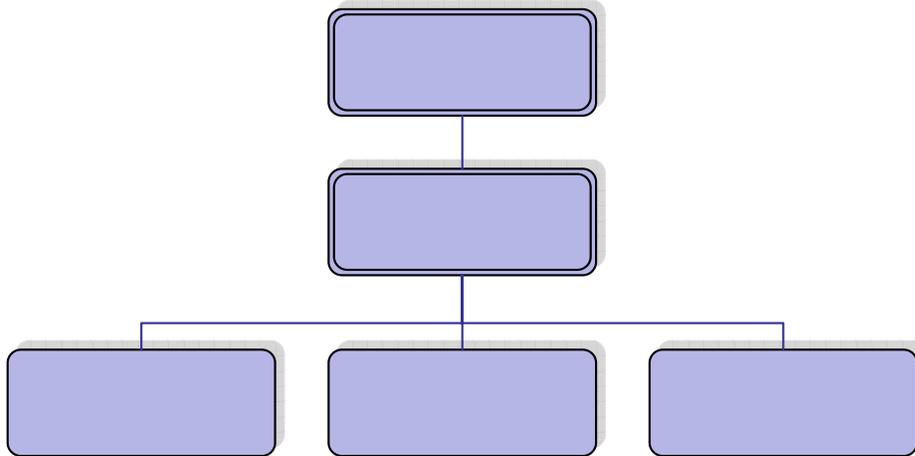


	Milestone 4 - Written Assessments of:	a. Production Environment	0.00	\$0.00
		b. Data Conversion	3,360.00	\$1,200.00
		c. User Training	14,148.00	\$5,810.00
		d. Post-Classroom Practice Exercises	752.00	\$340.00
		e. Train the Trainers	0.00	\$0.00
		f. Help Desk guide	752.00	\$340.00
		g. Pilot Review Report	906.00	\$320.00
		h. Help Desk Support Metrics	906.00	\$320.00
		i. Pilot WIC Application Implementation	11,053.00	\$3,600.00
		j. WIC Application Implementation	21,223.00	\$11,360.00
	Milestone 5 - Written Assessments of:	a. Updated Turnover Plan	0.00	\$0.00
		b. Final Turnover Report	0.00	\$0.00
		c. Knowledge Transfer Reports	0.00	\$0.00
		d. Updated Application Source Code Artifacts	0.00	\$0.00
		e. Updated Documentation	1,061.00	\$320.00
5	System Performance & Testing	a. Supplemental User Acceptance Test Cases	1,945.00	\$360.00
		b. User Acceptance Test Results Evaluation Report (with recommendations for failed testing requirements)	3,404.00	\$2,160.00
		c. Capacity Analysis Evaluation Report	3,802.00	\$1,280.00
		d. Assessment of process used for Quality Assurance and Performance testing	10,346.00	\$4,020.00
		e. Quality Assurance and Performance Testing Evaluation Report	7,251.00	\$3,440.00
6	USDA Audit Requirements	a. Evaluation Report indicating avenues for correction, if any.	11,053.00	\$3,880.00
7	Training Evaluation	a. Training Evaluation Methodology	3,537.00	\$1,080.00
		b. Training Evaluation Report	42,909.00	\$18,140.00
8	Pilot and Implementation Support	a. Pilot Evaluation Methodology	6,013.00	\$1,960.00
		b. Pilot Evaluation Report	5,836.00	\$2,440.00
			\$288,937.00	\$87,740.00
		Extended		\$376,677.00



Article 1, Attachment B

Organizational Chart, including Key Personnel



The key personnel is:

- Quality Assurance Manager / Project Manager

Mr. Haught will serve as the Quality Assurance Manager / Project Manager for this engagement.



Article 1, Attachment C
Labor Rates

Labor rates to be used for time and material requests and change orders are as follows:

Labor Category	Rate per Hour
QA Manager/Project Manager	\$160.00
IV&V/QA Analyst	\$105.00
IS Specialists	\$115.00



Article 1, Attachment D
Deliverables

See Article 1, Attachment A. Deliverables and the price are listed.



Article 1, Attachment E
Project Plan

The Implementation Vendor's project plan will be the plan followed by the State, the IV&V Contractor and the Implementation Vendor. Specific tasks for the State and IV&V will be incorporated into that plan.



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 Purchasing Operations and Michigan Department of Community Health (DCH) and Michigan Department of Information Technology (DIT) (collectively, including all other relevant State of Michigan departments and agencies, the "State").

PURCHASING OPERATIONS is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. **Purchasing Operations 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 Purchasing Operations for this Contract is:

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

2.015 Contract Compliance Inspector

Upon receipt at PURCHASING OPERATIONS of the properly executed Contract, it is anticipated that the Director of DMB Purchasing Operations, in consultation with DCH/DIT, 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 Purchasing Operations.** The Contract Compliance Inspector for this Contract is:

Mary Ladd
 Department of Information Technology
 Bureau of Strategic Policy – Office of Contracts
 Constitution Hall, South Atrium
 525 West Allegan Street
 Lansing, MI 48913
 laddm@michigan.gov
 Phone: (517) 335-4082
 Fax: (517) 241-8852



2.016 Project Manager

The following individuals will oversee the project:

From the Michigan Department of Community Health:

Ms. Alethia Carr
Department of Community Health
2150 Apollo Drive
Lansing, MI 48909
carra@michigan.gov
Phone: 517-335-9299
Fax: 517-335-9444

From the Michigan Department of Information Technology:

Linda Myers
Department of Information Technology
300 East Michigan Avenue
Lansing, MI 48913
Email myers@michigan.gov
Phone: (517) 373-3926
Fax: (517) 241-7486

2.020 Contract Objectives/Scope/Background

2.021 Background

WIC is a health and nutrition program that has demonstrated a positive effect on pregnancy outcomes, infant feeding, child growth, and development. The United States Department of Agriculture (USDA) contracts with the Michigan Department of Community Health, to administer the WIC Program in Michigan. Department of Community Health contracts with local agencies to provide direct program services to the participants.

Benefits provided through the WIC Program to the participants include:

- Nutritious foods
- Nutrition education
- Breastfeeding promotion and education
- Adjunct health care and community resource referrals

Forty-nine agencies with 248 clinics serve approximately 226,000 participants in 83 counties throughout the state. For more information on Michigan WIC, refer to the website www.michigan.gov/wic.

