

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

CHANGE NOTICE NO. 1
 to
CONTRACT NO. 071B4300008
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Xerox Corporation 4650 S. Hagadorn Rd. East Lansing, MI 48823	Kevin Minzlaff	Kevin.minzlaff@xerox.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(517) 333-5532	(517) 333-5564

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DTMB	Kristen Hampton	(517) 322-5488	HamptonK@michigan.gov
BUYER:	DTMB	Rob Telesz	(517) 373-2394	TeleszR1@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Digital Color Press w/ Booklet Maker and Maintenance for DTMB – Printing Services			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
Five Years	November 1, 2013	October 31, 2018	Two Years on Month-by-Month Basis
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
Net 30 Days	Destination	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MIDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			
MISCELLANEOUS INFORMATION:			
N/A			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:		\$2,311,514.08	

Description: Change notice to allow Printing Services to purchase supplies separate from maintenance. The color rate will change from \$0.0452 to \$0.0202, Black Rate will change from \$0.0057 to \$0.0027, O/S color rate will change from \$0.0012 to \$0.0000 and XL color rate will change from \$0.0068 to \$0.0000. Also, changing the buyer from Lacey Wilke, (517) 241-0023, WilkeL@michigan.gov to Rob Telesz, (517) 373-2394, TeleszR1@michigan.gov

Form No. DTMB-3521 (Rev. 4/2012)
 AUTHORITY: Act 431 of 1984
 COMPLETION: Required
 PENALTY: Contract change will not be executed unless form is filed

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

CHANGE NOTICE NO. 2
 to
CONTRACT NO. 071B4300008
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Xerox Corporation 4650 S. Hagadorn Rd. East Lansing, MI 48823	Lisa A. Perkins	lisa.perkins@xerox.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(502) 410-8679	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB	Kristen Hampton	(517) 322-5488	HamptonK@michigan.gov
BUYER	DTMB	Rob Telesz	(517) 373-2394	TeleszR1@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Digital Color Press w/ Booklet Maker and Maintenance for DTMB – Printing Services			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
November 1, 2013	October 31, 2018	Two Years on Month-by-Month Basis	October 31, 2018
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
Net 30 Days	Destination	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MIDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>		
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$0.00		\$2,311,514.08		
Provide the detail of the change notice: Changing the Primary Contact from Kevin Minzlaff, Kevin.minzlaff@xerox.com (517) 333-5532 to Lisa A. Perkins, lisa.perkins@xerox.com (502) 410-8679. The Net Monthly Minimum Charge will change from \$3,073.69 to \$2,452.01. The color rate will change from \$0.0202 to \$0.0173 and the black rate will change from \$0.0027 to \$0.0021.				

STATE OF MICHIGAN
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET
 FINANCIAL SERVICES
 P.O. BOX 30026, LANSING, MI 48909
 OR
 320 S. WALNUT, LANSING, MI 48933

**NOTICE
 OF
 CONTRACT NO. 071B4300008**
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Xerox Corporation 4650 S. Hagadorn Rd. East Lansing, MI 48823	Kevin Minzlaff	Kevin.minzlaff@xerox.com
	TELEPHONE	FAX
	(517) 333-5532	(517) 333-5564

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DTMB	Kristen Hampton	(517) 322-5488	HamptonK@michigan.gov
BUYER:	DTMB	Lacey Wilke	(517) 241-0023	WilkeL@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Digital Color Press w/ Booklet Maker and Maintenance for DTMB – Printing Services			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
Five Years	November 1, 2013	October 31, 2018	Two Years on Month-by-Month Basis
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
Net 30 Days	Destination	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			
MISCELLANEOUS INFORMATION:			
N/A			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:			\$2,311,514.08

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the solicitation #1071149213B0000155 Orders for delivery will be issued directly by the Department of Technology, Management & Budget through the issuance of a Purchase Order Form.

FOR THE CONTRACTOR:

Xerox Corporation

Firm Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

Laurie Gyorkos, Procurement Unit Manager

Name/Title

DTMB Financial Services

Enter Name of Agency

Date



STATE OF MICHIGAN
Department of Technology, Management and Budget
Financial Services

Contract No. 071B4300008
Digital Color Press and In-Line Booklet Maker

Buyer Name: Lacey Wilke
Telephone Number: (517) 241-0023
E-Mail Address: WilkeL@michigan.gov

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Attachment A, Price Proposal

Attachment B, Product Brochures

Attachment C, Customer Expectations Documents(CEDs)

Attachment D, Implementation Plan

Attachment E, Training Guide

Attachment F, Xerox Staff (Roles and Responsibilities)

Attachment G, Sample Xerox Invoice

Definitions

This section provides definitions for terms used throughout this document.

Business Day - whether capitalized or not, means any day other than a Saturday, Sunday, State employee temporary layoff day, or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am through 5:00pm Eastern Time unless otherwise stated.

Buyer – the DTMB-Financial Services employee identified on the cover page of this RFP.

Chronic Failure - as defined in applicable Service Level Agreements.

Contract – based on this RFP, an agreement that has been approved and executed by the awarded bidder, DTMB-Financial Services, and the State Administrative Board.

Contractor – the awarded bidder after the Effective Date.

Days - Business Days unless otherwise specified.

Deliverable(s) - physical goods or commodities as required or identified in a Statement of Work.

DTMB – Department of Technology, Management and Budget

Eastern Time – either Eastern Standard Time or Eastern Daylight Time, whichever is prevailing in Lansing, Michigan.

Effective Date - the date that a binding contract is executed by the final party.

Final Acceptance - has the meaning provided in Section 2.8.7, Final Acceptance, unless otherwise stated in Article 1.

Key Personnel - any personnel designated as Key Personnel in Sections 1.3.3, Staff, Duties, and Responsibilities, and 2.4.2, Contractor Key Personnel, subject to the restrictions of Section 2.4.2.

Post-Industrial Waste - 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.

PS – Printing Services

Purchase Order - a written document issued by the State that requests full or partial performance of the Contract.

Reserved - the section is not applicable or included in this RFP. This is used as a placeholder to maintain consistent numbering.

SOM – State of Michigan

State - the State of Michigan.

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

Stop Work Order - a notice requiring the Contractor to fully or partially stop work in accordance with the terms of the notice.

Subcontractor - a company or person that the Contractor delegates performance of a portion of the Deliverable(s) to, but does not include independent contractors engaged by the Contractor solely in a staff augmentation role.

Unauthorized Removal - the Contractor's removal of Key Personnel without the prior written consent of the State.

Article 1 – Statement of Work

1.1 Project Identification

This Contract is for one high-speed, full color, digital press and in-line booklet maker for the Department of Technology, Management and Budget (DTMB), Printing Services (PS) in Lansing, Michigan.

1.1.1 Project Request

This Contract is for one high-speed, full color, digital press and in-line booklet maker. The overall objective of this Contract is to:

- Procure one full color digital press, including installation, maintenance, and training services.
- Procure one high-speed booklet maker, including installation, maintenance, and training services.

1.1.2 Background

The Department of Technology, Management & Budget, Printing Services is the offset printing and digital color solution for the State of Michigan. Printing Services uses both digital and offset printers to provide state agencies with high quality color printing and copying. Printing Services is interested in replacing their current Canon C7000VP color printer with a higher speed digital press and attached booklet maker.

1.2 Scope of Work and Deliverable(s)

1.2.1 In Scope

The Contractor shall provide all personnel, equipment, tools, materials, software, supervision, and other items necessary to perform the services as described in the specifications herein. All equipment is to be delivered to 7461 Crowner Drive, Lansing, MI 48913.

- One new high-speed, full color, digital press and in-line booklet maker
 - Hardware requirements listed below under “Hardware Specifications”
 - Contractor must be the manufacturer or be an authorized distributor with the capability of installation, service, warranty work, software patches and upgrade services.
- Interface/controllers
 - All accepted file formats must process at or above the rated printer output speed
 - Any hardware required for the printer or booklet maker interface/controller
- Printer software capable of handling all standard data file formats
 - License Fees included in the contract price
 - License Fees include unlimited impressions for each file format
- Services to implement the hardware/software, including
 - On-site configuration
 - Integration into current Printer Services environment
 - Testing of Printing Services applications
- Knowledge transfer to State staff
 - On-site training of Printing Services staff on new hardware
 - On-site training of Printer Services staff on new software/controller interface
- Documentation, to include
 - User manuals
 - Technical manuals
 - Electronic online documentation
- Support
 - Help Desk
 - Software and print controller interface technical support

- Maintenance
 - Hardware and support to perform according to the specifications outlined in Section 1.2.2.
 - Maintenance and support of booklet maker will be performed by the Contractor.
- Billing Support
 - Contractor must provide a functional and accurate billing system for invoices generated to the State of Michigan. This will include monthly statements that are in a clear and easy to understand format with detailed breakdown of services rendered.

All maintenance, all software upgrades or enhancements to printers or printer controllers, and monthly consumables are included in the Contract pricing. Usage (click) charges will remain fixed throughout the life of the contact.

Hardware Specifications:

Item	Description
Duty Cycle	Printing system must have a minimum duty cycle of 700,000 images per month.
Print Controller Interface	Display will be GUI (Graphical User Interface) Display will be touch screen desired Display will display printer error messages Interface will allow operator to establish individual job setups Interface must process all data files at or above the hardware's rated output printing speed Interface must have the ability to print variable data on the printer Interface must have the ability to perform print job imposition Interface must have the ability to capture job information and export it in usable file format (i.e. .cvs, .txt, .xls, etc)
Print Engine	Printer will run at advertised print speeds on all stock sizes
Toner/Dry Ink	Matte or Glossy option available. Ability to load ink while printer is running desired but not mandatory.
Color	CMYK Inks
Network	Connectivity: Minimum 100 MB Ethernet Protocols: TCP/IP and/or LPD/LPR for print job submission.
Paper Feed	Cut-sheet printer with a minimum of two paper feeders capable of running stock up to 26"
Paper Weight	Uncoated: 20 lb-130 lb Coated: 60 lb -130 lb
Paper Stocks	Coated (gloss, matte), uncoated, textured, specialty stocks, synthetics
Paper Size	7" up to 26"
Image Quality	2400 x 2400 dpi
Stacker	High capacity internal or external stacker that can handle 26" stock
Performance	Minimum: 100 images/minute *Hardware rated print speed based on full color, simplex letter image printed on 20 lb. stock
Booklet Maker	Input: up to 14" Output: up to 14" Capacity: Trim, fold, stich minimum of 20 sheets Speed: minimum 100 sheets per minute Must be able to perform: Square edge, Saddle stich, and Bleed Creases. Must be in-line with digital color press
Print Quality	Digital press must have ability to automate the process of checking and maintaining print color uniformity.
Support	All hardware and software under the same maintenance contract.

