

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 21, 2010

CHANGE NOTICE NO. 2
TO
CONTRACT NO. 071B9200258
between
THE STATE OF MICHIGAN
and

| | |
|---|---|
| NAME & ADDRESS OF CONTRACTOR Pitney Bowes, Inc. 1 Elmcroft Road Stamford, CT 06926-0700 Email:David.Bruns@pb.com | TELEPHONE (260) 833-0694 Dave Bruns |
| | CONTRACTOR NUMBER/MAIL CODE |
| | BUYER/CA (517) 241-1647 Irene Pena |
| Contract Compliance Inspector: Steven Cheal (517) 322-6956 Mailing Machine Inserters and Maintenance – Department of Management & Budget | |
| CONTRACT PERIOD: From: August 20, 2009 To: August 19, 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> | |
| MISCELLANEOUS INFORMATION: | |

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT.

NATURE OF CHANGE (S):

Effective immediately this Contract is hereby INCREASED \$43,000.00 to allow for the purchase of years 2 and 3 of maintenance. Please note, the buyer is also changed to Irene Pena.

AUTHORITY/REASON:

Per Ad Board approval dated July 20, 2010 and DTMB Purchasing Operations.

TOTAL REVISED ESTIMATED CONTRACT VALUE \$1,144,178.40

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

October 20, 2009

CHANGE NOTICE NO. 1
 TO
 CONTRACT NO. 071B9200258
 between
 THE STATE OF MICHIGAN
 and

| | |
|---|--|
| NAME & ADDRESS OF CONTRACTOR Pitney Bowes, Inc. 1 Elmcroft Road Stamford, CT 06926-0700 Email:David.Bruns@pb.com | TELEPHONE (260) 833-0694 Dave Bruns |
| | CONTRACTOR NUMBER/MAIL CODE |
| | BUYER/CA (517) 373-7374 Joan Bosheff |
| Contract Compliance Inspector: Steven Cheal (517) 322-6956 Mailing Machine Inserters and Maintenance – Department of Management & Budget | |
| CONTRACT PERIOD: From: August 20, 2009 To: August 19, 2012 | |
| TERMS N/A | SHIPMENT N/A |
| F.O.B. N/A | SHIPPED FROM N/A |
| MINIMUM DELIVERY REQUIREMENTS N/A | |
| MISCELLANEOUS INFORMATION: | |

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT.

NATURE OF CHANGE (S):

Effective immediately this Contract is hereby INCREASED \$310,000.00. In addition the Department of Energy and Labor and Economic Growth is hereby added as an Authorized user.

AUTHORITY/REASON:

Per Administrative Board approval dated October 16, 2009 and DMB Purchasing Operations.

TOTAL REVISED ESTIMATED CONTRACT VALUE \$1,101,178.40

**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 19, 2009

**NOTICE
 OF
 CONTRACT NO. 071B9200258
 between
 THE STATE OF MICHIGAN
 and**

| | |
|---|--|
| NAME & ADDRESS OF CONTRACTOR Pitney Bowes, Inc. 1 Elmcroft Road Stamford, CT 06926-0700 <p style="text-align: right;">David.Bruns@pb.com</p> | TELEPHONE (260) 833-0694 Dave Bruns CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 373-7374 Joan Bosheff |
| Contract Compliance Inspector: Steven Cheal (517) 322-6956 Mailing Machine Inserters and Maintenance – Department of Management & Budget | |
| CONTRACT PERIOD: From: August 20, 2009 To: August 19, 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> | |
| MISCELLANEOUS INFORMATION: | |

THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT.

The terms and conditions of this Contract are those of RFP #071I9200177, this Contract Agreement and the vendor's quote dated 5/14/09. 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.

Current Authorized Spend Limit: \$791,784.00

**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. 071B9200258
 between
 THE STATE OF MICHIGAN
 and**

| | |
|---|--|
| NAME & ADDRESS OF CONTRACTOR Pitney Bowes, Inc. 1 Elmcroft Road Stamford, CT 06926-0700 <div style="text-align: right;">David.Bruns@pb.com</div> | TELEPHONE (260) 833-0694 Dave Bruns CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 373-7374 Joan Bosheff |
| Contract Compliance Inspector: Steven Cheal (517) 322-6956 Mailing Machine Inserters and Maintenance – Department of Management & Budget | |
| CONTRACT PERIOD: From: August 20, 2009 To: August 19, 2012 | |
| TERMS <div style="text-align: center;">N/A</div> | SHIPMENT <div style="text-align: center;">N/A</div> |
| F.O.B. <div style="text-align: center;">N/A</div> | SHIPPED FROM <div style="text-align: center;">N/A</div> |
| MINIMUM DELIVERY REQUIREMENTS <div style="text-align: center;">N/A</div> | |
| MISCELLANEOUS INFORMATION: THIS CONTRACT IS EXTENDED TO LOCAL UNITS OF GOVERNMENT. The terms and conditions of this Contract are those of RFP #071I9200177, this Contract Agreement and the vendor's quote dated 5/14/09. 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. Current Authorized Spend Limit: \$791,784.00 | |

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the RFP #071I9200177. Orders for delivery may be issued directly by the Department of Management and Budget through the issuance of a Purchase Order Form.

FOR THE CONTRACTOR:

Pitney Bowes, Inc.

 Firm Name

 Authorized Agent Signature

 Authorized Agent (Print or Type)

 Date

FOR THE STATE:

 Signature

Seleana Samuel, Buyer Manager

 Name/Title

**Commodities Division, Purchasing
 Operations**

 Division

 Date



**STATE OF MICHIGAN
Department of Management and Budget
Purchasing Operations**

**Contract #071B9200258
MAILING MACHINE INSERTERS**

**Buyer Name: Joan Bosheff
Telephone Number: (517) 373-7374
E-Mail Address: bosheffj@michigan.gov**



Table of Contents

DEFINITIONS 8

Article 1 – Statement of Work (SOW)..... 10

1.010 **Project Identification**..... 10

 1.011 Project Request 10

 1.012 Background..... 10

1.020 **Scope of Work and Deliverables**..... 10

 1.021 In Scope..... 10

 1.022 Work and Deliverable..... 10

1.030 **Roles and Responsibilities**..... 11

 1.031 Contractor Staff, Roles, and Responsibilities 11

1.040 **Project Plan**..... 12

 1.041 Project Plan Management..... 12

 1.042 Reports 13

1.050 **Acceptance** 13

 1.051 Criteria 13

 1.052 Final Acceptance 14

1.060 **Pricing** 14

 1.061 Pricing 14

 1.062 Price Term 14

 1.063 Tax Excluded from Price 14

 1.064 Holdback—Deleted, Not Applicable 14

1.070 **Commodity Requirements and Terms** 14

Product Quality..... 14

 1.0701 Specifications 14

 1.0702 Alternate Bids—Deleted, Not Applicable..... 14

 1.0703 Research and Development..... 14

 1.0704 Quality Assurance Program..... 15

 1.0705 Warranty for Products or Services..... 16

 1.0706 Training 16

 1.0707 Special Programs..... 17

 1.0708 Security 17

Delivery Capabilities..... 17

 1.0709 Time Frames 17

 1.0710 Minimum Order—Deleted, Not Applicable..... 18

 1.0711 Packaging—Deleted, Not Applicable 18

 1.0712 Palletizing—Deleted, Not Applicable 18

 1.0713 Delivery Term 18

 1.0714 Contract Performance 18

 1.0715 Place of Performance 18

 1.0716 Environmental Requirements 18

 1.0717 Subcontractors..... 21

 1.0718 Reports and Meetings..... 21

 1.0719 Samples/Models—Deleted, Not Applicable 22

1.080 **Additional Requirements—Deleted, Not Applicable**..... 22



Article 2, Terms and Conditions 23

2.000 Contract Structure and Term 23

 2.001 Contract Term 23

 2.002 Options to Renew 23

 2.003 Legal Effect 23

 2.004 Attachments & Exhibits 23

 2.005 Ordering 23

 2.006 Order of Precedence 23

 2.007 Headings 24

 2.008 Form, Function & Utility 24

 2.009 Reformation and Severability 24

 2.010 Consents and Approvals 24

 2.011 No Waiver of Default 24

 2.012 Survival 24

2.020 Contract Administration 24

 2.021 Issuing Office 24

 2.022 Contract Compliance Inspector (CCI) 25

 2.023 Project Manager 25

 2.024 Change Requests 25

 2.025 Notices 26

 2.026 Binding Commitments 26

 2.027 Relationship of the Parties 26

 2.028 Covenant of Good Faith 26

 2.029 Assignments 26

2.030 General Provisions 27

 2.031 Media Releases 27

 2.032 Contract Distribution 27

 2.033 Permits 27

 2.034 Website Incorporation 27

 2.035 Future Bidding Preclusion 27

 2.036 Freedom of Information 27

 2.037 Disaster Recovery 27

2.040 Financial Provisions 27

 2.041 Fixed Prices for Services/Deliverables 27

 2.042 Adjustments for Reductions in Scope of Services/Deliverables 28

 2.043 Services/Deliverables Covered 28

 2.044 Invoicing and Payment – In General 28

 2.045 Pro-ration 28

 2.046 Antitrust Assignment 28

 2.047 Final Payment 28

 2.048 Electronic Payment Requirement 28

2.050 Taxes 29

 2.051 Employment Taxes 29

 2.052 Sales and Use Taxes 29

2.060 Contract Management 29

 2.061 Contractor Personnel Qualifications 29

 2.062 Contractor Key Personnel 29

 2.063 Re-assignment of Personnel at the State’s Request 30

 2.064 Contractor Personnel Location 30

 2.065 Contractor Identification 30

 2.066 Cooperation with Third Parties 30

 2.067 Contract Management Responsibilities 30

 2.068 Contractor Return of State Equipment/Resources 30



2.070 Subcontracting by Contractor 30

 2.071 Contractor full Responsibility 30

 2.072 State Consent to delegation 31

 2.073 Subcontractor bound to Contract..... 31

 2.074 Flow Down..... 31

 2.075 Competitive Selection 31

2.080 State Responsibilities 31

 2.081 Equipment 31

 2.082 Facilities 31

2.090 Security 32

 2.091 Background Checks..... 32

 2.092 Security Breach Notification 32

 2.093 PCI Data Security Requirements—Deleted, Not Applicable 32

2.100 Confidentiality..... 32

 2.101 Confidentiality..... 32

 2.102 Protection and Destruction of Confidential Information 32

 2.103 Exclusions..... 33

 2.104 No Implied Rights 33

 2.105 Respective Obligations..... 33

2.110 Records and Inspections..... 33

 2.111 Inspection of Work Performed 33

 2.112 Examination of Records 33

 2.113 Retention of Records 34

 2.114 Audit Resolution..... 34

 2.115 Errors..... 34

2.120 Warranties 34

 2.121 Warranties and Representations 34

 2.122 Warranty of Merchantability 35

 2.123 Warranty of Fitness for a Particular Purpose..... 35

 2.124 Warranty of Title 35

 2.125 Equipment Warranty 36

 2.126 Equipment to be New 36

 2.127 Prohibited Products 36

 2.128 Consequences For Breach..... 36

2.130 Insurance..... 37

 2.131 Liability Insurance..... 37

 2.132 Subcontractor Insurance Coverage 38

 2.133 Certificates of Insurance and Other Requirements 38

2.140 Indemnification..... 39

 2.141 General Indemnification 39

 2.142 Code Indemnification..... 39

 2.143 Employee Indemnification..... 39

 2.144 Patent/Copyright Infringement Indemnification..... 39

 2.145 Continuation of Indemnification Obligations 40

 2.146 Indemnification Procedures 40

2.150 Termination/Cancellation 40

 2.151 Notice and Right to Cure 40

 2.152 Termination for Cause 41

 2.153 Termination for Convenience..... 41

 2.154 Termination for Non-Appropriation..... 41

 2.155 Termination for Criminal Conviction 42

 2.156 Termination for Approvals Rescinded 42

 2.157 Rights and Obligations upon Termination 42

 2.158 Reservation of Rights 42



2.160 *Termination by Contractor* 42
 2.161 Termination by Contractor 42

2.170 *Transition Responsibilities* 43
 2.171 Contractor Transition Responsibilities 43
 2.172 Contractor Personnel Transition 43
 2.173 Contractor Information Transition 43
 2.174 Contractor Software Transition 43
 2.175 Transition Payments 43
 2.176 State Transition Responsibilities 43

2.180 *Stop Work* 44
 2.181 Stop Work Orders 44
 2.182 Cancellation or Expiration of Stop Work Order 44
 2.183 Allowance of Contractor Costs 44

2.190 *Dispute Resolution* 44
 2.191 In General 44
 2.192 Informal Dispute Resolution 44
 2.193 Injunctive Relief 45
 2.194 Continued Performance 45

2.200 *Federal and State Contract Requirements* 45
 2.201 Nondiscrimination 45
 2.202 Unfair Labor Practices 45
 2.203 Workplace Safety and Discriminatory Harassment 45
 2.204 Prevailing Wage 46

2.210 *Governing Law* 46
 2.211 Governing Law 46
 2.212 Compliance with Laws 46
 2.213 Jurisdiction 46

2.220 *Limitation of Liability* 46
 2.221 Limitation of Liability 46

2.230 *Disclosure Responsibilities* 47
 2.231 Disclosure of Litigation 47
 2.232 Call Center Disclosure 47
 2.233 Bankruptcy 48

2.240 *Performance* 48
 2.241 Time of Performance 48
 2.242 Service Level Agreements (SLAs)—Deleted, Not Applicable 48
 2.243 Liquidated Damages—Deleted, Not Applicable 48
 2.244 Excusable Failure 48

2.250 *Approval of Deliverables—Deleted, Not Applicable* 49

2.260 *Ownership* 49
 2.261 Ownership of Work Product by State 49
 2.262 Vesting of Rights—Deleted, Not Applicable 49
 2.263 Rights in Data 49
 2.264 Ownership of Materials 49

2.270 *State Standards* 50
 2.271 Existing Technology Standards 50
 2.272 Acceptable Use Policy 50
 2.273 Systems Changes 50

2.280 *Extended Purchasing* 50



2.290 *Environmental Provision* 50
2.291 Environmental Provision 50
2.300 *Other Provisions*..... 52
2.311 Forced Labor, Convict Labor, or Indentured Servitude Made Materials 52
2.321 Knowledge of Child Labor for Listed End Products..... 52

ATTACHMENTS:

- Attachment A—Price*
- Attachment B—Equipment Specifications*
- Attachment C—Non-Disclosure Agreement, Contractors/Vendors/*



DEFINITIONS

“Days” means calendar days unless otherwise specified.