The State will be contracting with an "Implementation Contractor" to transfer, convert, customize, and implement a currently existing web-based WIC system. The system will support Michigan WIC program areas including: income eligibility, adjunct eligibility, certification and enrollment, nutrition education, appointment scheduling, food package prescription, Electronic Benefits Transfer food instrument issuance and redemption, vendor authorization and monitoring, and program administration.

2.022 Purpose

The purpose of this contract is to obtain services for Independent Validation and Verification (IV&V) Contractor to assist in project management, quality assurance, and monitoring activities necessary to complete the WIC System Replacement project.



2.023 Objectives and Scope

The Independent Validation and Verification Contractor will ensure the State that work products developed by the Implementation Contractor meet the specified requirements, including verification of the design and implementation of the WIC Management Information System (MIS).

The following are within the scope of activities needed for the project to be performed by the Independent Validation and Verification Contractor:

- Review and evaluate all deliverables from the Implementation Contractor and its primary subcontractors, including the suitability of the proposed deliverables and reports.
- Assist and monitor general design document deliverables, technical specifications deliverables, and planning deliverables for corrective actions.
- Review Documentation and Standards Plan, Equipment/Technology Acquisition Plan, Technical Architecture Plan, Capacity Plan, Installation Plan, Facility and Data Security Plan, Business Continuity and Disaster Plan, Data Conversion Plan, and Training Plan to ensure that the plans follow State's documented standards, procedures, and guidelines and ensure that the plan meet State's requirement to attain the project objectives.
- Assist and map requirements to requirements traceability matrix.
- Participate in system development verification tasks as required by the State.
- Assist and monitor functional and acceptance testing, review and evaluate various test plans from the Implementation Contractor and the State, identify missing components, review and evaluate proposed test cases, and identify potential problems/associated costs and possible solutions/costs to apply those solutions.
- Develop User Acceptance Test cases as required by the State.
- Participate in User Acceptance Testing (UAT) as required by the State.
- Ensure validity and accuracy of test results.
- Perform issue write-up and resolution.
- Participate in verification of work product configurations as defined in the Configuration Management Plan.
- Participate in verification by evaluating processes and work products as defined in Quality Management Plan, as requested by the State, and as described in section 1.104.
- Participate in verification of risks, risks assessment and mitigation as defined in Risk Management Plan.
- Support the State during Pilot and Statewide implementation of the Michigan WIC system.
- Document recommendations and findings as needed; present to State Project Managers.

2.024 Interpretation

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

2.025 Form, Function and Utility

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

2.030 Legal Effect and Term



2.031 Legal Effect

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

2.032 Contract Term

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

2.033 Renewal(s)

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

2.040 Contractor Personnel

2.041 Contractor Personnel

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

(b) Key Personnel - **Quality Assurance Manager/Project Manager**

(i) In discharging its obligations under this Contract, Contractor shall provide the named Key Personnel on the terms indicated. **Article 1, Attachment B** provides an organization chart showing the roles of certain Key Personnel, if any.

(ii) Key Personnel shall be dedicated as defined in **Article 1, Attachment B** 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 which shall not be unreasonably withheld. 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 \$20,000.00 per individual unless 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. The State shall not unreasonably withhold, qualify or delay such approval.

If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least thirty (30) days, in addition to the \$20,000.00 liquidated damages for an Unauthorized Removal, Contractor shall pay the amount of \$666.00 per day for each day of the thirty (30) day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$20,000.00 maximum per individual. The total liquidated damages that may be assessed per Unauthorized Removal and failure to provide thirty (30) days of shadowing shall not exceed \$40,000.00 per individual.

(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 Purchasing Operations 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 A** is a list of the Subcontractors, if any, approved by the State as of the execution of this Contract, together with a copy of the applicable subcontract.

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

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

2.045 Contractor Responsibility for Personnel

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

2.050 State Standards

2.051 Existing Technology Standards

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

2.052 PM Methodology Standards

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

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

2.053 Adherence to Portal Technology Tools

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

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



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

Contractors that are compelled to use alternate tools must have received an exception from DIT, Enterprise Application Services Office, eMichigan 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) 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 C lists the items of software the State is required to purchase for execution the Contract. The list in **Exhibit C** 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 C** also identifies certain items of software to be provided by the State.

2.063 Hardware

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

2.064 Equipment to be New and Prohibited Products

(a) Equipment to be New

If applicable, all equipment provided under this Contract by Contractor shall be new where Contractor has knowledge regarding whether the equipment is new or assembled from new or serviceable used parts that are like new in performance or has the option of selecting one or the other. Equipment that is assembled from



new or serviceable used parts that are like new in performance is acceptable where Contractor does not have knowledge or the ability to select one or other, unless specifically agreed otherwise in writing by the State.

(b) Prohibited Products

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against the Contract, shall be considered default by the Contractor of the terms and conditions of the Contract and may result in cancellation of the Contract by the State. The brand and product number offered for all items shall remain consistent for the term of the Contract, unless Purchasing Operations has approved a change order pursuant to **Section 2.106**.

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.

2.073 RESERVED (Liquidated Damages)

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) [USE ONLY IF CONTRACT INCLUDES SERVICES]

(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 Contractor 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 Responsibilities

Unless otherwise specified by the State within an individual order, the following shall be applicable to all orders issued under this Contract.

(a) Shipment responsibilities - Services performed/Deliverables provided under this Contract shall be delivered "F.O.B. Destination, within Government Premises." The Contractor shall have complete responsibility for providing all Services/Deliverables to all site(s) unless otherwise stated. Actual delivery dates will be specified on the individual purchase order.

(b) Delivery locations - Services will be performed/Deliverables will be provided at every State of Michigan location within Michigan unless otherwise stated in the SOW. Specific locations will be provided by the State or upon issuance of individual purchase orders.

(c) Damage Disputes - At the time of delivery to State Locations, the State shall examine all packages. The quantity of packages delivered shall be recorded and any obvious visible or suspected damage shall be noted at time of delivery using the shipper's delivery document(s) and appropriate procedures to record such.