1.2.2 Deliverable(s)

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

A. Hardware

The Contractor will provide services identified in Section 1.2.1, In Scope, for the complete and successful implementation of hardware for use in DTMB's Printing Services and meeting the State's objectives outlined in 1.1.2 Background.

Deliverable (s)

- Provide all hardware required for the installation of one new high-speed full color cut-sheet digital press.
- Provide all hardware required for the installation of in-line booklet maker.
- Have all hardware installed and operational for Printer Services staff within 60 days after signed contract or purchase order has been delivered.
- Provide the State with hardware specifications for both the printer and booklet maker. Specifications will accurately outline the machine processing speeds for multiple stock sizes options.

B. Software

The Contractor will provide services identified in Section 1.2.1, In Scope, for the complete and successful implementation of software for use in DTMB's Printing Services and meeting the State's objectives outlined in 1.1.2 Background.

Deliverable (s)

- Provide printer controller software capable of processing all applications at or above the rated printer speed.
- Provide any software upgrades or patches without charge to the SOM.
- The Contractor will comply with all SOM software security standards.
- Provide any applicable software license agreements.

C. Maintenance

Maintenance is defined as repair or replacement services provided after the expiration of the warranty period necessary to identify and repair hardware and software malfunctions in order to return the system to its original operating condition. Maintenance also includes an agreement to provide an annual renewable software subscription to include future upgrades (both major and minor revisions of the application) and ongoing vendor product support.

Deliverable (s)

- Provide maintenance which includes all hardware, software support, and all software licenses for the entire Contract period.
- Provide online process for invoicing, billing information, and submitting monthly usage totals.
- Contractor must provide single point of contact for maintenance on all purchased equipment.
- Provide 8 hour coverage Monday thru Friday, from 7:30 to 4:30, on all hardware and software. The State may expand support to 7 day/24 hour coverage, when needed.
- Respond to trouble calls within 30 minutes during coverage hours.
- Be onsite within 3 hours of trouble call during coverage hours.
- Preventive maintenance shall be performed at original equipment manufacturer's established standard intervals. Contractor shall provide a listing of preventive maintenance tasks and established interval periods. Parts and service shall be included in cost of full service maintenance agreement.
- Contractor to arrange and fund all transportation costs for travel and equipment shipments.

- Contractor will provide a service Contract on all hardware and software sold to the State.
- Equipment operates at 95% of production capability during Printing Services' hours of operation. Uptime hours will not be calculated by total number of hours under maintenance coverage.
 - i.e. 20 work days per month X 8 hours = 160 hours. Equipment must be operable in excess of 152 hours per month.
- Contractor must perform and document completion of scheduled preventive maintenance.
- Contractor must keep accurate records of all hardware and software maintenance for the duration of the Contract.
- Contractor must provide itemized breakdown of maintenance costs for the printer and booklet maker.

State will contact the Contractor, via telephone, when any repairs or support are needed to be made to the equipment. Contractor shall provide the guaranteed response time to service calls placed and guaranteed response time for repairs to commence (i.e., Contractor shall respond (via phone) within thirty (30) minutes of a service call being placed by the State. Contractor shall commence on-site maintenance within 3 hours of the service call being placed by the State.).

For on-site Customer Service Engineer response time, products are planned in the following general categories:

- **Productions and Continuous Feed** **2 hours average response time**

The above specifications represent the average on-site response time for these classes of products. There may be exceptions within categories, based on product maturity, geographic considerations like rural or remote customer sites, or service provided through authorized service delivery partners.

See attached Customer Expectation Document for service uptime – Attachment C.

D. Implementation

Contractor will develop and provide a comprehensive implementation plan for the solution(s) being proposed.

Deliverable (s)

- The implementation plan is to be inclusive of the following elements and deliverables:
 - An overview of the proposed deployment plan
 - A timeline for the deployment, with appropriate milestones
 - Identification of all hardware requirements necessary for installation
 - Identification of all electrical requirements necessary for hardware installation
 - Identification of all network data drops required for hardware installation.
 - Identification of any other requirements necessary for hardware installation
 - An implementation staffing plan, adequate to meet all deliverables within the stated timeframes
 - Comply with all State of Michigan security requirements.

See attached Implementation Plan – Attachment D.

E. Training

Contractor will provide initial training for a minimum of four (4) Printing Services staff members on-site at the State of Michigan's facility in Lansing, Michigan.

Deliverable (s)

- All training manuals, training plans, and other documentation. Materials to become property of the State.

- Training plan and schedule to be submitted by the Contractor and approved by the State
- All equipment training will be completed on-site.

Xerox will provide training programs for all Xerox solutions including those involving:

- **Production printers and publishers**

Xerox will provide State of Michigan employees with detailed, on-site training for both key operators and end users, scheduled at a time that is convenient for personnel. Designed to teach employees how to efficiently and effectively operate the new Xerox equipment, this training will ensure the State is able to achieve maximum results from the investment. The duration of the training sessions varies depending upon the configuration of the Xerox solution and the options the State has purchased.

Initial on-site, instructor-based training will be provided for key operators and other key personnel. Since this in-depth training includes additional administrative features and functionality, it should be limited to those individuals who are designated as key contact(s) for particular area(s) or product(s).

See attached Xerox Training Guide – Attachment E.

F. Documentation

Contractor will provide all hardware and controller software documentation to the State after installation. All documentation will become property of the State.

Deliverable (s)

- User Manuals
- Technical Manuals

Xerox will provide the State with easy-to-use, clear and comprehensive documentation for all of Xerox products.

G. Installation

Contractor will develop and provide hardware installation drawings for State review of the proposed solution(s). Drawings will show configuration layout in Printing Services.

Deliverable (s)

- On-site review or inspection of Printing Services is optional.
- Configuration drawings provided for State review and approval.
- Configuration drawings will include all required electrical and network data drop requirements.
- Configuration drawings will include any other machine requirements for operation.
- Installation drawings due to the State five days (5) after Contract signing.
- Installation to ensure no wires required for running the printer or booklet maker equipment will be installed on the floor in the Printing Services' operations work area.

1.2.3 Quantity

The State is not obligated to purchase in any specific quantity.

1.2.4 Ordering

The State will issue a Purchase Order, which must be approved by the Contract Compliance Inspector, to order any Deliverable(s). The Contractor is not authorized to begin performance until receipt of a Purchase Order.

1.2.5 Alternate Bids – Reserved

1.3 Management and Staffing

1.3.1 Project Management

Contractor has provided a Preliminary Project Plan, including the necessary time frames and deliverables for the various stages of the project and the responsibilities and obligations of both the Contractor and the State.

Deliverable (s)

- Preliminary Project Plan will include:
 - A description of the deliverables to be provided under this Contract.
 - Target dates and critical paths for the deliverables.
 - Identification of roles and responsibilities, including the organization responsible.
 - The labor, equipment, materials and supplies required to be provided by the State in meeting the target dates established in the Preliminary Implementation Plan.
 - Internal milestones
 - Task durations
- Final Project Plan will include:
 - The project plan shall include the following deliverable milestones for which payment shall be made:

	Deliverable	Acceptance Criteria	Date Due
1.	Final Project Work Plan	Meeting the criteria of 1.31	Five (5) days after Contract signing
2.	Delivery of Hardware	Delivered as specified in requirements and on date identified in Final Project Work Plan	On date specified in Final Project Work Plan
3.	Installation of Hardware	Hardware is installed and testing successfully completed.	On date specified in Final Project Work Plan
4.	Implementation of Hardware	Hardware performs in accordance with requirements stated in Contract.	On date specified in Final Project Work Plan
5.	Training	Completion of training for DTMB staff in the use of the all hardware and software.	On date specified in Final Project Work Plan

The State seeks to have full implementation of the system to be completed 60 days after issuance of the purchase order.

The Contractor will carry out this project under the direction and control of the Department of Technology, Management and Budget, Printing Services.

The project manager will meet weekly with the Contractor's Project Manager to review progress and provide necessary guidance.

The Contractor will submit weekly written progress reports to the designated project manager for the State. These reports shall:

- Outline the work accomplished during the reporting period and work to be done during the next reporting period.
- Identify actual and anticipated problems that should be brought to the attention of the project manager.
- Provide notice of any significant deviation from previously agreed upon project plans.

1.3.2 Reports

Reporting formats must be submitted to the State's Project Manager for approval. Once both parties have agreed to the format of the report, it shall become the standard to follow for the duration of this Contract.

- Reports to be furnished by the Contractor during Installation:
 - Weekly Project status
 - Updated project plan
 - Summary of activity during the report period
 - Accomplishments during the report period
 - Deliverable status
 - Action Item status
 - Issues
- Reports to be furnished by the Contractor after Installation:
 - Quarterly maintenance activity reports
 - Quarterly production uptime report based off requirements in Section 1.2.2.
 - Annual preventative maintenance schedule.
 - Contractor will provide a summary report of all activities performed on the equipment annually.
 - Hardware report shall include parts replaced, consumables used, hours of down time, and click totals reported at the time maintenance is performed. The report shall be separated by equipment piece.
 - Software report shall include any interim corrections, patches, upgrades, or database rebuilds performed on the software. The report shall be separated by equipment piece.
- Additional reports available from the Contractor at State's request are:
 - **Equipment Performance Reports**
 - Equipment Performance Detail
 - Model Performance Summary
 - Location Performance Summary
 - Area Performance Summary
 - Performance Exception Reports
 - **Performance Summary Graphs by Model**
 - Uptime Percentage
 - Response Time
 - Copies between Failures
 - Critical Service Calls
 - **Performance Summary Graphs by Location**
 - Uptime Percentage
 - Response Time
 - Copies between Failures
 - Critical Service Calls

1.3.3 Staff, Duties, and Responsibilities

A. Contractor Staff

The Contractor will provide on-site staff, including subcontractors, who will be assigned the Contract, including the duties/responsibilities and qualifications of such personnel.

Deliverable (s)

- Contact list of all staff.
- Contractor will commit that staff identified in the Contract will actually perform the assigned work.

