



**STATE OF MICHIGAN
ENTERPRISE PROCUREMENT**

Department of Technology, Management, and Budget
525W. ALLEGAN ST., LANSING, MICHIGAN 48913
P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **2 (REVISED)**
to
Contract Number **071B5500089**

| | |
|-------------------|------------------------------|
| CONTRACTOR | PUBLICCONSULTINGGROUP INC |
| | 148 State Street, 10th Floor |
| | Boston, MA 02109 |
| | Heather Baker |
| | (617)426-2026 |
| | hbaker@pcgus.com |
| | *****2913 |

| | | | |
|---------------|---|---------------------------------|-------|
| STATE | Program Manager | Susan Kangas & Nancy Rostoni | MDHHS |
| | | (517) 284-4238 & (517) 388-3910 | |
| | kangass1@michigan.gov & rostonin@michigan.gov | | |
| | Contract Administrator | Joshua Wilson | DTMB |
| (517)284-7027 | | | |
| | | wilsonj31@michigan.gov | |

CONTRACT SUMMARY

DEPARTMENT OF HEALTH AND HUMAN SERVICES - PROJECT MANAGER FOR PERFORMANCE BASED FUNDING

| INITIAL EFFECTIVE DATE | INITIAL EXPIRATION DATE | INITIAL AVAILABLE OPTIONS | EXPIRATION DATE BEFORE |
|---|-------------------------|---------------------------|---|
| April 1, 2015 | March 31, 2020 | 2 - 1 Year | March 31, 2020 |
| PAYMENT TERMS | | DELIVERY TIMEFRAME | |
| NET 45 | | N/A | |
| ALTERNATE PAYMENT OPTIONS | | | EXTENDED PURCHASING |
| <input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other | | | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

MINIMUM DELIVERY REQUIREMENTS
N/A

DESCRIPTION OF CHANGE NOTICE

| OPTION | LENGTH OF OPTION | EXTENSION | LENGTH OF EXTENSION | REVISED EXP. DATE |
|--------------------------|------------------------|------------------------------------|---------------------|-------------------|
| <input type="checkbox"/> | N/A | <input type="checkbox"/> | N/A | |
| CURRENT VALUE | VALUE OF CHANGE NOTICE | ESTIMATED AGGREGATE CONTRACT VALUE | | |
| \$1,618,340.00 | \$0.00 | \$1,618,340.00 | | |

DESCRIPTION

Effective December 1, 2016, the staffing table in Exhibit A, Section 2. Staffing and Exhibit C - Pricing are hereby updated with the attached.

Please note the Buyer/CA has changed to Joshua Wilson (Standard Contract Terms, Section 3). Please also note that Susan Kangas replaces Amanda Bright McClanahan as Co-Program Manager (Standard Contract Terms, Section 4).

All other terms, conditions, specifications and pricing remain the same per contractor and agency agreement, and per DTMB Procurement approval.

Exhibit A, Section 2. Staffing – Revised Staffing Table

| Name | Key Personnel (Yes / No) | Title | Roles & Responsibilities | % of time to this project | Years of Experience | Contractor or Subcontractor (C or S) | Work Location |
|---|--------------------------|---------------------|--|-------------------------------------|---------------------|--------------------------------------|----------------------------------|
| As identified by the Manager | No | Business Analyst | Provide project support to the project manager. Responsible for attending and coordinating meetings with project manager | 7% | n/a | C | n/a |
| Sara Gilbert, or others as identified by the Manager | No | Business Analyst II | Provide project support to the project manager. Responsible for attending and coordinating meetings with project manager. Also will provide research and subject matter expertise on child welfare financing. | 13% | 15+ | C | Nebraska & on-site Michigan |
| As identified by the Manager | No | Consultant | Provide project support to the project manager. Also will provide research and subject matter expertise on child welfare financing. | As needed based upon project needs. | n/a | C | n/a |
| Sara Goscha, or others as identified by the Manager | Yes (Sara Goscha only) | Senior Consultant | Responsible for providing subject matter expertise to the project team. | 4% | 15+ | C | Nebraska & on-site Michigan |
| Jen MacBlane, or others as identified by Manager | No | Senior Advisor | Responsible for providing subject matter expertise to the project team. | 5% | 15+ | C | New York & on-site Michigan |
| As identified by the Manager | No | Associate Manager | Responsible for providing subject matter expertise to the project team. | As needed based upon project needs. | n/a | C | n/a |
| Heather Baker, Amy Ferraro, or others as identified by the Manger | Yes (Heather Baker only) | Manager | Responsible for ensuring that the PCG team completes all project tasks and deliverables within given timeframes. | 4% | 15+ | C | Massachusetts & on-site Michigan |
| Maureen Stanton | Yes | Operations Manager | Responsible for ensuring that the PCG team completes all project tasks and deliverables within given timeframes. Will be responsible for being on site to assist with facilitation of stakeholder groups, attending status meetings and being day to day on the ground personnel for this project. | 100% | 5+ | C | Michigan |