Where there is no obvious or suspected damage, all deliveries to a State Location must be opened by the State and the contents inspected for possible internal damage not visible externally within fourteen (14) days of



receipt. Any damage must be reported to the Contractor within five (5) days of inspection. If this inspection does not occur and damages not reported within thirty (30) days of receipt, the cure for such damaged deliveries shall transfer to the delivery signing party.

2.082 Delivery of Deliverables

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

2.083 Testing

(a) Prior to delivering any of the above-mentioned Statement of Work Physical Deliverables or Services to the State, Contractor will first perform all required quality assurance activities to verify that the Physical Deliverable or Service is complete and in conformance with its specifications listed in the applicable Statement of Work or Purchase Order. Before delivering a Physical Deliverable or Service 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 or Service 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.

(b) If a Deliverable includes installation at a State Location, then Contractor shall (1) perform any applicable testing, (2) correct all material deficiencies discovered during such quality assurance activities and testing, and (3) inform the State that the Deliverable is in a suitable state of readiness for the State’s review and approval. To the extent that testing occurs at State Locations, the State shall be entitled to observe or otherwise participate in testing.

2.084 Approval of Deliverables, In General

(a) All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, in accordance with the following procedures. Formal approval by the State requires that the Deliverable be confirmed in writing by the State to meet its specifications, which will include the successful completion of Testing as applicable in **Section 2.083**, to be led by the State with the support and assistance of Contractor. The parties acknowledge that the approval process set forth herein will be facilitated by ongoing consultation between the parties, visibility of interim and intermediate Deliverables and collaboration on key decisions.

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

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

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



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

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

2.085 Process For Approval of Written Deliverables

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

2.086 Process for Approval of Services

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



2.087 Process for Approval of Physical Deliverables

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

2.088 Final Acceptance

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

2.090 Financial

2.091 Pricing

(a) Fixed Prices for Services/Deliverables

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

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

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

(c) Services/Deliverables Covered

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

(d) Labor Rates

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

2.092 Invoicing and Payment Procedures and Terms

(a) Invoicing and Payment – In General

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

(ii) Each Contractor invoice will show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. The charges for Services billed on a time and materials basis shall be



determined based on the actual number of hours of Services performed, at the applicable Labor Rates specified in **Article 1, Attachment C**. Invoices for Services performed on a time and materials basis will show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 2.094**.

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

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

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

(c) Out-of-Pocket Expenses

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

(d) Pro-ration

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

(e) Antitrust Assignment

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

(f) Final Payment

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

2.093 State Funding Obligation

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

2.094 RESERVED (Holdback)



2.095 Electronic Payment Availability

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

2.100 Contract Management

2.101 Contract Management Responsibility

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

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

2.102 Problem and Contract Management Procedures

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

2.103 Reports and Meetings

(a) Reports.

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

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



(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 Purchasing Operations.

(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

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

2.111 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.

2.112 Errors

(a) If the audit demonstrates any errors in the statements provided to the State, then the amount in error shall be reflected as a credit or debit on the next invoice and in subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried for more than four (4) quarterly statements. If a balance remains after four (4) quarterly statements, then the remaining amount will be due as a payment or refund within forty-five (45) days of the last quarterly statement that the balance appeared on or termination of the contract, whichever is earlier.

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

2.120 State Responsibilities

2.121 State Performance Obligations

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

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



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

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

2.130 Security

2.131 Background Checks

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

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

2.140 Reserved

2.150 Confidentiality

2.151 Freedom of Information

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

2.152 Confidentiality

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



2.153 Protection of Confidential Information

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

2.154 Exclusions

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

2.155 No Implied Rights

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

2.156 Remedies

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

2.157 Security Breach Notification

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



2.158 Survival

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

2.159 Destruction of Confidential Information

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

2.160 Proprietary Rights

2.161a Ownership

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

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

2.162 RESERVED (Source Code Escrow)

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 C**.

2.166 Pre-existing Materials for Custom Software Deliverables

Neither Contractor nor any of its Subcontractors shall incorporate any preexisting materials (including Standard Software) into Custom Software Deliverables or use any pre-existing materials to produce Custom Software Deliverables if such pre-existing materials will be needed by the State in order to use the Custom Software Deliverables unless (i) such pre-existing materials and their owners are identified to the State in writing and (ii) such pre-existing materials are either readily commercially available products for which Contractor or its Subcontractor, as the case may be, has obtained a license (in form and substance approved by the State) in the name of the State, or are materials that Contractor or its Subcontractor, as the case may be, has the right to license to the State and has licensed to the State on terms and conditions approved by the State prior to using such pre-existing materials to perform the Services.

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

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.

1. Software Warranties
RESERVED

2. Equipment Warranty
RESERVED

3. Physical Media Warranty
RESERVED



2.175a DISCLAIMER

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

2.175b Standard Warranties

(a) Warranty of Merchantability

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

(b) Warranty of fitness for a particular purpose

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

(c) Warranty of title

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

2.176 Consequences For Breach

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

2.180 Insurance

2.181 Liability Insurance

(a) Liability Insurance

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

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

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

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



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

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

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

Before the Contract is signed by both parties or before the purchase order is issued by the State, the Contractor must furnish to the Director of Purchasing Operations, certificate(s) of insurance verifying insurance coverage ("Certificates"). The Certificate must be on the standard "accord" form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) shall contain a provision indicating that coverages afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without THIRTY (30) days prior written notice, except for ten (10) days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected and be mailed to: Director, Purchasing Operations, 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 Purchasing Operations certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor shall provide evidence that the State and its agents, officers and employees are listed as additional insureds under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

Contractor shall maintain all required insurance coverage throughout the term of the Contract and any extensions thereto and, in the case of claims-made Commercial General Liability policies, shall secure tail coverage for at least three (3) years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and shall not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor shall be responsible for all deductibles with regard to such insurance. If Contractor fails to pay any premium for required insurance as specified in this Contract, or if any insurer cancels or significantly reduces any required insurance as specified in this Contract, 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, for one (1) year after expiration or cancellation, 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 the value of the Contract. The foregoing limitation of liability shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

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

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

2.202 Excusable Failure

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

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

If any of the above-enumerated circumstances substantially prevent, hinder, or delay Contractor's performance of the Services/provision of Deliverables for more than ten (10) Business Days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected Services/Deliverables from an alternate source, and the State shall not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in performance shall continue; (b) the State may terminate



any portion of the Contract so affected and the charges payable there under shall be equitably adjusted to reflect those Services/Deliverables terminated; or (c) the State may terminate the affected Statement of Work without liability to Contractor as of a date specified by the State in a written notice of termination to Contractor, except to the extent that the State shall pay for Services/Deliverables provided through the date of termination.

