

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

June 28, 2012

CHANGE NOTICE NO. 6

to

CONTRACT NO. 071B7200314

between

THE STATE OF MICHIGAN

and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Institutional Shareholders Services 2099 Gaither Road, Suite 501 Rockville, MD 20850	Jacqueline Rhoades	Jacqueline.rhoades@issgovernance.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(415) 836-8852	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	Treasury	Robert L. Brackenbury	(517) 241-9888	brackenburyr@michigan.gov
BUYER:	DTMB	Jim Wilson	(517) 241-1916	Wilsonj4@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Proxy Voting Research & Advisory Services			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS	CURRENT EXPIRATION DATE
August 1, 2007	July 31, 2010		July 31, 2012
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MIDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:		
OPTION EXERCISED: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	IF YES, EFFECTIVE DATE OF CHANGE: July 25, 2012	NEW EXPIRATION DATE: January 18, 2013
Effective immediately, this Contract is hereby EXTENDED through January 18, 2013 and INCREASED by \$52,304.50. Please also note that the attached SOW is incorporated into the Contract. Per vendor and agency agreement, DTMB Procurement approval and the approval of the State Administrative Board on July 24, 2012.		
VALUE/COST OF CHANGE NOTICE:	\$52,304.50	
ESTIMATED REVISED AGGREGATE CONTRACT VALUE:	\$575,950.50	

Contract #071B7200314: Change Request 6
Statement of Work
Proxy Voting Research & Advisory Services – Department of Treasury

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Article 1 – Statement of Work (SOW)

1.0 Project Identification

1.001 Project Request

The purpose of this proposed change request/amendment is to potentially extend contract #071B7200314 through January 18, 2013 maintaining key Proxy Voting Research and Advisory Services identified in Section 1.1.

All other terms/conditions of the Contract remain unchanged.

1.1 Scope of Work and Deliverables

1.101 In Scope

The Contractor must continue to provide the following:

1. Proxy Voting Support Services
2. Proxy Consulting Services
3. Global Sanction and All Terror Nation Research Services.

1.104 Work and Deliverable

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

- A. Proxy Voting Support Services
 1. Contractor must continue to provide Proxy Voting Support Services per contract #071B7200314.

Contractor Response to Task:

Yes. ISS will continue to provide proxy voting services according the existing terms as outlined in the Contract #071B7200314.

- B. Proxy Consulting Services
 1. Contractor must continue to provide Proxy Consulting Services per contract #071B7200314. Global Sanction Services per Contract Change Notice 5. This Service can be found on, pages 2 through 5 of Contract (Quarterly Cuba, Syria and Iran Scrutinized Company List). Contractor must also continue to provide Sudan Research, found on page 32 Article 1 Attachment A Pricing Sudan Research.

Contractor Response to Task:

All services will remain the same – we won't make any modifications to reports, deliverables, fees and will simply honor the terms as outlined in our existing contract.

- C. System Requirements
 1. Contractor must continue to provide/adhere to System Requirements per contract #071B7200314.

Contractor Response to Task:

We will continue to provide and adhere to the existing System Requirements currently in use by The State of Michigan.

- D. Other Services
 1. Contractor must continue to provide Global Sanction services per Contract Change Notice 5.

Contractor Response to Task:

We will provide Global Sanction services per Contract Change Notice 5

2. Contractor must continue to provide All Terror Nation Research per Contract Change Notice 2.



Contractor Response to Task:

We will continue to provide All Terror Nation Research per Contract Change Notice 2

1.6 Compensation and Payment

1.601 Compensation and Payment

1. Please complete Attachment A and submit. Pricing will be based on a monthly cost.

Contractor Response to Task:

We will issue a monthly invoice for payment per the existing terms outlined in Section 1.601 of the Contract.

**Attachment A, Pricing**

Monthly Proxy Voting Research & Advisory Services Pricing

Deliverable	Monthly Cost		Quantity	Total Cost
1. Proxy Voting Support	\$2,254.00	X	6	\$13,524.00
2. Vote Check Outside Managers	\$1,042.00	X	6	\$6,252.00
3. Fees to Vote on Behalf of External Managers	\$1,705.83	X	6	\$10,235.00
4. Custom Reports (Weekly Upcoming Meeting Report)	\$0.00	X	6	\$0.00
5. Global Sanction and All Terror Nation Research	\$3,715.25	X	6	\$22,291.50
			TOTAL	\$52,304.50

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY MANAGEMENT AND BUDGET September 23, 2011
PURCHASING OPERATIONS
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

CHANGE NOTICE NO. 5
TO
CONTRACT NO. 071B7200314
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR Institutional Shareholders Services 2099 Gaither Road, Suite 501 Rockville, MD 20850 Email: Jacqueline.rhodes@issgovernance.com	TELEPHONE (415) 836-8852 Jacqueline Rhoades
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-1916 Jim Wilson
Contract Compliance Inspector: Robert L. Brackenbury (517) 241-9888 Proxy Voting Research & Advisory Services – Department of Treasury	
CONTRACT PERIOD: From: August 1, 2007 To: July 31, 2012	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	

NATURE OF CHANGE(S):

Effective immediately, the attached changes are hereby incorporated into the contract.
 All other terms, conditions, specifications and pricing remain the same.

AUTHORITY/REASON:

Per agency request.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$523,646.00

Institutional Shareholder Services Inc.

ADDENDUM NO. (GOVS_00048101.0-6/23/2011)

Incorporating Master Service Agreement (“MSA”) No. (97447) between Subscriber & Institutional Shareholder Services Inc.

Between Subscriber and Provider

Subscriber: State of Michigan, Dept. of Treasury

Term: 8/31/2011--8/30/2012

Annual Fee: \$18,000.00

Payment Schedule: Annually to be paid In Advance by Subscriber.*

*Subscriber may elect to have invoices sent to a third party (see contact info for billing inquiries). If third party declines to pay for service, Subscriber will be liable for entire payment.

Service(s): As noted on the Services Schedule attached hereto.

Notwithstanding anything to the contrary in the MSA, the provisions set forth in Attachment 1 are hereby incorporated and shall apply to this Agreement.

Subscriber Information:

If Subscriber is located in Europe, please specify VAT No.: _____

Information sent to:

Name: Amanda York Ellis	
Title:	
Street Address: 2501 Coolidge Road - 4th Floor	
City, State, Zip: East Lansing, MI, 48823 United States	
Tel: (517) 335-9286	Fax:
E-mail: ellisa4@michigan.gov	

ACCEPTED:

State of Michigan, Dept. of Treasury	Institutional Shareholder Services Inc.
Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date:
Address: City, State, Zip:	Address:

Services Schedule

Where the Services include Services Levels, the Annual Fee covers the Service Levels listed below and any usage in excess of the Service Levels will be charged at the Overage Rate.

INCLUDED SERVICE LEVELS

Global Sanction

- Globally-focused coverage, including emerging markets
- Captures all publicly traded companies, rather than an index-based approach
- Narrative profiles provide deeper understanding of companies' involvement in issues of concern, providing opportunities for engagement
- Directly communicate with experienced analysts who maintain the research

Universe: Global

Delivery Method: Datafeed, delivered quarterly

Content: Syria; Cuba

Changes Log: Standard

Attachment 1

Additional Terms and Conditions

The special provisions below shall apply to this Agreement, notwithstanding the provisions of the MSA.

1. If a Business Group is specified on the first page of the Addendum, then the Services shall only be used by that specific Business Group of Subscriber and the distribution of the Services (including the Information contained within the Services) outside of the designated Business Group is not permitted.
2. If the location(s) of Subscriber on the first page of the Addendum, then the Services may only be used by Subscriber at the specified location(s) and the distribution of the Services (including the Information contained within the Services) outside of the designated location(s) is not permitted.
3. Where the Service Schedule specifies the number of User IDs and/or subscriptions for certain Services, each User ID and/or subscriptions shall only be used by one individual. The sharing of User IDs and/or subscriptions is not permitted.
4. If Subscriber is an academic institution that has subscribed to the STATS Service (the "Subscribed Data Services"), the following provision shall apply:

"Subscriber shall have the right to use the Subscribed Data Services (and the Information contained in the Subscribed Data Services) for the purpose of non-commercial, non-profit research for any academic research project conducted on Subscriber's premises. Subscriber's subscription to the Subscribed Data Services only includes up to one hour of support services from Provider. Subscriber may incorporate limited, non-substantial portions of the data contained in the Subscribed Data Services in non-commercial, non-profit academic works or publications; provided that: (i) Subscriber promptly provides Provider with a copy of such academic work or publication; and (ii) attribution to "Institutional Shareholder Services Inc." as the source of such data is included in such academic work and/or publication. For the avoidance of doubt, under no circumstances may Subscriber incorporate the entirety of the data and or Information and/or a substantial portion of the data and/or Information in any work or publication. The commercial use of the Subscribed Data Services (including without limitation, the data and/or Information contained in the Subscribed Data Services) is not permitted hereunder and shall require a separate agreement with Provider."

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

May 18, 2011

CHANGE NOTICE NO. 4
TO
CONTRACT NO. 071B7200314
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR Institutional Shareholders Services 2099 Gaither Road, Suite 501 Rockville, MD 20850	TELEPHONE (301) 556-0500 Steven Friedman
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-1916 Jim Wilson
Contract Compliance Inspector: Robert L. Brackenbury (517) 241-9888 Proxy Voting Research & Advisory Services – Department of Treasury	
CONTRACT PERIOD: From: August 1, 2007 To: July 31, 2012	
TERMS N/A	SHIPMENT N/A
F.O.B. N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	

NATURE OF CHANGE(S):

Effective immediately, the Contract Compliance Inspector is changed to:

Robert L. Brackenbury
Email: brackenburyR@michigan.gov
PH: (517) 241-9888

All other terms, conditions, specifications and pricing remain the same.

AUTHORITY/REASON:

Per agency request.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$523,646.00

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

March 24, 2010

CHANGE NOTICE NO. 3
TO
CONTRACT NO. 071B7200314
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR Institutional Shareholders Services 2099 Gaither Road, Suite 501 Rockville, MD 20850	TELEPHONE (301) 556-0500 Steven Friedman
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-1916 Jim Wilson
Contract Compliance Inspector: Ron Jones (517) 241-9888 Proxy Voting Research & Advisory Services – Department of Treasury	
CONTRACT PERIOD: From: August 1, 2007 To: July 31, 2012	
TERMS N/A	SHIPMENT N/A
F.O.B. N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	

NATURE OF CHANGE(S):

Effective immediately, this Contract is hereby **EXTENDED** through July 31, 2012, and **INCREASED** by \$218,600.00. All other terms, conditions, specifications, and pricing remain changed.

AUTHORITY/REASON:

Per agency request (PRF dated 11/4/09), Ad Board approval on 3/16/2010, and DMB/Purchasing Operations' approval.

REVISED CURRENT AUTHORIZED SPEND LIMIT: \$523,646.00

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

August 28, 2009

CHANGE NOTICE NO. 2
TO
CONTRACT NO. 071B7200314
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR Institutional Shareholders Services 2099 Gaither Road, Suite 501 Rockville, MD 20850	TELEPHONE (301) 556-0500 Steven Friedman
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-1916 Jim Wilson
Contract Compliance Inspector: Ron Jones (517) 241-9888 Proxy Voting Research & Advisory Services – Department of Treasury	
CONTRACT PERIOD: From: August 1, 2007 To: July 31, 2010	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	

NATURE OF CHANGE(S):

Effective immediately, this Contract is hereby INCREASED by \$5,046.00. All other terms, conditions, specifications, and pricing remain changed.

AUTHORITY/REASON:

Per agency request (PRF dated 7/23/09), and DMB/Purchasing Operations' approval.

REVISED CURRENT AUTHORIZED SPEND LIMIT: \$305,046.00

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

July 3, 2008

**CHANGE NOTICE NO. 1
 TO
 CONTRACT NO. 071B7200314
 between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF VENDOR Institutional Shareholders Services 2099 Gaither Road, Suite 501 Rockville, MD 20850	TELEPHONE (301) 556-0500 Steven Friedman
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-1916 Jim Wilson
Contract Compliance Inspector: Ron Jones (517) 241-9888 Proxy Voting Research & Advisory Services – Department of Treasury	
CONTRACT PERIOD: From: August 1, 2007 To: July 31, 2010	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	

NATURE OF CHANGE(S):

Effective immediately, the DMB Buyer for this Contract is changed to Jim Wilson (517) 241-1916. All other terms, conditions, specifications, and pricing remain changed.

AUTHORITY/REASON:

Per DMB/Purchasing Operations.

CURRENT AUTHORIZED SPEND LIMIT REMAINS: \$300,000.00

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

August 29, 2007

**NOTICE
 TO
 CONTRACT NO. 071B7200314
 between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF VENDOR Institutional Shareholders Services 2099 Gaither Road, Suite 501 Rockville, MD 20850	TELEPHONE (301) 556-0500 Steven Friedman
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-1647 Irene Pena, CPPB
Contract Compliance Inspector: Ron Jones (517) 241-9888 Proxy Voting Research & Advisory Services – Department of Treasury	
CONTRACT PERIOD: From: August 1, 2007 To: July 31, 2010	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	

The terms and conditions of this Contract are those of ITB #071I7200057, this Contract Agreement and the vendor's quote. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.