“24x7x365” means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).

“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.

“Audit Period” has the meaning given in **Section 2.093**.

“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.

“Blanket Purchase Order” is an alternate term for Contract and is used in the States computer system.

“Business Critical” means any function identified in any Statement of Work as Business Critical.

“Chronic Failure” is defined in any applicable Service Level Agreements.

“Deleted – Not Applicable” means that section is not applicable or included in this Contract. This is used as a placeholder to maintain consistent numbering.

“Deliverable” means physical goods and/or commodities as required or identified by a Statement of Work.

“DMB” means the Michigan Department of Management and Budget.

“Environmentally preferable products” means a product or service that has a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. Such products or services may include, but are not limited to, those which contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics either disposed of or consumed.

“Excusable Failure” has the meaning given in **Section 2.214**.

“Hazardous material” means any material defined as hazardous under the latest version of federal Emergency Planning and Community Right-to-Know Act of 1986 (including revisions adopted during the term of the Contract).

“Incident” means any interruption in Services.

“ITB” is a generic term used to describe an Invitation to Bid. The ITB serves as the document for transmitting the RFP to potential bidders.

“Key Personnel” means any Personnel designated in **Section 1.031** as Key Personnel.

“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.

“Ozone-depleting substance” means any substance the Environmental Protection Agency designates in 40 CFR part 82 as: (1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or (2) Class II, including, but not limited to, hydrochlorofluorocarbons.

“Post-Consumer Waste” means any product generated by a business or consumer which has served its intended end use, and which has been separated or diverted from solid waste for the purpose of recycling into a usable commodity or product, and which does not include post-industrial waste.

“Post-Industrial Waste” means industrial by-products which would otherwise go to disposal and wastes generated after completion of a manufacturing process, but does not include internally generated scrap commonly returned to industrial or manufacturing processes.



“Recycling” means the series of activities by which materials that are no longer useful to the generator are collected, sorted, processed, and converted into raw materials and used in the production of new products. This definition excludes the use of these materials as a fuel substitute or for energy production.

“Reuse” means using a product or component of municipal solid waste in its original form more than once.

“RFP” means a Request for Proposal designed to solicit proposals for services.

“Services” means any function performed for the benefit of the State.

“Source reduction” means any practice that reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment prior to recycling, energy recovery, treatment, or disposal.

“State Location” means any physical location where the State performs work. State Location may include state-owned, leased, or rented space.

“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.

“Unauthorized Removal” means the Contractor’s removal of Key Personnel without the prior written consent of the State.

“Waste prevention” means source reduction and reuse, but not recycling.

“Waste reduction”, or “pollution prevention” means the practice of minimizing the generation of waste at the source and, when wastes cannot be prevented, utilizing environmentally sound on-site or off-site reuse and recycling. The term includes equipment or technology modifications, process or procedure modifications, product reformulation or redesign, and raw material substitutions. Waste treatment, control, management, and disposal are not considered pollution prevention, per the definitions under Part 143, Waste Minimization, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended.

“Work in Progress” means a Deliverable that has been partially prepared, but has not been presented to the State for Approval.

“Work Product” refers to any data compilations, reports, and other media, materials, or other objects or works of authorship created or produced by the Contractor as a result of an in furtherance of performing the services required by this Contract.



Article 1 – Statement of Work (SOW)

1.010 Project Identification

1.011 Project Request

This is a Contract for the purchase of two (2) mailing machine inserters (henceforth referred to as inserters or equipment) and three (3) years of full maintenance service and software subscription costs.

1.012 Background

The Department Management Budget; Mail and Delivery Services Division (MDSB), operates the mail portion of a consolidated Print and Mail Facility that processes work for various State agencies and departments along with colleges, universities and local governments. MDSB receives the State's main frame print from the Consolidated Print Center that is also located in the building with MDSB. Mail is then inserted, presorted and presented to the USPS for delivery. The State processes approximately 60 million mailings per year on this equipment with a staff of 12 employees.

1.020 Scope of Work and Deliverables

1.021 In Scope

ACQUISITION/EQUIPMENT

The acquisition of two (2) mailing machine inserters and three consecutive years of full maintenance service and software subscription costs. The equipment specifications are stated in Section 1.022 'Work and Deliverable'.

The State will accept delivery and installation of the inserters immediately upon award of the contract but no later than 90 days after the award of the contract unless agreed upon by the State in writing. The contractor will not receive payment for installation of the inserters until both the contractor and the State mutually agree that the inserters are installed and operating as fully functional inserters, including able to satisfy all of the contract's requirements. This includes ten consecutive working days of successful operation by the State (See Section 1.052 Final Acceptance)

Bidder Response:

Pitney Bowes agrees to all specs outlined in 1.022, and as requested providing purchase and service quotes and responses in Attachments A, B, and additional information.

1.022 Work and Deliverable

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. Following are the specifications for the equipment:

Equipment must be newly manufactured.

Inserting Cycle Speed:

Capable of inserting a minimum of 11,000 single page 20 lb paper documents into 11,000 #10 business envelopes per hour.

Capable of inserting a minimum of 8,000 single page 20 lb paper documents into 8,000 6 in x 9 ½ in envelopes per hour.

Note: Cycle speed is defined as the speed at which the chassis will operate.

Paper Sizes:

Capable of processing paper sizes ranging from 8-1/2 in. x 11 in. to 8-½ in. x 14 in.

Insert Stations:

Capable of processing paper sizes ranging from a minimum of 5-1/2 in. x 3 in. to a maximum of 9-1/2 in. x 6 in; with a maximum thickness of 1/8 in.



Paper weights:

Capable of processing paper stock ranging from 20 lb weight paper to 80 lb weight paper. Note: The above referenced specification lists the paper sizes, thicknesses and weights the inserters must be capable of processing. Within these ranges, the State processes a variety of inserts. Since these ranges are within industry standards, the State will not be providing samples.

Envelope Sizes:

Capable of processing envelope sizes ranging from a minimum of 6 in. x 3-1/2 in. to a maximum of 10-3/8 in. x 6-1/4 in.

Capable of processing envelope sizes with a flap depth ranging from a minimum of 1 in. to a maximum of 2-5/16 in.

Envelope Weights:

Capable of processing envelope stock ranging from 16 lb weight paper to 60 lb weight paper.

Programmability--A high-speed letter inserter meeting the following minimum programmability requirements:

Reading system capable of reading Optical Mark Recognition code (OMR) markings, 2of5, 39 and 2D bar codes

Cut sheet feeding system

Continuous form feeding system

Note: The State may or may not acquire a continuous form-feed module. Pricing for a continuous form-feed module should be included in the "Optional Components" portion of the bid.

Accumulator

Folder

Note: A folding system with automated set-up capabilities is not a requirement of this Contract. However, Section 5c (See Attachment 1- Mail Inserting Equipment Specifications – Programmability Folder) asks: Is the fold-type selectable by the operator without significant alterations to job programming or equipment? If alterations are required, please describe. The State is interested in understanding the Contractors' folder programmability for setting different fold types. However, the answer will be a consideration when determining a score for the equipment the Contractor is offering.

Six (6) insert stations with capability of feeding the same insert from multiple stations

Double detection capability

Mail piece Raceway Controls and Envelope Hopper

Sealer

End Conveyor/Take-Off Belt

Job and Statistic Reporting capabilities

Equipment Memory to store job information

All equipment components must operate as a fully integrated computer-controlled system

2. FULL MAINTENANCE SERVICE shall include a minimum of 12 preventative maintenance service calls (one per calendar month) and unlimited non-routine maintenance repairs to be performed during the times of Monday through Friday, 7:30- 4:30 (excluding State holidays). Repairs shall include all parts (both consumable and non-consumable) that are necessary to optimize the daily performance of the equipment.

Contractor Response:

Full Service 7:30 AM to 4:30 PM Call-In Maintenance activities will include remedial maintenance and monthly scheduled preventative maintenance. Remedial maintenance will include replacement of all parts (except requested machine enhancements). Monthly Preventative Maintenance will consist of inspecting, cleaning and periodically lubricating various components as well as replacing any worn parts. Full Preventative Maintenance will consist of inspecting, cleaning and periodically lubricating various components as well as replacing worn and scheduled parts every 8 million cycles. Pitney Bowes shall work with the Customer on the timing and nature of preventative maintenance required and Pitney Bowes and Customer shall mutually agree on the scheduled time for CSRs to perform the preventative maintenance. This Service will be completed by a fully trained Pitney Bowes CSR.

1.030 Roles and Responsibilities

1.031 Contractor Staff, Roles, and Responsibilities

The Contractor shall have the capacity to receive orders electronically, by phone, facsimile, and by written order. Contractors shall have internal controls, approved by Purchasing Operations, to insure that authorized individuals with the State place orders. The contractor shall verify orders that have quantities that appear to be abnormal or excessive.



It is the preference of the State of Michigan that the Contractor have an accessible customer service department with an individual specifically assigned to State of Michigan accounts. It is the preference of the State of Michigan that the Contractor has experienced sales representatives make timely personal visits to State accounts. The Contractor's customer service must respond to State agency inquiries promptly. It is the preference of the State of Michigan that the Contractor provides a statewide toll-free number for customer service calls.

Any supplies and services to be furnished the contract shall be ordered by issuance of a purchase order. Unless otherwise defined within the contract, orders will be issued by the MDSD.

All purchase orders are subject to the terms and conditions of this Contract. In the event of a conflict between a purchase order and the contract, the contract shall control.

If mailed, a purchase order is considered "issued" when the State deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods.

Contractor Response:

For Inserter Service the Pitney Bowes Customer Support Center at 800-522-0020 is open to receive call-in service request Monday through Friday from 8:00 AM to 8:00 PM. We are equipped to receive written, electronic and facsimile request 24-hours a day 7 days a week at www.pb.com.

For Parts Request the Pitney Bowes DMT Parts Store allows you to easily order replacement parts and supplies for production mail equipment. We know how important uptime is to your operation, so you can place an order or check delivery status 24 hours a day 7 days a week. Over 50,000 replacement parts and supplies for production mail equipment are available for same day shipment. Contact information: Phone: 877-748-6391, Fax: 203-460-3629, www.pb.com/cgi-bin/pb.dll/jsp/DMTHome.do

In addressing the abnormal and or excessive quantity requirement, we have the ability to enter a not to exceed dollar limit or part total limit in our database profile for the State.

The Pitney Bowes State of Michigan Account Team will consist of a dedicated Sales Representative, dedicated Service Manager and local Service CSR. Your Account Team will provide on-going communication to the State via periodic visits and regularly scheduled monthly and quarterly account review meetings. Service calls will be responded to with an ETA by the assigned CSR within 30 minutes of the time the initial request has been made (M-F).

Pitney Bowes will comply with the purchase order requirement and shall set-up our database to reflect the requirement. No orders will be accepted without required State purchase order.

Pitney Bowes will comply with the condition that the contract will control any conflicts between purchase order and contract.

Pitney Bowes will comply with the understanding that the State considers a purchase order issued when the State deposits the order in the mail. Furthermore it is understood that orders may be issued orally, by facsimile, or by electronic commerce methods.

1.040 Project Plan

1.041 Project Plan Management

The contractor will carry out this project under the direction and control of MDSD.

Although there will be continuous liaison with the contractor team, the client agency's project director will meet weekly at a minimum during the equipment's installation and acceptance period with the contractor's project manager for the purpose of reviewing progress and providing necessary guidance to the contractor in solving problems that arise.



If MDSD elects to purchase the contractor's full maintenance program, the client agency's project director will meet monthly at a minimum during the period covered by the full maintenance program for the purpose of reviewing maintenance and performance issues associated with the equipment.

The contractor will submit brief written weekly summaries of progress which outline the work accomplished during the equipment installation reporting period; problems, real and anticipated, which should be brought to the attention of the client agency's project manager; and notification of any significant deviation from previously agreed upon work plans. A copy of this report will be forwarded to the named buyer in Purchasing Operations.

Within thirty (30) working days of the award the contract, the contractor will submit to the MDSD project manager for final approval a work plan, which must include the following:

The contractor's project organizational structure.

The contractor's staffing table with names and title of personnel assigned to the project. This must be in agreement with staffing of accepted proposals. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.

The project breakdown showing sub-projects, activities and tasks, and resources required and allocated to each.

The time-phased plan in the form of a graphic display, showing each event, task, and decision point in your work plan.

Contractor Response:

With each new system Pitney Bowes develops a customer specific detailed installation plan that details each step of the process from order entry, manufacturing, delivery and installation. Project Management is taken very seriously and weekly installation meetings are held from the start of the install process through to complete customer acceptance.

1.042 Reports

MDSD recognizes that the equipment will have the capability to produce a number of different types of reports including: production, performance and other reports. The Contractor must have the capability to provide different types of reports including production and performance reports.

Contractor Response:

Proposed system includes a reporting package called Direct Reports. Direct Reports include production summary reports and alarm detail reports that help you analyze and increase your site proficiency. Reports can be customized in multiple different forms based on dates-times, operators, modes, jobs, systems, and snapshot of overall machine and operator efficiencies. You can also export reports and/or production & alarm text files.