- Contractor must provide a list of all subcontractors, including firm name, address, contact person, and a complete description of the work to be contracted.
- Contractor will provide a designated Project Manager.
- Contractor shall provide a call center available 24 hours per day, 7 days per week.
- Contractor shall provide all hardware, software, and labor required to successfully complete installation of equipment.
- Contractor shall report to the Printing Services Project Manager any known activities performed by State Operations staff that adversely affect the equipment.
- Contractor shall be certified by original equipment manufacturer for machine repair.
- Contractor shall provide a problem escalation listing by name and functional title.
- Contractor onsite personnel shall participate in Disclosure Training and sign a Non-Disclosure Agreement annually. In addition onsite personnel shall sign a Confidentiality Agreement annually.
- Contractor shall complete the Printing Services “Field Engineer” repair log provided with each piece of equipment. The log shall include time of arrival, nature of problem, resolution, time that repairs were complete, and name of technician or engineer.

See Attachment F – Xerox Staff (Roles and Responsibilities) for Contractor staff contact information.

1.3.4 Meetings

The Contractor must attend the following meetings:

- Kick-off meeting or conference call within 15 calendar days of issuance of the purchase order.
- Weekly status update meetings or conference calls after initial kick-off meeting until the end of the PARE review.

1.3.5 Place of Performance

The Contractor must list the location of all facilities that will be involved in performing the Contract:

Full address of place of performance	Owner/operator of facility to be used	Percent (%) of Contract value to be performed at listed location
7461 Crowner Drive, Lansing, MI 48917	State of Michigan	100%

1.3.6 Reserved

1.3.7 Binding Commitments

The Contractor must identify its representatives with the authority to make binding commitments on the Contractor's behalf and state the extent of that authority.

LaVerne Eason, Chief Financial Officer Mid East, and Ingrid Morris, Controller Mid East, have full authority.

1.3.8 Training

The Contractor shall provide training to individual agencies, when necessary, on aspects of ordering, shipping, billing, and receiving. 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 agency training jointly with the State as needed during the period covered by the contract at no additional charge.

Xerox will provide on-site Customer Training. See Attachment E – Training Guide.

1.3.9 Security

The Contractor may be required to make frequent deliveries to State facilities. Contractor intends to ensure the security and safety of these facilities, including, but not limited to, performance of background checks on its personnel. The Contractor must be familiar with how background checks are performed. If background checks are performed, the Contractor must provide a document stating that its personnel have satisfactorily completed a background check and are suitable for State work.

The State may issue State ID badges to the Contractor's delivery personnel or accept the ID badge issued to delivery personnel by the Contractor. The State may decide to perform an additional background check under Section 2.4.9, Background Checks. If so, the Contractor must provide a list of all personnel, including name and date of birth, that will be assigned to State work.

Xerox has a pre-employment screening process. There are some variations in their referencing policies in different countries based on country legislation and accepted practices. The following are examples of Xerox's practices in the United States.

Beginning in January 2002 all newly hired Xerox employees, co-ops and interns have been required to successfully complete a background investigation and drug screening process. These are conducted after an offer of employment is issued and prior to beginning a work assignment. Xerox follows FCRA (Fair Credit Reporting Act) regulations and applicable federal and state employment laws. The standard background check consists of the following:

- **Social Security Trace.**
- **A Prothonotary Criminal Conviction Search, which includes State (as available) or County and Federal Court records searches covering the previous seven (7) years; or, as State law allows. (A credit header search, i.e. Social Security Trace, is used to identify locations of residence.)**
- **OFAC – SDN (Office of Foreign Asset Control – Standard D National), which is the Federal Terrorist Watch List search.**
- **Post-secondary education verification (if a degree is reported on the employment application or required for the position).**
- **Social Security verification, as required.**
- **National Sex Offender Registry search (effective January 1, 2007).**

A tenured employee, hired before January 2002, for placement at a customer site may have been the subject of a background investigation. These investigations may or may not correspond to the current standard or requirements. Corporate Security maintains a database of all employee background checks which dates back to 1993.

There are other inquiries that Corporate Security can perform depending either on the nature of the placement, or customer contractual requirements. The inquiry must be in compliance with applicable federal and state law.

Pre-employment drug testing is facilitated by the Xerox Staffing Administration Center. The Xerox standard drug test is an 8-panel urine test. Customer contract-required drug testing is facilitated by Xerox Medical, lead by Xerox's on staff Medical Review Officer (MRO).

Xerox requires their supplemental labor providers to conduct and successfully complete a Xerox defined background investigation on their employees through the Xerox preferred vendor prior to any placement at Xerox or at any customer account. Xerox audits all results.

Additional checks may be requested based upon the nature of the Xerox placement; or Xerox contractual agreement with the customer where an employee is to be placed at a customer account. Examples include motor vehicle records (if the person would be operating a vehicle for the job); professional licensing verification; employment references, et al.

1.4 Delivery and Acceptance

1.4.1 Time Frames

All Deliverable(s) must be delivered within 60 Days after receipt of order. The receipt of order date is governed in the same manner as notices sent under Section 2.3.6, Notices.

All deliveries will be made to 7461 Crouner Drive, Lansing, MI. Xerox resources will all be on site to project manage delivery, implementation and PARE. All equipment including hardware and software is built upon receipt of order. Delivery dates are based upon available inventory and manufacturing capabilities. Xerox acknowledges PARE criteria.

1.4.2 Reserved

1.4.3 Reserved

1.4.4 Reserved

1.4.5 Delivery Term

Unless specified otherwise below, delivery is governed by Section 2.8.2, Delivery Responsibilities.

Contractor prices all contract pricing "F.O.B. Destination, within Government Premises" with transportation charges prepaid on all orders.

1.4.6 Acceptance Process

Per Trial Order 107574, there is a Performance and Review Evaluation (PARE) period that will last for 60 calendar days following the date of equipment installation. During the 60 calendar day period, the equipment must operate according to the specifications outlined in this Statement of Work at a 95% production capability during Printing Services hours of operation.

1.4.7 Criteria - Reserved

1.5 Proposal Pricing

1.5.1 Pricing

All contract pricing is fixed for all Deliverable(s), and the associated payment milestones and payment amounts as required by Section 2.2.1, Fixed Prices for Deliverable(s). Prices are firm for the entire length of the Contract.

1.5.2 Quick Payment Terms

The Contractor is encouraged to offer quick payment terms. The number of days must not include processing time for payment to be received by the Contractor's financial institution.

No quick payment discount will be offered.

1.5.3 Price Term

Prices in **Attachment A** are firm for the term of the Contract.

1.5.4 Tax Excluded from Price

(a) Sales Tax: The State is exempt from sales tax for direct purchases. The Contractor's prices must not include sales tax. DTMB-Financial Services will furnish exemption certificates for sales tax 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, the Contractor's prices must not include the Federal Excise Tax.

1.5.5 Invoices

The Contractor's invoice must, at a minimum, include:

- (a) Date
- (b) PO #
- (c) Quantity
- (d) Deliverable
- (e) Unit Price
- (f) Shipping Cost (if any)
- (g) Total Price

See sample invoice in Attachment G – Sample Xerox Invoice.

1.6 Commodity Requirements

1.6.1 Customer Service

The Contractor is able to receive orders by any of the following methods: electronically, phone, facsimile transmission, or by written order. The Contractor must have internal controls, approved by DTMB-Financial Services, to: (a) ensure that only authorized individuals place orders; and (b) verify any orders that appear to be abnormal.

The Contractor must have: (a) one or more knowledgeable individual(s) specifically assigned to State of Michigan accounts that will respond to State agency inquiries promptly; and (b) a statewide toll-free number for customer service calls.

1.6.2 Reserved

1.6.3 Quality Assurance Program

The Xerox senior leadership team has committed the entire company to implementing a formal quality assurance program called Xerox Lean Six Sigma. This strategy provides a fundamental approach to Xerox business and the State's. It is a disciplined, data-driven method of reducing waste and variation in processes so they consistently deliver products and services at the quality levels, speeds and prices that Xerox client's value.

Xerox Lean Six Sigma deployment includes leadership training of senior executives and managers, as well as the specialized training of Master Black Belts, Black Belts and Green Belts. This training ensures the pervasive use of Lean Six Sigma, its tools, and its processes throughout Xerox's organization. Lean Six Sigma gives Xerox's management teams a common culture, language, and tool set. Using Lean Six Sigma delivers immediate and continuous improvement results using fact-based decision-making and well-defined metrics. Lean Six Sigma promotes collaboration across traditional functional and work process boundaries inside the company and with Xerox customers. In addition to supporting quality management systems, Xerox solutions also incorporate components that allow their customers to meet many common legal and regulatory requirements.

Xerox will work with to gain an understanding of specific quality, legal and regulatory requirements to ensure these requirements are met.

1.6.4 Warranty for Deliverable(s)

Total Satisfaction Guarantee*. If the State is not totally satisfied with any Xerox-brand Equipment delivered under this Agreement, Xerox will, at the State's request, replace it without charge with an identical model or, at Xerox's option, with Xerox Equipment with comparable features and capabilities. This Guarantee applies only to Xerox-brand Equipment that has been continuously maintained by Xerox under this Agreement or a Xerox maintenance agreement. For "Previously Installed" Equipment, this Guarantee will be effective for 1 year after installation. For all other Equipment, this Guarantee will be effective for 3 years after installation unless the Equipment is being financed under this Agreement for more than 3 years, in which event it will expire at the end of the initial Term of this Agreement.

***Special Production (SP) Equipment includes iGen3, iGen4 and Xerox Continuous Feed. The TSG is not applicable during the first 180 days of install. After this initial period, if the equipment does not perform up to the expectations set in the Customer Expectations Document for a period of 90 days, at the customer's request, Xerox will replace the SP equipment with like or similar equipment.**

1.6.5 Special Incentives

Printing Services has the following printers listed below available for trade-in.

**Xerox DocuPrint 135
Canon C7000VP Color Printer**

Trade incentives have been comprehended in the pricing detail.

1.6.6 Energy Efficiency

The State prefers to purchase energy-efficient products, including "Energy Star" certified products.

Many Xerox products meet or exceed the requirements of the world's most widely-recognized certifications for product environmental performance - the international ENERGY STAR and Canada's Environmental Choice EcoLogo eco labels. Xerox's eco label products provide environmental benefits without compromising performance, quality or reliability. And the energy- and paper-saving features of these machines bring value, efficiency and flexibility to your work environment.