Exhibit A, Section 2. Staffing – Revised Staffing Table

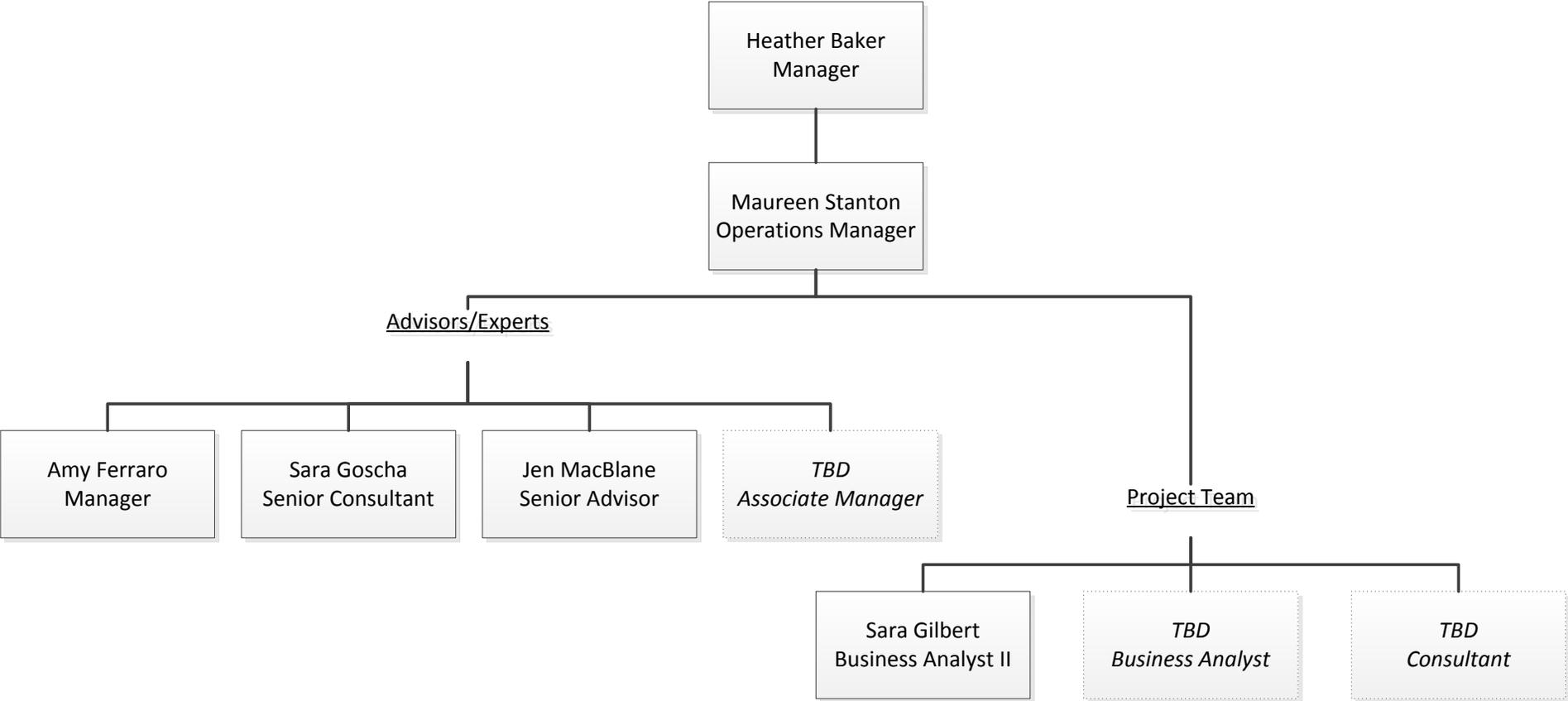


Exhibit C – Pricing – Revised Pricing Table

| PCG Staff Rates | | | | | | |
|---|--|----------|-------------------------------------|---|-------------------------------------|------------------------|
| Title | Roles & Responsibilities | Rate | % of time to this project | Primary Personnel | Annual Estimated Hours | Estimated Annual Total |
| Business Analyst | Provide project support to the project manager. Responsible for attending and coordinating meetings with project manager | \$117.00 | 7% | As identified by the Manager | 125 | \$14,625.00 |
| Project Assistant/Business Analyst II | Provide project support to the project manager. Responsible for attending and coordinating meetings with project manager. Also will provide research and subject matter expertise on child welfare financing. | \$186.00 | 13% | Sara Gilbert, or others as identified by the Manager | 240 | \$44,640.00 |
| Consultant | Provide project support to the project manager. Also will provide research and subject matter expertise on child welfare financing. | \$236.00 | As needed based upon project needs. | As identified by the Manager | As needed based upon project needs. | \$0.00 |
| Subject Matter Expert/Senior Consultant | Responsible for providing subject matter expertise to the project team. | \$284.00 | 4% | Sara Goscha, or others as identified by the Manager | 80 | \$22,720.00 |
| Senior Advisor | Responsible for providing subject matter expertise to the project team. | \$281.00 | 5% | Jen MacBlane, or others as identified by Manager | 100 | \$28,100.00 |
| Associate Manager | Responsible for providing subject matter expertise to the project team. | \$312.00 | As needed based upon project needs. | As identified by the Manager | As needed based upon project needs | \$0.00 |
| Engagement Manager | Responsible for ensuring that the PCG team completes all project tasks and deliverables within given timeframes. | \$312.00 | 4% | Heather Baker, Amy Ferraro, or others as identified by the Manger | 73 | \$22,776.00 |
| Project Manager/Operations Manager | Responsible for ensuring that the PCG team completes all project tasks and deliverables within given timeframes. Will be responsible for being on site to assist with facilitation of stakeholder groups, attending status meetings and being day to day on the ground personnel for this project. | \$106.00 | 100% | Maureen Stanton | 1800.066 | \$190,807.00 |
| Annual Estimated Amount | | | | | | 323,668.00 |
| 5 Year Grand Total | | | | | | \$1,618,340.00 |

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

CHANGE NOTICE NO. 1
 to
CONTRACT NO. 071B5500089
 between
THE STATE OF MICHIGAN
 and

| NAME & ADDRESS OF CONTRACTOR | PRIMARY CONTACT | EMAIL |
|---|-----------------|--|
| Public Consulting Group 148 State Street, 10th Floor Boston, MA 02109 | Heather Baker | hbaker@pcgus.com |
| | PHONE | VENDOR TAX ID # (LAST FOUR DIGITS ONLY) |
| | (617) 426-2026 | |

| STATE CONTACTS | AGENCY | NAME | PHONE | EMAIL |
|------------------------|--------|---------------------------------|----------------------------------|--|
| PROGRAM MANAGER / CCI | DHS | Susan Kangas & Nancy Rostoni | (517) 373-7914 (517) 388-3910 | Kangass1@michigan.gov rostonin@michiagn.gov |
| CONTRACT ADMINISTRATOR | DTMB | Brandon Samuel | (517) 284-7025 | samuelb@michigan.gov |