Special note: Multiple machine configurations include Next Generation Direct Reports and Workstation that allows all Pitney Bowes Inserters (current and new systems) to be networked. You will be able to consolidate data across all Pitney Bowes Inserters for consolidated reporting by job, operator, shift, time range, date range, and much more. Reports are also available for each Inserter for stand alone analysis. This "value add" provides a very powerful tool that management can use to understand what is happening on the production floor and to drive results.

1.050 Acceptance

1.051 Criteria

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

Prior to the delivery of the equipment to MDSD, the contractor, on a biweekly basis, will update the MDSD project manager as to the progress of the build-out of the equipment. This includes the contractor's requests for any test materials necessary to ensure the prompt installation and final acceptance of the equipment.



Within 90 days of the award, the contractor will have delivered and began equipment installation and training of use of the equipment with MDSD staff.

1.052 Final Acceptance

Final Acceptance is defined as the successful installation, training of MDSD staff and operation of the inserters (able to process documents, including inserting documents and inserts as defined in the Scope of Work and Deliverables (Section 1.020) for 10 consecutive business days as agreed upon by the contractor, MDSD and Purchasing Operations.

1.060 Pricing

1.061 Pricing

For authorized Services and Price List, see Attachment A.

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 the expense at the State's current travel reimbursement rates. See www.michigan.gov/dmb for current rates.

1.062 Price Term

Prices are firm for the entire length of the Contract.

1.063 Tax Excluded from Price

(a) Sales Tax: For purchases made directly by the State, the State is exempt from State and Local Sales Tax. Prices must not include the taxes. Exemption Certificates for State Sales Tax will be furnished upon request.

(b) Federal Excise Tax: The State may be exempt from Federal Excise Tax, or the taxes may be reimbursable, if articles purchased under any resulting Contract are used for the State's exclusive use. Certificates showing exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices must not include the Federal Excise Tax.

1.064 Holdback—Deleted, Not Applicable

1.070 Commodity Requirements and Terms

Product Quality

1.0701 Specifications

Definite Specifications - All commodities and/or services to be furnished hereunder shall conform to the specifications as noted in the contract and/or copies of specifications attached.

1.0702 Alternate Bids—Deleted, Not Applicable

1.0703 Research and Development

Pitney Bowes is a company that thrives on innovation. Every day, we make it easier for our customers to profit from the mailstream.

In recent years, our customer-centered approach to innovation has led to hundreds of new products and services that help companies improve customer acquisition, build customer loyalty and reduce costs.



With over \$1.1 billion invested in R&D over the past 7 years, it's no surprise that Pitney Bowes is consistently ranked among the top 200 companies in terms of patents each year. Dedicated teams in research, engineering, development, IT, software, product development, marketing and sales are focused on creating new value for our customers.

Key to our success is a process that starts with – and revolves around – customers. Our Advanced Concepts and Technology team, for example, includes anthropologists, designers, engineers and scientists with backgrounds ranging from organizational behavior to physics and chemistry. We immerse ourselves in real world environments to gain a deep understanding of our customers' needs. And our unique Innovation Pipeline process intertwines the efforts of three groups: the Concept Studio (where strategic questions become new business ideas), the Systems Lab (where business cases and customer prototypes are tested) and the Technology Labs (where we capitalize on emerging technologies.)

The end result: a constant flow of new ideas and mainstream solutions that add value to our customers' business.

| (\$ in millions) | 2008 | 2007 | 2006 | 2005 | 2004 | 2003 | 2002 |
|-----------------------|-------|-------|-------|-------|-------|-------|-------|
| Total R&D: | \$206 | \$186 | \$165 | \$166 | \$161 | \$147 | \$141 |

1.0704 Quality Assurance Program

Pitney Bowes DMT is an ISO9001 certified and registered organization that requires quality / process improvement programs as part of our business model. As a result, Pitney Bowes has implemented formal programs including:

- New product defect reduction plans focused on eliminating quality issues at the source.
- External installation quality improvement plans focused on eliminating quality defects discovered by the installing service engineer at the customer site. This includes a closed loop corrective action process.
- Formal Six Sigma projects focused on work order/build instructions, Quality, customer service representation, "check-out" quality, and installation time improvements.

All of the processes and measures undertaken by Pitney Bowes are aimed at providing the highest value possible to all of our customers. Current specific areas of focus include a lead-time production program, enhanced customer test process improvements, and cost reduction activities focused on life cycle cost.

Quality key measures and goals include 100% "very satisfied" customers, 100% on- time delivery performance, 100% inventory accuracy, zero critical defects in both the module and system integration area's, and 100% defect-free completed systems upon installation at the customers site.

We have internal quality practices for our processes and procedures, including Kaizens and Best-Practices review to increase customer satisfaction and value. In addition, Pitney Bowes complies with the following Quality Systems and Safety Agency requirements:

- ANSI/ASQC Q9002 – (Quality Systems – Model for Quality Assurance Production, Installation and Servicing)
- USL – U.S. Standard for Safety of Information Technology Equipment, including Electrical Business Equipment UL 1950
- BRITISH STANDARDS INSTITUTE (BSI) – Certificate of License under the Quality System in accordance with BS5750, Part 2 achieved 11/25/1986.
- BRITISH STANDARDS INSTITUTE (BSI) – Certificate of Registration under the Quality System in accordance with the following: ISO 9002, BS5750 Part 2, EN29002, QAS3301/302 achieved 2/1/1990.

These Certificates and Registrations are audited twice yearly by both Underwriters Laboratory and BSI in accordance with ISO 9002.

**1.0705 Warranty for Products or Services**

Equipment and Software Warranty. Document Messaging Technologies, a division of Pitney Bowes Inc. ("Pitney Bowes" or "we") warrants to the customer named on the front of this Agreement (the "Customer" or "you") that the Pitney Bowes product ordered hereunder (the "Product") will be free from manufacturing defects in material and workmanship and that it will perform according to Pitney Bowes published specifications for ninety (90) days, or for Console Inserting Systems, until the Product reaches manufacturer's published usage limits for the applicable systems, whichever occurs first, commencing immediately upon the date of delivery (or, if installation is performed by Pitney Bowes, then completion date of on-site assembly and testing by Pitney Bowes, or fifteen (15) days after delivery, whichever occurs first) (the "Warranty Period"). If you have any material problems with the Product involving a manufacturing defect in material or workmanship during the Warranty Period, we will repair or, at our option, replace the Product having such problems. During this Warranty Period, we will be responsible for the cost of parts and service labor necessary to repair or replace the Product or, at our option, replacing the Product. We do not assume a warranty obligation for consumable parts or supplies such as print heads and ink, or for parts worn out due to extraordinary use of the Equipment or use inconsistent with manufacturer's published specifications.

THE ABOVE-STATED WARRANTIES ARE THE ONLY WARRANTIES APPLICABLE TO THE PRODUCT AND ARE MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTY. REPAIR OR REPLACEMENT OF THE PRODUCT IS YOUR SOLE REMEDY FOR BREACH OF WARRANTY. WE DO NOT ASSUME RESPONSIBILITY FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE, INDIRECT OR OTHER SIMILAR DAMAGES YOU MAY INCUR HEREUNDER INCLUDING, WITHOUT LIMITATION, BY REASON OF THE FAILURE OF THE PRODUCT TO OPERATE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL PITNEY BOWES' MAXIMUM AGGREGATE LIABILITY HEREUNDER EXCEED AMOUNTS PAID BY CUSTOMER TO PITNEY BOWES HEREUNDER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING EVENTS GIVING RISE TO A CLAIM.

This warranty excludes: (a) preventive maintenance, routine service and normal wear; (b) product serviced, repaired, refurbished or otherwise disassembled/reassembled by persons not certified by Pitney Bowes to perform such service and repair; (c) damage to the Product caused by use of spare parts or supplies not supplied by Pitney Bowes; (d) damage to Product caused by failure to use Pitney Bowes authorized procedures and processes; (e) the effects or outcome of integrating or connecting Pitney Bowes Product with products or processing equipment of companies other than Pitney Bowes or its wholly-owned subsidiaries. We will assume the obligations stated in this Agreement only if you operate the Product in accordance with manufacturer's published specifications for such Product including, without limitation, under suitable temperature, humidity, line voltage, and any other manufacturer specified environmental conditions and only if you use reasonable care in handling, operating, and maintaining the Product; and you use the Product only for the ordinary purpose for which it is designed.

1.0706 Training

The Contractor shall provide training to MDSD, when necessary, on aspects of operating the equipment and the ordering of parts. At the request of the Contract Administrator, the Contractor shall provide in-service training to agency personnel on products, installation, and product safety issues. The Contractor shall also provide training jointly with the State as needed during the period covered by the contract at no additional charge.

Operator training on the new equipment must be included in the pricing and must take place at MDSD's facility in Lansing, MI. The training must begin no later than the completion of the installation period. The training should involve extensive one-on-one training for at least four (4) MDSD operators and should be a minimum of one full week/40 hours. The expectation is that the trainer(s) are skilled and knowledgeable in the processes and techniques necessary to successfully train MDSD's staff in the operation of both the equipment's hardware and software. This includes being able to produce and obtain reports that are available on the equipment.

On-going training and support for the use of the equipment is also crucial. As technology and mailing requirements change, the State needs an on-going commitment of training and re-training from the Contractor.

**Contractor Response:**

Onsite training is provided by our Regional Training Specialist. This training is provided to Operators and interested Management prior to live production. Each participant who completes the training receives certification. Also periodic refresher training is available on a quarterly, semi-annual or annual basis for a chargeable fee. In addition, one of the responsibilities of our local service team is to observe the daily performance progress of the operators. Suggestions for improvement are carefully shared with the operators and management. This is done in a spirit of partnership so that it is well received.

Following is recommended training for each student.

Part 1) FPS™ Full Service Training - This course provides an in-depth understanding of FPS™ mechanical and electrical systems. Students will be introduced to the direct mail market and instructed on its applications and terminology. Also, covered is the newest technology controlling the FPS™ system and the skills to service and troubleshoot this product. Instruction includes lots of hands on instruction and covers basic operation and repair skills for the chassis and output for the FPS™ inserter. Class is 8 days over two weeks - student travels to Atlanta, GA on Monday of first week, in training Tuesday to Friday, free over weekend, in training Monday to Thursday, travels back to Lansing on Friday of second week.

Cost: \$13,000 per student (Price includes repair manuals, meals, lodging, and transportation to and from hotel, training center and Atlanta International Airport). Does not include airfare.

Part 2) Customized for State Of Michigan's Systems. This training provides an in-depth understanding of FPS™ input systems (cut sheet and continuous feeders, accumulator, and folder) including mechanical and electrical systems. Instruction includes hands on instruction on-site on State Of Michigan FPS at your site in Lansing. Class will be 5 days (includes mentoring time at site). Cost: \$7,000 per student

1.0707 Special Programs

Pitney Bowes offers many customized service and training programs, and Customer Satisfaction Guarantee (see "Additional Information" section).

1.0708 Security

The Contract may require frequent deliveries to State of Michigan facilities. The State may decide to perform a security background check. If so, the Contractor will be required to provide to the State a list of all delivery people/service technicians that will service State of Michigan facilities, including name and date of birth (social security number or driver license number would also be helpful).

The Contractor and its subcontractors shall comply with the security access requirements of individual State facilities; see section 2.051, Background Checks and Security.

Contractor Response:

Pitney Bowes compiles

Delivery Capabilities**1.0709 Time Frames**

The equipment must be delivered within 90 calendar days after award of the contract. Equipment parts that are ordered by MDSD must be shipped within 1 day of the contractor's receipt of the order.



Contractor Response:

Delivery of the inserter within 90 days after award of contract will be adhered to, along with the MDSO ordered parts requirement of shipping with 1-day of time of order. As Pitney Bowes Document Messaging Technologies (DMT) Parts Store allows you to easily order replacement parts and supplies for production mail equipment. We know how important uptime is to your operation, so you can place an order or check delivery status 24 hours a day 7 days a week. Over 50,000 replacement parts and supplies for production mail equipment are available for same day shipment. Contact information: Phone: 877-748-6391, Fax: 203-460-3629, www.pb.com/cgi-bin/pb.dll/jsp/DMTHome.do

1.0710 Minimum Order—Deleted, Not Applicable

1.0711 Packaging—Deleted, Not Applicable

1.0712 Palletizing—Deleted, Not Applicable

1.0713 Delivery Term

Prices are "F.O.B. Delivered and Installed" with transportation charges prepaid for the delivery of the equipment to Mail and Delivery Services; 7561 Crouner Dr Lansing, MI 48913.

EQUIPMENT PARTS—By MDSO electing to purchase full maintenance, the contractor is responsible for all costs associated with equipment parts including any transportation charges.

1.0714 Contract Performance

Indicate if the Contractor has had a contract terminated for default in the last three years. Termination for default is defined as notice to stop performance which was delivered to the Contractor due to the Contractor's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Contractor, or (b) litigated and determined that the Contractor was in default. If the Contractor has not had a contract terminated for default, the Contractor must affirmatively state this under "Reason" below.

If no terminations exist, the Contractor must affirmatively state this.

Note: If the Contractor has had a contract terminated for default in this period, the Contractor must submit full details including the other party's name, address, and phone number Purchasing Operations will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of past experience.

Termination: Pitney Bowes is not aware of any past or current contracts terminated for default .

Reason: _____

1.0715 Place of Performance

Contractors, in the performance of any resulting contract, must state if they intend to use one or more plants or facilities located at a different address from the address indicated in section 4.011. The following information must be provided for these plants or facilities:

| Place of Performance Full address | Owner/Operator of facility to be used | Percent (%) of Contract value to be Performed at listed Location |
|--|--|---|
| 37 Executive Drive Danbury, CT 06810 | Pitney Bowes | 100% |

1.0716 Environmental Requirements

Energy Efficiency Purchasing Policy – The State shall seek wherever possible to purchase energy efficient products. This may include giving preference to U.S. Environmental Protection Agency (EPA) certified 'Energy Star' products for any category of products for which EPA has established Energy Star certification. For other purchases, the State may include energy efficiency as one of the priority factors to consider when choosing among comparable bids.