For more information on specific Xerox ENERGY STAR and Ecolabel products, see the following:

<http://www.xerox.com/about-xerox/environment/carbon-footprint/eco-label/enus.html>

1.6.7 Environmental Requirements

The State prefers to purchase products that impact the environment less than competing products. Environmental components that may be considered include: recycled content, recyclability, and the presence of undesirable materials in the products, especially persistent, bioaccumulative, and toxic chemicals.

Xerox Green World Alliance

The Xerox Green World Alliance reuse/recycle program for imaging supplies is central to Xerox's commitment to waste-free products. This partnership with Xerox customers resulted in 3,700 metric tons being returned in 2011. Although the Green World Alliance program is one of the industry's oldest consumables returns programs, Xerox continues to evaluate customer needs and implement improvements to the program. For example, in early 2010, a bulk returns process was introduced; it enables customers to return pallet-size quantities (30 or more cartridges) with a single label, thus simplifying the customer's role while reducing transportation impact.

Managing supplies responsibly

Xerox has partnered with Close the Loop® , Inc.in the United States to ensure the raw materials in the toner cartridges you return are recovered and reused. The closed-loop process ensures no waste ever reaches the landfill and reduces the demand for raw materials by reusing toner cartridge byproducts.

Close the Loop (CtL) is a world leading recycler of toner cartridges and imaging supplies. Xerox has partnered with CtL to collect and manage toner recycling using a patented materials separation process that recovers used materials for reuse in new products.

Remanufacture

On average, approximately 60% by volume of the used cartridges returned to Xerox are remanufactured. Remanufactured cartridges, containing an average of 90% reused/recycled parts, are built and tested to the same performance specifications as new products. Remanufacturing a cartridge saves up to 80% of the energy that would be required to produce a new cartridge and keeps on average 2 lbs. of used materials from winding up in landfills. Since millions of pounds of cartridge waste are disposed of each year, remanufacturing is an important environmental solution.

Recycle

The other 40% of supplies returned to Xerox are recycled to recover all the component materials. The average returned used cartridge is composed of 40% plastic, 40% metal and smaller amounts of rubber, paper, foam, and toner. Xerox has partnered with Close the Loop to recycle all returned cartridges that do not meet Xerox's stringent standards for remanufacture. CtL uses a patented process to break down a cartridge into its component parts. After separation and cleaning, the components are returned to the market as usable raw materials, with zero waste to landfill.

Rehabilitate

CtL also reuses plastic in the manufacture of a durable construction product called eLumber®. eLumber is a timber replacement product that is particularly useful in outdoor applications such as raised flower beds, planter boxes, and fencing. Each year thousands of dollars' worth of eLumber are donated to Habitat for Humanity for use in housing for low-income families and their disaster response program.

Supplies Recycling Process

Xerox's improved Supplies Product Take Back Program in the U.S. suggests the following options for recycling used Genuine Xerox Branded supply items based on environmental impacts, technologies available and financial considerations.

- **Recycle locally when services are available and product recovery is not beneficial – reduces unnecessary resource consumption.**

1.6.8 Recycled Content and Recyclability

(a) **Deliverable(s)**. Without compromising performance or quality, the State prefers Deliverable(s) containing higher percentages of recycled materials. The Contractor must indicate an estimate of the percentage of recycled materials, if any, contained in each Deliverable:

Meets or exceeds federal standards % (total estimated percentage of recovered material)

Meets or exceeds federal standards % (estimated percentage of post-consumer material)

Meets or exceeds federal standards % (estimated percentage of post-industrial waste)

(b) **Packaging**. The State prefers packaging materials that:

- (i) are made from recycled content that meets or exceeds all federal and state recycled

- content guidelines (currently 35% post-consumer for all corrugated cardboard);
- (ii) minimize or eliminate the use of polystyrene and other difficult to recycle materials;
- (iii) minimize or eliminate the use of packaging and containers or, in the alternative, minimize or eliminate the use of non-recyclable packaging and containers;
- (iv) provide for a return program where packaging can be returned to a specific location for recycling; and
- (v) contain materials that are easily recyclable in Michigan.

Xerox has established their own Packaging Standard EH&S 710, which includes exclusion of latex, polyvinyl chloride (PVC), or polystyrene and heavy metals, or materials bleached with chlorine or chlorine derivatives. Xerox also promote waste prevention and source reduction by reducing the extent of the packaging and/or offering packaging take-back services or shipping carton return.

The Xerox Packaging standard is available at:

http://www.xerox.com/downloads/usa/en/f/FILE_EHSA_XRX_INFO_REQUIREMENTS_710.pdf

1. Recycled Packaging

Xerox encourages the use of minimal packaging and/or recycled material in packaging. When recycled material is used, Xerox encourages the highest percent of post-consumer recycled content as possible without compromising the performance of the package. Xerox follows Environmental Labels & Declarations ISO14021:1999 and Federal Trade Commission guidelines on environmental claims 2. November 2012

2. Packaging Sizes

New technology has recently become available that will automatically size the shipping box based on the parts it contains. Xerox is investing in this technology and have just implemented a system called IPACK, which will score and fold the carton down to the highest part in the box. There will no longer be fill or excess material for packaging.

3. Solid Ink

The packaging that solid ink ships in is made of recycled material (100% recycled content trays and 45% recycled content cardboard).

1.6.9 Materials Identification and Tracking

(a) **Hazardous Chemical Identification.** The Contractor must list any hazardous chemical, as defined in 40 CFR §370.2, to be delivered. Each hazardous chemical must be properly identified, including any applicable identification number, such as a National Stock Number or Special Item Number. Material Safety Data Sheets must be submitted in accordance with the federal Emergency Planning and Community Right-to-Know Act, 42 USC 11001 *et seq.*, as amended. This list must be updated whenever any other chemical to be delivered is hazardous.

Chemical (if none, enter 'None')	Identification Number
None	

(b) **Mercury Content.** Under MCL 18.1261d, the Contractor must offer mercury-free products whenever possible. The Contract must explain if it intends to provide products containing mercury and whether cost competitive alternatives exist. If cost competitive alternatives do not exist, the Contractor must disclose the amount or concentration of mercury and justification as to why this particular product is essential. All products containing mercury must be labeled as containing mercury.

Xerox Products do not contain mercury.

(c) **Brominated Flame Retardants.** The State prefers to purchase products that do not contain brominated flame retardants (BFRs) whenever possible. The Contractor must disclose whether the products contain BFRs.

Xerox Products do not contain BFRs.

(d) **Environmental Permits and Requirements.** The Contractor must disclose whether any of its facilities are in violation of any environmental laws. The Contractor must immediately notify DTMB-Financial Services of the receipt of any EPA, State, or local agency communication indicating that any of the Contractor's facilities are in violation of applicable environmental laws.

None of Xerox facilities are in violation of any environmental laws.

1.7 *Reserved*

Article 2 – Terms and Conditions

2.1 Contract Term

2.1.1 Contract Term

The Contract term begins November 1, 2013 and expires October 31, 2018. All outstanding Purchase Orders will expire upon the termination of the Contract for any of the reasons listed in Section 2.16, Termination by the State, unless otherwise agreed to in writing by DTMB-Financial Services. Absent an early termination, Purchase Orders issued, but not expired, by the end of the Contract's term will remain in effect until the next September 30.

2.1.2 Options to Renew

This Contract may be renewed for up to two (2) additional years on a month-by-month basis. Renewal must be by mutual written agreement of the parties, not less than 30 days before expiration of the Contract.

2.2 Payments and Taxes

2.2.1 Fixed Prices for Deliverable(s)

Prices are fixed for all Deliverable(s) and for all of the associated payment milestones and amounts.

2.2.2 Payment Deadlines

Undisputed invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 PA 279, MCL 17.51 *et seq.*, within 45 days after receipt.

2.2.3 Reserved

2.2.4 Reserved

2.2.5 Final Payment and Waivers

The Contractor's acceptance of final payment by the State constitutes a waiver of all claims by the Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed. For other claims, final payment by the State will not constitute a waiver by either party of any rights as to the other party's continuing obligations, nor will it constitute a waiver of any claims under this Contract, including claims for Deliverable(s) not reasonably known to be defective or substandard.

2.2.6 Electronic Payment Requirement

As required by MCL 18.1283a, the Contractor must electronically register with the State at <http://www.michigan.gov/cpexpress> to receive electronic fund transfer (EFT) payments.

2.2.7 Employment Taxes

The Contractor must collect and pay all applicable federal, state, and local employment taxes.

2.2.8 Sales and Use Taxes

The Contractor must register and remit sales and use taxes on taxable sales of tangible personal property or services delivered into the State. If the Contractor lacks sufficient presence in Michigan to be required to register and pay taxes, it must do so on a voluntary basis. The requirement to register and remit sales and use taxes extends to (a) all members of a "controlled group of corporations" as defined in § 1563(a) of the Internal Revenue Code, 26 USC 1563(a), and applicable regulations; and (b) all organizations under common control that make sales at retail for delivery into the State. Any United States Department of Treasury regulation that references "two or more trades or businesses under common control" includes

organizations such as sole proprietorships, partnerships (as defined in § 7701(a)(2) of the Internal Revenue Code, 26 USC 7701(a)(2)), trusts, estates, corporations, or limited liability companies.

2.3 Contract Administration

2.3.1 Issuing Office

This Contract is issued by DTMB-Financial Services on behalf of DTMB-Printing Services (State). **DTMB-Financial Services is the only entity authorized to modify the terms and conditions of this Contract, including the prices and specifications.** The Contract Administrator within DTMB-Financial Services for this Contract is:

Lacey Wilke
Financial Services
Department of Technology, Management and Budget
Lewis Cass Bldg, 2nd Floor
PO Box 30026, Lansing, MI 48909
WilkeL@michigan.gov
Phone: (517) 241-0023
Fax: (517) 241-4856

2.3.2 Contract Compliance Inspector

The Contract Compliance Inspector, named below, will monitor and coordinate Contract activities on a day-to-day basis. However, monitoring of this Contract implies **no authority to modify the terms and conditions of this Contract, including the prices and specifications.**

Kristen Hampton
Printing Services Manager
Department of Technology, Management and Budget
7461 Crouner Drive, Lansing, MI 48913
HamptonK@michigan.gov
Phone: (517) 322-5488
Fax: (517) 322-5968

2.3.3 Project Manager

The Project Manager, named below, will oversee the project. However, management of the project implies **no authority to modify the terms and conditions of this Contract, including the prices and specifications.**

Christopher Clark
Printing Services Lead Analyst
Department of Technology, Management and Budget
7461 Crouner Drive, Lansing, MI 48913
ClarkC5@michigan.gov
Phone: (517) 322-1704
Fax: (517) 322-6840

2.3.4 Contract Changes

(a) If the State requests or directs the Contractor to provide any Deliverable(s) that the Contractor believes are outside the scope of the Contractor's responsibilities under the Contract, the Contractor must notify the State before performing the requested activities. If the Contractor fails to notify the State, any activities performed will be considered in-scope and not entitled to additional compensation or time. If the Contractor begins work outside the scope of the 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.