| CONTRACT SUMMARY | | | |
|---|-------------------------|---------------------------|---|
| DESCRIPTION: Project Manager for Performance Based Funding | | | |
| INITIAL EFFECTIVE DATE | INITIAL EXPIRATION DATE | INITIAL AVAILABLE OPTIONS | EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW |
| April 1, 2015 | March 31, 2020 | 2, one year | March 31, 2020 |
| PAYMENT TERMS | F.O.B. | SHIPPED TO | |
| N/A | N/A | N/A | |
| ALTERNATE PAYMENT OPTIONS | | | EXTENDED PURCHASING |
| <input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other | | | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| MINIMUM DELIVERY REQUIREMENTS | | | |
| N/A | | | |

| DESCRIPTION OF CHANGE NOTICE | | | | |
|---|----------------------------------|--|----------------------------|------------------------------|
| EXTEND CONTRACT EXPIRATION DATE | EXERCISE CONTRACT OPTION YEAR(S) | EXTENSION BEYOND CONTRACT OPTION YEARS | LENGTH OF EXTENSION/OPTION | EXPIRATION DATE AFTER CHANGE |
| <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes | <input type="checkbox"/> | <input type="checkbox"/> | | March 31, 2020 |
| CURRENT VALUE | VALUE/COST OF CHANGE NOTICE | ESTIMATED REVISED AGGREGATE CONTRACT VALUE | | |
| \$1,618,340.00 | \$0.00 | \$1,618,340.00 | | |

DESCRIPTION:
 Effective May 11, 2015, Program Manager Amanda Bright McClanahan is replaced with Susan Kangas, see above for contact information. All other terms, conditions, pricing and specifications remain the same. Per agency and DTMB Procurement approval.

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

**NOTICE
 OF
 CONTRACT NO. 071B5500089**
 between
THE STATE OF MICHIGAN
 and

| NAME & ADDRESS OF CONTRACTOR | PRIMARY CONTACT | EMAIL |
|---|-----------------|--|
| Public Consulting Group 148 State Street, 10th Floor Boston, MA 02109 | Heather Baker | hbaker@pcgus.com |
| | PHONE | VENDOR TAX ID # (LAST FOUR DIGITS ONLY) |
| | (617) 426-2026 | 2913 |

| STATE CONTACTS | AGENCY | NAME | PHONE | EMAIL |
|------------------------|--------|---|----------------------------------|---|
| PROGRAM MANAGER | DHS | Amanda Bright McClanahan & Nancey Rostoni | (517) 241-9056 (517) 388-3910 | brighta@michigan.gov rostonin@michigan.gov |
| CONTRACT ADMINISTRATOR | DTMB | Brandon Samuel | (517) 284-7025 | samuelb@michigan.gov |

| CONTRACT SUMMARY | | | |
|---|----------------|-------------------------|---|
| DESCRIPTION: Project Manager for Performance Based Funding | | | |
| INITIAL TERM | EFFECTIVE DATE | INITIAL EXPIRATION DATE | AVAILABLE OPTIONS |
| 5 years | April 1, 2015 | March 31, 2020 | 2, one year |
| PAYMENT TERMS | F.O.B. | SHIPPED TO | |
| Net 45 | N/A | N/A | |
| ALTERNATE PAYMENT OPTIONS | | | EXTENDED PURCHASING |
| <input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other | | | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| MINIMUM DELIVERY REQUIREMENTS: N/A | | | |
| MISCELLANEOUS INFORMATION: N/A | | | |
| ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION: | | \$1,618,340.00 | |

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

CONTRACT NO. 071B5500089
 between
THE STATE OF MICHIGAN
 and

| NAME & ADDRESS OF CONTRACTOR | PRIMARY CONTACT | EMAIL |
|---|-----------------|--|
| Public Consulting Group 148 State Street, 10th Floor Boston, MA 02109 | Heather Baker | hbaker@pcgus.com |
| | PHONE | VENDOR TAX ID # (LAST FOUR DIGITS ONLY) |
| | (617) 426-2026 | 2913 |

| STATE CONTACTS | AGENCY | NAME | PHONE | EMAIL |
|------------------------|--------|---|----------------------------------|---|
| PROGRAM MANAGER | DHS | Amanda Bright McClanahan & Nancey Rostoni | (517) 241-9056 (517) 388-3910 | brighta@michigan.gov rostonin@michigan.gov |
| CONTRACT ADMINISTRATOR | DTMB | Brandon Samuel | (517) 284-7025 | samuelb@michigan.gov |

| CONTRACT SUMMARY | | | |
|---|----------------|-------------------------|---|
| DESCRIPTION: Project Manager for Performance Based Funding | | | |
| INITIAL TERM | EFFECTIVE DATE | INITIAL EXPIRATION DATE | AVAILABLE OPTIONS |
| 5 years | April 1, 2015 | March 31, 2020 | 2, one year |
| PAYMENT TERMS | F.O.B. | SHIPPED TO | |
| Net 45 | N/A | N/A | |
| ALTERNATE PAYMENT OPTIONS | | | EXTENDED PURCHASING |
| <input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other | | | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| MINIMUM DELIVERY REQUIREMENTS: N/A | | | |
| MISCELLANEOUS INFORMATION: N/A | | | |
| ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION: | | \$1,618,340.00 | |

For the Contractor:

Heather Baker,
Contract Administrator
Public Consulting Group

Date

For the State:

Sharon Walenga-Maynard,
Sourcing Director
State of Michigan

Date



STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Public Consulting Group (“**Contractor**”) a Massachusetts Corporation. This Contract is for five years, effective on 4/1/15 (“**Effective Date**”), and unless terminated, expires on 3/31/2020.

This Contract may be renewed for up to two additional – one year periods. Renewal must be by written agreement of the parties.

The parties agree as follows:

- Duties of Contractor.** Contractor must perform the services and provide the deliverables described in **Exhibit A – Statement of Work** (the “**Contract Activities**”). An obligation to provide delivery of any commodity is considered a service and is a Contract Activity.

Contractor must furnish all labor, equipment, materials, and supplies necessary for the performance of the Contract Activities, and meet operational standards, unless otherwise specified in Exhibit A.