Environmental Purchasing Policy – The State of Michigan has committed to encourage the use of products and services that impact the environment less than competing products. This can be best accomplished by including environmental considerations in purchasing decisions, while remaining fiscally responsible, to promote practices that improve worker health, conserve natural resources, and prevent pollution. Environmental components that may be considered in Best Value Purchasing evaluation include: recycled content and recyclability; energy efficiency; and the presence of undesirable materials in the products, especially those toxic chemicals which are persistent and bio-accumulative. Contractors able to supply products containing recycled and environmentally preferable materials that meet performance requirements are encouraged to offer them in bids and proposals. Information on any relevant third party certification (such as Green Seal, Energy Star, etc.) should also be provided.

I. Recycled Content and Recyclability

A. Recycled Packaging. Contractor may offer some or all of the following items listed below or provide alternative proposal as to how packaging materials can be reduced, eliminated or otherwise made more environmentally preferable. It is desirable that Contractor offer packaging which:

- a. is made from recycled content which meets or exceeds all federal and state recycled content guidelines (currently 35% post-consumer for all corrugated cardboard)
- b. minimizes or eliminates the use of polystyrene or other difficult to recycle materials
- c. minimizes or eliminates the use packaging and containers and, in the alternative, minimizes or eliminates the use of non-recyclable packaging and containers
- d. provides for a return program where packaging can be returned to a specific location for recycling
- e. contains materials which are easily recyclable in Michigan.

Contractor is requested to indicate below an estimate of the percentage of recycled materials, if any, contained in each item bid. Higher percentages of recycled materials are preferred. Product performance is paramount, whether containing recycled material or not; however, preference will be given to products that perform up to specification and are environmentally preferable without compromising quality.

Approx 99% (Total estimated percentage of recovered material)

_____ % (Estimated percentage of post-consumer material)

_____ % (Estimated percentage of post-industrial waste)

Certification

I, Dawn Fitzpatrick, am an officer or employee responsible for the performance of this contract and hereby certify that the percentage of recovered material content for EPA-designated products met the applicable contract specifications.
DF (Initial)

II. Materials Identification and Tracking

A. Hazardous Material Identification. ‘Hazardous material’, as used in this clause, includes any material defined as hazardous under the latest version of federal Emergency Planning and Community Right-to-Know Act of 1986 (including revisions adopted during the term of the contract).

(1) The Contractor must list any hazardous material, as defined in §370.20 (a) of 40 CFR, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

| Material (if none, enter ‘None’) | Identification Number |
|-------------------------------------|-----------------------|
| None | |



- (2) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.
- (3) The Contractor agrees to submit, for each item as required prior to award, a Material Safety Data Sheet for each hazardous material identified in paragraph (1) of this clause. Data shall be submitted in accordance with Section 312 of the federal Emergency Planning and Community Right-to-Know Act, whether or not the Contractor is the actual manufacturer of these items.

B. Mercury Content. It is the clear intent of state agencies to avoid purchasing products that contain intentionally-added mercury whenever possible. Contractor shall offer mercury-free product alternatives whenever available. Should mercury-free alternatives not exist, as presently is the case with a few select products and devices such as fluorescent lamps or where the alternative is not yet cost competitive, such as dental amalgam, Contractor shall offer the lowest mercury content available for a given application. Contractor shall disclose whenever products contain added-mercury by using the following format.

() Product contains added-Mercury (attach an explanation that includes: the amount or concentration of mercury and justification as to why this particular product is essential).

In addition, the Contractor shall also ensure that all products to be purchased containing intentionally added-mercury shall be labeled as: "product contains mercury/recycle or dispose of properly." For instances where space constraints limit the amount or size of print, the chemical symbol "Hg" followed by a picture of a trash container with a diagonal line through it shall suffice for labeling requirements.

CONTRACTOR PLEASE NOTE: Michigan Law Prohibits the sale of mercury-containing thermostats, thermometers, sphygmomanometers (blood pressure monitors) and other types of medical devices. For specific details visit: http://www.michigan.gov/deq/0,1607,7-135-3307_29693_4175-160230--,00.html

C. Brominated Flame Retardants (BFR). Contractor shall disclose whether the products being offered contain toxic flame retardants. Contractor is encouraged to provide BFR-free alternatives when available.

(X) Product does not contain BFR's

() Product does contain BFR's (attach an explanation)

D. Ozone Depleting Substances

'Ozone-depleting substance', as used in this clause, means any substance the Environmental Protection Agency designates in 40 CFR part 82 as:

(1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or

(2) Class II, including, but not limited to, hydrochlorofluorocarbons.

The Contractor shall label products which contain or are manufactured with ozone-depleting substances in the manner and to the extent required by 42 U.S.C. 7671j (b), (c), and (d) and 40 CFR part 82, Subpart E, as follows:

'Warning: Contains (or manufactured with, if applicable) _____ (insert the name of the substance(s).), a substance(s) which harm(s) public health and environment by destroying ozone in the upper atmosphere.'

A. Clean Air and Water

Vendor certifies that any facility to be used in the performance of this contract has all the necessary environmental permits and is in consistent compliance with all applicable environmental requirements and has no outstanding unresolved violations.

The vendor will immediately notify the state, before award, of the receipt of any communication from the Environmental Protection Agency or any state environmental agency, of civil or criminal enforcement for any facility that the vendor proposes to use in the performance of this contract.

DF (Initial)



B. Emergency Planning and Community Right-to-Know Reporting - By signing this offer, the Contractor certifies that:

(1) The owner or operator of each facility that will be used in the performance of this contract is in compliance with the filing and reporting requirements described in sections 302, 304, 311, 312 and 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001, et. seq.) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101, et. seq.). EPCRA filing and reporting requirements include emergency planning notification, release reporting, hazardous chemical inventory reporting, and toxic chemical release inventory (TRI) reporting.

(2) The owner or operator of each facility that will be used in the performance of this contract will maintain compliance with the filing and reporting requirements described in sections 302, 304, 311, 312 and 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001, et. seq.) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101, et. seq.) for the life of the contract.

DF (Initial)

1.0717 Subcontractors

Indicate below **ALL** work to be subcontracted under any resulting Contract (use additional attachment if necessary; estimates are acceptable):

| Description of Work to be sub-contracted | Percent (%) of total contract value to be sub-contracted | Sub-contractor's name and principal place of business (City and State) |
|--|--|--|
| Pitney Bowes will not be subcontracting | | |

1.0718 Reports and Meetings

(a) Reports.

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

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

(b) Meetings.

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



1.0719 Samples/Models—Deleted, Not Applicable

1.80 Additional Requirements—Deleted, Not Applicable

1.801 Confidentiality

Because of the sensitive nature of the documents processed by DMB Mail and Delivery Services Division, the contractor is required to have all personnel involved in the initial installation, training and maintenance of the equipment and the ongoing training and maintenance of the equipment during the contract period sign the:

DEPARTMENT OF MANAGEMENT AND BUDGET
AGENCY SERVICES
NONDISCLOSURE AGREEMENT
CONTRACTORS/VENDORS

This includes any contractor personnel that visit DMB Mail and Delivery Services Division for any purpose. The signed copies of the agreements will be maintained by DMB Mail and Delivery Services Division. A copy of the agreement is attached (see Attachment C).



Article 2, Terms and Conditions

2.000 Contract Structure and Term

2.001 Contract Term

This Contract is for a period of three (3) years beginning August 20, 2009, through August 19, 2012. All outstanding Purchase Orders must also expire upon the termination (cancellation for any of the reasons listed in **Section 2.150**) of the Contract, unless otherwise extended under 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.

2.002 Options to Renew

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.

2.003 Legal Effect

Contractor shall show acceptance of this Contract by signing two copies of the Contract and returning them to the Contract Administrator. The Contractor shall not proceed with the performance of the work to be done under the Contract, including the purchase of necessary materials, until both parties have signed the Contract to show acceptance of its terms, and the Contractor receives a contract release/purchase order that authorizes and defines specific performance requirements.

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.

2.004 Attachments & Exhibits

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

2.005 Ordering

The State will issue a written Purchase Order, Blanket Purchase Order, Direct Voucher or Procurement Card Order, which must be approved by the Contract Administrator or the Contract Administrator's designee, to order any Services/Deliverables under this Contract. All orders are subject to the terms and conditions of this Contract. No additional terms and conditions contained on either a Purchase Order or Blanket Purchase Order apply unless they are also specifically contained in that Purchase Order's or Blanket Purchase Order's accompanying Statement of Work. Exact quantities to be purchased are unknown, however, the Contractor will be required to furnish all such materials and services as may be ordered during the CONTRACT period. Quantities specified, if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities.

2.006 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 the subject matter and as additional terms and conditions on the purchase order must apply as limited by **Section 2.005**.

(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 the Contract, which may be modified or amended only by a formal Contract amendment.



2.007 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.

2.008 Form, Function & 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.

2.009 Reformation and Severability

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

2.010 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, the consent or approval must be in writing and must not be unreasonably withheld or delayed.

2.011 No Waiver of Default

If a party fails to insist upon strict adherence to any term of the Contract then the party has not waived the right to later insist upon strict adherence to that term, or any other term, of the Contract.

2.012 Survival

Any provisions of the Contract that impose continuing obligations on the parties, including without limitation the parties' respective warranty, indemnity and confidentiality obligations, 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.

2.020 Contract Administration

2.021 Issuing Office

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

Joan Bosheff, Buyer Specialist
Purchasing Operations
Department of Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
Telephone: (517) 373-7374
Email: bosheffj@michigan.gov

**2.022 Contract Compliance Inspector (CCI)**

After DMB-PurchOps receives the properly executed Contract, it is anticipated that the Director of Purchasing Operations, in consultation with the Department of Management and Budget, Mail and Delivery Services Division, will direct the person named below, or any other person so designated, 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 the Contract as that authority is retained by DMB Purchasing Operations.** The Contract Compliance Inspector for this Contract is:

Steven Cheal, Manager
Department of Management and Budget
Mail and Delivery Services Division
7461 Crowser Drive
Lansing, MI 48913
Telephone: (517) 322-6956
Fax: (517) 322-5971
Email: cheals@michigan.gov

2.023 Project Manager

The following individual will oversee the project:

Michael Armstrong, Mail Preparation Supervisor
Department of Management and Budget
Mail and Delivery Services Division
7461 Crowser Drive
Lansing, MI 48913
Telephone: (517) 322-6984
Fax: (517) 322-5971
Email: armstrongm@michigan.gov

2.024 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 Contractor does not so notify the State, the Contractor has no right to claim thereafter that it is entitled to additional compensation for performing that service or providing that deliverable.

Change Requests:

(a) By giving Contractor written notice within a reasonable time, the State must 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 must 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").

(b) No proposed Change must 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.

(c) If the State requests or directs the Contractor to perform any activities that Contractor believes constitute a Change, the Contractor must notify the State that it believes the requested activities are a Change before beginning to work on the requested activities. If the Contractor fails to notify the State before beginning to work on the requested activities, then the Contractor waives any right to assert any claim for additional compensation or time for performing the requested activities. If the Contractor commences performing work outside the scope of this Contract and then ceases performing that work, the Contractor must, at the request of the State, retract any out-of-scope work that would adversely affect the Contract.

**2.025 Notices**

Any notice given to a party under the Contract must be deemed effective, if addressed to the 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 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: Joan Bosheff
P.O. Box 30026
530 West Allegan
Lansing, Michigan 48909

Contractor:

Pitney Bowes
37 Executive Drive
Danbury, CT 06810

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

2.026 Binding Commitments

Representatives of Contractor must have the authority to make binding commitments on Contractor's behalf within the bounds set forth in the table. Contractor may change the representatives from time to time upon written notice.

2.027 Relationship of the Parties

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 must be or must 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.

2.028 Covenant of Good Faith

Each party must 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.

2.029 Assignments

(a) Neither party may assign the Contract, or 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 the affiliate is adequately capitalized and can provide adequate assurances that the affiliate can perform the Contract. The State may withhold consent from proposed assignments, subcontracts, or novations when the 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. If the State permits an assignment, the Contractor is not relieved of its responsibility to perform any of its contractual duties, and the requirement under the Contract that all payments must be made to one entity continues.

(c) If the Contractor intends to assign the contract or any of the Contractor's rights or duties under the Contract, the Contractor must notify the State in writing at least 90 days before the assignment. The Contractor also must provide the State with adequate information about the assignee within a reasonable amount of time before the assignment for the State to determine whether to approve the assignment.



2.030 General Provisions

2.031 Media Releases

News releases (including promotional literature and commercial advertisements) pertaining to the RFP and Contract or project to which it relates shall not be made without prior written State approval, and then only in accordance with the explicit written instructions from the State. No results of the activities associated with the RFP and Contract are to be released without prior written approval of the State and then only to persons designated.

2.032 Contract Distribution

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

2.033 Permits

Contractor must 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 must pay for all costs and expenses incurred in obtaining and maintaining any necessary easements or right of way.

2.034 Website Incorporation

The State is not 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 the content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representative of the State.

2.035 Future Bidding Preclusion

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

2.036 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").

2.037 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 man-made disaster.

2.040 Financial Provisions

2.041 Fixed Prices for Services/Deliverables

Each Statement of Work or Purchase Order 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. 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.

**2.042 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.

2.043 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.