(b) The State or the Contractor may propose changes to the Contract. If the Contractor or the State requests a change to the Deliverable(s) or if the State requests additional Deliverable(s), the Contractor must provide a detailed outline of all work to be done, including tasks, timeframes, listing of key personnel assigned, estimated hours for each individual per Deliverable, and a complete and detailed cost justification. If the parties agree on the proposed change, DTMB-Financial Services will prepare and issue a notice that describes the change, its effects on the Deliverable(s), and any affected components of the Contract (Contract Change Notice).

(c) No proposed change may be performed until DTMB-Financial Services issues a duly executed Contract Change Notice for the proposed change.

2.3.5 Price Changes

If allowed by Section 1.5.3, Price Term, the State and the Contractor will complete a pricing review (Review) every 365 days following the Effective Date, to allow for changes based on actual costs incurred. Requested changes may include increases or decreases in price and must be accompanied by supporting information indicating market support of proposed modifications (such as the CPI and PPI, US City Average, as published by the US Department of Labor, Bureau of Labor Statistics).

(a) The State may request a Review upon 30 days written notice that specifies what Deliverable is being reviewed. At the Review, each party may present supporting information including information created by, presented, or received from third parties.

(b) Following the presentation of supporting information, both parties will have 30 days to review the supporting information and prepare any written response.

(c) In the event the Review reveals no need for modifications of any type, pricing will remain unchanged unless mutually agreed to by the parties. However, if the Review reveals that changes may be recommended, both parties will negotiate in good faith for 30 days unless extended by mutual agreement of the parties.

(d) If the supporting information reveals a reduction in prices is necessary and Contractor agrees to reduce rates accordingly, then the State may elect to exercise the next one year option, if available.

(e) If the supporting information reveals a reduction in prices is necessary and the parties are unable to reach agreement, then the State may eliminate all remaining Contract renewal options.

(f) Any changes based on the Review must be implemented through the issuance of a Contract Change Notice.

2.3.6 Notices

All notices and other communications required or permitted under this Contract must be in writing and will be considered given when delivered personally, by fax (if provided) or by e-mail (if provided), or by registered mail, return receipt requested, addressed as follows (or any other address that is specified in writing by either party):

If to State:

State of Michigan
DTMB-Financial Services
Attention: Lacey Wilke
PO Box 30026
320 S. Walnut Street
Lansing, MI 48909
WilkeL@michigan.gov
Fax: (517) 241-4856

If to Contractor:

Kevin Minzlaff
4650 S. Hagadorn Rd.

East Lansing, MI 48823
Kevin.minzlaff@xerox.com
(517) 333-5564

Delivery by a nationally recognized overnight express courier will be treated as personal delivery.

2.3.7 Covenant of Good Faith

Each party must act reasonably and in good faith. Unless otherwise provided in this Contract, the parties will not unreasonably delay, condition or withhold their consent, decision, or approval any time it is requested or reasonably required in order for the other party to perform its responsibilities under the Contract.

2.3.8 Assignments

(a) Neither party may assign this Contract, or assign or delegate any of its duties or obligations under the Contract, to another party (whether by operation of law or otherwise), without the prior approval of the other party. The State may, however, assign this Contract to any other State agency, department, or division without the prior approval of the 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) If the Contractor intends to assign this Contract or any of the Contractor's rights or duties under the Contract, the Contractor must notify the State and provide adequate information about the assignee at least 90 days before the proposed assignment or as otherwise provided by law or court order. The State may withhold approval from proposed assignments, subcontracts, or novations if the State determines, in its sole discretion, that the transfer of responsibility would decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

(c) If the State permits an assignment of the Contractor's right to receive payments, the Contractor is not relieved of its responsibility to perform any of its contractual duties. All payments must continue to be made to one entity.

2.3.9 Equipment

The State will not provide equipment and resources unless specifically identified in the Statement(s) of Work or other Contract exhibits.

2.3.10 Reserved

2.4 Contract Management

2.4.1 Contractor Personnel Qualifications

All persons assigned by the Contractor to perform work must be employees of the Contractor or its majority-owned subsidiaries, or a State-approved Subcontractor, and must be fully qualified to perform the work assigned to them. The Contractor must include this requirement in any subcontract.

2.4.2 Contractor Key Personnel

(a) The Contractor must provide the Contract Compliance Inspector with the names of Key Personnel.

(b) The Contractor must dedicate Key Personnel to perform work for the duration of the Contract as provided in Section 1.3.3, Staff, Duties, and Responsibilities.

(c) Before assigning a new individual to any Key Personnel position, the Contractor must notify the State of the proposed assignment, introduce the individual to the appropriate State representatives, and provide the State with a resume and any other reasonably requested information. The State must approve or disapprove the assignment, reassignment, or replacement of any Key Personnel. The State may

interview the individual before making its decision. If the State disapproves an individual, the State will provide a written explanation outlining the reasons for the rejection.

(d) The Contractor may not remove any Key Personnel from their assigned roles without the prior consent of the State. The Contractor's removal of Key Personnel without the prior consent of the State constitutes Unauthorized Removal. Unauthorized Removal does not include replacing Key Personnel for reasons beyond the Contractor's reasonable control, including illness, disability, death, leave of absence, personal emergency circumstances, resignation, or termination for cause. Unauthorized Removal does not include replacing Key Personnel because of promotions or other job movements allowed by the Contractor's personnel policies or Collective Bargaining Agreement(s), as long as the Contractor assigns the proposed replacement to train the outgoing Key Personnel for 30 days. Any Unauthorized Removal will be considered a material breach of the Contract.

(e) The Contractor must notify the Contract Compliance Inspector and the Contract Administrator at least 10 Days before redeploying non-Key Personnel to other projects.

2.4.3 Removal or Reassignment of Personnel at the State's Request

The State may require the Contractor to remove or reassign personnel if the State has legitimate, good-faith reasons articulated in a notice to the Contractor. Replacement personnel 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.

2.4.4 Contractor Personnel Location

Subject to availability, the State may allow selected Contractor personnel to use State office space.

2.4.5 Contractor Identification

The Contractor's employees must be clearly identifiable while on State property by wearing a State-issued badge, and must clearly identify themselves and the company they work for whenever making contact with State personnel by telephone or other means.

2.4.6 Cooperation with Third Parties

The Contractor and its Subcontractors must cooperate with the State and its agents and other contractors, including the State's quality assurance personnel. The Contractor must provide reasonable access to its personnel, systems, and facilities related to the Contract to the extent that access will not interfere with or jeopardize the safety or operation of the systems or facilities.

2.4.7 Relationship of the Parties

The relationship between the State and Contractor is that of client and independent contractor. No agent, employee, or servant of the Contractor, or any of its subcontractors, is an employee, agent or servant of the State. The 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.

2.4.8 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.

2.4.9 Background Checks

The State may investigate the Contractor's personnel before granting 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 eligibility for working within State facilities and systems. The investigations will include a Michigan State Police background check (ICHAT) and may include a Criminal Justice Information Services (CJIS) fingerprint check. Proposed Contractor personnel may be required to complete and submit an RI-8 Fingerprint Card for the CJIS fingerprint check.

2.4.10 Compliance With State Policies

All Contractor personnel must comply with the State's security and acceptable use policies for State IT equipment and resources, available at http://www.michigan.gov/cybersecurity/0,1607,7-217-34395_34476---,00.html. Contractor personnel must agree to the State's security and acceptable use policies before the State grants access to its IT equipment and resources. The Contractor must provide these policies to prospective personnel before requesting access from the State. Contractor personnel must comply with all physical security procedures in State facilities.

2.5 Subcontracting by Contractor

2.5.1 Contractor Responsible

The Contractor is responsible for the completion of all Deliverable(s). The State will consider the Contractor to be the sole point of contact with regard to all contractual matters, including payment of any charges for Deliverable(s). The Contractor must make all payments to its Subcontractors or suppliers. Except as otherwise agreed in writing, the State is not obligated to make payments for the Deliverable(s) to any party other than the Contractor.

2.5.2 State Approval of Subcontractor

(a) The Contractor may not delegate any duties under this Contract to a Subcontractor unless DTMB-Financial Services gives prior approval to the delegation. Attached as **Exhibit A** is a list of the Subcontractors, if any, approved by the State as of the Effective Date. The State is entitled to receive copies of and review all subcontracts. The Contractor may delete or redact any proprietary information before providing it to the State.

(b) The State may require the Contractor to terminate and replace any Subcontractor the State reasonably finds unacceptable. The required replacement of a Subcontractor must be written and contain reasonable detail outlining the State's reasons. If the State exercises this right, and the Contractor cannot immediately replace the Subcontractor, the State will agree to an equitable adjustment in the schedule or other terms that may be affected by the State's required replacement. If this requirement results in a delay, the delay will not be counted against any applicable Service Level Agreement (SLA).

(c) The State will award one Contract. The winning Contractor will be held accountable for all items outlined in Section 1.2.1 and Section 1.2.4 regardless if a subContractor is required for completion of services.

(d) Any subcontractor must be an authorized manufacturer and/or authorized dealer.

2.5.3 Subcontract Requirements

Except where specifically approved by the State, Contractor must include the obligations in Sections 2.24.2, Media Releases, 2.4, Contract Management, 2.11, Confidentiality, 2.12, Records and Inspections, 2.13, Warranties, 2.14, Insurance, and 2.23, Laws, in all of its agreements with Subcontractors.

2.5.4 Competitive Selection

Contractor must select Subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of this Contract.

2.6 Reserved

2.6.1 Reserved

2.7 Performance

2.7.1 Time of Performance

(a) The Contractor must immediately notify the State upon becoming aware of any circumstances that may reasonably be expected to jeopardize the completion of any Deliverable(s) by the scheduled due

dates in the latest State-approved delivery schedule and must inform the State of the projected actual delivery date.

(b) 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 immediately notify the State and, to the extent practicable, continue to perform its obligations according to the Contract time periods. The Contractor will not be in default for a delay in performance to the extent the delay is caused by the State.