Contractor must: (a) perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b) meet or exceed the performance and operational standards, and specifications of the Contract; (c) provide all Contract Activities in good quality, with no material defects; (d) not interfere with the State’s operations; (e) obtain and maintain all necessary licenses, permits or other authorizations necessary for the performance of the Contract; (f) cooperate with the State, including the State’s quality assurance personnel, and any third party to achieve the objectives of the Contract; (g) return to the State any State-furnished equipment or other resources in the same condition as when provided when no longer required for the Contract; (h) not make any media releases without prior written authorization from the State; (i) assign to the State any claims resulting from state or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the Contract; (j) comply with all State physical and IT security policies and standards which will be made available upon request; and (k) provide the State priority in performance of the Contract except as mandated by federal disaster response requirements. Any breach under this paragraph is considered a material breach.

Contractor must also be clearly identifiable while on State property by wearing identification issued by the State, and clearly identify themselves whenever making contact with the State.

- Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

| | |
|--|---|
| If to State: <i>Brandon Samuel</i> 525 W. Allegan St. 1 st FLR NE P.O. Box 30026 Lansing, MI 48909 samuelb@michigan.gov 517-284-7025 | If to Contractor: Heather Baker 148 State Street, 10 th Floor Boston, MA 02109 hbaker@pcgus.com 617-717-1264 |
|--|---|

- Contract Administrator.** The Contract Administrator for each party is the only person authorized to modify any terms and conditions of this Contract (each a “**Contract Administrator**”):

| | |
|--|---|
| If to State: <i>Brandon Samuel</i> 525 W. Allegan St. 1 st FLR NE P.O. Box 30026 Lansing, MI 48909 samuelb@michigan.gov 517-284-7025 | If to Contractor: Heather Baker 148 State Street, 10 th Floor Boston, MA 02109 hbaker@pcgus.com 617-717-1264 |
|--|---|



4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract: Below are the Project Managers for this Contract.

Amanda Bright McClanahan
 Director, Budget & Grant Management Division
 Department of Human Services
 235 S. Grand Avenue
 Lansing, MI 48909
 517-241-9056
brighta@michigan.gov

Nancey Rostoni
 Foster Care Program Office
 Department of Human Services
 235 S. Grand Avenue, Suite 510
 Lansing, MI 48909
 517-388-3910
rostonin@michigan.gov

5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in Exhibit A) if, in the opinion of the State, it will ensure performance of the Contract.

6. **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by an company with an A.M. Best rating of "A" or better and a financial size of VII or better.

| Insurance Type | Additional Requirements |
|---|---|
| Commercial General Liability Insurance | |
| <p><u>Minimal Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations</p> <p><u>Deductible Maximum:</u> \$50,000 Each Occurrence</p> | <p>Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 04; (2) include a waiver of subrogation; and (3) for a claims-made policy, provide three years of tail coverage.</p> |
| Motor Vehicle Insurance | |
| <p><u>Minimal Limits:</u> \$1,000,000 Per Occurrence</p> | |
| Workers' Compensation Insurance | |
| <p><u>Minimal Limits:</u> Coverage according to applicable laws governing work activities.</p> | <p>Waiver of subrogation, except where waiver is prohibited by law.</p> |
| Employers Liability Insurance | |
| <p><u>Minimal Limits:</u> \$100,000 Each Accident \$100,000 Each Employee by Disease \$500,000 Aggregate Disease.</p> | |
| Cyber Liability Insurance | |
| <p><u>Minimal Limits:</u> \$1,000,000 Each Occurrence \$1,000,000 Annual Aggregate</p> | <p>Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds; and (2) cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.</p> |



| Hired and Non-Owned Motor Vehicle Insurance | |
|--|--|
| <u>Minimal Limits:</u> \$1,000,000 Per Accident | Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds, and (2) include a waiver of subrogation. |
| Professional Liability (Errors and Omissions) Insurance | |
| <u>Minimal Limits:</u> \$5,000,000 Each Occurrence \$5,000,000 Annual Aggregate <u>Deductible Maximum:</u> \$50,000 Per Loss | Contractor must have for any claims-made policy: (1) a retroactive date shown and be before the execution date of the contract or contract work; (2) three years of tail coverage beyond the completion date of the contract; and (3) provide a copy of the claims reporting requirements to the entity for review. If coverage is canceled or non-renewed, and not replaced with another claims-made policy with the aforementioned retroactive date, the Contractor must purchase extended reporting period coverage for a minimum of three years after completion of contract work. |

If Contractor's policy contains limits higher than the minimum limits, the State is entitled to coverage to the extent of the higher limits. The minimum limits are not intended, and may not be construed to limit any liability or indemnity of Contractor to any indemnified party or other persons.

Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or purchase order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within five business days if any insurance is cancelled; and (d) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

7. Reserve

8. MiDEAL Administrative Fee and Reporting. The Contract may be extended to MiDEAL members. MiDEAL members include local units of government, school districts, universities, community colleges, and nonprofit hospitals. A current list of MiDEAL members is available at www.michigan.gov/mideal. Upon written agreement between the State and Contractor, this Contract may also be extended to: (a) State of Michigan employees and (b) other states (including governmental subdivisions and authorized entities).

If extended, Contractor must supply all Contract Activities at the established Contract prices and terms. The State reserves the right to negotiate additional discounts based on any increased volume generated by such extensions.

Contractor must submit invoices to, and receive payment from, extended purchasing program members on a direct and individual basis.

Contractor must pay a MiDEAL administrative fee of 1% on all payments made to Contractor under the Contract including transactions with the MiDEAL members, State of Michigan employees and other states (including governmental subdivisions and authorized entities). Administrative fee payments must be made by check payable to the State of Michigan and mailed to:

Department of Technology, Management and Budget
 Financial Services – Cashier Unit
 Lewis Cass Building
 320 South Walnut St.
 P.O. Box 30681
 Lansing, MI 48909



Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales. Reports should be mailed to DTMB-Procurement.

The administrative fee and purchasing activity report are due within 30 calendar days from the last day of each calendar quarter.