Estimated Contract Value: **\$300,000.00**

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

**CONTRACT NO. 071B7200314
 between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF VENDOR Institutional Shareholders Services 2099 Gaither Road, Suite 501 Rockville, MD 20850	TELEPHONE (301) 556-0500 Steven Friedman VENDOR NUMBER/MAIL CODE BUYER/CA (517) 241-1647 Irene Pena, CPPB
Contract Compliance Inspector: Ron Jones (517) 241-9888 Proxy Voting Research & Advisory Services – Department of Treasury	
CONTRACT PERIOD: From: August 1, 2007 To: July 31, 2010	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION: <p>The terms and conditions of this Contract are those of ITB #071I7200057, this Contract Agreement and the vendor's quote. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.</p> <p>Estimated Contract Value: \$300,000.00</p>	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 071I7200314. Orders for delivery will be issued directly by the Department of Treasury through the issuance of a Purchase Order Form.

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

<p>FOR THE VENDOR:</p> <p style="text-align: center;">Institutional Shareholders Services _____ Firm Name</p> <p style="text-align: center;">_____ Authorized Agent Signature</p> <p style="text-align: center;">_____ Authorized Agent (Print or Type)</p>	<p>FOR THE STATE:</p> <p style="text-align: center;">_____ Signature Irene Pena, CPPB, Buyer Specialist _____ Name/Title Services Division, Purchasing Operations _____ Division</p>
---	--

Date

Date



Article 1 – Statement of Work (SOW)

1.0 Project Identification

1.001 PROJECT REQUEST

The purpose of this Contract is to provide proxy voting support services and related proxy consulting services on an ongoing basis for the Department of Treasury.

1.002 BACKGROUND

The State of Michigan manages approximately \$55 billion of tax-exempt assets. Approximately \$53 billion of those assets are held in trust for the four (4) State sponsored retirement plans. The Bureau of Investments (BOI), Michigan Department of Treasury is responsible for the investing activities of the State sponsored retirement plans, the general fund, and various trust funds. The BOI has an operating budget of over \$13 million and is authorized to employ 78 individuals. In carrying out its investment responsibilities, the BOI manages a broadly diversified portfolio that is both internally and externally managed and includes over 3,000 individual investments.

The State's retirement plans are defined benefit plans representing over 575,000 active members and retirees. The four (4) plans represent the 13th largest public pension plan in the United States. The four (4) plans are: Michigan Public School Employees Retirement System, Michigan State Employees' Retirement System, Michigan State Police Retirement System and Michigan Judges Retirement System. The State Treasurer is the sole fiduciary of the retirement plans, which are overseen by a five (5) person Investment Advisory Committee and the BOI is managed by an Executive team consisting of a Chief Investment Officer, Chief Operating Officer, Chief Administrative Officer and support staff.

The State is currently reviewing the services it receives from contractors and subscriptions it receives in the area of proxy voting and research, advisory and consulting services.

The Contractor is expected to develop, implement and maintain a customized proxy voting recommendation system based on the BOI's Proxy Voting Policy and Corporate Governance Core Principles and Guidelines, provide quarterly research reports of the proxies voted by the State, as well as an aggregated report of proxies voted by external managers. The Contractor must be able to identify, segregate, and deliver the proxy to the State in a timely manner so the proxy can be voted before the meeting date.

The Contractor will also be responsible for maintaining a relationship with the external managers retained by the State as well as the custodian for purposes of receiving proxy materials and related issues.

1.1 Scope of Work and Deliverables

1.101 IN SCOPE

The Contractor will provide comprehensive voting, consulting, research, and support services to the State as it relates to independent proxy voting, research, advisory, and related services for all of the State's investments in U.S. and non-U.S. equities consisting of approximately 900 U.S. Tickers and approximately eight (8) non-U.S. Tickers.

The State uses State Street Bank & Trust Company as its custodian. During the 2005 proxy voting season, the State voted a total of approximately 1,000 ballots, of which approximately 100 were comprised of non-U.S. equities in separate accounts managed by external investment managers. The State has approximately 40 accounts.

1.102 OUT OF SCOPE

The following services are out-of-scope at this time; however, BOI may potentially require these services in the future, and bidder's capability/cost to provide these services is requested (cost information should be provided in Article 1, Attachment A):

1. Provide voting history of other funds on selected issues

**Bidder Response to Task:**

ISS' Voting Analytics will allow the State to view the publicly-filed voting history and policies of mutual funds on selected issues. Voting Analytics is a complete solution for monitoring and analyzing vote policies, shareholder meeting results, voting trends and policy outliers so institutional investors can predict future vote outcomes, benchmark corporate governance policies and compare voting records on ballot issues among other investors. Voting Analytics offers not only access to a rich composite of information, but also the ability to research specific proposal types, analyze success and failure rates for particular industries or peers, and cross-check voting policies with actual vote records.

The Voting Analytics database is comprised of over six years of detailed company voting results from the Russell 3000, as well as fund voting details and policy on over 100 of the largest U.S. mutual fund families. ISS uses an innovative approach for collecting and storing data that is captured in the SEC's Form N-PX for voting disclosure and the 10-Q filings for voting results. ISS also provides expert analysis of the data so clients can determine voting trends and predict future vote outcomes.

Voting Analytics provides clients with valuable insight into the voting behavior of various funds and their peers. This information helps institutional investors demonstrate their level of fiduciary diligence to senior management, board members and proxy committees. Clients can also use Voting Analytics to make informed and effective investment and voting decisions.

2. Vote reconciliation**Bidder Response to Task:**

ISS' innovative voting platform and personalized services are designed to help institutional investors efficiently manage the complex voting process. Using the web based voting platform in Governance Analytics, proxy administrators can retrieve accurate, timely, and detailed proxy information for all companies in all markets, and across all custodians.

Initially launched in 2004, Governance Analytics has recently been enhanced to deliver advanced functionality and increased performance. Governance Analytics 4.0 provides new service features for share reconciliation, target voting and share recall triggers for shares out on loan, giving clients more in-depth data and the ability to better prepare for meetings and proxy voting. Also included in Governance Analytics 4.0 are advanced functionality for searching and filtering data, tracking meetings and reporting on voting activity, enabling proxy managers and fund managers to increase their productivity, streamline their work flow and more effectively meet their fiduciary responsibilities.

To that end, ISS understands the importance of knowing that every vote has been counted. This is done through vote receipt and reconciliation for missing ballots by comparing the record of actual ballots received against the record of expected ballots.

ISS works with the client's custodians to receive and analyze holdings information. ISS uses this information, compared with record dates for meetings, to determine ballots we would expect to receive on your behalf. ISS reconciles this information with actual ballots received. Any discrepancy between the expected ballots and actual ballots is investigated with ADP and/or the custodian bank to determine the cause of the discrepancy. All results of ISS investigations are recorded in the ISS central database, allowing ISS to provide any client reports and metrics that may be requested.

3. Drafting shareholder resolutions**Bidder Response to Task:**

ISS does not provide services to draft shareholder resolutions or to assist clients in filing resolutions at international shareholder meetings. However we do provide both recommendation and non-recommendation based proxy research for shareholder proposals at US and international shareholder meetings. Through these services, we provide pertinent research and data that a client can use to help frame their conversation with a company. However, to maintain our objectivity and neutrality, ISS would not typically intercede with a client's engagement with a company.

ISS has acted as an impartial and neutral party that brings various viewpoints to the marketplace so that all investors can make more informed decisions. ISS is a thought leader on key issues in corporate governance, often serving as the bridge between corporate issuers and investors. As part of our industry leadership, we often engage with our clients in forums and conferences to discuss the issues that affect them as an industry. As part of these conversations, we often provide guidance and suggestions on how investors can work together to attain common goals. We provide ongoing access to "best practice" information as well as to emerging trends in socially responsible investing



In addition, ISS analysts are available for custom consultations and can serve as a sounding board for individual questions related to corporate governance as well as social and climate change sustainability. ISS' analysts, most of whom have advanced degrees and experience in banking, asset management compensation and corporate actions, have a deep understanding of corporate governance best practices throughout the world. They come from diverse backgrounds, bringing together deep expertise in business and finance. Analysts work as a team to address complex issues that impact shareholder value and to cross-reference experience and focus. They have practical experience in investment banking, mergers & acquisitions, compensation consulting, corporate actions, corporate responsibility and regulatory compliance.

4. Proxy solicitation services

Bidder Response to Task:

ISS does not provide proxy solicitation services.

5. SEC no- action related requests under the SEC proxy rules

Bidder Response to Task:

Further information would be required for ISS to comment on the State's needs regarding SEC take no action requests.

6. Archive voting records for votes cast prior to proposed contract period.

Bidder Response to Task:

As a custom service, ISS is able to archive the State's voting records if the State provides this data. ISS would work closely with the State to develop an agreeable format for which to get the records and depending on the scope, there could be an additional charge. Governance Analytics will only display current year and previous year data, so all other data would be maintained by ISS for record keeping purposes on the backend. In accordance with this, Governance Analytics will show records of votes cast for 2006 and 2007. Of note, ISS maintains our clients' vote records for a minimum of five years, in accordance with SEC guidelines. Past vote information can be accessed through ISS, and vote records are made available for one year. ISS also offers Vote Disclosure services to help investment companies efficiently and cost-effectively record and report on their voting policies and actual voting records.

1.103 ENVIRONMENT

A. Servers

1. Microsoft Windows 2000 network operating system
2. Disk array storage systems
3. Dual gigabit ethernet connection to switch
4. Microsoft SQL server database engine
5. Microsoft Exchange 2000 E-mail server
6. HP Jet Direct print servers for HP8100 and HP8500 network printers
7. Dell Power Vault 132T Tape Library system.

B. Network

1. 100% switched ethernet environment
2. Redundant Gigabit Ethernet backbone
3. 100 Megabit/1 Gigabit Ethernet to the workstation
4. Firewall with T1 connection to the Internet.

C. Workstations

1. Pentium III 800 Mhz – Pentium 4 2.3 Ghz workstations
2. 256 MB to 512 MB memory
3. Microsoft Windows 2000/XP operating system
4. 100 megabit/1 gigabit network connection
5. 17" to 22" high resolution monitors.



D. Software

1. Microsoft Office XP
2. Microsoft Internet Explorer 6.0.

1.104 WORK AND DELIVERABLE

A. Proxy Voting Support Services

2. Develop, implement and maintain a customized proxy voting recommendation system based on the State's domestic proxy voting policy.

Bidder Response to Task:

ISS will provide services to develop, implement and maintain customized proxy voting policy and vote recommendations, based on the State's domestic proxy voting policy. ISS recognizes that many institutions have strong preferences related to governance matters and provides assistance with policy development, custom proxy analysis and custom recommendations to meet the unique needs of an organization. Today, ISS manages more than 300 custom policies for clients, and over 30% of ISS' clients use custom voting policies.

ISS' senior analysts will work with the State to understand the issues that are important to their organization and its stakeholders. ISS' custom policy development service allows institutional investors to develop custom proxy voting guidelines or amend existing policies based upon broadly accepted corporate governance principles, corporate best practices, and current trends. ISS determines which policy team would be best suited to handle the client's policy perspective and assigns a lead analyst within that team to help the client develop proxy voting guidelines in line with their investment and governance philosophies. Where appropriate, a client's voting guidelines may be compared to one or more of ISS' standard policy offerings, such as the U.S. or market-specific baseline policy and/or off-the-shelf policies, such as Taft-Hartley policy and the Socially Responsible Investment (SRI) policy. The ISS policy team will then perform a "gap analysis" and address any missing policy positions in the client's policy. In doing so, ISS will review and provide assistance in updating the State's custom voting policies and guidelines, and will work with State to establish procedures that allow ample time for the State to review ISS voting recommendations and direct votes on key issues or for companies that are of special concern.

With ISS' custom policy and vote recommendations, the State always has the opportunity to review all custom policies for final approval before implementation. ISS will also prepare custom research reports and recommendations on management and shareholder proposals that are aligned with the State's governance standards. This assures that votes will be cast in accordance with your unique policy requirements.

Annually, assigned lead analysts will contact clients regarding new trends and developments in the corporate governance arena. It is the responsibility of clients to communicate with ISS analysts regarding policy updates in a timely manner *prior* to heavy proxy season (updates should be received by January of each year). Once notified of these updates, the analyst will implement the instructed changes and will maintain a record of such correspondence for future verification. Clients instruct their assigned research analyst or team manager at ISS as to what date to implement the policy revisions.

In addition to custom research and policy, ISS offers a series of standard sets of guidelines that can easily be tailored to various market needs. SmartVoter services allow clients to easily customize their voting policies based on the institution's unique investment philosophy, using complete sets of objective, quantified voting guidelines. SmartVoter guideline sets cover six key market segments: Public Pension Funds, Corporate Pension Funds, Taft-Hartley Funds, Foundations and Endowments, Religious Investors and Investment Managers.

For example, using Smartvoter policy guidelines, institutions can easily tailor voting policies based on their unique investment philosophy by using complete sets of objective, quantified voting guidelines, including policies specifically designed for Foundations, Endowments and Religious Investors. ISS also offers important research on compliance with MacBride principles through our Northern Ireland Research Services. ISS currently manages over 250 Smartvoter and dozens of client-specific custom social policies.

3. Provide a Web-based proxy voting recommendation platform customized to implement the State's Corporate Governance Core Principles and Guidelines and Proxy Voting Policy (see Exhibits D and E). The platform must also include the following:



- a. Links to the company's current Proxy Statements (14A) and subsequent amendments or contests and Annual Report (10K).