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

2.203 Disaster Recovery

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 **Article 1, Attachment C**. 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 Purchasing Operations, 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 Purchasing Operations, 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 Purchasing Operations.

(2) Contractor shall also notify the Office of Purchasing Operations 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 Purchasing Operations 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: Joann Klasko
State of Michigan
Office of Purchasing Operations
Attention:
PO Box 30026
530 West Allegan
Lansing, Michigan 48909



with a copy to:
State of Michigan
Department of Information Technology
Attention: Mary Ladd
525 West Allegan
Constitution Hall, South Atrium
Lansing, Michigan 48913

Contractor(s):
Peter Relich
1375 Piccard Drive, Suite 125
Rockville, MD 20850

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 **Article 1, Attachment B** 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

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

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 State Employee Purchases 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.

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

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

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

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



Appendix C1 Current System Details

(a) M-TRACX

M-TRACX is the primary WIC application that is used to administer the WIC program. The application maintains participant certification and enrollment data, issues on demand coupons, reconciles food obligation with coupon redemptions, and generates federal, state, and clinic reports.

Hardware Environment	Bull DPS 9000 Mainframe
Software Environment	COBOL, JCL, Transaction Processing Routines (TPR)
Operating System	GCOS-8
Database	IDS-II (Hierarchical)
Number of Users	1000
Number of Concurrent Users	Approximately 450
Network Infrastructure	PC (WINTEL- mix of 2000 and XP) workstations access the mainframe using State LAN and WAN using TCP/IP with GLink emulator
Database Entity Relationship Diagram	IDS II is a hierarchical database. Database structures and COBOL copybooks for layouts are maintained.
Number of Transactions	110,000 + (represents 4,194, 881 input characters and 117, 362, 730 output characters)
Current System Support Services	Department of Information Technology, State of Michigan.



M-TRACX Record Counts

Please note the counts provided are approximates only. Actual counts will differ. This information is provided so bidders can scope the requirements for data conversion and migration.

Number of Records ¹ (as of 11/07/2005)	Family	256,785
	Nutrition Education Events	819,564
	Family History	912,304
	Nutrition Education Attendance	2,476,041
	Active Participants	348,648
	Obligations	2,440,439
	Participant History	1,633,667
	Certification Data	1,575,647
	Woman Medical Data	284,931
	Infant Medical Data	217,584
	Coupon	2,089,382
	Appointment Dates	12,182
	Appointments Filled	271,040
	Standard Package	1,297
	Coupon Types	487
	Food Items	84
	Coupon Items	638
	Package Items	3,333
	Historical Prices of Coupon Types by Vendor	22,758
	Vendor Peer Groups	21
	Vendor	4,698
	Vendor Coupon Price	273,245
	Error Coupons	59,617
	Focus Hope (CSFP – Dual Participation)	209,971
	EBT ² Benefits	9,758
	EBT Category/Sub Category	56,772
	UPC/PLU	977
EBT UPC Peer Group	2,206	
Category	114	

1 – These are active database counts by area for the WIC IDS/II database. These do not include participants that have been terminated and therefore archived/purged off the IDS/II database. If a participant has been in "termination status" for 6 months, the participant records are archived off the current IDS/II database. All family data is purged off when the family no longer has an active participant within the family.

2 - EBT benefits are issued only in Jackson County. Jackson County's average monthly caseload is approximately 4500, which is two (2) percent of Michigan's total caseload.

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(b) PC File

PC File maintains and tracks all historical and current vendor/retailer management data. It also maintains vendor/retailer openings by zip code.

Hardware Environment	Dell P4
Software Environment	MS-DOS, FoxPro
Operating System	Windows 98
Database	DBF/MDB (Access)
Number of Users	10 (The primary users are the vendor analysts from the State office)
Number of Concurrent Users	N/A
Network Infrastructure	PC (WINTEL) workstations using State LAN and WAN using TCP/IP
Database Entity Relationship Diagram	Table structures can be printed from the existing system.
Number of Records	~2000
Number of Transactions	N/A
Current System Support Services	WIC Division, State of Michigan



(c) Formulary

Formulary provides detailed information on formulas.

Hardware Environment	Dell P4
Software Environment	MS-Access
Operating System(s)	Windows 98, 2000, and XP
Database	MS-Access
Number of Users	400+ (The primary users are CPAs, Dietitians, and Nutritionists at the WIC local agencies)
Number of Concurrent Users	N/A
Network Infrastructure	PC (WINTEL) workstations using State LAN and WAN using TCP/IP
Database Entity Relationship Diagram	Table structures can be printed from the existing system.
Number of Records	~500
Number of Transactions	N/A
Current System Support Services	WIC Division, State of Michigan



(d) Project FRESH

The application maintains data for Farmers Market Nutrition Program (FMNP) issuance and redemption.