9. **Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor.
10. **Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation, and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.
11. **Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
12. **Background Checks.** Upon request, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.
13. **Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation, provide all necessary documentation and signatures, and continue to perform, with the third party, its obligations under the Contract.
14. **Change of Control.** Contractor will notify, at least 90 calendar days before the effective date, the State of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

15. **Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in Exhibit A.
16. **Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in Exhibit A. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted, but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section **Error! Reference source not found.**, Termination for Cause.

Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any Contract Activities, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Contract Activities to the State. If acceptance with deficiencies or rejection of the



Contract Activities impacts the content or delivery of other non-completed Contract Activities, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract. However, nothing herein affects, alters, or relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract.

If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the State may cancel the order in whole or in part. The State, or a third party identified by the State, may perform the Contract Activities and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.

17. Reserve.

18. Reserve.

19. Reserve.

20. Terms of Payment. Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities performed as specified in Exhibit A. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Contract Activities purchased under the Contract are for the State's exclusive use. Prices are exclusive of all taxes, and Contractor is solely responsible for payment of any applicable taxes.

The State has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. The State will notify Contractor of any dispute within a reasonable time. Payment by the State will not constitute a waiver of any rights as to Contractor's continuing obligations, including claims for deficiencies or substandard Contract Activities. Contractor's acceptance of final payment by the State constitutes 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 disputed.

The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/cpexpress> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment. Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

21. Liquidated Damages. Liquidated damages, if applicable, will be assessed as described in Exhibit A.

22. Stop Work Order. The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or purchase order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.

23. Termination for Cause. The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the State to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 24, Termination for Convenience.

The State will only pay for amounts due to Contractor for Contract Activities accepted by the State on or before



the date of termination, subject to the State's right to set off any amounts owed by the Contractor for the State's reasonable costs in terminating this Contract. The Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the State incurs to procure the Contract Activities from other sources.

24. **Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section **Error! Reference source not found.**, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities.

25. **Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 30 calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.

26. **General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations.

The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense if the State deems necessary. Contractor will not, without the State's written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. To the extent that any State employee, official, or law may be involved or challenged, the State may, at its own expense, control the defense of that portion of the claim.

Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

27. **Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c)



accept its return by the State with appropriate credits to the State against 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.

28. Limitation of Liability. The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.

29. Disclosure of Litigation, or Other Proceeding. Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.

30. Reserve.

31. State Data.

a. Ownership. The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) the State's data collected, used, processed, stored, or generated as the result of the Contract Activities; (b) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Contract Activities, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and, (c) personal health information ("**PHI**") collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State. This Section survives the termination of this Contract.

b. Contractor Use of State Data. Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Contract Activities. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Contract Activities, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This Section survives the termination of this Contract.

c. Extraction of State Data. Contractor must, within one business day of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the State Data in the format specified by the State.

d. Backup and Recovery of State Data. Unless otherwise specified in Exhibit A, Contractor is responsible for maintaining a backup of State Data and for an orderly and timely recovery of such data. Unless otherwise described in Exhibit A, Contractor must maintain a contemporaneous backup of State Data that can be recovered within two hours at any point in time.

e. Loss of Data. In the event of any act, error or omission, negligence, misconduct, or breach that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than 24 hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law



or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within five calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than 24 months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; (g) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and, (h) provide to the State a detailed plan within 10 calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. This Section survives the termination of this Contract.

32. Non-Disclosure of Confidential Information. The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this Contract.

- a. **Meaning of Confidential Information.** For the purposes of this Contract, the term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.
- b. **Obligation of Confidentiality.** The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; 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 or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
- c. **Cooperation to Prevent Disclosure of Confidential Information.** Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had



access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.

- d. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.
- e. Surrender of Confidential Information upon Termination. Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within five calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any non-State Data Confidential Information is not feasible, such party must destroy the non-State Data Confidential Information and must certify the same in writing within five calendar days from the date of termination to the other party.

33. Data Privacy and Information Security.

- a. Undertaking by Contractor. Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the State Data; (b) protect against any anticipated threats or hazards to the security or integrity of the State Data; (c) protect against unauthorized disclosure, access to, or use of the State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, which are available to Contractor upon request.
- b. Audit by Contractor. No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to the State.
- c. Right of Audit by the State. Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. During the providing of the Contract Activities, on an ongoing basis from time to time and without notice, the State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the State, Contractor agrees to complete, within 45 calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.
- d. Audit Findings. Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.
- e. State's Right to Termination for Deficiencies. The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this Section.

34. Reserve.

35. Reserve.



- 36. Records Maintenance, Inspection, Examination, and Audit.** The State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain, and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Contract through the term of the Contract and for seven years after the latter of termination, expiration, or final payment under this Contract or any extension (“**Audit Period**”). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Contractor’s premises or any other places where Contract Activities are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If any financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Contract must be paid or refunded within 45 calendar days.

This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

- 37. Warranties and Representations.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer’s warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor’s business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; and (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section **Error! Reference source not found.**, Termination for Cause.

- 38. Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

- 39. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.

40. Reserve.

- 41. Nondiscrimination.** Under the Elliott-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.*, Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, or mental or physical disability. Breach of this covenant is a material breach of this Contract.

- 42. Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.

- 43. Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.



- 44. **Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 45. **Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
- 46. **Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely, or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.
- 47. **Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.
- 48. **Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
- 49. **Order of Precedence.** In the event of a conflict between the terms and conditions of the Contract, the exhibits, a purchase order, or an amendment, the order of precedence is: (a) the purchase order; (b) the amendment; (c) Exhibit A; (d) any other exhibits; and (e) the Contract.
- 50. **Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 51. **Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 52. **Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.
- 53. **Entire Contract and Modification.** This Contract is the entire agreement and replaces all previous agreements between the parties for the Contract Activities. This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**").



STATE OF MICHIGAN

Contract No. 071B5500089
Project Manager for Performance Based Funding

EXHIBIT A STATEMENT OF WORK CONTRACT ACTIVITIES

Project Request

This is a Contract for the Michigan Department of Human Services (DHS) to engage a Project Manager to facilitate the Child Welfare Partnership Council (CWPC) and guide the members to develop a performance based funding model for all public and private child welfare providers. The Contractor must be of an independent organization that is not affiliated with state or local government, with the exception of state universities.