2.044 Invoicing and Payment – In General

- (a) 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.
- (b) 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. 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 1.064**.
- (c) 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.
- (d) Invoices for the equipment will be paid when MDS and the contractor agree that the equipment meets the requirements for acceptance by MDS as stated in the Statement of Work. However, this activity will occur only upon the specific written direction from Purchasing Operations. Based on MDS's choice of maintenance coverage, all invoices associated with maintenance and equipment parts will be paid in accordance with the terms stated in 2.044 (c) and should reflect actual work done. Payment of either an annual full maintenance program or a preventative maintenance only program will be paid to the contractor at the beginning of the program period in accordance with the terms stated in 2.044 (c).

2.045 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.

2.046 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.

2.047 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.

2.048 Electronic Payment Requirement

Electronic transfer of funds is required for payments on State Contracts. Contractors are required to register with the State electronically at <http://www.cpexpress.state.mi.us>. As stated in Public Act 431 of 1984, all contracts that the State enters into for the purchase of goods and services shall provide that payment will be made by electronic fund transfer (EFT).



2.050 Taxes

2.051 Employment Taxes

Contractors are expected to collect and pay all applicable federal, state, and local employment taxes, including the taxes.

2.052 Sales and Use Taxes

Contractors are required to be registered and to remit sales and use taxes on taxable sales of tangible personal property or services delivered into the State. Contractors that lack sufficient presence in Michigan to be required to register and pay tax must do so as a volunteer. This requirement extends to: (1) all members of any controlled group as defined in § 1563(a) of the Internal Revenue Code and applicable regulations of which the company is a member, and (2) all organizations under common control as defined in § 414(c) of the Internal Revenue Code and applicable regulations of which the company is a member that make sales at retail for delivery into the State are registered with the State for the collection and remittance of sales and use taxes. In applying treasury regulations defining “two or more trades or businesses under common control” the term “organization” means sole proprietorship, a partnership (as defined in § 701(a)(2) of the Internal Revenue Code), a trust, an estate, a corporation, or a limited liability company.

2.060 Contract Management

2.061 Contractor Personnel Qualifications

All persons assigned by Contractor to the performance of Services under this Contract must be employees of Contractor or its majority-owned (directly or indirectly, at any tier) subsidiaries (or a State-approved Subcontractor) and must be fully qualified to perform the work assigned to them. Contractor must 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 must 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.

2.062 Contractor Key Personnel

- (a) The Contractor must provide the Contract Compliance Inspector with the names of the Key Personnel.
- (b) Key Personnel must be dedicated as defined in the Statement of Work 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.
- (c) 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.
- (d) Contractor must not remove any Key Personnel from their assigned roles on the 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”). Unauthorized Removals 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. Unauthorized Removals does not include replacing Key Personnel 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 must 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 termination and cancellation rights.
- (e) The Contractor must notify the Contract Compliance Inspector and the Contract Administrator at least 10 business days before redeploying non-Key Personnel, who are dedicated to primarily to the Project, to other projects. If the State does not object to the redeployment by its scheduled date, the Contractor may then redeploy the non-Key Personnel.

**2.063 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 must be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request must be based on legitimate, good-faith reasons. Replacement personnel for the removed person must 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 incident with removed personnel results in delay not reasonably anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Service will not be counted for a time as agreed to by the parties.

2.064 Contractor Personnel 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.

2.065 Contractor Identification

Contractor employees must 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.

2.066 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. As reasonably requested by the State in writing, the Contractor will provide to the State's agents and other contractors reasonable access to Contractor's Project personnel, systems and facilities to the extent the access relates to activities specifically associated with this Contract and will not interfere or jeopardize the safety or operation of the systems or facilities. 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 the requests for access.

2.067 Contract Management Responsibilities

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

2.068 Contractor Return of State Equipment/Resources

The Contractor must return 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.

2.070 Subcontracting by Contractor**2.071 Contractor full Responsibility**

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.

**2.072 State Consent to delegation**

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 SLA for the affected Work will not be counted in time agreed upon by the parties.

2.073 Subcontractor bound to Contract

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

2.074 Flow Down

Except where specifically approved in writing by the State on a case-by-case basis, Contractor shall flow down the obligations in **Sections 2.031, 2.060, 2.100, 2.110, 2.120, 2.130, 2.200** in all of its agreements with any Subcontractors.

2.075 Competitive Selection

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.

2.080 State Responsibilities**2.081 Equipment**

The State will provide only the equipment and resources identified in the Statements of Work and other Contract Exhibits.

2.082 Facilities

The State must designate space as long as it is available and as provided in the Statement of Work, to house the Contractor's personnel whom the parties agree will perform the Services/Deliverables at State facilities (collectively, the "State Facilities"). The Contractor must have reasonable access to, and unless agreed otherwise by the parties in writing must observe and comply with all rules and regulations relating to each of the State Facilities (including hours of operation) used by the 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 the Contractor's use, or to which the Contractor otherwise gains access in the course of performing the Services, for any purpose other than providing the Services to the State.



2.090 Security

2.091 Background Checks

On a case-by-case basis, the State may investigate the Contractor's personnel before they may have access to State facilities and systems. 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. The 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/dit>. 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.

2.092 Security Breach Notification

If the Contractor breaches this Section, the Contractor must (i) promptly cure any deficiencies and (ii) comply with any applicable federal and state laws and regulations pertaining to unauthorized disclosures. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor must 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 10 days of becoming aware of the use or disclosure or the shorter time period as is reasonable under the circumstances.

2.093 PCI Data Security Requirements—Deleted, Not Applicable

2.100 Confidentiality

2.101 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 must 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 must mean any information which is retained in confidence by the State (or otherwise required to be held in confidence by the State under applicable federal, state and local laws and regulations) or which, in the case of tangible materials provided to Contractor by the State under its performance under this Contract, is marked as confidential, proprietary or with a similar designation by the State. "Confidential Information" excludes any information (including this Contract) that is publicly available under the Michigan FOIA.

2.102 Protection and Destruction 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 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) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the 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 the Confidential Information from unauthorized use or disclosure.

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

2.103 Exclusions

Notwithstanding the foregoing, the provisions of **Section 2.080** 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 the 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 **Section 2.080** will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose the 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 the disclosure as reasonably requested by the furnishing party.

2.104 No Implied Rights

Nothing contained in this Section must 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.

2.105 Respective Obligations

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

2.110 Records and Inspections

2.111 Inspection of Work Performed

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

2.112 Examination of Records

For seven years after the Contractor provides any work under this Contract (the "Audit Period"), the State may examine and copy any of Contractor's books, records, documents and papers pertinent to establishing Contractor's compliance with the Contract and with applicable laws and rules. The State must notify the Contractor 20 days before examining the Contractor's books and records. The State does not have the right to review any information deemed confidential by the Contractor to the extent access would require the confidential information to become publicly available. This provision also applies to the books, records, accounts, documents and papers, in print or electronic form, of any parent, affiliated or subsidiary organization of Contractor, or any Subcontractor of Contractor performing services in connection with the Contract.

**2.113 Retention of Records**

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

2.114 Audit Resolution

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

2.115 Errors

- (a) If the audit demonstrates any errors in the documents provided to the State, then the amount in error must 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 invoices. If a balance remains after four invoices, then the remaining amount will be due as a payment or refund within 45 days of the last quarterly invoice 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 10%, then the Contractor must pay all of the reasonable costs of the audit.

2.120 Warranties**2.121 Warranties and Representations**

The Contractor represents and warrants:

- (a) It is capable in all respects of fulfilling and must fulfill all of its obligations under this Contract. The performance of all obligations under this Contract must be provided in a timely, professional, and workman-like manner and must 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 the items in this Contract, Contractor must 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, must have, or must 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 must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.
- (h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or must 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 must 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 the 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 the financial statements, reports, other information. Since the respective dates or periods covered by the 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 for the Contractor in connection with this Contract, including its bid, is true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make the 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 the department within the previous five years for the reason that Contractor failed to perform or otherwise breached an obligation of the contract.
- (n) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after contract award, the Contractor is required to report those changes immediately to the Department of Management and Budget, Purchasing Operations.

2.122 Warranty of Merchantability

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

2.123 Warranty of Fitness for a Particular Purpose

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

2.124 Warranty of Title

Contractor shall, in providing goods to the State, convey good title in those goods, whose transfer is right and lawful. All goods provided by Contractor shall be delivered free from any security interest, lien, or encumbrance of which the State, at the time of contracting, has no knowledge. Goods provided by Contractor, under this Contract, shall be delivered free of any rightful claim of any third person by or infringement or the like.



2.125 Equipment Warranty

To the extent Contractor is responsible under this Contract for maintaining equipment/system(s), Contractor represents and warrants that it will maintain the equipment/system(s) in good operating condition and will undertake all repairs and preventive maintenance according to the applicable manufacturer's recommendations for the period specified in this Contract.

The Contractor represents and warrants that the equipment/system(s) are in good operating condition and operate and perform to the requirements and other standards of performance contained in this Contract, when installed, at the time of Final Acceptance by the State, and for a period of 90 days commencing upon the first day following Final Acceptance.

EQUIPMENT BEFORE FINAL ACCEPTANCE BY MDSD

Within five (5) business days of notification from MDSD, the Contractor must adjust, repair or replace all equipment that is defective or not performing in compliance with the Contract's language regarding 'Final Acceptance' by the State. The Contractor must assume all costs for replacing parts or units and their installation including transportation and delivery fees, if any.

EQUIPMENT AFTER FINAL ACCEPTANCE BY MDSD

By purchasing full maintenance from the contractor, within two (2) business days of notification from the State, the Contractor must adjust, repair or replace all equipment that is defective or not performing in a manner so that mail can be processed on the equipment. The Contractor must assume all costs for replacing parts or units and their installation including transportation and delivery fees, if any.

The Contractor must provide a toll-free telephone number to allow the State to report equipment failures and problems to be remedied by the Contractor.

The Contractor agrees that all warranty service it provides under this Contract must be performed by Original Equipment Manufacturer (OEM) trained, certified and authorized technicians.

The Contractor is the sole point of contact for warranty service. The Contractor warrants that it will pass through to the State any warranties obtained or available from the original equipment manufacturer, including any replacement, upgraded, or additional equipment warranties.

All warranty work must be performed on the State of Michigan worksite(s).

2.126 Equipment to be New

All equipment provided under this Contract by Contractor shall be new. Equipment that is assembled from serviceable used parts will not be accepted.

2.127 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 2.024**.

2.128 Consequences For Breach

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



2.130 Insurance

2.131 Liability Insurance

The Contractor must provide proof of the minimum levels of insurance coverage as indicated below. The insurance must 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 the 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 under 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 must 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 must have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if the ratings are no longer available, with a comparable rating from a recognized insurance rating agency. All policies of insurance required in this Contract must be issued by companies that have been approved to do business in the State.

See www.michigan.gov/dleg.

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

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

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 according to 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 must 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 must 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 the office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to its replacement value, where the office space and its contents are under the care, custody and control of Contractor. The policy must 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 must be endorsed on the policy as a loss payee as its interests appear.

2.132 Subcontractor Insurance Coverage

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor must 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) must 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.

2.133 Certificates of Insurance and Other Requirements

Contractor must furnish to DMB-PurchOps, certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "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) must 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 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. Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must 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.



The Contractor must maintain all required insurance coverage throughout the term of the Contract and any extensions and, in the case of claims-made Commercial General Liability policies, must secure tail coverage for at least three years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and must not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor is responsible for all deductibles with regard to the insurance. If the 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, then the State may, after the State has given the Contractor at least 30 days written notice, pay the premium or procure similar insurance coverage from another company or companies. The State may deduct any part of the cost from any payment due the Contractor, or the Contractor must pay that cost upon demand by the State.

2.140 Indemnification

2.141 General Indemnification

To the extent permitted by law, the Contractor must 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.

2.142 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.

2.143 Employee Indemnification

In any 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 must 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.

2.144 Patent/Copyright Infringement Indemnification

To the extent permitted by law, the Contractor must 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 the 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 the equipment, software, commodity or service, or the use or reproduction of any documentation provided with the 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 must at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if the 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 the 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 has 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; (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.

2.145 Continuation of Indemnification Obligations

The Contractor's duty to indemnify under 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 before expiration or cancellation.

2.146 Indemnification Procedures

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

(a) After the State receives notice of the action or proceeding involving a claim for which it will seek indemnification, the State must promptly notify Contractor of the 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 the Contractor relieves the Contractor of its indemnification obligations except to the extent that the Contractor can prove damages attributable to the failure. Within 10 days following receipt of written notice from the State relating to any claim, the Contractor must 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 before the State receiving Contractor's Notice of Election, the State is entitled to defend against the claim, at the Contractor's expense, and the Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during that period.

(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State is entitled to participate in the defense of the claim and to employ counsel at its own expense to assist in the handling of the claim and to monitor and advise the State about the status and progress of the defense; (ii) the Contractor must, at the request of the State, demonstrate to the reasonable satisfaction of the State, the Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) the Contractor must periodically advise the State about the status and progress of the defense and must obtain the prior written approval of the State before entering into any settlement of the claim or ceasing to defend against the claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State has the right, at its own expense, to control the defense of that portion of the claim involving the principles of Michigan governmental or public law. But the State may retain control of the defense and settlement of a claim by notifying the Contractor in writing within 10 days after the State's receipt of Contractor's information requested by the State under clause (ii) of this paragraph if the State determines that the Contractor has failed to demonstrate to the reasonable satisfaction of the State the Contractor's financial ability to carry out its defense and indemnity obligations under this Section. 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. In the event the insurer's attorney represents the State under 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 may defend the claim in the 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 must promptly reimburse the State for all the reasonable costs and expenses.

2.150 Termination/Cancellation

2.151 Notice and Right to Cure

If the Contractor breaches the contract, and the State in its sole discretion determines that the breach is curable, then the State will provide the Contractor with written notice of the breach and a time period (not less than 30 days) to cure the Breach. The notice of breach and opportunity to cure is inapplicable for successive or repeated breaches or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage, or destruction of any real or tangible personal property.