2.7.2 Reserved

2.7.3 Liquidated Damages

The State will monitor up-time on print engines only, based on Printing Services' hours of operations (Monday through Friday, 7:30 – 4:30, one 8-hour shift). Up-time is calculated quarterly based on the average of the machine over that time. In any given month, if the up-time is less than 90%, and the State must procure the printing from an alternate source, the Contractor is required to reimburse to the State for the costs incurred. There is a monthly cap of \$1,000.00 that the Contractor pays for liquidated damages in any given month.

Preventative maintenance, operator error, paper issues, and excusable failure are excluded from the up-time calculation. The Contractor is not liable for any liquidated damages for the first 60 days of the Contract.

2.7.4 Excusable Failure

Neither party will be liable for any default, damage or delay in the performance of its obligations that is caused by government regulations or requirements, power failure, electrical surges or current fluctuations, war, forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, acts or omissions of common carriers, fire, riots, civil disorders, 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 any 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, the non-performing party will be excused from any further performance of its affected obligation(s) for as long as the circumstances prevail. The non-performing party must promptly notify the other party immediately after the excusable failure occurs, and when it abates or ends. Both parties must use commercially reasonable efforts to resume performance. If the Excusable Failure results in a delay in payment, the State agrees to pay all delayed payments and to reinstitute regular monthly payments within thirty (30) days following completion of the Excusable Failure which delayed or prevented the State from making the payments when originally due.

If any of the reasons listed substantially prevent, hinder, or delay the Contractor's performance of the Deliverable(s) for more than 10 Days, and the State reasonably determines that performance is not likely to be resumed within a period of time that is satisfactory to the State, the State may: (a) procure the affected Deliverable(s) from an alternate source without liability for payment so long as the delay in performance continues; or (b) terminate any portion of the Contract so affected and equitably adjust charges payable to the Contractor to reflect those Deliverable(s) that are terminated. The State must pay for all Deliverable(s) for which Final Acceptance has been granted before the termination date.

The Contractor will not have the right to any additional payments from the State as a result of any Excusable Failure or to payments for Deliverable(s) not provided as a result of the Excusable Failure. The Contractor will not be relieved of a default or delay caused by acts or omissions of its Subcontractors

except to the extent that a Subcontractor experiences an Excusable Failure and the Contractor cannot reasonably circumvent the effect of the Subcontractor's default or delay in performance through the use of alternate sources, workarounds, plans, or other means, including disaster recovery plans.

2.8 Acceptance of Deliverable(s)

2.8.1 Quality Assurance

By tendering any Deliverable to the State, the Contractor certifies to the State that (a) it has performed reasonable quality assurance activities; (b) it has performed any reasonable testing; and (c) it has corrected all material deficiencies discovered during the quality assurance activities and testing. To the extent that testing occurs at State Locations, the State is entitled to observe and otherwise participate in the testing.

2.8.2 Delivery Responsibilities

Unless otherwise specified by the State in Section 1.4.5, Delivery Term, the following are applicable to all deliveries:

(a) The Contractor is responsible for delivering the Deliverable(s) by the applicable delivery date to the location(s) specified in the SOW or individual Purchase Order.

(b) The Contractor must ship the Deliverable(s) "F.O.B. Destination, within Government Premises."

(c) The State will examine all packages at the time of delivery. The quantity of packages delivered must be recorded and any obvious visible or suspected damage must be noted at the time of delivery using the shipper's delivery document(s) and appropriate procedures to record the damage.

2.8.3 Process for Acceptance of Deliverable(s)

The State's review period for acceptance of the Deliverable(s) is governed by the applicable Statement of Work, and if the Statement of Work does not specify the State's review period, it is by default 30 Days for a Deliverable (State Review Period). The State will notify the Contractor by the end of the State Review Period that either:

(a) the Deliverable is accepted in the form delivered by the Contractor;

(b) the Deliverable is accepted, but noted deficiencies must be corrected; or

(c) the Deliverable is rejected along with notation of any deficiencies that must be corrected before acceptance of the Deliverable.

If the State delivers to the Contractor a notice of deficiencies, the Contractor will correct the described deficiencies and within 30 Days resubmit the Deliverable(s) with an explanation that demonstrates all corrections have been made to the original Deliverable(s). The Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Deliverable from the Contractor, the State will have a reasonable additional period of time, not to exceed 30 Days, to accept the corrected Deliverable.

2.8.4 Acceptance of Deliverable(s)

(a) The State's obligation to comply with any State Review Period is conditioned on the timely delivery of the Deliverable(s). The State Review Period will begin on the first Business Day following the State's receipt of the Deliverable(s) pursuant to Section 1.4.6, Acceptance Process.

(b) The State may inspect the Deliverable to confirm that all components have been delivered without material deficiencies. If the State determines that the Deliverable or one of its components has material deficiencies, the State may reject the Deliverable without performing any further inspection or testing.

(c) The State will only approve a Deliverable after confirming that it conforms to and performs according to its specifications without material deficiency. The State may, in its discretion, conditionally approve a Deliverable that contains material deficiencies if the State elects to permit the Contractor to correct those deficiencies post-approval. The Contractor remains responsible for working diligently to correct, within a reasonable time at the Contractor's expense, all deficiencies in the Deliverable that remain outstanding at the time of State approval.

(d) If, after three opportunities the Contractor is unable to correct all deficiencies, the State may: (i) demand that the Contractor cure the failure and give the Contractor additional time to do so at the sole expense of the Contractor; (ii) keep the Contract in force and perform, either itself or through other parties, whatever the Contractor has failed to do, and recover the difference between the cost to cure the deficiency and the Contract price plus an additional amount equal to 10% of the State's cost to cure the deficiency; or (iii) fully or partially terminate the Contract for default by giving notice to the Contractor. Notwithstanding the foregoing, the State cannot use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.

(e) The State, at any time and in its reasonable discretion, may reject the Deliverable without notation of all deficiencies if the acceptance process reveals deficiencies in a sufficient quantity or of a sufficient severity that renders continuing the process unproductive or unworkable pursuant to Section 2.8.4 (a).

2.8.5 Reserved

2.8.6 Reserved

2.8.7 Final Acceptance

Unless otherwise stated in the Statement of Work, "Final Acceptance" of the equipment occurs when the equipment has been accepted by the State following the applicable State Review Period outlined in Section 1.4.6. Acceptance Process

2.9 Reserved

2.10 State Standards

2.10.1 Electronic Receipt Processing Standard

All electronic commerce applications that allow for electronic receipt of credit/debit card and electronic check (ACH) transactions must be processed via the Centralized Electronic Payment Authorization System (CEPAS).

2.11 Confidentiality

2.11.1 Confidential Information

As used in this Section, "Confidential Information" means all information of the parties, except information that is:

- (a) disclosable under the Michigan Freedom Of Information Act (FOIA);
- (b) now available or becomes available to the public without breach of this Contract;
- (c) released in writing by the disclosing party;
- (d) obtained from a third party or parties having no obligation of confidentiality with respect to such information;
- (e) publicly disclosed pursuant to federal or state law; or
- (f) independently developed by the receiving party without reference to Confidential Information of the furnishing party.

2.11.2 Protection and Destruction of Confidential Information

(a) Each party must use the same care to prevent unauthorized disclosure of Confidential Information as it uses to prevent disclosure of its own information of a similar nature, but in no event less than a reasonable degree of care. Neither the 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 interest or license 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.

(b) Each party will limit disclosure of the other party's Confidential Information to employees, agents, and Subcontractors who must have access to fulfill the purposes of this Contract. Disclosure to, and use by, a Subcontractor is permissible where: (i) use of a Subcontractor is authorized under this Contract; (ii) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the Subcontractor's scope of responsibility; and (iii) 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 to the State's Confidential Information may be required to execute a separate agreement to be bound by the confidentiality requirements of this Section.

(c) Upon termination of the Contract, Contractor must promptly return the State's Confidential Information or certify to the State that Contractor has destroyed all of the State's Confidential Information.

2.11.3 Exclusions

The provisions of Section 2.11, Confidentiality, will not apply where the receiving party is required by law to disclose the other party's 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.

2.11.4 No Obligation to Disclose

Nothing contained in Section 2.11, Confidentiality, will be construed as obligating a party to disclose any particular Confidential Information to the other party.

2.11.5 Security Breach Notification

If Contractor breaches this Section, it must (i) promptly cure any deficiencies in Contractor's internal security controls; 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 access, use, or disclosure. Contractor must notify the State of any unauthorized use or disclosure of Confidential Information, whether suspected or actual, within 10 days of becoming aware of the use or disclosure or a shorter time period as is reasonable under the circumstances. The State may require Contractor to purchase credit monitoring services for any individuals affected by the breach.

2.12 Records and Inspections

2.12.1 Inspection of Work Performed

The State's authorized representatives, at reasonable times and with 10 days prior notice, have the right to enter the Contractor's premises or any other places where work is being performed in relation to this Contract. The representatives may inspect, monitor, or evaluate the work being performed, to the extent the access will not reasonably interfere with or jeopardize the safety or operation of Contractor's systems or facilities. The Contractor must provide reasonable assistance for the State's representatives during inspections.

2.12.2 Retention of Records

(a) The Contractor must retain all financial and accounting records related to this Contract for a period of seven years after the Contractor performs any work under this Contract (Audit Period).

(b) If an audit, litigation, or other action involving the Contractor's records is initiated before the end of the Audit Period, the Contractor must retain the records 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.

2.12.3 Examination of Records

(a) The State, upon 10 days notice to the Contractor, may examine and copy any of the Contractor's records that relate to this Contract any time during the Audit Period. The State does not

have the right to review any information deemed confidential by the Contractor if access would require the information to become publicly available. This requirement also applies to the records of any parent, affiliate, or subsidiary organization of the Contractor, or any Subcontractor that performs services in connection with this Contract.

(b) In addition to the rights conferred upon the State in paragraph (a) of this section and in accordance with MCL 18.1470, DTMB or its designee may audit the Contractor to verify compliance with the Contract. The financial and accounting records associated with the Contract shall be made available to DTMB or its designee and the auditor general, upon request, during the term of the Contract and any extension of the Contract and for 3 years after the later of the expiration date or final payment under the Contract.

2.12.4 Audit Resolution

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

2.12.5 Errors

(a) If an audit reveals any financial errors in the records provided to the State, the amount in error must be reflected as a credit or debit on the next invoice and subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried forward for more than four invoices or beyond the termination of the Contract. If a balance remains after four invoices, the remaining amount will be due as a payment or refund within 45 days of the last invoice on which the balance appeared or upon termination of the Contract, whichever is earlier.