Bidder Response to Task:

This data will be provided for the State's holdings, available via the Governance Analytics platform.

- b. A current copy of the State's Corporate Governance Core Principles and Guidelines and Proxy Voting Policy as amended in the current year

Bidder Response to Task:

The platform does not currently provide a copy of the client guidelines or policy online however with the custom guideline approach, the client will see custom vote recommendations for each ballot item based upon the clients custom guidelines.

- c. Voting function which will show the recommended vote on the issues based on the State's domestic proxy voting policy and allow the State to execute and/or modify recommended votes;

Bidder Response to Task:

This will be provided via the Governance Analytics platform.

- d. Provide proxy research and reports on corporate governance and corporate social responsibility issues including how other public pension funds view and voted the issues;

Bidder Response to Task:

Proxy research and reports on corporate governance and corporate social responsibility issues will be provided via the Governance Analytics platform. Each proxy research report that ISS produces includes detailed information about the company that is being reviewed. This information includes basic performance data, compensation data for the management team and directors, and information on the governance practices of the company, as well as the Corporate Governance Quotient (CGQ) score for that company on the day that the research is produced.

In conducting research, ISS analysts use proxy filings and public disclosure documents as the primary source of information. Analysts also use financial data sources such as Bloomberg and Compustat, brokerage research reports, industry and company news, as well as other key publications. Internally, ISS employs proprietary models to evaluate equity-based pay plans and increases in authorized shares to help guide its research. To gain in-depth insight into a company's ballot issues, ISS analysts regularly speak with appropriate company officials, top institutional holders and other interested parties. ISS believes that this level of analysis is necessary in order to make informed vote recommendations to its institutional clients.

Information on how other public pension funds view and voted the issues is available via ISS' Voting Analytics solution.

- e. Highlight and investigate possible corporate governance issues of SMRS portfolio.

Bidder Response to Task:

Research and investigations of possible governance issues of SMRS portfolio companies would be provided as a custom research service, and fees for this service will vary depending on the nature and scope of the research.

- f. Provide proxy research services on company specific issues, including Michigan company specific issues;

Bidder Response to Task:

Proxy research services on company-specific issues, including Michigan company specific issues would be provided as a custom research service, and fees for this service will vary depending on the nature and scope of the research.

- g. The research services must include proxy voting research coverage for U.S. and International companies in SMRS' portfolio.

**Bidder Response to Task:**

ISS' research team makes detailed voting recommendations on every item, for every ballot, for 33,000 companies across 115 markets worldwide. If ISS does not cover a company held in a client's portfolio, ISS will initiate coverage on that company. Any corporate action voted by the shareholders of a public company -- from a merger agreement to a compensation plan, to any other action -- will receive a full ISS research report.

- h. Provide a separate report which details the voting of the MacBride Principles in accordance with Section 13a of Act 314 of 1965 (The Public Employee Retirement System Investment Act);

Bidder Response to Task:

ISS offers important research on compliance with MacBride principles through our Northern Ireland Research Services, which is offered for an additional fee. The Northern Ireland Service offers specialized research on multinational companies' fair employment practices in Northern Ireland and their compliance with the MacBride principles against religious discrimination. This non-recommendation based research lets you efficiently formulate, implement and update your proxy voting policy on social issues, while keeping up-to-date on corporate social responsibility trends in Northern Ireland.

As an alternative approach, ISS can offer information on a company's compliance with MacBride principles via a custom policy that incorporates the MacBride principles. This would be delivered as part of ISS' custom proxy advisory service.

- i. Contain/maintain current and archived accurate record of the State's proxy voting records;

Bidder Response to Task:

ISS maintains vote records for a minimum of five years, in accordance with SEC guidelines. Past vote information can be accessed through ISS, and vote records are made available for one year.

ISS also offers Vote Disclosure services to help investment companies efficiently and cost-effectively record and report on their voting policies and actual voting records. With this service, ISS collects, reports and records the information required by the SEC in the Form N-PX. This alleviates the hassle of recording and submitting proxy vote records and disclosing proxy voting policies, and allows clients to focus their proxy administration efforts on other critical tasks.

ISS makes the client's proxy voting information accessible to all appropriate stakeholders via a seamless link from the client's web site to a privately labeled web page that is maintained by ISS. This feature allows institutions to employ their own branding, and the web page serves as an extension of their own web site. Clients can easily view the proxy voting activity for each equity fund portfolio in their complex, along with the firm's proxy voting policies and procedures.

- j. Develop quarterly custom reports detailing voting activity.

Bidder Response to Task:

Using the web based voting platform in Governance Analytics, proxy administrators can retrieve accurate, timely, and detailed proxy information for all companies in all markets, and across all custodians. In short, ISS' web based voting platform provides institutional investors the ability to:

- Be informed and empowered with accurate and timely information, including full vote audit trails and intra-day updates of all fund, meeting and agenda information.
- Maintain flexibility and control by allowing individual users to customize their views of voting information, based on their preferences and permissions.
- Demonstrate fiduciary diligence to their board members and proxy committees with detailed, full-record reporting of all funds and fund groups, available in real time.
- Meet their specific needs for accommodating alternative data formats and ballot transmission methods.

Governance Analytics provides immediate access to a complete report warehouse, including standard reports and tools to create custom or ad hoc reports for internal and external clients. These reports provide comprehensive information on the meeting status, voting status and vote recommendations for each fund and ballot in the client's portfolio. Report fields can be customized to the client's preference and can be organized by meeting date, record date, meeting type, company name or country. A sample of the report library available through Governance Analytics is attached.



In addition, ISS' dedicated voting agents can work with clients to prepare custom vote reports, as necessary. ISS' professional voting agents serve as an extension to the client's team by managing voting policies, analyzing proxy statements, providing ISS' informed vote recommendations, and managing the vote execution process – including managing the receipt of proxies, maintaining a log of all proxies, reconciling for missing ballots and placing votes based on established voting policies and guidelines.

- k. Monitor compliance of State's external investment managers with proxy voting policy;

Bidder Response to Task:

ISS' Vote Check is a solution for public plan sponsors to both audit and evaluate their investment managers' proxy voting to ensure they adhere to the fund's policy guidelines. Vote Check provides comparisons of voting records, and reports on every vote cast, flagging votes that were either cast contrary to your policy or not voted at all. ISS analysts work with your fund managers to assemble a database of their stated voting policies. They then review these policies against your stated policy to identify and highlight variations and minimize potential conflicts.

As proxy voting continues, ISS analysts obtain the actual voting records for each of your positions and compare the results against each investment managers' stated policies. Every vote cast by your managers on your behalf is recorded, and you will be promptly alerted of any votes that are cast contrary to your policy or not cast at all.

Vote Check keeps you informed of your investment managers' proxy voting actions:

- Audits vote records to make certain that all votes were cast.
- Identifies votes that were cast contrary to your policy, with managers' explanations for these variances
- Analyze proxy voting issues and categories of proposals to determine how well your managers are meeting their fiduciary responsibilities

Vote Check provides the personal support needed to ensure that your proxy voting policies are discharged correctly. With an experienced team of dedicated client relations professionals and ongoing access to ISS research and policy experts, you can count on quick and responsive support whenever you need it.

- l. Maintain a list of proxy issues that are to be voted by the State, separate proxies containing those issues and deliver them to the State identified individuals via e-mail notification/alert with sufficient time for the State to receive, review, and vote the proxy online before the meeting date; and

Bidder Response to Task:

As part of ISS' custom proxy advisory service, ISS can maintain a list of custom proxy issues that are to be voted by the State, separate proxies containing those issues and deliver them to the State identified individuals via e-mail notification/alert with sufficient time for the State to receive, review, and vote the proxy online before the meeting date.

As part of ISS' standard voting services and Governance Analytics platform, clients can apply pre-defined alerts or create custom alerts to monitor research, meeting notices, contentious issues and other pertinent information. Pre-defined watchlists can be created to monitor companies covered in the S&P 500, Russell 3000 or FTSE index. Users can also create custom watchlists based on their specific portfolio holdings.

In addition, Target Voting is now provided as a standard service in Governance Analytics. Target Voting allows clients to track meetings and companies that are of special interest and be alerted so special vote instructions can be determined and executed in a timely manner. You can easily create and upload your target list of securities using any of the standard identifier protocols: SEDOL, CUSIP, ISIN or CINS. Once loaded, locating and tracking these securities is as simple as one-click; the uploaded list appears as your customized target list, which you can then sort and filter by a number of criteria to display the meeting information. Plus, you can create and save your own filter settings so you can view the data in ways that are most meaningful to you.

- m. Advise on issues based on State policies in which the State will cast proxy votes at least ten (10) business days before vote

**Bidder Response to Task:**

As part of ISS' custom proxy advisory service, ISS will research and provide vote recommendations on issues based on State policies in which the State will cast proxy votes, and on a best-efforts basis will provide this information at least ten (10) business days before the vote deadline.

For U.S. research, ISS generally delivers completed research within 13 days before the meeting, regardless of whether it is an annual, general or special meeting. However, in a few cases where the meeting occurs at 13 days or less, ISS makes the best effort to complete the research as quickly as possible. Also, in the case of a proxy fight or contested merger, sometimes the situation is still developing, so ISS may delay putting out an analysis.

For international research, the time delivery schedules vary by market and depend on the cut off dates provided by sub-custodian banks in the specific market and the availability of information in accordance with relevant market requirements and listing regulations.

- n. Supplement analysis to reflect custom policy on controversial issues and submit voting recommendations

Bidder Response to Task:

As part of ISS' custom proxy advisory service, ISS can supplement its analysis to reflect the State's custom policy on controversial issues and submit voting recommendations. ISS clients also have direct access to analysts, staff and management. We make every effort to be responsive to client needs and have a complete open door policy for clients all the way up to our CEO. ISS has also established a Research Helpdesk in order to provide a streamlined process for addressing clients' needs for clarification on analyses and/or policy issues.

- o. Provide access to consulting services discussed below in Section 1.104.B.

Bidder Response to Task:

Please see section 1.104 B, Proxy Consulting Services for more detail.

3. Create platform to reflect voting history on BOI website that could be made available to public.

Bidder Response to Task:

With ISS' Vote Disclosure Service, the State will be able to communicate its voting history on a website that is made available to the public. ISS' Vote Disclosure services will allow the State to efficiently and cost-effectively record and report on their voting policies and actual voting records. With this service, ISS collects, reports and records the information required by the SEC in the Form N-PX. ISS makes the client's proxy voting information accessible to all appropriate stakeholders via a seamless link from the client's web site to a privately labeled web page that is maintained by ISS. This feature allows the State to employ its own branding, and the web page serves as an extension of your own web site. Clients can easily view the proxy voting activity for each equity fund portfolio in their complex, along with the firm's proxy voting policies and procedures.

A. Provide e-mail support for public questions.**Bidder Response to Task:**

ISS will provide email support for public questions as part of the Vote Disclosure service.

B. Proxy Consulting Services

1. Provide updates and summary description of SEC proxy rules as proposed and finalized.

Bidder Response to Task:

ISS will provide the State with information on SEC proxy rules as they relate to emerging trends and issues. ISS provides clients with a wealth of information on trends and new developments in corporate governance and social responsibility through a myriad of ISS newsletters and publications. ISS also provides various seminars and conferences to its institutional client base, the largest of which is the ISS Annual Conference. This conference is offered to clients as an opportunity to learn about past trends and stay ahead of the curve in issues of proxy voting, corporate governance and compliance.



Throughout the year, ISS offers webcasts designed to give attendees insight, right from their own desktop, into new and proposed corporate governance regulations and compliance as well as market trends and best practices in the areas of proxy voting, securities class action and corporate governance. ISS also conducts an annual briefing tour in which clients can obtain important corporate governance updates and information in a concise but personal format. These briefings are provided in five major cities in the U.S., as well as in the U.K., Europe, and Japan.

2. Provide system of evaluation of corporate practices which includes, but is not limited to, an update of developing corporate governance issues and best practices.

Bidder Response to Task:

ISS will provide the State with information on developing corporate governance issues and best practices. As mentioned above, ISS provides clients with a wealth of information and analysis of trends and new developments in corporate governance and social responsibility through a myriad of ISS newsletters and publications. ISS also provides various seminars and conferences to its institutional client base, the largest of which is the ISS Annual Conference. This conference is offered to clients as an opportunity to learn about past trends and stay ahead of the curve in issues of proxy voting, corporate governance and compliance.

Throughout the year, ISS offers webcasts designed to give attendees insight, right from their own desktop, into new and proposed corporate governance regulations and compliance as well as market trends and best practices in the areas of proxy voting, securities class action and corporate governance. ISS also conducts an annual briefing tour in which clients can obtain important corporate governance updates and information in a concise but personal format. These briefings are provided in five major cities in the U.S., as well as in the U.K., Europe, and Japan.

3. Advise on issues and review existing Corporate Governance Core Principles and Guidelines and Proxy Voting Policy (see Exhibits D and E) annually and recommend changes accordingly by November 1 of each contract year.

Bidder Response to Task:

ISS will provide services to review the State's Corporate Governance Core Principles and Proxy Voting Policy annually, recommending changes accordingly by November 1 of each contract year.