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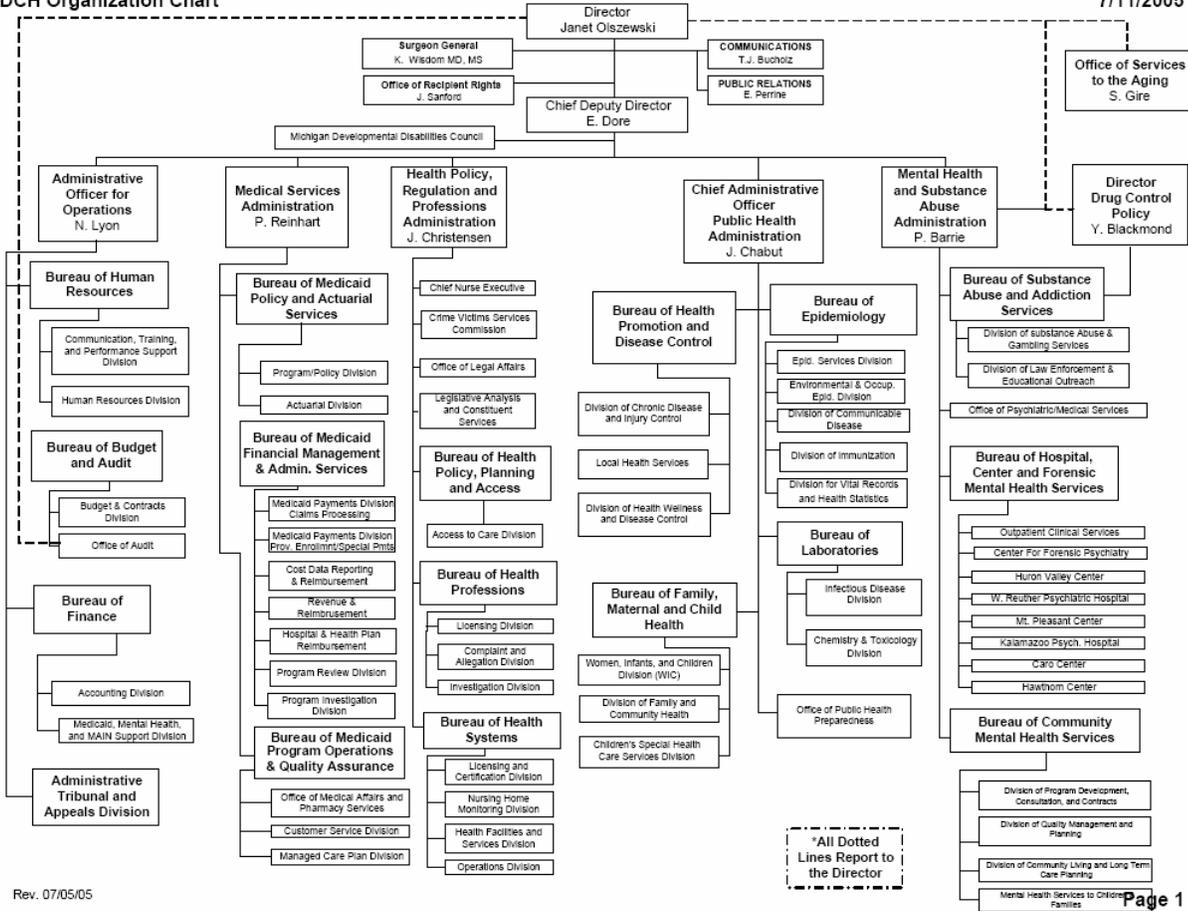
Hardware Environment	Dell P4
Software Environment	FoxPro, MS-Excel
Operating System	Windows 98/2000/XP
Database	DBF
Number of Users	N/A
Number of Concurrent Users	N/A
Network Infrastructure	PC (WINTEL) workstations using State LAN and WAN using TCP/IP
Database Entity Relationship Diagram	Table structures can be printed from the existing system.
Number of Records	< 1000
Number of Transactions	N/A
Current System Support Services	WIC Division, State of Michigan



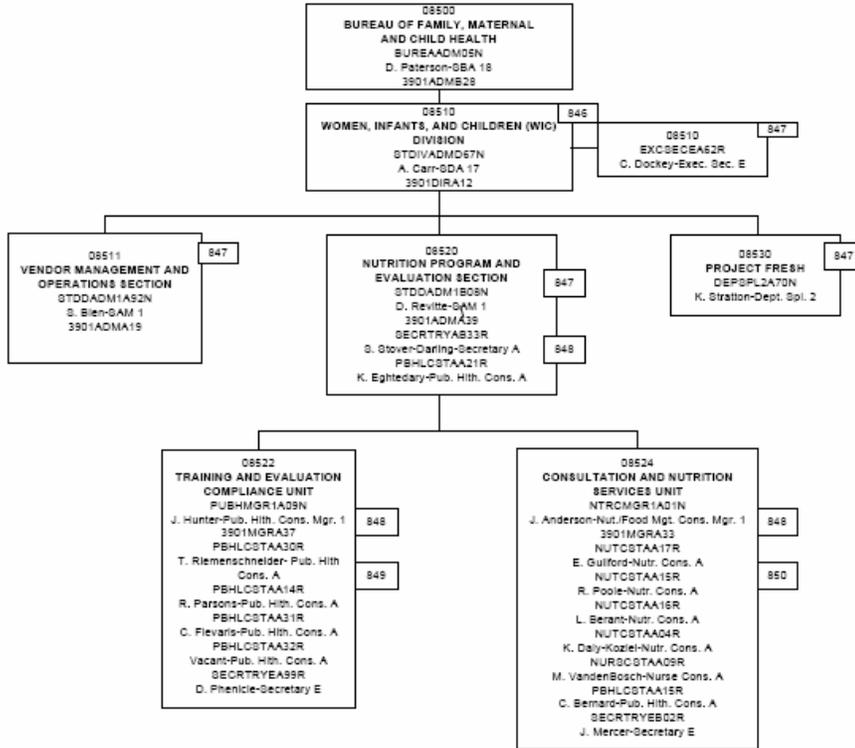
Appendix M Reference Materials Department of Community Health – WIC Division Organization Chart