(b) In addition to other available remedies, if the difference between the State's actual payment and the correct invoice amount, as determined by an audit, is greater than 10%, the Contractor must pay all reasonable audit costs.

2.13 Warranties

2.13.1 Warranties and Representations

The Contractor represents and warrants:

(a) It is capable of fulfilling and will fulfill all of its obligations under this Contract. The performance of all obligations under this Contract must be provided in a timely, professional, and workmanlike manner and must meet the performance and operational standards required under this Contract.

(b) The Contract appendices, attachments, and exhibits identify the equipment, software, and services necessary for the Deliverable(s) to comply with the Contract's requirements.

(c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by the Contractor for 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 Deliverable(s). None of the Deliverable(s) provided by Contractor to the State, nor their use by the State, will infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party.

(d) If the Contractor procures any equipment, software, or other Deliverable(s) for the State (including equipment, software, and other Deliverable(s) manufactured, re-marketed or otherwise sold by the Contractor or under the Contractor's name), then the 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(s).

(e) The Contract signatory has the authority to enter into this Contract on behalf of the 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, will have, or will acquire, any interest that would conflict in any manner with the Contractor's performance of its duties and responsibilities to the State or otherwise create an appearance of impropriety with respect to the award or performance of this Contract. The Contractor must notify the State about the nature of any conflict or appearance of impropriety within two days of learning about it.

(h) Neither the Contractor nor any affiliates, nor any employee of either, has accepted or will accept anything of value based on an understanding that the actions of the Contractor, its affiliates, or its employees on behalf of the State would be influenced. The Contractor must not attempt to influence any State employee by the direct or indirect offer of anything of value.

(i) Neither the 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 the 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 Contractor arrived at its proposed prices independently, without communication or agreement with any other bidder for the purpose of restricting competition. The Contractor did not knowingly disclose its quoted prices for this Contract to any other bidder before the award of the Contract. The Contractor made no attempt to induce any other person or entity to submit or not submit a proposal for the purpose of restricting competition.

(k) All financial statements, reports, and other information furnished by the Contractor to the State in connection with the award of this Contract fairly and accurately represent the Contractor's business, properties, financial condition, and results of operations as of the respective dates covered by the financial statements, reports, or other information. There has been no material adverse change in the Contractor's business, properties, financial condition, or results of operation.

(l) All written information furnished to the State by or for the Contractor in connection with the award of this Contract is true, accurate, and complete, and contains no false statement of material fact nor omits any material fact that would make the submitted information misleading.

(m) It will immediately notify DTMB-Financial Services if any of the certifications, representations, or disclosures made in the Contractor's original bid response change after the Contract is awarded.

2.13.2 Warranty of Merchantability

The Deliverable(s) provided by the Contractor must be merchantable.

2.13.3 Warranty of Fitness for a Particular Purpose

The Deliverable(s) provided by the Contractor must be fit for the purpose(s) identified in this Contract.

2.13.4 Warranty of Title

The Contractor must convey good title to any Deliverable(s) provided to the State. All Deliverable(s) provided by the Contractor must be delivered free from any security interest, lien, or encumbrance of which the State, at the time of contracting, has no knowledge. Deliverable(s) provided by the Contractor must be delivered free of any rightful claim of infringement by any third person. Title and Risk of Loss or damage to the Deliverable(s) passes to the State after the 60 calendar days PARE period has expired.

2.13.5 Equipment Warranty

(a) The Contractor represents and warrants that the equipment/system(s) are in good operating condition and perform to the requirements contained in this Contract at the time of Final Acceptance.

(b) The Contractor is responsible for maintaining equipment/system(s), and 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 is responsible for the cost of all parts, labor and supplies.

(c) The Contractor must provide a toll-free telephone number for the State to report equipment failures and problems.

(d) After 180 calendar days from Final Acceptance, if the performance of the Equipment is not consistent with the requirements identified in Article 1, for a minimum of 90 calendar days, the Contractor, at the request of the State, must replace the Equipment without charge with an identical device, or at Contractor and State's mutual agreement, with Contractor-branded Equipment with comparable features and capabilities and comparable usage (the "Total Equipment Guarantee"). The Total Equipment Guarantee will expire 3 years after the Installation Date and only applies to Equipment that has been (i) continuously maintained by Contractor under a Contractor maintenance agreement; and (ii) operated at all times in accordance with Contractor's Expectation's Document; and (iii) does not apply to Equipment damaged or destroyed due to an Act of God.

(e) Within 5 Days of notification, the Contractor must adjust or repair all equipment that is defective or not performing in compliance with the Contract. The Contractor must assume all costs for replacing parts or units and their installation including transportation and delivery fees, if any.

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

(g) The Contractor is the sole point of contact for warranty service.

(h) All warranty work must be performed at State locations.

2.13.6 New Deliverable(s)

The Contractor must provide new Deliverable(s) where the Contractor knows or has the ability to select between new or like-new Unless specified in Article 1, Statement of Work, equipment that is assembled from new or serviceable used parts that are like new in performance is acceptable only where the Contractor does not have knowledge or the ability to select one or the other.

2.13.7 Prohibited Products

Shipping of salvage, distressed, outdated, or discontinued goods to any State agency will be considered a material default by the Contractor. The brand and product number offered for all items will remain consistent for the term of the Contract, unless DTMB-Financial Services has approved a change order under Section 2.3.4, Contract Changes.

2.13.8 Consequences For Breach

In addition to any remedies available in law, if the Contractor breaches any of the warranties contained in Section 2.13, Warranties, the breach may be considered a material default.

2.14 Insurance

2.14.1 Liability Insurance

For the purpose of this Section, "State" includes its departments, divisions, agencies, offices, commissions, officers, employees, and agents.

(a) The Contractor must provide proof that it has obtained the minimum levels of insurance coverage indicated or required by law, whichever is greater. The insurance must protect the State from claims that may arise out of, or result from, or are alleged to arise out of, or result from, the Contractor's or a Subcontractor's performance, including any person directly or indirectly employed by the Contractor or a Subcontractor, or any person for whose acts the Contractor or a Subcontractor may be liable.

(b) The Contractor waives all rights against the State for the recovery of damages that are covered by the insurance policies the Contractor is required to maintain under this Section. The Contractor's failure to obtain and maintain the required insurance will not limit this waiver.

(c) All insurance coverage provided relative to this Contract is primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State.

(d) The State, in its sole discretion, may approve the use of a fully-funded self-insurance program in place of any specified insurance identified in this Section.

(e) Unless the State approves otherwise, any insurer must have an A.M. Best rating of "A" or better and a financial size of VII or better, or if those ratings are not available, a comparable rating from

an insurance rating agency approved by the State. All policies of insurance must be issued by companies that have been approved to do business in the State.

(f) Where specific coverage limits are listed in this Section, they represent the minimum acceptable limits. If the Contractor's policy contains higher limits, the State is entitled to coverage to the extent of the higher limits.

(g) The Contractor must maintain all required insurance coverage throughout the term of this Contract and any extensions. However, in the case of claims-made Commercial General Liability policies, the Contractor must secure tail coverage for at least three (3) years following the termination of this Contract.

(h) The Contractor must provide, within five (5) business days, written notice to DTMB-Financial Services if any policy required under this section is cancelled. The notice must include the applicable Contract or Purchase Order number.

(i) The minimum limits of coverage specified are not intended, and may not be construed, to limit any liability or indemnity of the Contractor to any indemnified party or other persons.

(j) The Contractor is responsible for the payment of all deductibles.

(k) If the Contractor fails to pay any premium for a required insurance policy, or if any insurer cancels or significantly reduces any required insurance without the State's approval, the State may, after giving the Contractor at least 30 days' 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 require the Contractor to pay that cost upon demand.

(l) 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 Michigan Attorney General.

(m) The Contractor is required to pay for and provide the type and amount of insurance checked below:

(i) Commercial General Liability

Minimal Limits:

\$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; and
\$1,000,000 Each Occurrence Limit.

Deductible maximum:

\$50,000 Each Occurrence

Additional Requirements:

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 the insurance policy contains a waiver of subrogation by the insurance company.

(ii) Umbrella or Excess Liability

Minimal Limits:

\$10,000,000 General Aggregate

Additional Requirements:

Umbrella or Excess Liability limits must at least apply to the insurance required in (i), Commercial General Liability. The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents as additional insureds on the certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

(iii) **Motor Vehicle**

Minimal Limits:

If a motor vehicle is used in relation to the Contractor's performance, the Contractor must have vehicle liability insurance on the motor vehicle for bodily injury and property damage as required by law.

(iv) **Workers' Compensation**

Minimal Limits:

The Contractor must provide Workers' Compensation coverage according to applicable laws governing work activities in the state of the Contractor's domicile. If the applicable coverage is provided by a self-insurer, the Contractor must provide proof of an approved self-insured authority by the jurisdiction of domicile.

For employees working outside of the state of the Contractor's domicile, the Contractor must provide certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

Additional Requirements:

The Contractor must provide the applicable certificates of insurance and a list of states where the coverage is applicable. Contractor must provide proof that the Workers' Compensation insurance policies contain a waiver of subrogation by the insurance company, except where such a provision is prohibited or limited by the laws of the jurisdiction in which the work is to be performed.

(v) **Employers Liability**

Minimal Limits:

\$100,000 Each Accident;
\$100,000 Each Employee by Disease
\$500,000 Aggregate Disease

Additional Requirements:

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents as additional insureds on the certificate.

2.14.2 Subcontractor Insurance Coverage

Except where the State has approved a subcontract with other insurance provisions, the Contractor must require any Subcontractor to purchase and maintain the insurance coverage required in Section 2.14.1, Liability Insurance. Alternatively, the Contractor may include a Subcontractor under the Contractor's insurance on the coverage required in that Section. The failure of a Subcontractor to comply with insurance requirements does not limit the Contractor's liability or responsibility.

2.14.3 Certificates of Insurance

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 of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents are listed as additional insureds as required. The Contractor must provide DTMB-Financial Services with all applicable certificates of insurance verifying insurance coverage or providing, if approved, satisfactory evidence of self-insurance as required in Section 2.14.1, Liability Insurance. Each certificate must be on the standard "Accord" form or equivalent and **MUST IDENTIFY THE APPLICABLE CONTRACT OR PURCHASE ORDER NUMBER.**

2.15 Indemnification

2.15.1 General Indemnification

The Contractor must indemnify, defend, and hold the State harmless 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, any of its subcontractors, or by anyone else for whose acts any of them may be liable.