**2.152 Termination for Cause**

- (a) The State may terminate this contract, for cause, by notifying the Contractor in writing, if the Contractor (i) breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA), or (ii) fails to cure a breach within the time period specified in the written notice of breach provided by the State
- (b) If this Contract is terminated for cause, the Contractor must pay 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 are not consequential, indirect or incidental damages, and cannot be excluded by any other terms otherwise included in this Contract, provided the costs are not in excess of 50% more than the prices for the Service/Deliverables provided under this Contract.
- (c) If 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 must 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 must cease on the effective date of the termination.
- (d) If the State terminates this Contract for cause under this Section, and it is determined, for any reason, that Contractor was not in breach of contract under the provisions of this section, that termination for cause must be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties must be limited to that otherwise provided in this Contract for a termination for convenience.

2.153 Termination for Convenience

The State may terminate this Contract for its convenience, in whole or part, if the State determines that a termination is in the State's best interest. Reasons for the termination must 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 before the date of termination. If the State chooses to terminate this Contract in part, the charges payable under this Contract must be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of this Contract that are terminated for cause must cease on the effective date of the termination.

2.154 Termination for 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 must 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 must give Contractor at least 30 days advance written notice of termination for non-appropriation or unavailability (or the 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 unavailable, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in the manner and for the 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 the reduction.
- (c) If the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor under this Section, the State must 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. This Section will not preclude Contractor from reducing or stopping Services/Deliverables 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.

**2.155 Termination for 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 related to a State, public or private Contract or subcontract.

2.156 Termination for Approvals Rescinded

The State may terminate this Contract if any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services under Constitution 1963, Article 11, § 5, and Civil Service Rule 7-1. In that case, the State will pay the Contractor for only the work completed to that point under the Contract. 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 the written notice.

2.157 Rights and Obligations upon Termination

(a) If the State terminates this Contract for any reason, the Contractor must (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) 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 must be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of the items included compensation to Contractor for the provision of warranty services in respect of the 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) If the State terminates this Contract before its expiration for its own convenience, the State must pay Contractor for all charges due for Services provided before the date of termination and, if applicable, as a separate item of payment under 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 under this Contract, at the option of the State, becomes the State's property, and Contractor is entitled to receive equitable fair compensation for the Deliverables. Regardless of the basis for the termination, the State is not 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 may assume, at its option, any 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.

2.158 Reservation of Rights

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

2.160 Termination by Contractor**2.161 Termination by Contractor**

If the State breaches the Contract, and the Contractor in its sole discretion determines that the breach is curable, then the Contractor will provide the State with written notice of the breach and a time period (not less than 30 days) to cure the breach. The Notice of Breach and opportunity to cure is inapplicable for successive and repeated breaches.



The Contractor may terminate this Contract if the State (i) materially breaches its obligation to pay the Contractor undisputed amounts due and owing under this Contract, (ii) breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for the Contractor to perform the Services, or (iii) does not cure the breach within the time period specified in a written notice of breach. But the Contractor must discharge its obligations under **Section 2.160** before it terminates the Contract.

2.170 Transition Responsibilities

2.171 Contractor Transition Responsibilities

If the State terminates this contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or 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. If this Contract expires or terminates, 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 30 days. These efforts must include, but are not limited to, those listed in **Sections 2.141, 2.142, 2.143, 2.144, and 2.145.**

2.172 Contractor Personnel Transition

The Contractor must 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 must allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by this Contract. In addition, during or following the transition period, in the event the State requires the Services of the Contractor's subcontractors or vendors, as necessary to meet its needs, Contractor agrees to reasonably, and with good-faith, work with the State to use the Services of Contractor's subcontractors or vendors. Contractor will notify all of Contractor's subcontractors of procedures to be followed during transition.

2.173 Contractor Information Transition

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.

2.174 Contractor Software Transition

The Contractor must reasonably assist the State in the acquisition of any Contractor software required to perform the Services/use the Deliverables under this Contract. This must 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 must, 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.

2.175 Transition Payments

If the transition results from a termination for any reason, reimbursement must 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 agreed upon by the State. The Contractor will prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

2.176 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.



2.180 Stop Work

2.181 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 must be identified as a stop work order and must indicate that it is issued under this **Section 2.150**. Upon receipt of the stop work order, Contractor must immediately comply with its terms and take all reasonable steps to minimize incurring 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 must either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.130**.

2.182 Cancellation or Expiration of Stop Work Order

The Contractor must resume work if the State cancels a Stop Work Order or if it expires. The parties will agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract must 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 2.024**.

2.183 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, the termination must be deemed to be a termination for convenience under **Section 2.130**, and the State will pay reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State is not be liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.150**.

2.190 Dispute Resolution

2.191 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 must 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 must submit a letter, together with all data supporting the claims, executed by Contractor's Contract Administrator or the Contract Administrator's 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 claim and the supporting data are current and complete to Contractor's best knowledge and belief.

2.192 Informal Dispute Resolution

(a) All disputes between the parties must be resolved under the Contract Management procedures in this Contract. If the parties are unable to resolve any disputes after compliance with the processes, the parties must meet with the Director of Purchasing Operations, DMB, or designee, for the purpose of attempting to resolve the dispute without the need for formal legal proceedings, as follows:

(i) The representatives of Contractor and the State must meet as often as the parties reasonably deem necessary 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 must 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 60 calendar days, the Director of Purchasing Operations, DMB, or designee, must issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State's final action and the exhaustion of administrative remedies.

(b) This Section 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 under **Section 2.163**.

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

2.193 Injunctive Relief

The only circumstance in which disputes between the State and Contractor will not be subject to the provisions of **Section 2.162** is where a party makes a good faith determination that a breach of the terms of the Contract by the other party is the that the damages to the 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.

2.194 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 must not be deemed to preclude performance) and without limiting either party's right to terminate the Contract as provided in **Section 2.150**, as the case may be.

2.200 Federal and State Contract Requirements

2.201 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 under 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.

2.202 Unfair Labor Practices

Under 1980 PA 278, MCL 423.321, et seq., the State must 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 under 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, must not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Under section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, after 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.

2.203 Workplace Safety and Discriminatory Harassment

In performing Services for the State, the Contractor must 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 must 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>.

**2.204 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.

2.210 Governing Law**2.211 Governing Law**

The Contract must in all respects be governed by, and construed according to, 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.

2.212 Compliance with Laws

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

2.213 Jurisdiction

Any dispute arising from the Contract must 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 the jurisdiction on the grounds of lack of personal jurisdiction of the court or the laying of venue of the 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.

2.220 Limitation of Liability**2.221 Limitation of Liability**

Neither the Contractor nor the State is liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability does 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.



The Contractor's liability for damages to the State is limited to two times the value of the Contract or \$500,000 which ever is higher. The foregoing limitation of liability does 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 is limited to the value of the Contract.

2.230 Disclosure Responsibilities

2.231 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, to which Contractor (or, to the extent Contractor is aware, any Subcontractor) 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; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor by a governmental or public entity arising out of their business dealings with governmental or public entities. The Contractor must disclose in writing to the Contract Administrator any litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") within 30 days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated. 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.** If any Proceeding disclosed to the State under 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) to continue to perform this Contract according to its terms and conditions, or
- (ii) whether Contractor (or a Subcontractor) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in the Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then the Contractor must provide the State all reasonable assurances requested by the State to demonstrate that:
 - (a) Contractor and its Subcontractors will be able to continue to perform this Contract and any Statements of Work according to its terms and conditions, and
 - (b) Contractor and its Subcontractors have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in the Proceeding.

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

- (i) 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 must notify DMB PurchOps.
- (ii) Contractor must also notify DMB PurchOps 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.
- (iii) Contractor must also notify DMB PurchOps within 30 days whenever changes to company affiliations occur.

2.232 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 is a material breach of this Contract.



2.233 Bankruptcy

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 the Works in Process by whatever appropriate method the State may deem expedient if:

- (a) the Contractor files for protection under the bankruptcy laws;
- (b) an involuntary petition is filed against the Contractor and not removed within 30 days;
- (c) the Contractor becomes insolvent or if a receiver is appointed due to the Contractor's insolvency;
- (d) the Contractor makes a general assignment for the benefit of creditors; or
- (e) the Contractor or its affiliates are unable to provide reasonable assurances that the Contractor or its affiliates can deliver the services under this Contract.

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 must be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.

2.240 Performance

2.241 Time of Performance

- (a) Contractor must use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables according to 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 2.211(a)**, Contractor must 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 must inform the State of the projected actual delivery date.
- (c) If the Contractor believes that a delay in performance by the State has caused or will cause the Contractor to be unable to perform its obligations according to specified Contract time periods, the Contractor must notify the State in a timely manner and must use commercially reasonable efforts to perform its obligations according to the Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent the delay is caused by the State.

2.242 Service Level Agreements (SLAs)—Deleted, Not Applicable

2.243 Liquidated Damages—Deleted, Not Applicable

2.244 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 the 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 a party; provided the non-performing party and its Subcontractors are without fault in causing the default or delay, and the 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.

If a party does not perform its contractual obligations for any of the reasons listed above, the non-performing party will be excused from any further performance of its affected obligation(s) for as long as the circumstances prevail. But the party must use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. A party must promptly notify the other party in writing immediately after the excusable failure occurs, and also when it abates or ends.



If any of the above-enumerated circumstances substantially prevent, hinder, or delay the Contractor's performance of the Services/provision of Deliverables for more than 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 is not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in performance continues; (b) the State may terminate any portion of the Contract so affected and the charges payable will 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 the Contractor, except to the extent that the State must pay for Services/Deliverables provided through the date of termination.

The Contractor will not have the right to any additional payments from the State as a result of any Excusable Failure occurrence or to payments for Services not rendered/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.

2.250 Approval of Deliverables—Deleted, Not Applicable

2.260 Ownership

2.261 Ownership of Work Product by State

The State owns all Deliverables provided by the Contractor for the State.

2.262 Vesting of Rights—Deleted, Not Applicable

2.263 Rights in Data

(a) The State is the owner of all data made available by the State to the Contractor or its agents, Subcontractors or representatives under the Contract. The 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 the Contractor. No employees of the 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, the Contractor must only use personally identifiable information as strictly necessary to provide the Services and must disclose the information only to its employees who have a strict need-to-know the information. The Contractor must comply at all times with all laws and regulations applicable to the personally identifiable information.

(b) The State is the owner of all State-specific data under 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 may use personally identifiable information only as strictly necessary to utilize the Services and must disclose the information only to its employees who have a strict need to know the information, except as provided by law. The State must comply at all times with all laws and regulations applicable to the personally identifiable information. Other material developed and provided to the State remains the State's sole and exclusive property.

2.264 Ownership of Materials

The State and the 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.

**2.270 State Standards****2.271 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>.

2.272 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>. 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.

2.273 Systems Changes

Contractor is not responsible for and not authorized to make changes to any State systems without written authorization from the Project Manager. Any changes Contractor makes to State systems with the State's approval must be done according to applicable State procedures, including security, access and configuration management procedures.

2.280 Extended Purchasing***MiDEAL***

Act Number 431 of the Public Acts of 1984 permits the State of Michigan, Department of Management and Budget, 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. As a result of the enactment of this legislation, the MIDEAL Program has been developed. This program extends the use of state contracts to program members. The governmental agency must enter into an agreement with the State of Michigan to become authorized to participate, thus ensuring that local units of government secure a greater return for the expenditure of public funds.

In those cases, contract vendors supply merchandise at the established State of Michigan contract prices and terms. The contractor must submit invoices and pay the authorized MIDEAL member on a direct and individual basis according to contract terms.

IT IS MANDATORY THAT THIS CONTRACT WILL BE MADE AVAILABLE TO ALL STATE OF MICHIGAN AGENCIES AND AUTHORIZED MIDEAL PURCHASING PROGRAM MEMBERS.

Please Visit Mi DEAL at www.michigan.gov/buymichiganfirst under MiDeal.

Estimated requirements for authorized local units of government are not included in the quantities shown in this contract.

2.290 Environmental Provision**2.291 Environmental Provision**

Energy Efficiency Purchasing Policy – The State seeks wherever possible to purchase energy efficient products. This includes giving preference to U.S. Environmental Protection Agency (EPA) certified 'Energy Star' products for any category of products for which EPA has established Energy Star certification. For other purchases, the State may include energy efficiency as one of the priority factors to consider when choosing among comparable products.



Environmental Purchasing Policy – The State of Michigan is committed to encouraging the use of products and services that impact the environment less than competing products. The State is accomplishing this by including environmental considerations in purchasing decisions, while remaining fiscally responsible, to promote practices that improve worker health, conserve natural resources, and prevent pollution. Environmental components that are to be considered include: recycled content and recyclability; energy efficiency; and the presence of undesirable materials in the products, especially those toxic chemicals which are persistent and bioaccumulative. The Contractor should be able to supply products containing recycled and environmentally preferable materials that meet performance requirements and is encouraged to offer such products throughout the duration of this Contract. Information on any relevant third party certification (such as Green Seal, Energy Star, etc.) should also be provided.

Hazardous Materials:

For the purposes of this Section, “Hazardous Materials” is a generic term used to describe asbestos, ACBMs, PCBs, petroleum products, construction materials including paint thinners, solvents, gasoline, oil, 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 the 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.

(a) The Contractor must use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material according to all federal, State and local laws. The State must provide a safe and suitable environment for performance of Contractor’s Work. Before the commencement of Work, the State must advise the Contractor of the presence at the work site of any Hazardous Material to the extent that the State is aware of the Hazardous Material. If the Contractor encounters material reasonably believed to be a Hazardous Material and which may present a substantial danger, the Contractor must immediately stop all affected Work, notify the State in writing about 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 must order a suspension of Work in writing. The State must proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State must terminate the affected Work for the State’s convenience.