MDCH Organization Chart

7/11/2005



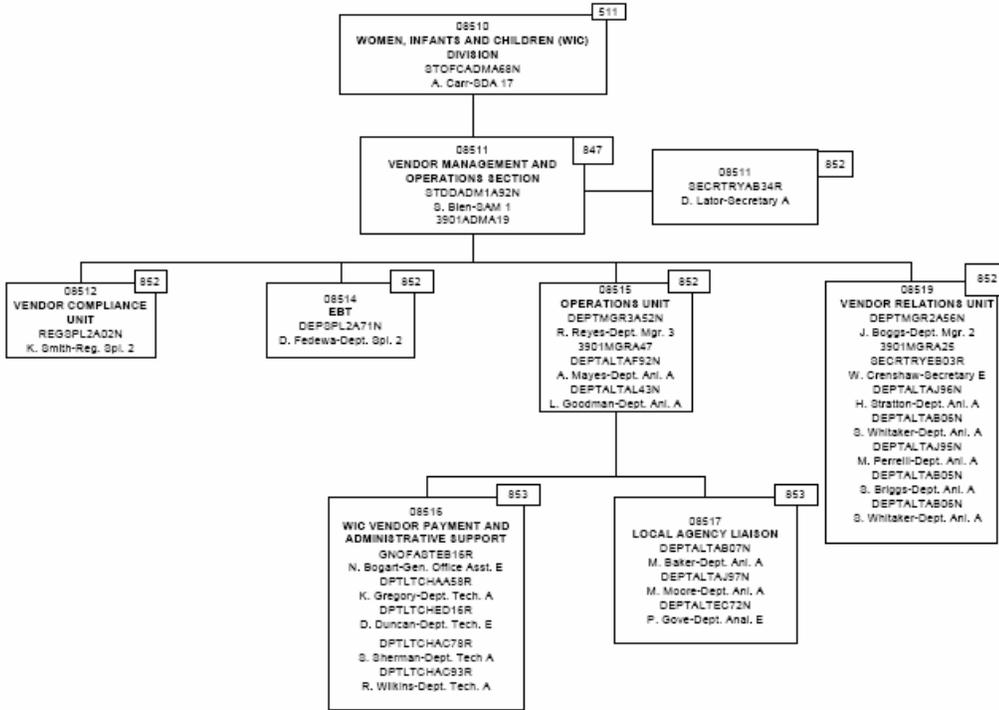
Rev. 07/05/05





MDCH Organization Chart

7/11/2005



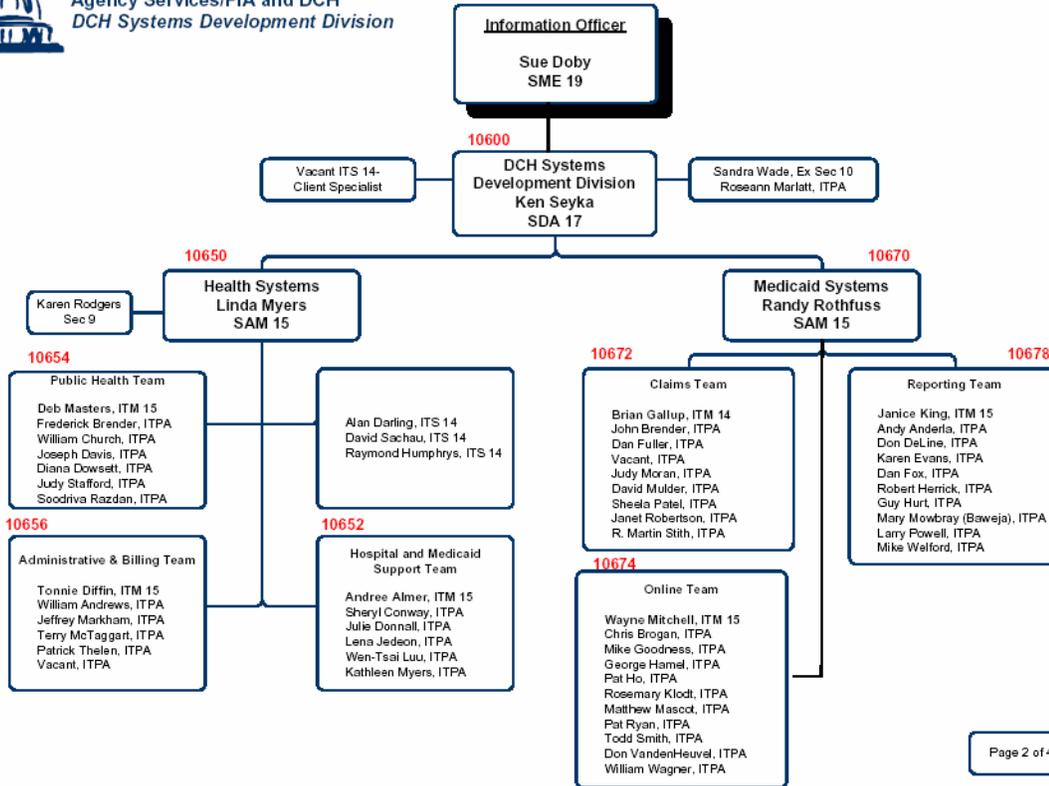


Department of Information Technology Organization Chart



STATE OF MICHIGAN
 Department of Information Technology
 Agency Services/FIA and DCH
 DCH Systems Development Division

Red Code #'s are
Department Codes





DIT Policies and Standards

<http://www.michigan.gov/dit/0,1607,7-139-34305---,00.html>

Department of Community Health

<http://www.michigan.gov/mdch>

Michigan WIC Program

http://www.michigan.gov/mdch/0,1607,7-132-2942_4910---,00.html

Data Warehouse

MDCH has developed an IT Architecture that provides the program-required data to the analyst, manager, or end user. Michigan implemented a data warehouse solution as a component of the IT Architecture to meet the challenge of tracking individual clients and expand its decision support capability. It began with a Medicaid-only database in 1994, expanded for managed care by directly loading encounter data into the warehouse, and has incrementally expanded its capabilities through a series of targeted project implementations.

MDCH is using the enterprise data warehouse as the foundation for integrating related program data together and for conducting advanced data analysis. In so doing, MDCH is able to interpret patterns and gain insights into outcomes, or put another way, determine what *has* happened and *why*, and most importantly, what *will* happen in the future.

Recent enhancements to the enterprise data warehouse have significantly improved the analytical and administrative capabilities of the system and greatly enhanced staff access to the database. This development has occurred in partnership with a nationally recognized systems development vendor, Bull. To increase usability, data tables have been organized into models for ease of access and retrieval of data. The net result is a level of integration between the Department's various program data systems that had never been achieved before.

The State is now at the phase in the implementation of the MDCH IT Architecture where the vision is to develop the reports on the Data Warehouse with an easy to use and powerful Report Generation tool. An analysis of the available tools will be made to select a tool that has the ease of use, functionality, flexibility, and supportability we are looking for.

This integration of data across the MDCH enterprise has provided the department with broader health care analysis capabilities, better information sharing, more efficient access for staff personnel to data contained in the warehouse, and more rapid decision-making capability.

The data warehouse has become a critical tool to help MDCH improve its delivery of health care services, determine which programs are most effective, detect fraud and abuse, reduce overall costs to taxpayers, and predict the state's health care needs and priorities in the years to come.