ISS' senior analysts will work with the State to understand the issues that are important to their organization and its stakeholders. ISS determines which policy team would be best suited to handle the client's policy perspective and assigns a lead analyst within that team to help the client develop proxy voting guidelines in line with their investment and governance philosophies. Where appropriate, a client's voting guidelines may be compared to one or more of ISS' standard policy offerings, such as the U.S. or market-specific baseline policy and/or off-the-shelf policies, such as Taft-Hartley policy and the Socially Responsible Investment (SRI) policy. The ISS policy team will then perform a "gap analysis" and address any missing policy positions in the client's policy. In doing so, ISS will review and provide assistance in updating the State's custom voting policies and guidelines, and will work with State to establish procedures that allow ample time for the State to review ISS voting recommendations and direct votes on key issues or for companies that are of special concern.

Annually, assigned lead analysts will contact clients regarding new trends and developments in the corporate governance arena. It is the responsibility of clients to communicate with ISS analysts regarding policy updates in a timely manner *prior* to heavy proxy season. Once notified of these updates, the analyst will implement the instructed changes and will maintain a record of such correspondence for future verification. Clients instruct their assigned research analyst or team manager at ISS as to what date to implement the policy revisions.

4. Recommend and develop an International Proxy Voting Policy within 90 days of contract execution.

Bidder Response to Task:

ISS will provide services to recommend and develop an International Proxy Voting Policy within 90 days of contract execution, using the process explained above in Question 3. However, the ability to meet the 90 day requirement is contingent upon the State providing the information and resources necessary for ISS to understand what issues are important to your organization and its stakeholders.



5. Policy must be updated annually by November 1 of each contract year based on issues and best practices.

Bidder Response to Task:

ISS will update the policy annually by November 1 of each contract year, based on issues and best practices. However, the ability to meet the November 1 requirement is contingent upon the State providing the information and resources necessary for ISS to understand what issues are important to your organization and its stakeholders in order to make the appropriate updates.

6. Procure additional information to supplement general research analyses on an ad hoc basis.

Bidder Response to Task:

As a custom service, ISS will procure additional information to supplement general research analyses on an ad hoc basis. Fees for this will vary depending on the nature of research required.

7. Provide a variety of custom reports and statistical information on demand within three (3) business days of request.

Bidder Response to Task:

As a custom service, ISS will provide a variety of custom reports and statistical information. Fees for this will vary depending on the nature of research required.

Further information on the scope and nature of research is required before ISS can commit to providing this information on demand and within three (3) business days of request.

8. Provide annual research on identified companies to determine which companies require greater scrutiny. Research should be completed within five (5) business days of request.

Bidder Response to Task:

As a custom service, ISS will provide annual research on identified companies to determine which companies require greater scrutiny. Fees for this will vary depending on the nature of research required, specifically more information on how the State defines "scrutiny". Further information on the scope and nature of research is also required before ISS can commit to completing the research within five (5) business days of request.

9. Any other matters that may be related to proxy voting (including custom research support services).

Bidder Response to Task:

As a custom service, ISS will provide annual research on any other matters that may be related to proxy voting. Fees for this will vary depending on the scope and nature of research required.

10. Provide direct access to a custom analyst for special requests.

Bidder Response to Task:

The State will have direct access to ISS custom research analysts, as well as other staff and management. We make every effort to be responsive to client needs and have a complete open door policy for clients all the way up to our CEO. ISS has also established a Research Helpdesk in order to provide a streamlined process for addressing clients' needs for clarification on analyses and/or policy issues.

C. System Requirements

1. The Contractor must provide all data and reports to BOI via a web browser, Microsoft Internet Explorer version 6.0 or later. No additional software or hardware will be required for the customer. This service will operate 24 hours a day, seven (7) days a week, but will be available 99% of the time between 8:00 a.m. and 5:00 p.m. eastern standard time on business days. Any interruptions in service over 30 minutes must be reported to BOI with the following:
 - a. Length of interruption
 - b. Reason for interruption
 - c. Resolution and estimated time to resolve



Bidder Response to Task:

ISS will use commercially reasonable efforts to ensure that there will be no period of interruption in accessibility to the web site that exceeds 4 continuous hours during normal business hours. If interruption of service is longer than that ISS, agrees to notify BOI. ISS shall schedule normal maintenance and system upgrades between the hours of 8:00 PM Fridays and 7 PM Sunday (Eastern Time (US)) whenever practicable, to minimize interference with Subscriber's access to the web site.

2. The system response time for the end-user should not be excessively long. Data must populate within ten (10) seconds, and reports must populate within one (1) minute based on the Environment in section 1.103. Describe normal process times of bidder's proposed system.

Bidder Response to Task:

ISS agrees to provide this service on a best-efforts basis.

3. The Contractor will provide telephone support from 8:00 a.m. to 5:00 p.m. Eastern Standard Time on workdays and will respond to concerns within two (2) business days.

Bidder Response to Task:

ISS agrees to provide this service on a best-efforts basis.

4. The system will include a security subsystem to maintain the integrity and security of the portfolio information in the Contractor's possession. It is preferred that the Contractor will provide encrypted transmission of the data through the Internet.

Bidder Response to Task:

ISS agrees to provide this service on a best-effort basis.

5. The system must accommodate at least 12 client users each with a unique log-on ID and password. The system needs to allow users to have "read only" access. Any modifications to the reporting system need to be transparent to BOI and not require any updates on BOI computers.

Bidder Response to Task:

ISS agrees to provide this service on a best-effort basis.

6. The Contractor is responsible for all, including but not limited to, data entry, maintenance, back-up and recovery of the web based system.

Bidder Response to Task:

ISS agrees to provide this service on a best-effort basis.

7. All system upgrades will be provided to the client at no additional cost during the term of the Contract.

Bidder Response to Task:

ISS agrees to provide this service on a best-effort basis.

8. The Contractor is responsible for backing up the data at least one (1) time per week, if not daily. The Contractor must provide a disaster recovery plan and the reporting tools must to be available no more than five (5) business days after a disaster. Describe bidder's disaster recovery/business continuity plan.



Bidder Response to Task:

ISS agrees to provide this service on a best-efforts basis.

ISS maintains a business continuity plan that assesses the impact and probability of the following categories of disruptive events:

- Environmental Disasters
- Organized and/or Deliberate Disruption
- Loss of Utilities and Services
- Equipment or System Failure
- Serious Information Security Incidents, and
- Other Emergency Situations.

The business continuity plan also identifies key business processes, time-bands for business service interruption and financial and operational impact. The plan identifies key business continuity plan staff and documents, back-up and recovery strategies, notification and reporting requirements and a process for keeping the plan up to date. Following are highlights of ISS' business continuity plan:

- ISS' primary data center is hosted in AT&T's hosting facility in Ashburn, Northern Virginia. This facility features 2N (dual, fully redundant) Uninterruptible Power Supply (UPS) systems and multiple backup standby generators. Fire suppression is provided by a pre-action dry pipe system, in addition to VESDA(tm) (air sampling) smoke detection. Security is provided 24x7 and includes on-site guards, closed-circuit cameras, secure-card key access, biometric scanners, mantrap, and alarmed doors.
- ISS' secondary data center is hosted in AT&T's hosting facility in Mesa, Arizona. This facility features 2N (dual, fully redundant) Uninterruptible Power Supply (UPS) systems and multiple backup standby generators. Fire suppression is provided by a pre-action dry pipe system, in addition to VESDA(tm) (air sampling) smoke detection. Security is provided 24x7 and includes on-site guards, closed-circuit cameras, secure-card key access, biometric scanners, mantrap, and alarmed doors.
- ISS also has production staff and facilities in Manila, Toronto, Tokyo, Chicago, New York and London. All of ISS' production applications are web browser-based, and can be accessed from any ISS facility or over the Internet using a VPN. All key ISS staff have secure remote access to ISS production applications. All key ISS staff have company-issued cell phones.
- Any individual piece of hardware involved in product creation or delivery includes component level redundancy, including RAID 1,5 or 10 configurations, redundant power supplies, redundant network connections, and/or full hardware redundancy.
- All production data is backed up nightly and either transferred to another ISS data center or backed up to tape and stored off site. All ISS data centers use identical backup software, hardware and media.
- ISS uses Microsoft SQL 2000 as its database environment. ISS maintains two production database servers in its primary data center. These servers' supports all core back office processing. Database servers are run on fully redundant hardware with a secondary backup machine running in standby mode. ISS maintains backup fail-over database hardware in its Rockville data center. Transaction logs are shipped between the primary data center and secondary data center every 15 minutes.
- ISS' Global Network was designed by Dimension Data and provisioned by AT&T. To avoid dependence on any single vendor, all ISS offices use two independent ISP's. All ISS network equipment is provided by Cisco.
- ISS' production servers run either Microsoft Windows 2000 or Redhat Advanced Server. In both of these cases, as security patches are released by the vendor ISS staff assess these patches and apply as necessary. ISS' production servers are provided by Dell and receive Dell's Gold Support level.

9. The Contractor must describe the architecture of their hardware configuration, architecture and infrastructure of the computer system. Also describe the frequency of system upgrades and give the date of the last major upgrade. Describe the changes in the last major upgrade and give an estimated date of the next major upgrade and what changes are expected at that time.



Bidder Response to Task:

ISS has built a leading IT infrastructure using best practices and guidelines outlined in ISO 17799-1. This international standard is designed for banks and financial institutions, and contains the most stringent security and intrusion detection requirements today. The standard identifies a number of critical success factors that an organization must achieve if it is to be successful in implementing information security. These include: having policies that reflect business objectives, using an approach consistent with organizational culture, commitment from management, a good understanding of requirements, effective policy promulgation, suitable training and education, and feedback to ensure continuous improvement. Key elements of ISS' IT infrastructure include a business continuity plan, enhanced security and advanced configuration management and controls.

ISS uses Dell servers and Cisco equipment for networking. ISS uses either RedHat Enhanced Server 4.0 and Windows 2003 as the server Operating System. ISS' uses Java for all new development projects leveraging IBM's WebSphere as the application server,

ISS is constantly expanding its front and back-end voting systems and processes to deliver more beneficial functionality, enhanced reporting and advanced alerting to help clients operate as informed fiduciaries. ISS has engaged technology partners InfoSys and CapGemini to work with the firm's Solutions & Services Management group to execute its technology initiatives. ISS' goal is to deliver a truly superior, fully integrated corporate governance and proxy voting solution that can easily scale to meet the increasingly complex compliance needs of institutional investor clients.

Systems upgrades are completed as part of a continuous process as ISS migrates all systems to Java over the next few years.

ISS has a full time systems administrator and a team of Technology Operations personnel who are responsible for managing ISS' network infrastructure; hardware installation, maintenance, configuration and administration; operating systems installation, configuration and administration; and backup operations.

10. The Contractor will provide a full service level agreement. Provide the proposed service level agreement with proposal.

Bidder Response to Task:

Please see attached.

11. The Contractor agrees to work on transitioning to a successor Contractor at the termination of this Contract (see section 2.218).

Bidder Response to Task:

ISS agrees to provide this service on a best-efforts basis.

12. Contractor must have in place at all times, a written information security program for protecting investment information. The Contractor's security program, in accordance with the aforementioned regulation, must be designed to (i) ensure the security and confidentiality of any investment information provided to the Contractor, (ii) protect against any anticipated threats or hazards to the security or integrity of such information, and (iii) prevent unauthorized access to or use of such information.

Bidder Response to Task:

ISS agrees to provide this service on a best-efforts basis. ISS has implemented a number of controls to ensure security over its information technology, client and employee information, records and other related processes. ISS is firmly committed to staying at the forefront of information security to ensure its clients that their information is safe with ISS.

13. The Contractor must provide the physical and logical system access controls and security necessary to ensure secure access for the functions described in this RFP. Physical and logical access controls for all facilities, equipment, and applicable systems must be addressed. The following national/international security standards and publications including, but not limited to, must be adhered to:
- a. "National Standards: An Introduction to Computer Security", National Institute of Standards and Technology, Computer Resource Security Center (see <http://csrc.nist.gov/cc/index.html>)
 - b. Interagency Guidelines Establishing Standards for Safeguarding Customer Information; Final Rule (12 CFR Part 30, et al).



The following security control requirements must be addressed:

- 1) Management Controls
- 2) Operational Controls
- 3) Technical Controls.

Bidder Response to Task:

ISS' security systems comply with the above national/international standards and publications.

ISS' commitment to technological excellence can also be seen in its certification for meeting the Statement on Auditing Standards No. 70 (SAS 70), an internationally recognized auditing standard developed by the American Institute of Certified Public Accountants (AICPA). A SAS 70 audit or examination is widely acclaimed because it represents that an organization has been through an in-depth audit of their control activities, which generally include controls over information technology and related processes. ISS underwent a rigorous review and audit process by a major third party consulting firm in order to receive SAS 70 certification. The SAS70 Type One audit was completed in March 2005 and a SAS70 Type two was completed in March of 2006. Copies of these reports can be provided upon request.

ISS has 24x7 security staffing, closed circuit cameras and monitoring of the facility, secure key-card access, biometric scanners, man traps and alarmed doors. Guards maintain access to the loading dock and access requires a card key. Security personnel also monitor the building on a regular schedule.

In addition to rigorous physical security measures, ISS has systems in place to manage the risk of unauthorized electronic access to client information. The first is the practice of only giving users the least privilege to perform their duties and tasks. The second way is that all ISS employees are bound to a code of conduct in which they agree to provide documentation on all stock trades. ISS is a Registered Investment Advisor and therefore is bound to certain rules and regulations of the SEC. One of these is the disclosure of all employee stock transactions to ensure that there is no front running with regards to our client data.