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the Contractor must resume Work as directed in writing by the State. Any determination by the Michigan Department of Community Health or the Michigan Department of Environmental Quality that the Hazardous Material has either been removed or rendered harmless is binding upon the State and Contractor for the purposes of resuming the Work. If any incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in 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 must bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material according to Applicable Laws to the condition approved by applicable regulatory agency(ies).

Michigan has a Consumer Products Rule pertaining to labeling of certain products containing volatile organic compounds. For specific details visit http://www.michigan.gov/deq/0,1607,7-135-3310_4108-173523--,00.html

Refrigeration and Air Conditioning:

The Contractor shall comply with the applicable requirements of Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to this contract.



Environmental Performance:

Waste Reduction Program - Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, et seq.).

2.300 Other Provisions

2.311 Forced Labor, Convict Labor, or Indentured Servitude Made Materials

Contractor represents and certifies that, to the best of its knowledge and belief no foreign (outside of the U.S.) made equipment, materials, or supplies, will be furnished to the State under any resulting Contract, that have been produced in whole or in part by forced labor, convict labor, or indentured servitude.

DF (Initial)

2.321 Knowledge of Child Labor for Listed End Products

- (a) "Forced or indentured child labor" means all work or service:
 - (i) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or
 - (ii) Performed by any person under the age of 18 under a contract the enforcement of which can be accomplished by process or penalties.

(b) *Listed end products.* The following end product(s) being acquired under this solicitation is (are) included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, identified by their country of origin. There is a reasonable basis to believe that listed end products from the listed countries of origin may have been mined, produced, or manufactured by forced or indentured child labor.

| Listed End Product | Listed Country of Origin |
|--------------------|--------------------------|
| NA | |

(c) *Certification.* The State will not make award to a Bidder unless the Bidder, by checking the appropriate block, certifies to one of the following:

- (X) The Bidder will not supply any end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in a corresponding country as listed for that end product.
- () The Bidder may supply an end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The Bidder certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture the end product. On the basis of those efforts, the Bidder certifies that it is not aware of any the use of child labor.

DF (Initial)



Attachment A, Price

| ACQUISITION COSTS | |
|-------------------|---------------|
| Inserter | Cost |
| #1 | \$223,660.00* |
| #2 | \$223,660.00* |
| Total | \$447,320.00* |

*Above prices include all hardware, software, installation, warranty, integration, testing, training, and transportation.

Multiple machine configurations includes Next Generation Direct Reports and Workstation that allows all Pitney Bowes Inserters (current and new systems) to be networked together so Operations Management can produce reports that help analyze and increase site proficiency. You will be able to consolidate data across all Pitney Bowes Inserters for consolidated reporting by job, operator, shift, time range, date range, and much more. Reports are also available for each Inserter for stand alone analysis. This "value add" provides a very powerful tool that management can use to understand what is happening on the production floor and to drive results.

| Inserter #1 Maintenance Costs FULL MAINTENANCE SERVICE as defined Section 1.020 Scope of Work and Deliverables | | Inserter #2 Maintenance Costs FULL MAINTENANCE SERVICE as defined Section 1.020 Scope of Work and Deliverables | |
|---|----------------|---|----------------|
| Year | Cost | Year | Cost |
| #1 | \$ 27,000.00** | #1 | \$ 27,000.00** |
| #2 | \$ 27,000.00** | #2 | \$ 27,000.00** |
| #3 | \$ 27,000.00** | #3 | \$ 27,000.00** |
| Total | \$ 81,000.00** | Total | \$ 81,000.00** |

**Annual cost for Full Maintenance Service at price guaranteed for three years. Includes all parts, labor, software costs, emergency repairs and preventative maintenance as outlined in Section 1.022 item #2-a-i for up to 5 million cycles per machine. Each cycle over 5 million is billed at .00175 per cycle. A cycle is a complete mail envelope.

***Following is recommended two part training for each student.

- Part 1) FPS™ Full Service Training - This course provides an in-depth understanding of FPS™ mechanical and electrical systems. Students will be introduced to the direct mail market and instructed on its applications and terminology. Also, covered is the newest technology controlling the FPS™ system and the skills to service and troubleshoot this product. Instruction includes lots of hands on instruction and covers basic operation and repair skills for the chassis and output for the FPS™ inserter. Class is 8 days over two weeks - student travels to Atlanta on Monday of first week, in training Tuesday to Friday, free over weekend, in training Monday to Thursday, travels back to Lansing on Friday of second week. Cost: \$13,000 per student (Price includes repair manuals, meals, lodging, and transportation to and from hotel, training center and Atlanta International Airport). Does not include airfare.
- Part 2) Customized for State Of Michigan's FPS Systems. This training provides an in-depth understanding of FPS™ input systems (cut sheet and continuous feeders, accumulator, and folder) including mechanical and electrical systems. Instruction includes hands on instruction on State Of Michigan's FPS at your site in Lansing. Class will be 5 days (includes mentoring time at site). Cost: \$7,000 per student



****Pitney Bowes will provide a 10% parts discount, plus a discounted price on parts cabinet that will be stocked with commonly used parts (price to be determined after final configuration and volumes determined).

Below pricing for equipment software upgrades and/or fees for the first three years of equipment ownership (the first year should not begin until the end of the warranty period). Any costs associated with installation and warranties are included with the Acquisition Cost above. See **Section 1.020 Scope of Work and Deliverables**.

| Insertor # 1 | | Insertor # 2 | |
|--|--------------|---|--------------|
| SOFTWARE COSTS as defined in Section 1.020 Scope of Work and Deliverables. | | SOFTWARE COSTS as defined Section 1.020 Scope of Work and Deliverables. | |
| Year | Cost | Year | Cost |
| #1 | \$ 3,156.00* | #1 | \$ 3,156.00* |
| #2 | \$ 3,156.00* | #2 | \$ 3,156.00* |
| #3 | \$ 3,156.00* | #3 | \$ 3,156.00* |
| Total | \$ 9,468.00* | Total | \$ 9,468.00* |

*Software costs are included in "Full Maintenance Service"



Equipment Trade-In Allowance (Optional) - Descriptions and Costs:

Listed below is a description of the equipment to be traded in.

- a. Bowe Bell & Howell model A825-C8; Serial # 40-4515, including burst/fold and cut/fold capabilities \$1,000 trade-in allowance for A825-C8 Serial #40-4515 Inserter plus burster/folder, and cut/folder, plus Pitney Bows will pick up and remove equipment at our expense at a mutually convenient time to be arranged.
- b. Bowe Bell & Howell model A825-C4s Serial # 39-4516 \$1,000 trade-in allowance for A825-C4 Serial #39-4516 Inserter, plus Pitney Bows will pick up and remove equipment at our expense at a mutually convenient time to be arranged.
- c. Bowe Bell & Howell model A825-C4s Serial # 39-451 \$1,000 trade-in allowance for A825-C4 Serial #39-451 Inserter, plus Pitney Bows will pick up and remove equipment at our expense at a mutually convenient time to be arranged.

Equipment Options - Descriptions and Costs:

List and describe options including benefits option provides and pricing. Price shall include transportation, installation, warranty and training. See Section 1.020 Scope of Work and Deliverables.

| <u>Option Description</u> | <u>Purchase / Unit</u> |
|---|------------------------|
| 1. Continuous form feeder – Roll-up modular Continuous Form Cutter with camera – ability to process continuous Form material utilizing FPS System’s dual accumulator and folder and read all markings as requested in “Attachment B” (Price is for one feeder. State may acquire up to two feeders) <i>For “Full Maintenance Service” add \$6,416.00 per year</i> | \$ 69,638.00* |
| 2. Sheet Feeder 36k Speed Upgrade – a productivity enhancing option (ability to process up to 3 sheets at rated cycle speed of 12,000 per hour) <i>For “Full Maintenance Service” add \$828.00 per year</i> | \$ 29,945.00* |
| 3. Low Capacity Divert with Smart Deflect – a productivity enhancing option that provides ability to divert sheets fed from input without folding, inserting into envelope, or stopping system. Can be used to outsort misreads, duplicate pages, misordered pages, over count collations (i.e. those over fold capacity) to divert stacker prior to folding <i>For “Full Maintenance Service” add \$357.00 per year</i> | \$ 5,321.00* |

*Prices are per unit and include all related hardware, software, installation, warranty, integration, testing, training, and transportation.



Attachment B--EQUIPMENT SPECIFICATIONS

See Section 1.020 Scope of Work and Deliverables.

All equipment components must operate as a fully integrated computer-controlled system and include the following:

| | YES | NO | COMMENTS |
|---|-----|----|---|
| 1) Reading Systems | X | | Yes, the camera reading system is capable of reading all the indicated markings requested. |
| a) Is the reading system capable of reading markings in the following formats: | X | | Yes, the camera reading system is capable of reading all the indicated markings. |
| (i) Optical Mark Recognition code (OMR) markings? | X | | Yes, the camera reading system is capable of reading all the indicated markings. |
| ii) 2of5 and 39 bar code markings? | X | | Yes, the camera reading system is capable of reading all the indicated markings. |
| iii) 2D bar code markings? | X | | Yes, the camera reading system is capable of reading all the indicated markings. |
| iv) Other markings (Please list)? | X | | 128 , OCR |
| b) Can the reading system read markings that are placed on either the left side or right side of a document? | X | | Yes, the system can be setup to scan on either side of the document Left OR Right. Top OR Bottom. |
| 2) Function Marks | | | |
| a) Can the operator select the sequential order of the function marks? Note: Although the location of the marks on the material will remain the same, the logic of these marks must be programmable in order to change the OMR mark placement meaning. | X | | Yes, the OMR mark sequence will be set up on the operator interface by job and saved for future use. Each job will contain the sequence, parameters, and settings for each mark or set of marks. |
| b) Will the presence of any or all 'select function marks' on the control documents cause an insert to be fed from the corresponding insert hopper as a set passes the station? | X | | Yes, each job can contain selective inserting. The presence of the mark for each station will cause the station to select the insert from the corresponding insert station. Any combination or all stations can be activated. |
| i) Can the stations be programmed as either: 'On' (always pull the insert), or, 'Off' (never pull the insert)? | X | | Yes, each job can be programmed to either "always select" or "never select" or "select on mark" an insert as a setup parameter |



| | | | |
|---|---|--|---|
| c) Does the equipment support the following types of function marks: | X | | |
| i) Demand Feed function mark | X | | |
| (1) Does the equipment have a programming function that allows for the collection of multiple page sets? | X | | Yes, the system can be set up to run under Demand Feed or under end of collation control. The system can be programmed to allow for the collection of multiple page sets. |
| (2) When the collection of these pages is completed, is the set fed into the insert track/folder? | X | | After the collection of the pages is completed the set is fed into the integrated folder then onto the multiple stage buffer (increases production throughput on multiple page sets) and then on to the insert track. |
| ii) Divert function mark | | | |

| | YES | NO | COMMENTS |
|--|-----|----|--|
| 1) Does the equipment have a programming function so that when a “divert function mark” on the control document is detected, the envelope set containing the page to be diverted (sealed or unsealed) is diverted prior to reaching the postage meter or the end of the conveyor? | X | | Yes, when the “divert function mark” is detected, the set will automatically divert either sealed or unsealed envelopes depending on the job parameters. The divert bin is located prior to the envelope stacker. Additional divert bins may be added at various locations to remove mail for other specific reasons (i.e. foreign mail, quality audits, pull by constituent, overweights, etc.) |
| iii) Gate / Read - Verify function mark? | X | | |
| 1) Does the equipment have a programming function for a gate mark and gate / read-verify mark so that each individual set can be identified, accumulated and inserted separately from the next set? | X | | Yes, the system will have the capability of scanning your current gate/read mark that identifies the start of the mark reading set. The marks within the set will identify the pages to be accumulated as an individual set. |



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| <p>2) Does the absence or misreading of the gate mark, for any reason cause the equipment to stop?</p> | X | | <p>Yes, the absence or misreading of the gate mark will cause the system to stop if programmed to do so in the job setup.</p> <p>A recommended alternative would be to set up the job to divert the misread pieces/sets and continue running the inserter either prior to feeding the misread set into the folder (recommended) or after fold. These options will maximize your system productivity.</p> |
| <p>3) Does the presence of this mark initialize the reading process?</p> | X | | <p>This mark indicates to the system the start of the reading process on each sheet.</p> |
| <p>iv) Item Count Verification Within a Set of Binary Function Marks</p> | | | |
| <p>1) Does the equipment have a programming function that allows for the item count verification within a set of binary function marks that are printed on the first page fed of every set?</p> | X | | <p>Yes, the system will have a programming function that allows for the item count verification within a set of binary function marks that are printed on the first page fed of every set. The user can setup the number of binary marks required for each job to maximize flexibility.</p> |
| <p>2) Can this function validate that the total value of the binary marks equal the number of pages in the set?</p> | X | | <p>Yes, this function allows for the validation that the total value of the binary marks must be equal to the number of pages in the set.</p> |
| <p>3) When reading function marks, is the normal operation a 'match' condition?</p> | X | | <p>Yes, the normal operation is a match condition when reading the function marks.</p> |
| <p>4) Does a 'mismatch' condition result in a 'fault condition' causing the equipment to stop operating?</p> | X | | <p>Yes, a mismatch condition will either stop the system or the job can be setup to divert the miss match condition and continue running assuming a match condition follows.</p> |