Technical Infrastructure/Architecture

The MDCH application environment is based on a centralized data warehouse architecture. The data warehouse consists of a current generation NCR 5380 Relational Database Computer (RDBC) that uses the most current release of the Teradata Relational Database Management System (RDBMS) to store the data. The data that is stored in the data warehouse is received from multiple sources. Encounter Data is submitted by the Medicaid Health Plans and received electronically through a data gateway; and data is extracted from the legacy systems for multiple departmental sources such as:

Program
Medicaid (Managed Care & Fee-For-Service)
Vital Records (Births and Deaths)
Child Immunization Registry (MCIR)
Women, Infants and Children (WIC)
Pregnancy Risk Assessment Monitoring System (PRAMS)
Newborn Metabolic and Hearing Screening
Childhood Lead Poisoning Prevention
Epidemiology
Mental Health
Substance Abuse
MI Child
Children’s Special Health Care Services (CSHCS)
Beneficiary Provider Contact Tracking System (BPCTS)

This data is loaded and updated to the data warehouse on a pre-defined schedule. Any authorized personnel within MDCH using ODBC and ANSI standard SQL tools can access data in the warehouse. Access to sensitive information is approved only by the responsible owners of the data, using a signed and agreed upon data sharing agreement.

Currently MDCH uses 900 Gigabytes of storage space on the Teradata. This includes:

Fee-For-Service Paid Claims	5 years	219,822,223,360 bytes
Fee-For-Service Pends/Rejects	5 years	81,318,515,200 bytes
Managed Care Encounters	5 Years	179,451,294,720 bytes
Birth Records	8 Years	365,421,568 bytes
Death Records	8 years	195,509,760 bytes
WIC	5 years	4,996,015,104 bytes
MCIR	5 years	16,852,516,320 bytes
UCI Data	5 years	18,191,886,336 bytes
Beneficiary	5 year	27,087,271,936 bytes
Provider Enrollment	5 years	452,582,400 bytes

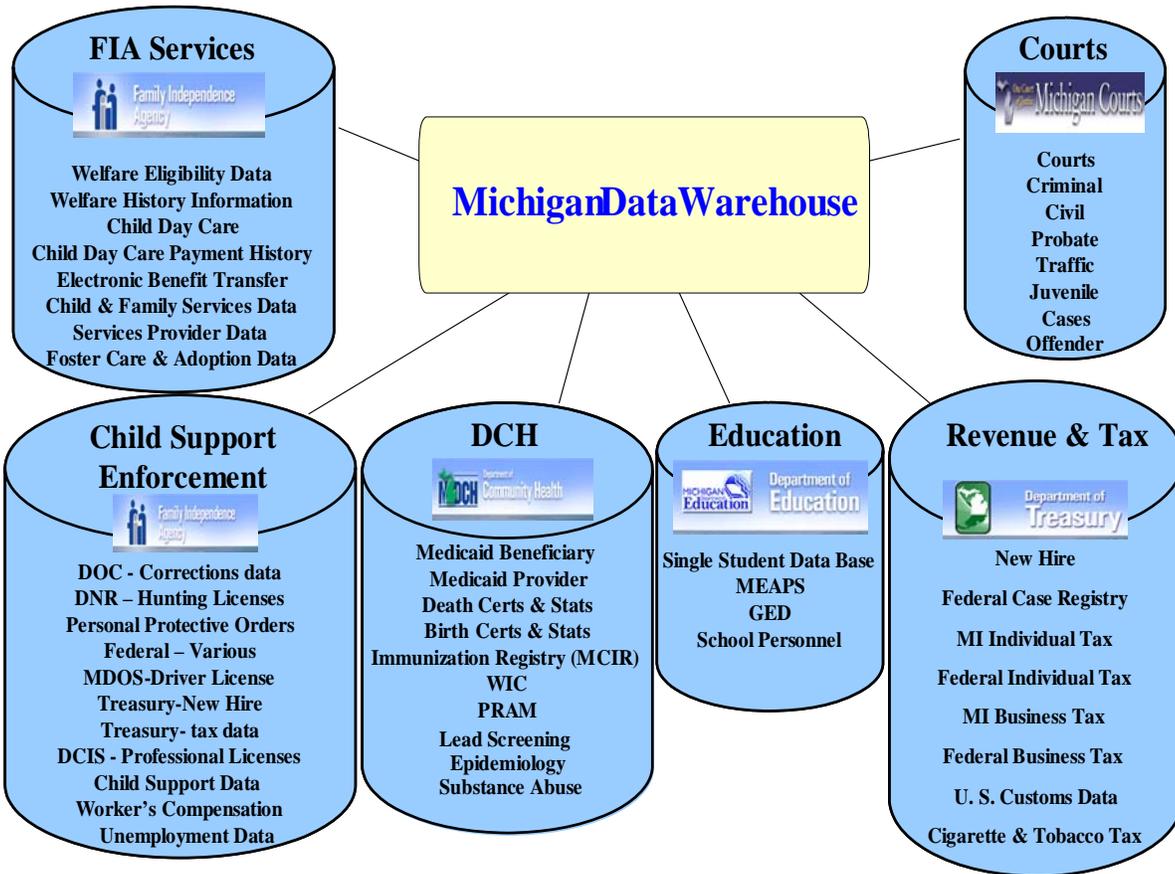


Other components of the MDCH application environment are distributed data marts. One is the SURS system.

The architecture incorporates file servers, desktop computers, document scanners, printers and LAN servers strategically distributed across all in-state offices.

Every hardware component of the MDCH system is, or can be, network connected via an office LAN that is connected via a hard-wire connection or a switched multi-megabit digital service (SMDS) to the State's WAN.

Michigan Data Warehouse



This page depicts the state departments and their applications currently on the Michigan Data Warehouse, which DCH is a part of. The chart does not imply these data sources are linked; they are independent repositories – For reference only.



Appendix F

Corporate Experience

Note: Bidder's response to table categories 1 and 2, below is limited to a combined total of five (5) systems. Bidders may construct their own chart, as long as it contains the same information, in the same sequence.

1. Complete the following table for each WIC System the Bidder has similar experience working in other states.

State	Start/End Month/Year	Hardware Platform	Primary Language	Database	Food Instrument	Annual Caseload	Contract Amount	Client Contact (name/role/phone/email)

2. Complete the following table for other large non-WIC human health services systems (e.g., Medicare, Medicaid) the Bidder has similar experience as requested in this ITB:



Jurisdiction/ Agency	Start/End Month/Year	Hardware Platform	Primary Language	Database	Annual Caseload	Contract Amount	Client Contact (name/role/phone/email)



**Appendix H
Hardware and Software**

The purpose of this table is to provide the bidder with current inventory of hardware and software. Please note that the State would like to replace the current mainframe environment with a newer technology platform.