ISS manages the second perceived risk of unauthorized access to voting data by using the practice of least privilege. Only those users who need access to client voting data to perform their duties are given it. As well, full disclosure is given on all individuals submitting votes on behalf of the client. This information is available in our internal systems and on our external users' voting platform.

ISS has an internal forum called The Security and Operations Forum that is largely responsible for ensuring that ISS information security policies, procedures, and guidelines are kept updated and meet the needs of both ISS and it's clients. The firm's Security and Operations Forum is charged with maintaining compliance to all SAS-70 and ISO 17799-1 standards. Finally, ISS employs a full-time dedicated security officer who is responsible for developing and maintaining security standards, enforcing physical security measures and operating procedures, implementing user access management policies so that all confidential data be kept confidential and managing information security training and certification initiatives.

14. The Contractor must notify the Contract Compliance Inspector seven (7) days in advance of any scheduled downtime. All system outages/shutdowns must be reported immediately to the Contract Compliance Inspector or designee. Within 24 hours of problem resolution and restart, the Contractor must prepare and submit a report to the Contract Compliance Inspector or designee indicating elapsed downtime hours, start/end timeframes, reason for the outage, impact on the systems (lost data, etc.) for each occurrence and resolution to mitigate future occurrences.

Bidder Response to Task:

ISS agrees to provide this service on a best-efforts basis.

15. The Contractor will be responsible for working with the State and other contractors (e.g. Custodian, external manages, etc.) to perform services/deliverables. .

Bidder Response to Task:

ISS agrees to provide this service on a best-efforts basis.



1.2 Roles and Responsibilities

1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES

Bidder must provide information on the following staff:

1. Relationship Manager: Act as a central point of contact for all contractual activities
2. Information Technology Manager: Provide electronic subscription services via Internet
3. Corporate Governance Analyst (both domestic and foreign): Provide corporate governance analyses and related services.
4. Identify any other Contractor staff who will be involved, identify by name the individuals, and describe in detail their roles and responsibilities. Descriptions of roles should be functional and not just by title. Include an organization chart in Article 1, Attachment B.

Bidder Response to Task:

ISS provides a service team approach that will address your day-to-day voting needs as well as interact with your clients, including attending client meetings, at your request.

The State's dedicated team would consist of:

- Two client representatives focused on service issues, including one Client Relations Manager to look after and ensure satisfactory day-to-day operational aspects of the service, as well as one Client Relations Executive personnel with broad oversight regarding both operational and contract-related aspects of the relationship.
- Data Operations Team to ensure holdings and account updates are processed.

The Sales Relationship Manager that will be responsible for the State is Brian Parrish, Senior Account Executive. The Client Relations Manager that will be responsible for the State is Nora Hinton, who is based in ISS' Rockville headquarter office. The Client Relations Executive in charge of oversight of service to the State is Marcus Relthford, also located in the Rockville headquarter office. The person responsible for all information technology and the electronic voting platform is Tim Matthews, Chief Information Officer. The person responsible for oversight of corporate governance analyses, including custom voting policy and research and other related services, is Fassil Michael, Director of Custom Research.

1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES

The Contractor's performance and reporting will be monitored by the Chief Administrative Officer (CAO) in his capacity as the Compliance Officer/Contract Compliance Inspector (see section 2.015). Any change requests to the agreed services, format of reporting, variation from reporting dates, or other deviations from the Contract must be approved in advance by the CAO in writing. The CAO will delegate to his staff (please see Exhibit F for the organizational chart and contact information) responsibilities and authority (see section 1.403 for the change management process). In addition to the CAO's function of compliance, the compliance staff also includes a full time analyst whose responsibilities are monitoring proxy compliance, proof of claims compliance, and other compliance matters. In addition, the State has a part-time staff member dedicated to compliance issues.

1.203 OTHER ROLES AND RESPONSIBILITIES

1. External Managers: Contractor will monitor compliance of State's external investment managers with proxy voting policy.
2. Custodian Contractor: Contractor will need to work with the State's Custodian Contractor (State Street Bank and Trust) for reconciliation of data.

Bidders Response to Task:

1. Monitoring of compliance of the State's external investment managers with proxy voting policy will be delivered by ISS' Vote Check solution. Vote Check is designed specifically for public plan sponsors to both audit and evaluate their investment managers' proxy voting to ensure they adhere to the fund's policy guidelines. Vote Check provides comparisons of voting records, and reports on every vote cast, flagging votes that were either cast contrary to your policy or not voted at all. ISS analysts work with your fund managers to assemble a database of their stated voting policies. They then review these policies against your stated policy to identify and highlight variations and minimize potential conflicts.



As proxy voting continues, ISS analysts obtain the actual voting records for each of your positions and compare the results against each investment managers' stated policies. Every vote cast by your managers on your behalf is recorded, and you will be promptly alerted of any votes that are cast contrary to your policy or not cast at all.

Vote Check keeps you informed of your investment managers' proxy voting actions:

- Audits vote records to make certain that all votes were cast.
- Identifies votes that were cast contrary to your policy, with managers' explanations for these variances
- Analyze proxy voting issues and categories of proposals to determine how well your managers are meeting their fiduciary responsibilities

2. ISS will work with the State's Custodian (State Street Bank and Trust) for reconciliation of data. ISS already has an established relationship with State Street, and has a system where communications with global custody banks is now performed by a centralized team, rather than by a multitude of individual account managers. This enables ISS to establish more effective relationships with key custodians and elicit faster inquiry resolution on behalf of clients.

1.3 *Project Plan*

1.301 PROJECT PLAN MANAGEMENT

1. The Contractor will carry out this project under the direction and control of the Chief Administrative Officer/Contract Compliance Inspector.

Bidder Response to Task:

ISS understands and agrees to this requirement.

2. Within five (5) working days of the award of the Contract, the Contractor will submit to the Contract Compliance Inspector for final approval a work plan. This final implementation plan must be in agreement with Article 1, Attachment C as proposed by the bidder and accepted by the State for Contract, and must include the following:
 - a. The Contractor's project organizational structure.
 - b. The Contractor's staffing table with names and title of personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.
 - c. The project breakdown showing sub-projects, activities and tasks, and resources required and allocated to each.

Bidder Response to Task:

ISS understands and agrees to this requirement.

3. Within 60 days from signing the contract, the firm's customized proxy voting recommendation service platform should be completed in its entirety.

Bidder Response to Task:

ISS understands and agrees to this requirement.

4. Within 60 days of the date of the contract, the firm will: (1) have contacted all external managers and established reporting parameters that will ensure reporting to the State will be timely; (2) finalize the format of the MacBride report, the quarterly report, and all other reports; (3) establish a mechanism that can list proxy issues that can be separated and sent to the State to be voted, as well as a tracking system to ensure that those proxies have been voted.

Bidder Response to Task:

ISS understands and agrees to this requirement, with the contingency that the State and its managers respond to any questions or provide necessary information in a timely manner.



1.302 REPORTS

Within 15 business days of the close of the quarter, the firm will make available the following reports on their website (Microsoft Excel formatted quarterly and annual reports):

- (1) MacBride
- (2) External Managers
- (3) Michigan Companies
- (4) Novel issues of the proxy season and how other funds voted and viewed these issues.

Bidder Response to Task:

1. Reports on MacBride compliance are available through ISS' Northern Ireland Research Services, which is offered for an additional fee. The Northern Ireland Service offers specialized research on multinational companies' fair employment practices in Northern Ireland and their compliance with the MacBride principles against religious discrimination.
2. Reports on external managers are available through ISS' Vote Check solution, which is offered for an additional fee. Vote Check provides comparisons of voting records, and reports on every vote cast, flagging votes that were either cast contrary to your policy or not voted at all.
3. Reports on Michigan companies are available through ISS' custom research services, and are contingent upon the State providing a list of Michigan companies. Fees for this service will be provided based on the specific scope of research reports required.
4. Reports on novel issues of the proxy season are provided through ISS' *Proxy Post Season Report*, as well as a myriad of other ISS newsletters and publications. The following provides a summary of the publications ISS offers:
 - *Proxy Post Season Report*, The most comprehensive collection of data is provided to clients through the Proxy Post Season Report. This document includes comprehensive data on what happened during the past proxy season as well as emerging trends.
 - *Governance Weekly* is a weekly publication about what is happening in the world of corporate governance, and is provided to all ISS clients via email.
 - *Labor and Corporate Governance*, newsletter that provides coverage of corporate governance issues specific to Taft-Hartley funds, available to clients who subscribe to Taft Hartley Advisory services.
 - *Corporate Social Issues Reporter*, published 10 times a year and provided to clients who subscribe to ISS' Social Issues Service, delivers insight into shareholder campaigns and issues that influence corporate social responsibility practice.
 - *Social Policy Shareholder Resolutions*, provided to clients who subscribe to ISS' Social Issues Service an annual guide to the final status of social proposals filed that year, with relevant SEC decisions, withdrawal agreements and survey results from leading investors.
 - *Securities Class Action Alert*, a monthly newsletter which provides valuable information on settlements, summaries of new cases, editorials from securities class action experts, commentary on industry issues and trends, and topic-specific features and case details.
 - *Governance Publications*. ISS offers subscriptions to a complete library of renowned corporate governance publications, including proxy voting guides for key global markets as well as detailed research on major topics in corporate governance, including: Board Practices/Board Pay, Corporate Takeover Defenses, Director Pay, Election of Directors and Board Independence, Executive Compensation, Poison Pills, Proxy Fights, Restructurings, Shareholder Proposals and Shareholder Rights Plans, State Takeover Laws and Stock Plan Dilution.
 - *ISS Global Investor Study*, Published in Spring 2006, this report is the culmination of a year-long effort in which our goal was to contribute to the global understanding of how institutional investors view and practice corporate governance. The study reflects the collective voice of the institutional investor worldwide and is unprecedented in scale and scope, with over 300 institutions across 18 countries participating. Findings from the ISS Global Investor Study wrapped around five key themes, with an additional special report on investor views on corporate governance in China. The study data and commentary not only demonstrate investors' diversity but also the overriding universality of their concerns and objectives regarding corporate governance.
 - *Corporate Governance and Climate Change: Making the Connection*, Published in Spring 2006 by CERES and authored by ISS' Director of ESG Research, Doug Cogan, this study analyzes the environmental, business and investment risks and opportunities related to climate change.



A new research service offered by ISS is *M&A Insight*. This comprehensive and high-quality solution evaluates the merits of contentious transactions through a combined financial and corporate governance lens. This unique offering complements ISS' traditional proxy research by providing the same foundational analysis and vote recommendation, but delivers ongoing deal notes that keep you abreast of key events as the deal or contest evolves. Coverage continues as issues develop, from the date of announcement through the shareholder vote. An additional "Pipeline" component completes the service by providing a view into high profile deals and proxy contests on the horizon.

Subscribers to the M&A Insight service will receive:

- *M&A Insight Pipeline*. Quick-read biweekly report alerting you to potential M&A deals and proxy contests on ISS' radar screen.
- *M&A Insight Notes*. Deal notes, which summarize key issues and events taking place throughout the course of the contest.
- *M&A Insight Analysis*. "Wall Street-style" in-depth research reports and ISS vote recommendations delivered approximately two weeks before the shareholder meeting.

ISS also provides various seminars and conferences to its institutional client base, the largest of which is the ISS Annual Conference. This conference is offered to clients as an opportunity to learn about past trends and stay ahead of the curve in issues of proxy voting, corporate governance and compliance.

Throughout the year, ISS offers webcasts designed to give attendees insight, right from their own desktop, into new and proposed corporate governance regulations and compliance as well as market trends and best practices in the areas of proxy voting, securities class action and corporate governance. ISS also conducts an annual briefing tour in which clients can obtain important corporate governance updates and information in a concise but personal format. These briefings are provided in five major cities in the U.S., as well as in the U.K., Europe, and Japan.

5. Reports on how other funds voted and viewed these issues are available through ISS' Voting Analytics service, which is offered for an additional fee.

1.4 Project Management

1.401 ISSUE MANAGEMENT

Describe how issues will be addressed when they arise and how appropriate parties will be apprised of progress.

Bidder Response to Task:

ISS is dedicated to building a first-class client service organization. ISS has designed its client service systems to effectively and efficiently meet the needs of its customers globally. ISS' client servicing approach is to continuously improve on our operational processes in order to be able to consistently provide the highest level of service to all of our clients. In this way, ISS will be able to scale our business while meeting the individual, and often complex, needs of our clients. ISS has initiated a number of client management programs that will enable us to provide a consistent and high level of service to all clients.

For example, ISS has formalized its client management standards and practices and has established a systematic escalation path for problem resolution. For proxy voting services, ISS has tightened its internal processes to include: expanded audit capabilities; consolidated custodial communications; end-of-day production checks; client account environment key performance indicators; problem resolution tracking; and management of client-specific service requirements. ISS utilizes a back-up and escalation contact servicing approach to ensuring complete client satisfaction.

Any questions or complaints raised by clients are treated as a top priority for investigation. Depending on the scenario, ISS may route the matter to internal research or operations staff to investigate. ISS will respond to clients by providing with status updates throughout the investigation. In addition, summaries of critical issues are passed upwards through the Client Relations organization to the VP of Client Relations and EVP of Institutional Services. A similar summarization and escalation occurs within the research teams, ensuring the highest level of ISS executive is aware of possible client issues.