Background

Michigan’s Legislature set forth requirements in Public Act 59 of 2013, Section 503 for the Department of Human Services to review the feasibility of establishing performance-based funding for all public and private child welfare services providers. In the fall of 2013, DHS convened a Child Welfare Performance-Based Funding (CWPBF) Task Force that included representatives from the department, private child placing agencies, private child caring institutions, Michigan courts and county administrations. To determine the feasibility of such a model, the Task Force and corresponding workgroups examined prior attempts at similar models in Michigan and other states across the nation; the definition of the intended population subject to the model; a desired process of care to be used in the model; current and potential financial models and barriers; and a set of outcome goals and indicators that would be used to determine success of service delivery. The Performance-Based Funding Task Force issued a final report and findings (see Attachment A) to the Department and Michigan Legislature in February 2014 which asserted that a performance-based funding model was feasible for successful implementation in a phased, integrated approach.

The model for performance based funding envisioned by CWPBF Task Force would:

1. Adhere to the state’s guiding principles in performing all child welfare practice. The indicator for readiness in this regard is that all public and private providers within a selected geographic area to be determined have completed at least initial implementation of the state’s enhanced Michigan Teaming, Engagement, Assessment and Mentoring Practice Model (MiTEAM) case practice model and continuous quality improvement (CQI) activities.
2. Operate according to the defined process of care model for full case management and service delivery for out-of-home foster care cases (children and families). Strict random assignment methodology will be used to determine out-of-home case assignment to DHS or to a lead contracted entity for a specific geographic area. Full case management means that the lead entity is responsible for a case, from removal through post permanency, with no opportunity for rejecting the referral from the department. The lead entity, by and through its service providers, must provide all case management, placement and service delivery without the micro-level oversight provided in the current child welfare model by DHS.
3. Use an independent, third-party evaluator throughout the course of development and implementation of the funding model.
4. Hold both public and private agencies accountable for ensuring that children and families served reach the same set of outcomes and indicators. Public and private child welfare agency successes will be measured publicly using validated data and information from the Michigan Statewide Automated Child Welfare Information System (MiSACWIS) and other methods established from the state’s continuous quality improvement system.
5. Develop and modify the funding and rate setting methodology by involving relevant stakeholders and the professional, expert services of an actuary.



6. Ensure a budgeting/funding model for the contracted case rate and public sector allocations that equitably:
 - A. Accommodates the distinctions presented when delivering services to the specific geographic area and the attributes of the populations served. For example, public and private agencies serving a smaller population, with limited service providers, in a large geographical area (like that in the upper peninsula) must be considered in budgeting resources and case rates;
 - B. Ensures the provision of funds necessary to meet the needs of children and families as assessed in tiers or levels of care (low to high). Universal assessments will be used to place each case in one of several tiered case rates that accommodate different levels of services based on varying needs. In addition to the different levels of case rates, there must be the creation of a defined mechanism that may be applied for atypical cases with complicated health and/or treatment needs;
 - C. Ensures the provision of funds necessary to provide a defined range or bundle of services for children and families who are in their care;
 - D. Includes a mechanism for the documentation of savings and reinvestment;
 - E. Creates flexible and integrated funding and resource allocation strategies from existing categorical fund sources such as Title IV-E, Title IV-B, Title XX, TANF, General Fund, County Child Care Fund, and State Ward Board and Care to support a single, cohesive funding source necessary to support a case rate based approach.

The implementation of the performance based funding model through the Child Welfare Partnership Council (CWPC) requires the fullest engagement and transparency across all invested stakeholders of DHS, the community agencies, the courts, counties and the Legislature. While the Task Force's final report has many facets of a proposed model, a significant amount of research, development and engagement with critical stakeholders and interested parties remains before initial implementation is possible. Since the original report, the CWPC has continued to meet to move the project forward. Due to adjustments and planning that occurred through 2014, an updated Executive Summary and Timeline were created.

The highly technical and complex nature of the concepts involved and the diversity of the interest groups represented by the stakeholders require engaging an independent, expert Project Manager to manage and ensure success of the project. The Project Manager will draw from extensive experience in project management with large, complex governmental and private sector stakeholders and public policy programs, and an understanding of Michigan child welfare policy, program, funding and legislative requirements to present a documented project plan and manage its execution as detailed in the below requirements, 1. Work and Deliverables.

Requirements

1. Work and Deliverables

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:

1. The Contractor must use its knowledge and understanding of child welfare policy, and program funding to help lead the DHS in the further development and implementation of a performance based funding model for all public and private child welfare providers.
2. The Contractor's must work with a diverse group of invested stakeholders from state and local governments, courts, public and private human service agencies in carrying out the tasks of this Contract.
3. The Contractor must work with a third party evaluator and an actuary in carrying out the tasks of this Contract.
4. As required, the Contractor must use implementation science in supporting system changes. Additionally, the Contractor must manage opportunities and technical and adaptive challenges as they arise.
5. The Contractor must be able to travel widely across the State of Michigan and potentially outside of Michigan.



6. The State will collect data from the Michigan Statewide Automated Child Welfare Information System (MiSACWIS), child welfare agency case records, and additional information sources as appropriate. The State will work with the Contractor to identify other appropriate data sources to address the process and outcome measures.

The State will provide data from MiSACWIS, as described above, and other sources. However, there are data elements for which DHS will require the collaboration of the Contractor to develop and implement effective data collection strategies. These additional data collection elements and strategies will be determined by the DHS Project Manager and the Contractor with approval by the DHS Children Services Administration.

7. The Contractor must assist DHS in complying with PA 252 of 2014, Sec. 503.3 which states, by September 30, 2015, the department shall complete a full cost analysis of the performance-based funding model with respect to the current fiscal year, including relevant information on the actuarial rate-setting process and provide a report on the analysis to the senate and house appropriations subcommittees on the department budget.

Project Plan Management

The Contractor must carry out this project under the direction and control of the DHS Project Manager and the DHS Children’s Services Administration.