	Production	Development	To be used in new system (Yes/No)
Mainframe Environment			
Hardware	Bull Olympus DPS9000-TA54	Bull Olympus DPS9000-TA54	No
Operating System	GCOS ¹ 8 SR 5.1	GCOS ¹ 8 SR 5.1	No
Programming Language	COBOL 74 and COBOL 85	COBOL 74 and COBOL 85	No
Database	IDS II	IDS II	No
Database Utilities	DBSP ²	DBSP ²	No
TP Monitor	TP8 ³	TP8 ³	No
Network Server	GNSP ⁴	GNSP ⁴	No
TCP/IP	GTEA ⁵	GTEA ⁵	No
Transaction Monitor	TSM ⁶	TSM⁶	No
Tape Management System	Media Server	Media Server	No
File System	UFAS ⁷ , RFM ⁸	UFAS ⁷ , RFM ⁸	No
Data Warehouse			
Hardware	NCR 5250	NCR 5380	Yes
Operating System	Unix	Unix	Yes
Database	Teradata V2R6.0	Teradata V2R6.0	Yes
Data Warehouse Interface			
Hardware	Two Bull Escala P420	NCR 4400	Yes
Operating System	Unix	Unix	Yes
Data Exchange Gateway			
Hardware	Tandem S7600	Tandem S7400	Yes
Components	Messageway 5.4.8 Editkit 4.0.1 Connect Direct 3.3.01	Messageway 5.4.8 Editkit 4.0.1 Connect Direct 3.3.01	Yes
Storage Management/Backup Recovery			
Hardware	Fat Tape		Yes
Management	EMC SAN Veritas SAN		Yes
Document Imaging			
Hardware	Compaq DL 380 (Database Server)		Yes
	Compaq 1885R (Captiva Server)		Yes
	NetApp F825 NAS Storage		Yes
	Compaq 1855R (Jukebox Server) HP SureStore 660ex/1200ex (Jukebox)		Yes



	Production	Development	To be used in new system (Yes/No)
	Banctec S-Series, S150 with multi-products (Scanners)		Yes
Application Development			
Hardware		Sun Solaris 2.9	Preferred
Operating Systems		Unix	Preferred
Components		Oracle Developer Oracle Discoverer Jasper Jdeveloper Oracle Database 10g	Preferred
Environments		JAVA/J2EE (Struts)	Preferred

- 1 – General Comprehensive Operating System
- 2 – Database Scripting Pages
- 3 – TP Monitor
- 4 – GCOS Network Server Processor

- 5 – GCOS TCP/IP Enterprise Access
- 6 – Transaction Service Module
- 7 – Unified
- 8 – Data File



Appendix D
Minimum Qualifications for Key Personnel

The State of Michigan will require minimum standards for essential named staff managing the validation and verification requirements of this ITB. Michigan requires a key position to be named for the project, consistent with the belief that the Bidder should be in the best position to define the project staffing for their approach to meeting the requirements.

Bidders are expected to propose sufficient staff, with the requisite skills, to meet all requirements in this RFP. The State has listed a key position for which Bidders must identify personnel and provide resume. In addition, Bidders must provide representative job descriptions for other positions identified in the Bidder's organization for the contract. All key staff must be located in Lansing area.

Key Personnel

The named position that require identified personnel and current resume, include:

Quality Assurance Manager /Project Manager

Resumes for Key Personnel

Resumes for key personnel must show employment history for all relevant and related experience and all education and degrees, including specific dates, names of employers for the past five (5) years, and educational institutions attended. For any individual for whom a resume is submitted, the percentage of time to be dedicated to the Michigan WIC project must be indicated.

The resumes for key personnel must include their references and professional experience within the last five (5) years, as indicated below:

1. For each named key person, provide a minimum of two (2) professional references outside the employee's organization. References must be relevant to the assigned duties of the key person in relation to the project.
2. For each client project listed as a reference, provide the client's full name and street address. In addition, provide the current telephone number and email address of the client's responsible project administrator or a service official of the client who is directly familiar with the key person's performance and who may be contacted by the State during the proposal evaluation process.

Michigan reserves the right to check additional personnel references.

Bidders are requested to use the Key Personnel Resume form provided in Appendix C.



The following chart illustrates the qualifications, start date, and any special requirements for key personnel who must be named for the Michigan WIC project.

Key Personnel			
Key Person	Qualifications	Start Date	Special Requirements
Quality Assurance Manager/Project Manager	<ul style="list-style-type: none"> • A minimum of five (5) years of previous quality assurance experience (IV & V services) in a large-scale web-based system implementation, preferably in WIC program or other human health service program as outlined in the RFP on large projects • A minimum of two (2) years previous experience in providing IV & V services as outlined in the RFP on an WIC implementation project • A minimum of one (1) year previous experience with WIC system implementation with Electronic Benefits Transfer (EBT) food benefits issuance • A minimum of three (3) years of project management experience • A solid understanding of WIC program trends and future trends in technical architecture • A minimum of three (3) years experience in Software Development Life Cycle (SDLC) • 3 years experience in performing quality assurance and/or testing activities • 3 years of experience related to a state WIC program • Demonstrate understanding of FRED-E (<i>Functional Requirements Document for a Model WIC Information System, with EBT</i>) requirements developed by USDA • Demonstrate understanding of technology to use technology to leverage program processes to gain 	Contract signing date	Must be dedicated to the Michigan WIC project.



Key Personnel

Key Person	Qualifications	Start Date	Special Requirements
	operational efficiencies <ul style="list-style-type: none"> • Experience in working in a multi-vendor environment and working with multiple state agencies 		

***Job Descriptions***

Job descriptions must be provided for each position shown on the Contractor's organization chart. Each job description will include the following information:

- a. Position Title
- b. Location of position within the organization (i.e., the unit or functional area)
- c. Required qualifications
- d. Prior experience
- e. Responsibilities of the position
- f. Percentage of time dedicated to the Michigan WIC project during the contract