1.402 RISK MANAGEMENT

Risk management generally involves (1) identification of the risk, (2) assigning a level of priority based on the probability of occurrence and impact to the project, (3) definition of mitigation strategies, and (4) monitoring of risk and mitigation strategy. Risk assessment review should be conducted on a regular basis. Please describe bidder's risk management process.

Bidder Response to Task:

As part of the Quality Assurance and Production (QAP) control program, ISS' Voting and Transaction Processing Services team does this on a regular basis to determine any risks that are either still within the Voting and Transaction Processing Services department or have arisen with changes to our business.

QAP takes the approach of looking at our processes from both a standpoint of risk and exposure. There are some activities that have a very high risk, but a very low level of exposure. There are other areas that have a low level of risk, but a very high level of exposure. Taking these into account, we implement certain procedures manually or in an automated fashion to mitigate both the risk and the exposure. Within the realm of proxy voting and the lack thereof of many industry standards, Voting and Transaction Processing Services is not only focused on driving down risk internally, but also in trying to drive down risk through the market.

Quality Assurance and Production control currently meets with the Voting and Transaction Processing Services managers to examine the risk factors within the organization.

ISS has recently changed our focus away from that of individual processes to that of lifecycles. Within this process, we look at the lifecycle of both a ballot and an account to determine where any subsequent risks can be found. Once those risks have been found, we identify the exposure if that process was to breakdown. Taking both risk and exposure into account, we then review our procedures to make sure that we have mitigated that risk as best as we can.

One thing to note is that within the proxy industry, there are many exceptions present due to the lack of standard rules and practices. Because of this, many of the risks that are prevalent in the business are exception processed and determined on an individual level as they arise. This is not ideal and one of the reasons that ISS is committed to driving standards within proxy delivery groups, the custodians, and our clients.

ISS can only own a certain portion of the process, thus we are unable to mitigate the risks owned by other pieces in the process, but we work proactively to identify them, communicate them to the appropriate owners of the process, and then monitor progress against plans to mitigate or "work around" the issue. QAP and Voting and Transaction Processing Services are currently reviewing the Six Sigma methodology for implementation to drive up our total quality control and mitigate our risks. Plans are to begin implementation in the later part of 2006.

1.403 CHANGE MANAGEMENT

If a proposed contract change is approved by the Contract Compliance Inspector, the Contract Compliance Inspector will submit a Contract Change Request to the Department of Treasury, Purchasing Division, and it will be forwarded 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.

Contractors who provide products or services prior to the issuance of a Contract Change Notice by the DMB Purchasing Operations, risk non-payment for the out-of-scope/pricing products and/or services.

1.5 Acceptance

1.501 CRITERIA

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

A. Performance and Reliability Evaluation (PARE)

The Performance and Reliability Evaluation will consist of three (3) phases.



1. PHASE 1 – Specifications Compliance Review

- a. The first phase shall be comprised of a compliance review of the specifications for the Web-based proxy voting platform listed in the Contract. This review will ensure all items are in compliance with the required specifications for the Contract. In the event Treasury determines that any component or feature of the system does not comply with the mandatory specifications of the Contract, Treasury reserves the right to cancel the contract.

2. PHASE 2 – Acceptance Test

- a. The Contract Compliance Inspector will evaluate the system's performance based on the reports produced. The Contract Compliance Inspector will determine that the system is fully operational when all of the requirements listed in the Contract are met. It will be the Contract Compliance Inspector's responsibility to determine that the system is fully operational.

3. PHASE 3 – Post Implementation

- a. The performance period for Phase 3 is a period of 45 consecutive calendar days. The performance period shall commence when the historical data load is complete and the system is fully operational.

During the performance period for Phase 3 there shall be no more than three (3) interruptions. During the performance period for Phase 3 there shall be no individual interruption that lasts longer than four (4) hours.

An interruption is defined as failure in the Contractor-supplied system or database, which results in work stoppage.

Work stoppages resulting from network downtime, Treasury-supplied equipment failure or Treasury-supplied software malfunctions shall not be included in the performance period.

1.502 FINAL ACCEPTANCE

Final Acceptance will be completed 45 days after Phase 3 of the PARE in section 1.501. During Final Acceptance, there shall be no more than three (3) interruptions. During Final Acceptance there shall be no individual interruption that lasts longer than four (4) hours (see 1.501.A.3 for definition of interruption). Upon completion of Final Acceptance, the Contract Compliance Inspector will provide written acceptance of the system.

1.6 Compensation and Payment

1.601 COMPENSATION AND PAYMENT

This RFP will result in a firm, fixed price Contract. Please complete Article 1, Attachment A and submit with proposal. Pricing will be based on a monthly cost; additionally, payment/invoicing for this Contract will occur monthly (see section 2.092).

1.7 Additional Terms and Conditions Specific to this SOW- Reserved



Article 1, Attachment A
Pricing

Contract #071B7200314 (Proxy Voting Support and Consulting Services)

Contract Price Analysis

Work and Deliverables	3-Year Cost
Proxy Voting Services	\$81,144
Vote Check Outside Managers	\$37,512
Global Guideline Development	\$14,999
Archiving Voting Records Cast Prior to Contract Period (\$500/archive)	\$1,000
Fees to Vote on Behalf of External Managers	\$20,470
Voting History on State Website	\$25,500
M & A Insight Service	\$21,000
Custom Reports	\$3,000
Sudan Research	\$25,000
Social Issues Services	\$20,000
Securities Class Action Service	\$24,000
Voting History of Other Funds on Selected Issues (\$4,000/fund)	\$12,000
Custom Research/Consulting Above Allowed Hours (115 hours at \$125/hour)	\$14,375
Total Contract Value	\$300,000

Custom Research *	Per Year
Corporate Governance Issues	90 hours
Company Specific Issues (including Michigan companies)	45 hours
Procuring Additional Information to Supplement General Analyses	45 hours

* 25 hours of custom research is allowed per year at no charge. The State estimates 115 hours will be needed above the 75 hours allowed over the 3-year contract period.

Note: All services will be authorized via a purchase order release from the contract.



Article 1, Attachment B
Organizational Chart, including Key Personnel

RESERVED



Article 1, Attachment C
Project Plan

RESERVED



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 (7) 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) Reserved
- (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, Purchasing Operations and Department of Treasury (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 Contract Administrator within the Purchasing Operations for this Contract is:

Irene Pena
Purchasing Operations
Department of Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
Penal1@michigan.gov
Phone: (517) 241-1647

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 Department of Treasury, 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 Purchasing Operations.** The Contract Compliance Inspector for this Contract is:

Ron Jones, Chief Administrative Officer
Department of Treasury
Bureau of Investments
2501 Coolidge Road, Suite 400
East Lansing, MI 48823.
RCJ@michigan.gov
Phone: (517) 241-9888

2.020 Contract Objectives/Scope/Background

2.021 Background - Reserved

2.022 Purpose – Reserved



2.023 Objectives and Scope - Reserved

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 the period 8/1/07 through 07/31/10. 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 30 days before its expiration. The Contract may be renewed for up to two (2) additional one (1) year periods. Successful completion of negotiations surrounding the terms of the extension, will be a pre-requisite for the exercise of any option year.

2.040 Contractor Personnel

2.041 Contractor Personnel

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



- (b) Key Personnel
- (i) In discharging its obligations under this Contract, Contractor shall provide the named Key Personnel on the terms indicated. 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. 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 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) Reserved
- (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, 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 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.

- (d) Except where specifically approved in writing by the State on a case-by-case basis, Contractor shall flow down the obligations in **Sections 2.040, 2.110, 2.150, 2.160, 2.171(c), 2.172(b), 2.180, 2.260, 2.276, 2.297** in all of its agreements with any Subcontractors.
- (e) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the Contract.

2.045 Contractor Responsibility for Personnel

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

2.050 State Standards

2.051 Existing Technology Standards

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

2.052 PM Methodology Standards

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

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

2.053 Adherence to Portal Technology Tools

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

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

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

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

2.054 Acceptable Use Policy

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



2.060 Deliverables

2.061 Ordering

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.

2.062 Software

Exhibit B lists the items of software the State is required to purchase for execution the Contract. The list in **Exhibit B** 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 B** also identifies certain items of software to be provided by the State.

2.063 Hardware

Exhibit A lists the items of hardware the State is required to purchase for execution the Contract. The list in **Exhibit A** 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 A** 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 Liquidated Damages - RESERVED

2.074 Bankruptcy

If Contractor shall file for protection under the bankruptcy laws, or if an involuntary petition shall be filed against Contractor and not removed within 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) - RESERVED

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 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 30 days of receipt, the cure for such damaged deliveries shall transfer to the delivery signing party.

2.082 Delivery of Deliverables

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 (2) 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 100 pages or less and ten (10) Business Days for Written Deliverables of more than 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 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 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 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 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 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 rates in Article 1, Attachment A. 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 A 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 A**.

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 A**. 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 45 days after receipt, provided the State determines that the invoice was properly rendered.



- (b) Taxes (See Section 2.305 and Article 3, Section 3.022-3.024 for additional)
The State is exempt from Federal Excise Tax, State and Local Sales Taxes, and Use Tax with respect to the sale to and use by it of tangible personal property. Such taxes shall not be included in Contract prices as long as the State maintains such exemptions. Copies of all tax exemption certificates shall be supplied to Contractor, if requested.
- (c) Out-of-Pocket Expenses
Contractor acknowledges that the out-of-pocket expenses that Contractor expects to incur in performing the Services/ providing the Deliverables (such as, but not limited to, travel and lodging, document reproduction and shipping, and long distance telephone) are included in Contractor's fixed price for each Statement of Work. Accordingly, Contractor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for such an expense at the State's current travel reimbursement rates. See http://www.mi.gov/dmb/0,1607,7-150-9141_13132---,00.html for current rates.
- (d) Pro-ration
To the extent there are any Services that are to be paid for on a monthly basis, the cost of such Services shall be pro-rated for any partial month.
- (e) Antitrust Assignment
The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.
- (f) Final Payment
The making of final payment by the State to Contractor does not constitute a waiver by either party of any rights or other claims as to the other party's continuing obligations under the Contract, nor will it constitute a waiver of any claims by one party against the other arising from unsettled claims or failure by a party to comply with this Contract, including claims for Services and Deliverables not reasonably known until after acceptance to be defective or substandard. Contractor's acceptance of final payment by the State under this Contract shall constitute a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still unsettled.

2.093 State Funding Obligation

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

2.094 Holdback - RESERVED

2.095 Electronic Payment Availability

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



2.100 Contract Management

2.101 Contract Management Responsibility

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

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

2.112 Errors

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

2.161 License

Contractor grants to the State a non-exclusive, royalty-free, site-wide, irrevocable, transferable license to use the Software and related documentation according to the terms and conditions of this Contract. For the purposes of this license, "site-wide" includes any State of Michigan office regardless of its physical location.

The State may modify the Software and may combine such with other programs or materials to form a derivative work. The State will own and hold all copyright, trademark, patent and other intellectual property rights in any derivative work, excluding any rights or interest in Software other than those granted in this Contract.

The State may copy each item of Software to multiple hard drives or networks unless otherwise agreed by the parties.

The State will make and maintain no more than one archival copy of each item of Software, and each copy will contain all legends and notices and will be subject to the same conditions and restrictions as the original. The State may also make copies of the Software in the course of routine backups of hard drive(s) for the purpose of recovery of hard drive contents.

In the event that the Contractor shall, for any reason, cease to conduct business, or cease to support the Software, the State shall have the right to convert these licenses into perpetual licenses, with rights of quiet enjoyment, but subject to payment obligations not to exceed the then current rates.

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 Source Code Escrow - RESERVED

2.163 Rights in Data

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

2.164 Ownership of Materials

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

2.165 Standard Software

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

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.



- (l) All written information furnished to the State by or behalf of Contractor in connection with this Contract, including its bid, it true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make such information not misleading.
- (m) It is not in material default or breach of any other contract or agreement that it may have with the State or any of its departments, commissions, boards, or agencies. Contractor further represents and warrants that it has not been a party to any contract with the State or any of its departments that was terminated by the State or such department within the previous five (5) years for the reason that Contractor failed to perform or otherwise breached an obligation of such contract.

2.172 Software Warranties

(a) Performance Warranty

The Contractor represents and warrants that Deliverables, after Final Acceptance, will perform and operate in compliance with the requirements and other standards of performance contained in this Contract (including all descriptions, specifications and drawings made a part of the Contract) for a period of 90 days. In the event of a breach of this warranty, Contractor will promptly correct the affected Deliverable(s) at no charge to the State.

(b) No Surreptitious Code Warranty

The Contractor represents and warrants that no copy of licensed Software provided to the State contains or will contain any Self-Help Code or any Unauthorized Code as defined below. This warranty is referred to in this Contract as the "No Surreptitious Code Warranty."

As used in this Contract, "Self-Help Code" means any back door, time bomb, drop dead device, or other software routine designed to disable a computer program automatically with the passage of time or under the positive control of a person other than the licensee of the software. Self-Help Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access via modem) for purposes of maintenance or technical support.

As used in this Contract, "Unauthorized Code" means any virus, Trojan horse, spyware, worm or other Software routines or components designed to permit unauthorized access to disable, erase, or otherwise harm software, equipment, or data; or to perform any other such actions. The term Unauthorized Code does not include Self-Help Code. Unauthorized Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access via modem) for purposes of maintenance or technical support.