Upon award, the Contractor must meet with the DHS Project Manager to do the following:

1. Develop and document the project organization and communication strategy to clarify reporting and escalation pathways and to ensure appropriate involvement by all stakeholder groups, including the Child Welfare Partnership Council (CWPC).
2. Validate the defined business objectives to ensure a common understanding and focus on project scope development.
3. Define the project’s scope by developing and documenting a scope statement, scope inclusions, and scope exclusions. Obtain key stakeholder concurrence and DHS approval of the project’s scope definition. The scope definition activity includes:
 - a. Identifying the project’s level of change in anticipation of developing the needed Change Leadership strategies and education/training programs.
 - b. Defining tangible and verifiable project deliverables along with their supporting work packages and activities.
 - c. Facilitating the detailing of the project deliverable designs by collaborating with the appropriate subject matter experts.
 - d. Identifying the project’s success measures and the metrics used to evaluate attaining those.
4. Upon scope definition approval, develop and document the remaining project plan elements of resource, schedule, and risk:
 - a. Estimate staff resource time commitments and skills levels needed to complete the defined deliverables. Estimate all other required resources including, but not limited to, equipment, technology, facilities, supplies, research, and education programs.
 - b. Detail a project budget, finalizing funding sources, and validating the budget against initial cost projections. The project budget includes all known capital/other one-time expenses and ongoing support costs.
 - c. Create a high-level project schedule based upon the sequencing of the work packages and activities defined by the project deliverables. This includes the consideration of schedule constraints, deadlines, and dependencies on other projects that may be beyond the project’s control.
 - d. Identify and assess risks to completing the project deliverables. Develop risk mitigation strategies for those risks assessed as High Impact and High Probability.
5. Present a documented project plan that includes all of the project elements above to the DHS Project Manager for approval.



6. Upon plan approval by the DHS Project Manager, the Contractor must manage the execution of the project plan by:
 - a. Acquiring the identified project team resources from the appropriate resource manager;
 - b. Engaging those resources by facilitating their acceptance of assigned roles, responsibilities, and schedule commitments;
 - c. Managing all project elements as defined. Reporting on progress and escalating issues as detailed in the defined communication strategy;
 - d. Detailing the specific deployment sequence needed to activate the defined strategy;
 - e. Managing all deployment activities and the post-implementation support cycle;
 - f. Facilitating the development and acceptance of the on-going support required after project deployment;
 - g. Obtaining DHS Project Manager acceptance that the delivered product or service is now successfully implemented;
 - h. Managing and resolving issues in a timely manner.
7. Schedule, facilitate and manage all logistics for CWPC meetings and workgroup meetings, including creation, approval and distribution of minutes/notes.
8. Archive all project documentation.
9. Schedule, facilitate and manage all logistics for stakeholder meetings or engagements determined to be necessary by DHS Children’s Services Administration, in coordination with the CWPC.
10. Plan, coordinate, and execute activities in the project plan and time line.
11. Coordinate planning and implementation activities with identified experts, Contractors, stakeholders as indicated by the DHS Children’s Services Administration, in coordination with the CWPC.
12. Although there will be continuous liaison with the Contractor team, the DHS Project Manager will meet monthly at a minimum, with the Contractor’s Project Manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise.
13. Within 10 working days of Contract execution, the Contractor must submit to the DHS Project Manager a work plan for final approval. This final implementation plan must include a project breakdown showing sub-projects, activities and tasks, and resources and number of hours required and allocated to each.
14. The Contractor must also submit to the DHS Project Manager a time-phased plan (project schedule) in the form of a graphic display, showing each event, task, and decision point in your work plan.

2. Staffing

The Contractor must provide staff and expert consultants as necessary to meet all requirements as identified in the “Work and Deliverables” section of this statement of work.

Hours of Operation. Normal State working hours are 8:00 a.m. to 5:00 p.m. EST, Monday through Friday, with work performed as necessary after those hours to meet project deadlines. No overtime will be authorized or paid.

Management Oversight. The State is not obligated to provide State management of assigned work outside of normal State working hours. The State reserves the right to modify the work hours in the best interest of the project. The State does not compensate Contractors for holiday pay.

The Project Manager must be a full time position and available at least 80% of the time for in person meetings. DHS reserves the right to indicate meetings that the Project Manager must attend in person.

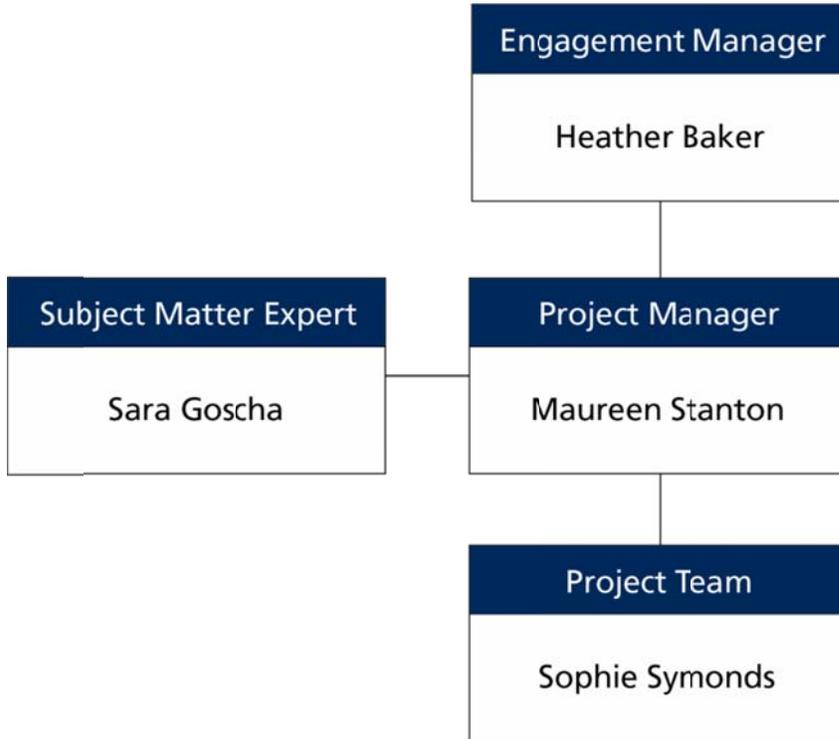


The below staffing table represents identified staff that will be involved in completing the work of this Contract.