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| v) Feeding Sequence function marks | | | |
| 1) Does the equipment have a programming function that causes the equipment to stop operating if, after reading the marks that are printed on every page of a run, the marks are not in a sequenced count that decrements with each page? | X | | Yes, the inserter will stop if the binary number read is not sequenced from the prior page fed. |
| 2) Does the equipment have a function that causes the equipment to stop operating if, after reading the binary mark printed on the first page fed of each set, it detects that the mark is not decrementing in a sequential order following the last page fed of the previous set? | X | | Yes, a non-sequential read condition will either stop the system or the system can be setup to divert the set if the sequence within the set is non-sequential, and continue running assuming the next set is sequencing correctly. |

| | YES | NO | COMMENTS |
|---|-----|----|--|
| 3) Can the operator enable/disable this function? | X | | Yes, all OMR functions are programmed at the job level and can be used or not used depending on what the operator selects. The system can be configured with password authorization that allows operator to make set up changes, or can be configured to only allow supervisor to make changes to set up parameters. |
| 3) Feeder/ Conveyor Information Note: Each inserter must be equipped with a cut sheet feeder module. Pricing for this module must be included with the total cost of each inserter. | | | |
| a. Can the paper feeder feed cut sheet paper? Describe the operation and features of the cut-sheet feeder? | X | | Yes, the system will be equipped with our high capacity cut sheet feeder. The cut sheet feeder is capable of loading 4,500 sheets, the cut sheet feeder feeds the loaded documents from the bottom of the stack and is capable of a wide range of scanning capabilities that include scanning any symbology, either top or bottom scan on either the left or the right margin of the document. |



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| <p>b. Does the feeder alignment provide the ability to configure the feeder orientation so it faces the operator, thus reducing the distance the operator must travel to refill conveyor/feeder?</p> | <p>X</p> | | <p>Yes, the proposed system is configured with the feeder inline with the operator cell thus making it easy for the operator to load the material. We believe this u-shaped configuration is the most efficient for production shops. However, any orientation can be requested when ordering the system (front, back, or inline).</p> |
| <p>c. Please describe the collation (ex: is the collation A to Z or Z to A)?</p> | <p>X</p> | | <p>The system is capable of processing the material in either "A to Z" or "Z to A" collation sequence.</p> |
| <p>d. Do you have a continuous form-feed module? If yes, please describe. Note: The State may or may not acquire a continuous form-feed module. Pricing for a continuous form-feed module should be included in the "Equipment Options" portion of the bid.</p> | <p>X</p> | | <p>Yes, the optional modular roll-up continuous form feeder provides complete flexibility for current and future needs. In a matter of minutes the operator can switch between modular feeders, and the feeder can be shared between two systems for back up or production flexibility.</p> <p>The State can either purchase the continuous form feeder at the time of system purchase, or at a future date.</p> |
| <p>4) Accumulator</p> | | | |
| <p>a) Specify accumulator capacities (piece count and thickness) by paperweight,.</p> | <p>X</p> | | <p>The Dual Accumulator is designed to handle various paperweights and thickness. Accumulates up to 10 sheets.</p> <p>Accumulates and group-folds up to the following maximum quantities (based on typical 20# (75g/sq. m) bond:</p> <ul style="list-style-type: none"> • half fold: Portrait 10 sheet maximum • standard or accordion fold: Portrait 7 sheet maximum • double fold: Portrait 6 sheet maximum <p>Thickness: Min. .004" Max. .009"</p> |
| <p>b) Does the equipment have dual accumulation capability?</p> | <p>X</p> | | <p>Yes, the proposed system will be equipped with our standard dual accumulator to increase throughput by allowing accumulation of one set while the other set is being folded.</p> |



| | | | |
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| c) Can the accumulator feed the set to the folder to be folded as single pages? | X | | Yes, the dual accumulator is designed to feed single or multiple page sets. |
| d) Can the accumulator feed the set to the folder to be folded as a nested set? | X | | Yes, the dual accumulator is designed to feed single or multiple page nested sets. |
| 5) Folder | | | |
| e) Is the bidder the manufacturer of the Folder? If NO, please explain. | X | | Yes, Pitney Bowes designs and builds folder, and uses Pitney Bowes' own folder integrated control software |
| f) Can the folder perform the following folds: | | | |
| i) Tri-fold? If yes, state the number of sheets in a set that can be folded separately and as a set. | X | | Yes, the folder can tri-fold 1 to 7 pages as a set. The system also has a sub-set capability increasing the number of pages that can be accumulated on the deck. |
| ii) Z-fold? If yes, state the number of sheets in a set that can be folded separately and as a set. | X | | Yes, the folder can Z-fold 1 to 7 pages as a set. The system also has a sub-set capability increasing the number of pages that can be accumulated on the deck |
| iii) Half fold? If yes, state the number of sheets in a set that can be folded separately and as a set. | X | | Yes, the folder can half-fold 1 to 10 pages as a set. The system also has a sub-set capability increasing the number of pages that can be accumulated on the deck |
| c) Is the fold-type selectable by the operator without significant alterations to job programming or equipment? If alterations are required, please describe. | X | | Yes, the operator will simply replace a fold plate for tri-fold, Z fold, or half fold jobs. For other "custom" folds the operator simply moves two knurled knobs to adjust the fold deflector plates. |



| | | | |
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| 6) Insert Station Section | | | |
| a. Does the equipment have a minimum of six stations that includes variable selects? If yes, state the number of stations the equipment has. | X | | Yes, the system is configured with 6 stations as required. All feeders are designed to work as variable selects. |
| | YES | NO | COMMENTS |
| b. Does the equipment have a minimum of six stations that includes variable selects? If yes, state the number of stations the equipment has. | X | | The insert feeders are easily adjusted by the operator. The operator will make simple adjustments to the side guides. Each feeder is equipped with a double detect sensor to detect double feeds as well as miss detect photocells to detect miss-feeds. Each feeder is also equipped with low level detect sensors to warn the operator when the feeder needs more inserts. |
| 7) Automatic Station back- up | | | |
| a) Can the operator designate a number of hoppers/stackers to be used for the same insert? | X | | Yes, the system is designed to allow the operator to designate multiple feeders to be loaded with the same insert reducing the frequency of insert loading. This feature will reduce operator fatigue, and improve productivity. |
| 8) Double Detect | | | |
| a) Does each insert station have a computerized double / miss detector? | X | | Yes, each feeder is equipped with double detect and miss detect sensors. |



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| <p>b) Is there a double detect sensor that can identify doubles in the track?</p> | <p>X</p> | <p>Yes, the high capacity cut sheet input sheet feeder and each Insert station is equipped with double detect sensors to prevent double documents from entering the track.</p> <p>The track is equipped with tall pusher pins and straps to hold the material down once it enters the track. This prevents a “fly back” condition and resulting doubles.</p> <p>There are photocells between each feeder that detect horizontally and vertically along the track to monitor and insure the inserts do not move from each track section. This prevents a “fly back” condition and resulting doubles. The vertical sensors monitor between center pusher pins for fly back and the horizontal are for integrity tracking lead edge to trail edge of each collation.</p> <p>Our process is designed to prevent issues with inserts “flying back” and ending up in the wrong track section. We monitor all activity at the feeder, insert station, and track to insure set integrity. The system will stop if any of these conditions are violated.</p> |
| <p>9) Mail piece Raceway Controls</p> | | |



| | | | |
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| <p>a) Describe the equipment’s provisions for ensuring that inserts do not “fly” while they are being transported down the raceway.</p> | <p>X</p> | | <p>The FPS™ Chassis (raceway) is designed to eliminate inserts from flying back to next collation.</p> <p>Each feeder is designed with double detection and controls to insure the integrity of the set.</p> <p>The track is equipped with tall pusher pins and straps to hold the material down once it enters the track. This prevents a “fly back” condition and resulting doubles.</p> <p>There are photocells along the track to monitor and insure the inserts do not move from each track section. This prevents a “fly back” condition and resulting doubles.</p> <p>Our process is designed to prevent issues with inserts “flying back” and ending up in the wrong track section. We monitor all activity at the feeder, insert station, and track to insure set integrity. The system will stop if any of these conditions are violated.</p> |
| <p>b) Describe the equipment’s envelope processing capabilities including specifying the minimum and maximum envelope dimensions, quantity and thickness, stacker height and capacity, as well as envelope flap depth limitations.</p> | <p>X</p> | | <p>The FPS™ envelope station is designed to hold up to 4500 #10 envelopes. It is continuous loading. This minimizes the amount of times that the operator has to load envelopes. See attached envelope specifications</p> |
| <p>c) Envelope Hopper</p> | | | |
| <p>i) Describe envelope hopper feeding process including ways equipment minimizes ‘curling condition’ for various sized and shaped envelopes.</p> | <p>X</p> | | <p>The envelope hopper is designed to handle a wide range of envelope types and accommodates normal curling variations caused by atmospheric conditions. The FPS™ has air manifolds that blow the envelope open, suction assist that provides lift on back panel of envelope, and entering fingers, which guide inserts that are under complete control and never change direction before entering the envelope. Going from one size envelope (i.e. #10 to 6 x 9) to another is a simple operator setup adjustment that can be completed in minutes.</p> |



| | | | |
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| <p>ii) Are manual adjustments necessary to accommodate different dimensioned envelopes? If yes, please describe.</p> | <p>X</p> | | <p>Yes, the adjustments to go from one size envelope to another are mechanical in nature and are designed so that an operator can easily make these adjustments in a matter of minutes,</p> |
| <p>d) Since the State will not place meters on the inserters, describe the take-off mechanism that would be installed in place of the meter. Note: If the mechanism is not included in the base price of the inserters, it must be listed in the optional component section of the bid. Otherwise the State assumes the cost is included in the base price of the inserters.</p> | <p>X</p> | | <p>In the event that the system is configured without a meter, the output of the system is setup with a transfer module in place of the Meter that will transport the completed envelope onto the output stacker.</p> |
| <p>10) Sealer</p> | | | |
| <p>a) Is the sealer selectively activated?</p> | <p>X</p> | | <p>Yes, the state can selective seal by putting the control function into the job set up.</p> |
| <p>11) End of Conveyor Take-Off Belt</p> | | | |
| <p>a) Describe the equipment's 'End Conveyor/ Take Off Belt' functionality. Note: The State may choose not to install a postage meter on the second inserter.</p> | <p>X</p> | | <p>The system will be configured with a shingling output conveyor that will stack the completed envelopes and shingle them making it easy for an Operator to remove and stack the completed envelopes into mailing trays.</p> |
| <p>b) State the length of the conveyor. Note: Bidder should list conveyor length included in their bid. Bidder may include other conveyor lengths as Options and include pricing in the Optional Pricing section.</p> | <p>X</p> | | <p>The output stacker is 9 feet long.</p> |



| | | | |
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| 12) Envelope Turnover | | | |
| a) Describe equipment's envelope turnover procedure including flexibility of jam correction and clearing capability. | X | | The FPS™ output turn over is designed for ease of operation. It is very simple and highly reliable belt set that re-oriens the envelope so that it is properly aligned for the meter. The simple configuration of the belts makes it easy for the operator to view and clear jams. The envelope is always in control and the moist flap is under pressure (even if system stops) ensuring a positive seal. The turn over has entry, mid and exit photocells that track the completed envelope as it enters and leaves the turn over unit to provide complete control and tracking for each mail piece. |
| | YES | NO | COMMENTS |
| 13) Cycle Speed | | | |
| a) What is the maximum throughput speed for each of the following inserting scenarios: | | | |
| i) Single documents? | X | | The maximum throughput at 100% efficiency is 12,000 envelopes per hour. The "true" throughput will be determined by your calculation of operator, system, and material efficiency. |
| ii) Double documents? | X | | The system will cycle at 10,500 envelopes per hour at 100% efficiency. The "true" throughput will be determined by your calculation of operator, system, and material efficiency. The optional high-speed sheet feeder will allow cycling speeds of 12,000 envelopes per hour at 100% efficiency. |



| | | | |
|--|----------|--|--|
| <p>iii) Triple documents?</p> | <p>X</p> | | <p>The system will cycle at 7,000 envelopes per hour at 100% efficiency. The “true” throughput will be determined by your calculation of operator, system, and material efficiency.</p> <p>The optional high-speed sheet feeder will allow cycling speeds of 12,000 envelopes per hour at 100% efficiency.</p> |
| <p>14) Job and Statistic Reporting</p> | | | |
| <p>a) Does the equipment have job status reporting and other production reporting capabilities? Please describe.</p> | <p>X</p> | | <p>Yes, the system will be equipped with the PB Direct Report package that produce a variety of production related statistics that allow the State to monitor how well the system and operator are performing. Please see the attached Direct Reports samples for further details.</p> |
| <p>15) Equipment Memory</p> | | | |
| <p>a) Can the equipment store job information (such as a job identification number) that is entered by the operator into the equipment?</p> | <p>X</p> | | <p>Yes, after a job is created it is saved using an operator specified name/number. To run the job again, the operator selects the saved job. The job setup programming occurs one time.</p> |
| <p>b) If the equipment can store job information (such as job identification number) that is entered by the operator, can the equipment capture information associated with the job that’s processed (such as number of document set processed, date and times job started and ended etc)?</p> | <p>X</p> | | <p>Yes, this information is reported in the Direct Reports that are printed after a job is closed out.</p> |
| <p>c) State the data storage capacity in mb’s for the equipments’ memory?</p> | <p>X</p> | | <p>The FPS™ system computer comes standard with an 80 GB hard drive memory which will store system set up, job set up, and data for Direct Reports. Memory size is 1024 MB (2-DDR2 512MB/667), hard drive size is 80GB, and free space is 68.7GB.</p> |



| | | | |
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| <p>d) Can the data be exported in comma delimited or tab delimited formats so that it can be imported into Window's based software programs?</p> | <p>X</p> | | <p>Yes, data can be easily exported in various formats that will allow the State to manipulate the data in a format that can be used for reporting.</p> |
| <p>16) Facility requirements</p> | | | |
| <p>a) Specify electrical power and spatial requirements for each inserter. Include a footprint drawing for each inserter (if the information is the same for both inserters, you may provide just one and state that the footprints are the same).</p> | <p>X</p> | | <p>See attached file for the system drawing and the spec sheet for the power requirements. The footprints are the same.</p> |