In addition, Contractor will use up-to-date commercial virus detection software to detect and remove any viruses from any software prior to delivering it to the State.

(c) Calendar Warranty

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

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



(d) Third-party Software Warranty

The Contractor represents and warrants that it will disclose the use or incorporation of any third-party software into the Deliverables. At the time of Delivery, the Contractor shall provide in writing the name and use of any Third-party Software, including information regarding the Contractor's authorization to include and utilize such software. The notice shall include a copy of any ownership agreement or license that authorizes the Contractor to use the Third-party Software.

2.173 Equipment Warranty - RESERVED

2.174 Physical Media Warranty - RESERVED

2.175 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.

2.176 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

Liability Insurance

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

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

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

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

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

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

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



Before the Contract is signed by both parties or before the purchase order is issued by the State, the Contractor must furnish to the Director of 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 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 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 without the State's written consent, at the State's election (but without any obligation to do so) after the State has given Contractor at least 30 days written notice, the State may pay such premium or procure similar insurance coverage from another company or companies; and at the State's election, the State may deduct the entire cost (or part thereof) from any payment due Contractor, or Contractor shall pay the entire cost (or any part thereof) upon demand by the State.

2.190 Indemnification**2.191 Indemnification**

(a) General Indemnification

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

(b) Code Indemnification

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

(c) Employee Indemnification

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

(d) Patent/Copyright Infringement Indemnification

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

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

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

2.192 Continuation of Indemnification Obligations

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



2.193 Indemnification Procedures

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

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

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

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

2.200 Limits of Liability and Excusable Failure

2.201 Limits of Liability

The Contractor's liability for damages to the State shall be limited to two (2) times the value of the Contract or \$200,000 which ever is higher. The foregoing limitation of liability shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

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

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



2.202 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 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 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 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 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 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 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 Contractors, 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 Contractors. 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.
- (c) 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.
- (d) 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 A. 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 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 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 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 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 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 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 Purchasing Operations.
 - (2) Contractor shall also notify the Purchasing Operations within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.
 - (3) Contractor shall also notify Purchasing Operations within 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 for a time as mutually agreed by the parties.
- (d) If the Hazardous Material was brought to the site by the Contractor, or results in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Material, or from any other act or omission within the control of the Contractor, the Contractor shall bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material in accordance with Applicable Laws to the condition approved by applicable regulatory agency(ies). If the Contractor fails to take appropriate action pursuant to Applicable Laws and consistent with the State requirements, then the State may take appropriate action.

2.290 General

2.291 Amendments

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

**2.292 Assignment**

- (a) Neither party shall have the right to assign the Contract, or to assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign the Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign the Contract to an affiliate so long as such affiliate is adequately capitalized and can provide adequate assurances that such affiliate can perform the Contract. Any purported assignment in violation of this Section shall be null and void. It is the policy of the State of Michigan to withhold consent from proposed assignments, subcontracts, or novations when such transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.
- (b) Contractor may not, without the prior written approval of the State, assign its right to receive payments due under the Contract. In the event of any such permitted assignment, Contractor shall not be relieved of its responsibility to perform any duty imposed upon it herein, and the requirement under the Contract that all payments shall be made to one entity shall continue.

2.293 Entire Contract; Order of Precedence

- (a) The Contract, including any Statements of Work and Exhibits, to the extent not contrary to the Contract, each of which is incorporated for all purposes, constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior agreements, whether written or oral, with respect to such subject matter and as additional terms and conditions on the purchase order shall apply as limited by **Section 2.061**.
- (b) In the event of any inconsistency between the terms of the Contract and a Statement of Work, the terms of the Statement of Work will take precedence (as to that Statement of Work only); provided, however, that a Statement of Work may not modify or amend the terms of **Sections 2.110 through 2.220** of the Contract, which may be modified or amended only by a formal Contract amendment.

2.294 Headings

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

2.295 Relationship of the Parties (Independent Contractor Relationship)

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

2.296 Notices

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

State:
State of Michigan
Purchasing Operations
Attention: Irene Pena
PO Box 30026
530 West Allegan
Lansing, Michigan 48909



Contractor(s):
Name: Steven Freidman
2099 Gaither Rd., Suite 501
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

Contractors 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 Contractor who has failed to pay any applicable State taxes. The State may refuse to accept Contractor's bid, if Contractor has any outstanding debt with the State. Prior to any award, the State will verify whether Contractor 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 Contractor 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 - Reserved*



Exhibit A
Approved Hardware
Reserved



Exhibit B
Approved Software
Reserved



Exhibit C
Binding Commitments
RESERVED



Exhibit D
Proxy Voting Policy

PROXY VOTING POLICY

JUNE 2006

Voting on Director Nominees in Uncontested Elections

Votes on director nominees should be made on a CASE-BY-CASE basis, examining the following factors: composition of the board and key board committees, attendance at board meetings, corporate governance provisions and takeover activity, long-term company performance relative to a market index and directors' investment in the company. Proposals nominating convicted felons as directors are voted against.

In addition, directors who enacted egregious corporate governance policies or failed to replace management as appropriate would be subject to recommendations to withhold votes.

Separating Chairman and CEO

Generally vote FOR shareholder proposals requiring that the positions of chairman and CEO be held separately. Some companies have governance structures in place that counterbalance a combined position. It may not always be practical for smaller companies to separate the positions of Chairman and CEO.

Proposals Seeking a Majority of Independent Directors

Vote FOR shareholder proposals asking that a majority of directors be independent. Vote for shareholder proposals asking that board audit, compensation, and/or nominating committees be composed exclusively of independent directors.

Stock Ownership Requirements

Vote AGAINST shareholder proposals requiring directors to own a minimum amount of company stock in order to qualify as a director or to remain on the board.

Vote FOR shareholder proposals requiring that director compensation be a combination of cash and stock in the company.

**Term of Office**

Vote AGAINST shareholder proposals to limit the tenure of outside directors.

Age Limits

Vote AGAINST shareholder proposals to impose a mandatory retirement age for outside directors.

Director and Officer Indemnification and Liability Protection

Proposals on director and officer indemnification and liability protection should be evaluated on a CASE-BY-CASE basis.

Vote AGAINST shareholder proposals that authorize indemnification for willful or gross negligence.

PROXY CONTESTS**Voting for Director Nominees in Contested Elections**

Votes in a contested election of directors must be evaluated on a CASE-BY-CASE basis, considering the following factors: long-term financial performance of the target company relative to its industry; management's track record; background to the proxy contest; qualifications of director nominees (both slates); evaluation of what each side is offering shareholders as well as the likelihood that the proposed objectives and goals can be met; and stock ownership positions.

Reimburse Proxy Solicitation Expenses

Voting to reimburse proxy solicitation expenses should be analyzed on a CASE-BY-CASE basis.



AUDITORS

Ratifying Auditors

Vote FOR proposals to ratify auditors, unless: an auditor has a financial interest in or association with the company, and is therefore not independent: or there is reason to believe that the independent auditor has rendered an opinion, which is neither accurate nor indicative of the company's financial position.

PROXY CONTEST DEFENSES

Board Structure: Staggered vs. Annual Elections

Vote AGAINST proposals to classify the board.

Vote FOR proposals to repeal classified boards and to elect all directors annually.

Shareholder Ability to Remove Directors

Vote AGAINST proposals that provide that directors may be removed only for cause.

Vote FOR proposals to restore shareholder ability to remove directors with or without cause.

Vote AGAINST proposals that provide that only continuing directors may elect replacements to fill board vacancies.

Vote FOR proposals that permit shareholders to elect directors to fill board vacancies.

Cumulative Voting

Vote CASE-BY-CASE proposals to support cumulative voting.

**Shareholder Ability to Call Special Meetings**

Vote AGAINST proposals to restrict or prohibit shareholder ability to call special meetings.

Vote FOR proposals that remove restrictions on the right of shareholders to act independently of management.

Shareholder Ability to Act by Written Consent

Vote AGAINST proposals to restrict or prohibit shareholder ability to take action by written consent.

Vote FOR proposals to allow or make easier shareholder action by written consent.

Proposals to Alter the Size of the Board

Vote FOR proposals that seek to fix the size of the board.

Vote AGAINST proposals that give management the ability to alter the size of the board without shareholder approval.

TENDER OFFER DEFENSES**Poison Pills**

(Poison Pill - Anti-takeover that gives a prospective acquirer's shareholders the right to buy shares of the firm or shares of anyone who acquires the firm at a deep discount to their fair market value.)

Vote AGAINST poison pills.

Vote FOR shareholder proposals that ask a company to submit its poison pill for shareholder ratification.

Fair Price Provisions

(Fair Price – A right of shareholders in a merger to demand the payment of a fair price for their shares, as determined independently.)

Generally, vote AGAINST fair price provisions.

**Greenmail**

(Greenmail - The holding of a large block of a target company by an unfriendly company, with the objective of forcing the target company to repurchase the stock at a substantial premium to prevent a takeover.

Vote FOR proposals to adopt anti-greenmail charter of bylaw amendments.

Unequal Voting Rights

Vote AGAINST dual-class exchange offers.

Vote AGAINST dual-class recapitalizations.

Supermajority Shareholder Vote Requirement to Amend the Charter or Bylaws

Vote AGAINST management proposals to require a supermajority shareholder vote to approve charter and bylaw amendments.

Vote FOR shareholder proposals to lower supermajority shareholder vote requirements for charter and bylaw amendments.

Supermajority Shareholder Vote Requirement to Approve Mergers

Vote AGAINST management proposals to require a supermajority shareholder vote to approve mergers and other significant business combinations.

Vote FOR shareholder proposals to lower supermajority shareholder vote requirements for mergers and other significant business combinations.

White Squire/Knight Placements

Vote FOR Shareholder proposals to require approval of blank check preferred stock issues for other than general corporate purposes.



MISCELLANEOUS GOVERNANCE PROVISIONS

Confidential Voting

Vote FOR proposals that request companies to adopt confidential voting.

Vote AGAINST proposals to eliminate confidential voting.

Equal Access

Vote FOR shareholder proposals that would allow significant company shareholders equal access to management's proxy material in order to evaluate and propose voting recommendations on proxy issues and director nominees.

Bundled Proposals/Conditioned Proxy Proposals

(Bundled Proposal – Approval of a proxy proposal conditioned upon approval of another proposal.)

Generally vote against bundled or “conditioned” proxy proposals.

In instances when the joint effect of the conditioned items is not in shareholder's best interests, vote AGAINST the proposal.

Shareholder Advisory Committees

Review on a CASE-BY-CASE basis proposals to establish a shareholder advisory committee.

CAPITAL STRUCTURE

Common Stock Authorization

Generally review proposals to increase the number of shares of common stock authorized for issuance.

**Stock Distributions: Splits and Dividends**

Vote FOR management proposals to increase common share authorization for a stock split.

Reverse Stock Splits

Vote FOR management proposals to implement a reverse stock split when the number of shares will be proportionately reduced to avoid delisting.

Preferred Stock

Vote AGAINST proposals authorizing the creation of new classes of preferred stock with unspecified voting, conversion, dividend distribution, and other rights (“blank check” preferred stock).

Vote FOR proposals to authorize preferred stock in cases where the company specifies the voting, dividend, conversion, and other rights of such stock and the terms to the preferred stock appear reasonable.

Preemptive Rights

Vote AGAINST proposals to eliminate shareholders preemptive rights or place any new limits upon shareholder rights.

Debt Restructurings

Review on a CASE-BY-CASE basis proposals to increase common and/or preferred shares and to issue shares as part of a debt restructuring plan. Consider the following issues: Dilution, Change in Control and Bankruptcy. Generally, approve proposals that facilitate debt restructurings unless there are clear signs of self-dealing or other abuses.

Share Repurchase Programs

Vote FOR management proposals to institute open-market share repurchase plans in which all shareholders may participate on equal terms.

Tracking Stock

Votes on the creation of tracking stock are determined on a CASE-BY-CASE basis.



EXECUTIVE AND DIRECTOR COMPENSATION

Votes with respect to compensation plans should be determined on a CASE-BY-CASE basis, with strong consideration of ISS recommendation.

Management Proposals Seeking Approval to Reprice Options

Generally vote AGAINST proposals seeking approval to reprice options.

Director Compensation

Votes on stock-based plans for directors are made on a CASE-BY-CASE basis, with strong consideration of ISS recommendation.

Expensing the Cost of Stock Options

Vote FOR shareholder proposals requiring management to expense the costs associated with stock options. Although not yet required by FASB, many companies already expense stock options and it increases the accuracy of financial statements.

Employee Stock Purchase Plans

Votes on employee stock purchase plans should be made on a CASE-BY-CASE basis, with strong consideration of ISS recommendation.

Shareholder Proposals to Limit Executive and Director Pay

Generally, vote FOR shareholder proposals that seek additional disclosure of executive and director pay information.

Review on a CASE-BY-CASE basis all other shareholder proposals that seek to limit executive and director pay.

**Golden Parachutes**

(Golden Parachutes - Compensation paid to top-level management by a target firm if a takeover occurs.)

Vote FOR shareholder proposals to have golden and tin parachutes submitted for shareholder ratification.

Generally vote AGAINST golden parachutes.