| Name | Key Personnel Yes / No | Title | Role & Responsibilities | % of time to this project | Years of Experience | Contractor or Subcontractor (C or S) | Work Location |
|-----------------|---------------------------|-----------------------|--|------------------------------------|------------------------|--|---------------|
| Maureen Stanton | Y | Project Manager | Responsible for ensuring that the PCG team completes all project tasks and deliverables within given timeframes. Will be responsible for being on site to assist with facilitation of stakeholder groups, attending status meetings and being day to day on the ground personnel for this project. | 100% | 5+ | N | Dearborn, MI |
| Heather Baker | Y | Engagement Manager | Responsible for ensuring that the PCG team completes all project tasks and deliverables within given timeframes. | 2% | 10+ | N | Boston, MA |
| Sara Goscha | Y | Subject Matter Expert | Responsible for providing subject matter expertise to the project team. | 9% | 10+ | N | Lincoln, NE |
| Sophie Symonds | N | Project Assistant | Provide project support to the project manager. Responsible for attending and coordinating meetings with project manager | 24% | 1 | N | Chicago, IL |



Below is the Contractor's organizational chart for this Contract



The State has 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 positions, Contractor will notify the State of the proposed assignment, introduce the individual to the State's Project Manager, and 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 as proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. The State may require a 30-calendar day training period for replacement personnel.

Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("**Unauthorized Removal**"). An Unauthorized Removal does not include replacing Key Personnel 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. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under Termination for Cause in the Standard Terms.

It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under Termination for Cause, Contractor will issue to the State the corresponding credits set forth below (each, an "Unauthorized Removal Credit"):

- (i) For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be \$5,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30 calendar days before the Key Personnel's removal.



(ii) If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30 calendar days, in addition to the \$5,000.00 credit specified above, Contractor will credit the State \$833.33 per calendar day for each day of the 30 calendar-day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$5,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30 calendar days of shadowing will not exceed \$10,000.00 per individual.

Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed above: (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; and (ii) may, at the State's option, be credited or set off against any fees or other charges payable to Contractor under this Contract.

3. Reports

During the performance of the work, the Contractor must provide brief, written, monthly status reports to the DHS Project Manager of progress made on the steps identified in the final project plan. Reports must outline the work accomplished during the reporting period, work to be accomplished during the subsequent reporting period, problems, real or anticipated, which should be brought to the attention of the DHS Project Manager, and notification of any significant deviation from previously agreed upon work plans.

4. Ordering

The appropriate authorizing document for the Contract will be a purchase order.

5. Acceptance

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

Document Deliverables

- Documents are submitted to the DHS Project Manager for review and approval.
- Documents are dated and in electronic format, compatible with State of Michigan software (Microsoft Office 2010).
- Draft documents are not accepted as final deliverables.
- DHS will review documents within a timeframe mutually agreed upon with the Contractor.
 - a) DHS approvals will be written and signed by the DHS Project Manager.
 - b) DHS issues with the deliverable will be documented and submitted to the Contractor.
 - c) After issues are resolved or waived, the Contractor will resubmit documents for approval within 10 business days of receipt.

Final Acceptance

DHS and the Contractor shall sign a statement at the time of final acceptance stating that both parties agree that the project has been completed, and that final payment has been made.

6. Pricing

Prices quoted are firm for the entire length of the Contract.

7. Invoice Requirements

All invoices submitted to the State must include: (a) date; (b) purchase order #; (c) a monthly report with description and dates of Contract Activities performed; (d) unit price; (e) number of hours worked for each staff member; and (f) total cost. All invoices should reflect actual work done. Specific details of invoices and payments will be agreed upon between the DHS Project Manager and the Contractor.



8. Payment Method

The specific payment schedule for any Contract(s) entered into, must be mutually agreed upon between the DHS Project Manager and the Contractor. As a general policy, statements must be forwarded to the DHS Project Manager by the 15th day of the following month.

9. Liquidated Damages

Late or improper completion of the Contract Activities will cause loss and damage to the State and it would be impracticable and extremely difficult to fix the actual damage sustained by the State. Therefore, if there is late or improper completion of the Contract Activities in Exhibit A, the State is entitled to collect liquidated damages in the amount of \$10,000 and an additional \$1,000 per day for each day Contractor fails to remedy the late or improper completion of the work.

10. Additional Terms and Conditions specific to this Contract

E-Verify. The Contractor, upon award, must verify, using the U.S. Department of Homeland Security's U.S. Citizenship and Immigration Services E-Verify system, that all new employees, and new hire employees of subcontractors, are legally present in the United States.

STATE OF MICHIGAN

Contract No. 071B550089

Project Manager for Performance Based Funding

EXHIBIT B - RESERVED



STATE OF MICHIGAN

Contract No. 071B5500089

Project Manager for Performance Based Funding

EXHIBIT C - PRICING

1. Prices in this list are fixed for the duration of the Contract.
2. Travel. 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 the Contractor for the expense at the state's current travel reimbursement rates. See www.michigan.gov/dtmb for current rates.

| | Name | Staffing Classification | % FTE* | Annual Estimated Hours | Billable Hourly Rate | Annual Total |
|---|-----------------|-------------------------|--------|------------------------|----------------------|------------------|
| 1 | Heather Baker | Engagement Manager | 2% | 50 | \$312 | \$15,600 |
| 2 | Maureen Stanton | Project Manager | 100% | 1840 | \$106 | \$195,040 |
| 3 | Sara Goscha | Subject Matter Expert | 9% | 192 | \$284 | \$54,528 |
| 4 | Sophie Symonds | Business Analyst | 24% | 500 | \$117 | \$58,500 |
| | | | | | | \$323,668 |

| | |
|----------------------------|--------------------|
| 5 Year Grand Total: | \$1,618,340 |
|----------------------------|--------------------|

* FTE = Full time equivalent. Enter percentage of time devoted to this project.

NOTE: Project Manager must be a full time position.