Employee Stock Ownership Plans (ESOPs)

Vote FOR proposals that request shareholder approval in order to implement an ESOP or to increase authorized shares for existing ESOPs, except in cases when the number of shares allocated to the ESOP is “excessive”.

401(k) Employee Benefit Plans

Vote FOR proposals to implement a 401(k) savings plan for employees.

STATE (COUNTRY) OF INCORPORATION**Voting on State Takeover Statutes**

Review on a CASE-BY-CASE basis proposals to opt in or out of state takeover statutes.

Voting on Re-incorporation Proposals

Vote AGAINST proposals to move the company’s domicile from the U.S. to another country in order to avoid paying U.S. taxes.

Vote FOR proposals to move the company’s domicile from another country to the U.S.



MERGERS AND CORPORATE RESTRUCTURINGS

Mergers and Acquisitions

Votes on mergers and acquisitions should be considered on a CASE-BY-CASE basis.

Corporate Restructuring, Spin-offs, Asset Sales, Liquidations

Votes on all of the above should be considered on a CASE-BY-CASE basis.

Appraisal Rights

Vote FOR proposals to restore, or provide shareholders with, rights of appraisal.

SOCIAL AND ENVIRONMENTAL ISSUES

CONSUMER ISSUES AND PUBLIC SAFETY

Animal Rights

Vote CASE-BY-CASE on proposals to phase out the use of animals in product testing.

Drug Pricing

Vote CASE-BY-CASE on proposals asking the company to implement price restraints on pharmaceutical products.



Genetically Modified Foods

Vote CASE-BY-CASE on proposals to label genetically modified (GMO) ingredients voluntarily in the company's products, or alternatively to provide interim labeling and eventually eliminate GMOs.

Vote FOR proposals asking for a report on the feasibility of labeling products containing GMOs.

Vote AGAINST proposals to completely phase out GMOs from the company's products. Such resolutions presuppose that there are proven health risks to GMOs—an issue better left to federal regulators—which outweigh the economic benefits derived from biotechnology.

Vote CASE-BY-CASE on reports outlining the steps necessary to eliminate GMOs from the company's products.

Vote AGAINST proposals seeking a report on the health effects of GMOs. Studies of this sort are better undertaken by regulators and the scientific community.

Predatory Lending

Vote CASE-BY-CASE on requests for reports on the company's procedures for preventing predatory lending, including the establishment of a board committee for oversight, considering among other things, the cost/benefit of preparing reports and the establishment of an advisory board.

ENVIRONMENT AND ENERGY

Arctic National Wildlife Refuge

Vote CASE-BY-CASE on reports outlining potential environmental damage from drilling in the Arctic National Wildlife Refuge (ANWR), considering among other things, the cost/benefit of preparing such reports.

CERES Principles

Vote FOR proposals to adopt the CERES Principles.



Environmental Reports, Recycling, Renewable Energy, Global Warming

Shareholder proposals regarding the above will be considered on a CASE-BY-CASE basis.

GENERAL CORPORATE ISSUES

Link Executive Compensation to Social Performance

Vote CASE-BY-CASE on proposals to review ways of linking executive compensation to social factors.

Charitable/Political Contributions

Generally vote FOR proposals supporting efforts to make shareholders aware of the firm's position regarding PACs (Political Action Committees).

Vote AGAINST proposals restricting the company from making charitable contributions. Charitable contributions are generally useful for assisting worthwhile causes and for creating goodwill in the community. In the absence of bad faith, self-dealing, or gross negligence, management should determine which contributions are in the best interests of the company.

Vote AGAINST proposals to withhold corporate contributions from colleges and universities that employ communists, Maoists, socialists, etc.

LABOR STANDARDS AND HUMAN RIGHTS

Country-specific human rights reports

Vote CASE-BY-CASE on requests for reports detailing the company's operations in a particular country and steps to protect human rights.

MacBride Principles

Vote FOR proposals supporting the MacBride Principles.



MILITARY BUSINESS

Foreign Military Sales/Offsets

Vote AGAINST reports on foreign military sales or offsets. Such disclosures may involve sensitive and confidential information.

Landmines

Vote CASE-BY-CASE on proposals asking a company to renounce future involvement in antipersonnel landmine and cluster bomb production.

Spaced-Based Weaponization

Vote CASE-BY-CASE on proposals requesting reports on a company's involvement in spaced-based weaponization.

WORKPLACE DIVERSITY

Board Diversity

Generally vote FOR reports on the company's efforts to diversify the board.

Vote CASE-BY-CASE on proposals asking the company to increase the representation of women and minorities on the board.

Equal Employment Opportunity (EEO)

Generally vote FOR reports outlining the company's equal employment opportunity initiatives.

Vote AGAINST proposals seeking information on the diversity efforts of suppliers and service providers, which can pose a significant cost and administration burden on the company.

**Glass Ceiling**

Generally vote FOR reports outlining the company's progress towards the Glass Ceiling Commission's business recommendations.

Sexual Orientation

Proposals to amend a company's EEO policy should be considered in accordance with the State of Michigan's own EEO policies.

**Exhibit E**

SMRS Corporate Governance Core Principles and Guidelines

SMRS
CORPORATE GOVERNANCE CORE PRINCIPLES
AND GUIDELINES**JUNE 2006**

There have been several studies that have linked good stock performance with good corporate governance. The State of Michigan Retirement Systems (SMRS) recognizes that all companies, whether governed under full accountability or not, will inevitably experience both ascents and descents along the path of profitability. It is firmly believed, however, that those companies with good and accountable corporate governance will determine the difference between whether a company wallows for a long, and perhaps fatal period in the depths of this performance cycle, or responds quickly to the correct corporate course of action. The following Core Governance Principles and Guidelines are proposed as the foundation for accountability between a company's management and its shareholders. The goal is to adopt long-term strategies and visions for a company's performance, and to hold management accountable. This should foster a more proactive, rather than solely reactionary, approach to corporate governance.

I. CORE PRINCIPLES**A. Board Independence & Leadership**

1. A substantial majority of the board consists of directors who are independent.

The definition of independence should extend beyond that incorporated in the NYSE or NASDAQ listing standards. Independence should mean that a director or his or her immediate family have no present or former employment with the company, nor any substantial connection of a personal or financial nature (other than equity in the company) to the company or its management that could in fact or appearance compromise the director's objectivity and loyalty to shareholders. To be independent, the director must not provide, or be affiliated with any organization that provides goods or services to the company if a reasonable, disinterested observer could consider the relationship to be substantial.

Non-management directors should evaluate the independence of each of their fellow directors based on all information available to them and should disclose to shareholders how they determine that directors are capable of acting independently.

2. Independent directors meet periodically (at least once a year) alone, without the CEO or other non-independent directors.



3. When the chair of the board also serves as the company's chief executive officer, the board designates – formally or informally – an independent director who acts in a lead capacity to coordinate the other independent directors.
4. Certain board committees consist entirely of independent directors. These include the committees who perform the following functions:
 - Audit
 - Director Nomination
 - Board Evaluation & Governance
 - CEO Evaluation and Management Compensation
 - Compliance and Ethics
5. The Board should approve and disclose to shareholders any monetary arrangements with directors for services outside normal board activities.
6. Director compensation is a combination of cash and stock in the company. The stock component is a significant portion of the total compensation. Directors should have a direct, personal and material investment in the common stock of the company so as to align their attitudes and interests with those of public shareholders. SMRS discourages the use of stock options as a form of director compensation as their use is less aligned with the interests of long-term shareholders than other forms of equity.
7. Directors should be held accountable to the shareholders for willful or gross negligence of their duty of loyalty and care.
8. The Board should review the company's strategic plan at least annually.
9. Directors should continuously take steps through director educational training from independent sources to improve their competence and understanding of their fiduciary roles, responsibilities and liabilities. The company should disclose whether directors are participating in such programs. New directors should receive comprehensive orientation, and all directors should receive periodic updates concerning their responsibilities or participate in periodic director education programs.

B. Board Processes & Evaluation

1. The board has adopted a written statement of its own governance principles and discloses them to shareholders on the company's web site, as well as the annual report or proxy statement, and regularly re-evaluates them.
2. With each director nomination recommendation, the board considers the mix of director characteristics, experiences, diverse perspectives and skills that is most appropriate for the company.



3. The board should conduct regular evaluations of its own performance and that of its key committees. Such evaluations should be designed to improve the board's effectiveness and enhance its engagement. They should be based on criteria defined in the board's governance principles and its committee charters and should include a review of the skills, experience and contributions represented in the boardroom.
4. The independent directors should establish performance criteria and compensation incentives for the CEO, and regularly review the CEO's performance against those criteria. The independent directors have access to advisers on this subject, who are independent of management. Minimally, the criteria ensure that the CEO's interests are aligned with the long-term interests of shareholders, that the CEO is evaluated against comparable peer groups, and that a significant portion of the CEO's total compensation is at risk.

C. Individual Director Characteristics

1. The board has adopted guidelines that address the competing time commitments that are faced when director candidates serve on multiple boards. These guidelines are published annually in the company's proxy statement. Absent unusual, specified circumstances, directors with full-time jobs should not serve on more than two other boards. CEOs should only serve as a director of one other company, and then only if the CEO's own company is in the top half of its peer group. No person should serve on more than five for-profit company boards.

II. GOVERNANCE GUIDELINES

A. Board Independence & Leadership

1. Corporate directors, managers and shareholders should come together to agree upon a uniform definition of "independence." Until this uniformity is achieved, each corporation should publish in their proxy statement the definition adopted or relied upon by its board.
2. With each director nomination recommendation, the board should consider the issue of continuing director tenure and take steps as may be appropriate to ensure that the board maintains an openness to new ideas and a willingness to critically re-examine the status quo.
3. When selecting a new chief executive officer, boards should re-examine the traditional combination of the "chief executive" and "chairman" positions. In general, SMRS supports the concept of an independent non-executive chair who has not had a substantive employment relationship with the company in the past five years. SMRS understands that this may not always be practical for smaller companies.

B. Board Processes & Evaluation

1. The board should have in place an effective CEO succession plan, and receive periodic reports from management on the development of other high potential members of senior management. The evaluation process should be ongoing and should reflect a clear understanding between the board and CEO regarding the company's expected performance including specified objectives and measures for CEO performance.



2. All directors should have access to senior management. However, the CEO, chair, or independent lead director may be designated as liaison between management and directors to ensure that the role between board oversight and management operations is respected.
3. The board should periodically review its own size, and determine the size that is most effective toward future operations. The board should be large enough to allow key committees to be staffed but small enough to allow all views to be heard and to encourage the active participation of all members.

C. Individual Director Characteristics

1. Each board should establish performance criteria, not only for itself (acting as a collective body) but also individual behavioral expectations for its directors. Minimally, these criteria should address the level of director: attendance, preparedness, participation, and candor.
2. To be re-nominated, directors must satisfactorily perform based on the established criteria. Re-nomination on any other basis should neither be expected nor guaranteed.
3. Generally, a company's retiring CEO should not continue to serve as a director on the board.
4. The board should establish and make available to shareholders the skill sets which it seeks from director candidates. Minimally, these core competencies should address: accounting or finance, international markets, business or management experience, industry knowledge, customer-base experience or perspective, crisis response, or leadership or strategic planning. Each director should be prepared to devote substantial time and effort to board duties, taking into account other executive responsibilities and board memberships.

D. Role of Independent Advisors

1. Independent company advisors, including public accountants, law firms, investment bankers and consultants can be critical to the effectiveness of corporate governance and enhance the regulatory compliance of the company. The quality of the advisors' services and the manner in which they carry out their professional responsibilities can have a major effect on a company's reputation. Accordingly, SMRS believes that advisors should provide counseling and support in the best interests of the company as a whole and avoid even the appearance of a conflict of interest or undue influence of senior management. Advisors should not allow their professional skills and expertise to be used by clients to engage in corporate practices that are primarily designed for the purpose of misrepresenting or disguising the company's true financial condition or to mislead the financial markets in other material ways. If advisors suspect that company management is misusing their professional advice, they should bring such matters to the attention of the independent directors.

If advisors are not reasonably satisfied that an appropriate response can be expected from the independent directors, they should withdraw from the engagement and, if permitted by the advisor's applicable rules of professional conduct, bring the matter to the attention of the appropriate regulator.

E. Shareholder Rights

1. Shareholders should have the right to vote in proportion to their economic stake in the company. Each share of common stock should have one vote.



2. Shareholders should have the right to approve matters submitted for their consideration with a simple majority of the shares voted.
3. Shareholders should have the right to approve increases in the authorized number of common shares.
4. Long-term shareholders who hold a significant percentage of company shares should be permitted to include their nominees to the board of directors in the company's proxy materials.
5. A majority of shareholders should be able to amend the company's bylaws by shareholder proposal.
6. A majority of shareholders should be able to call special meetings.
7. A majority of shareholders should be able to act by written consent.
8. Every company should prohibit greenmail.
9. No board should enact nor amend a poison pill except with shareholder approval.
10. Every director should be elected annually.
11. Shareholders should have effective access to the director nomination process.
12. Broker non-votes should be counted for quorum purposes only.
13. Any shareholder proposal that is approved by a majority of proxies cast should either be implemented by the board, or the next annual proxy statement should contain a detailed explanation of the board's reasons for not implementing.
14. Shareholders should have the ability to communicate effectively with the board of directors.
15. Shareholders should have the right to vote on separate issues and present them for a single vote.



Exhibit F

Bureau of Investments' Internal Managers

RESERVED