2.15.2 Reserved

2.15.3 Employee Indemnification

In any claims against the State, its departments, agencies, commissions, officers, employees, and agents, by any employee of the Contractor or any of its subcontractors, the indemnification obligation will 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.

2.15.4 Patent/Copyright Infringement Indemnification

(a) The Contractor must indemnify and hold the State harmless 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) resulting from any action threatened or brought against the State to the extent that the action is based on a claim that any piece of equipment, software, commodity, or service supplied by the Contractor or its subcontractors, or its operation, use, or reproduction, infringes any United States patent, copyright, trademark or trade secret of any person or entity.

(b) If, in the State's or the Contractor's opinion, any piece of equipment, software, commodity or service supplied by the Contractor or its subcontractors, or its operation, use, or reproduction, is likely to become the subject of an infringement claim, the Contractor must, at its expense: (i) procure for the State the right to continue using the equipment, software, commodity or service or, if this 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 this 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.

(c) 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 infringement claim based upon: (i) equipment, software, commodity or service developed based on written specifications of the State; (ii) use of the equipment, software, or commodity in a configuration other than implemented or approved by the Contractor, including any modification of the same by the State; or (iii) the combination, operation, or use of the equipment, software, or commodity with equipment, software, or commodities not supplied by the Contractor under this Contract.

2.15.5 Continuing Obligation

The Contractor's duty to indemnify under Section 2.15, Indemnification, 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.

2.15.6 Indemnification Procedures

These procedures apply to all indemnity obligations:

(a) After the State receives notice of an action or proceeding involving a claim for which it will seek indemnification, the State must promptly notify the Contractor of the claim and take, or assist the Contractor in taking, any reasonable action to avoid a default judgment against the Contractor. Failure to

notify the Contractor does not relieve the Contractor of its indemnification obligations except to the extent that the Contractor can prove damages attributable to the notification failure. Within 10 days following receipt of notice from the State relating to any claim, the Contractor must notify the State whether the Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying the Contractor of a claim and before the State receives the 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, including attorney fees, incurred by the State in defending against the claim during that period.

(b) If the 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 handling 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 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 prior 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. The State may retain control of the defense and settlement of a claim by notifying the Contractor within 10 days after the State's receipt of the 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 the Contractor does not deliver a Notice of Election relating to any claim of which it is notified, the State may defend the claim in a manner it deems appropriate, at the cost and expense of the Contractor. If it is determined that the claim was one against which the Contractor was required to indemnify the State, upon request of the State, the Contractor must promptly reimburse the State for all reasonable costs and expenses.

2.15.7 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 attorneys' fees awarded by a court in addition to damages after litigation based on this Contract.

2.16 Termination by the State

2.16.1 Notice and Right to Cure

If the Contractor breaches the Contract, and the State, in its sole discretion, determines that the breach is curable, the State will provide the Contractor notice of the breach and a period of at least 30 days to cure the breach. The State does not need to provide notice or an opportunity to cure for successive or repeated breaches or if the State determines, in its sole discretion, that a 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.

2.16.2 Termination for Cause

(a) The State may fully or partially terminate this Contract for cause by notifying the Contractor in writing with a minimum of thirty (30) days to cure its performance before the State exercises its rights under this provision, if the Contractor: (i) breaches any of its material duties or obligations (including a

Chronic Failure to meet any SLA); or (ii) fails to cure a breach within the time period specified in a notice of breach provided by the State.

(b) The Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees and court costs, and any additional costs the State incurs to procure the Deliverable(s) 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 Deliverable(s).

(c) If the State partially terminates this Contract for cause, any charges payable to the Contractor will be equitably adjusted to reflect those Deliverable(s) that are terminated. The State must pay for all Deliverable(s) for which Final Acceptance has been granted before the termination date. Any services or 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 and it is determined, for any reason, that the Contractor was not in breach of the Contract, the termination will be deemed to have been a termination under Section 2.16.3, Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in that Section.

2.16.3 Termination for Convenience

The State may fully or partially terminate this Contract for its convenience if the State determines that a termination is in the State's best interest. Reasons for the termination are within the sole discretion of the State and may include: (a) the State no longer needs the Deliverable(s) specified in this Contract; (b) a relocation of office, program changes, or changes in laws, rules, or regulations make the Deliverable(s) no longer practical or feasible for the State; (c) unacceptable prices for Contract changes; 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 the maintenance agreement without penalty for its convenience by giving Contractor written notice at least 30 days before the date of termination. However, this provision only pertains to maintenance service and does not pertain to the return of any equipment procured under this Agreement. If the State chooses to terminate this Contract in part, any charges payable to the Contractor must be equitably adjusted to reflect those Deliverable(s) that are terminated.

2.16.4 Termination for Non-Appropriation

(a) If this Contract extends for more than one fiscal year, continuation of this Contract is subject to the appropriation or availability of funds. If sufficient funds to enable the State to continue payment are not appropriated or otherwise made available, the State must fully or partially terminate this Contract at the end of the last period for which funds have been appropriated or otherwise made available. The State must give the Contractor notice at least 30 days before the date of termination, unless the State receives notice of the non-appropriation or unavailability less than 30 days before the end of the last period for which funds have been appropriated or otherwise made available.

(b) If funding for this Contract is reduced by law, or funds to pay the Contractor for the Deliverable(s) are not appropriated or are otherwise unavailable, the State may, upon 30 days notice to the Contractor, change the Deliverable(s) in the manner and for the periods of time the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any Deliverable(s) not provided because of the reduction.

(c) If the State fully or partially terminates this Contract for non-appropriation, the State must pay the Contractor for all work-in-progress performed through the effective date of the termination to the extent funds are available.

2.16.5 Termination for Criminal Conviction

The State may terminate this Contract immediately and without further liability or penalty if the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor is convicted of a criminal offense related to a State, public, or private Contract or subcontract.

2.16.6 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 all work-in-progress performed through the effective date of the termination. The Contract may be fully or partially terminated and will be effective as of the date stated in the notice.

2.16.7 Rights and Obligations upon Termination

- (a) If the State terminates this Contract for any reason, the Contractor must:
- (i) stop all work as specified in the notice of termination;
 - (ii) take any action that may be necessary, or that the State may direct, to preserve and protect Deliverable(s) or other State property in the Contractor's possession;
 - (iii) return all materials and property provided directly or indirectly to the Contractor by any entity, agent, or employee of the State;
 - (iv) transfer title in and deliver to the State, unless otherwise directed, all Deliverable(s) intended to be transferred to the State at the termination of the Contract (which will be provided to the State on an "As-Is" basis except to the extent the State compensated the Contractor for warranty services related to the materials);
 - (v) to the maximum practical extent, take any action to mitigate and limit potential damages, including terminating or limiting subcontracts and outstanding orders for materials and supplies; and
 - (vi) take all appropriate action to secure and maintain State information confidentially in accordance with Section 2.11, Confidentiality.

(b) If the State terminates this Contract under Section 2.16.3, Termination for Convenience, the State must pay the Contractor all charges due for Deliverable(s) provided before the date of termination and, if applicable, as a separate item of payment, for work-in-progress, based on a percentage of completion determined by the State. All completed or partially completed Deliverable(s) prepared by the Contractor, at the option of the State, become the State's property, and the Contractor is entitled to receive equitable compensation for those Deliverable(s). Regardless of the basis for the termination, the State is not obligated to pay or otherwise compensate the Contractor for any lost expected future profits, costs, or expenses incurred with respect to Deliverable(s) not actually completed.

(c) If the State terminates this Contract for any reason, the State may assume, at its option, any subcontracts and agreements for Deliverable(s), and may pursue completion of the Deliverable(s) by replacement contract or as the State deems expedient.

2.16.8 Reservation of Rights

In the event of any full or partial termination of this Contract, each party reserves all rights or remedies otherwise available to the party.

2.16.9 Contractor Transition Responsibilities

If this Contract terminates under Section 2.16, Termination by the State, the Contractor must make reasonable efforts to transition the performance of the work, including all applicable equipment, services, software, and leases, to the State or a third party designated by the State within a reasonable period of time that does not exceed 30 days from the date of termination. The Contractor must provide any required reports and documentation.

2.16.10 Transition Payments

If the transition responsibilities outlined in Section 2.16.9, Contractor Transition Responsibilities, arise based on a termination of this Contract, reimbursement will be governed by the provisions of Section 2.16, Termination by the State. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e., costs incurred after the expiration within the time period in Section 2.16.9 that result from transition operations) at the Contract rates. The Contractor must prepare an accurate accounting from which the State and the Contractor may reconcile all outstanding accounts.

2.17 Termination by the Contractor

2.17.1 Termination

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 notice of the breach and a time period (not less than 30 days) to cure the breach.

The Contractor may terminate this Contract if the State: (a) materially breaches its obligation to pay the Contractor undisputed amounts due; (b) breaches its other obligations to an extent that makes it impossible or commercially impractical for the Contractor to complete the Deliverable(s); or (c) does not cure the breach within the time period specified in a notice of breach. The Contractor must discharge its obligations under Section 2.20, Dispute Resolution, before it terminates the Contract.

2.18 Stop Work

2.18.1 Stop Work Order

The State may, by issuing a Stop Work Order, require that the Contractor fully or partially stop work for a period of up to 60 calendar days, and for any further period to which the parties agree. Upon receipt of the Stop Work Order, the Contractor must immediately take all reasonable steps to minimize incurring costs.

2.18.2 Termination of Stop Work Order

The Contractor must resume work if the State terminates a Stop Work Order or if it expires. The State agrees to resume regular monthly payments following the suspension period.

2.18.3 Allowance of the Contractor's Costs

If the State fully or partially terminates the work covered by the Stop Work Order, for reasons other than material breach, the termination is a termination for convenience under Section 2.16, Termination by the State, and the State will pay reasonable costs resulting from the Stop Work Order in arriving at the termination settlement. The State is not liable to the Contractor for lost profits because of a Stop Work Order issued under Section 2.18, Stop Work.

2.19 Reserved

2.20 Dispute Resolution

2.20.1 General

(a) The Contractor must submit any claim related to this Contract to the State under Section 2.3.6, Notices, together with all supporting documentation for the claim.

(b) The representatives of the Contractor and the State must meet as often as the parties reasonably deem necessary to gather and furnish to each other all information related to the claim.

(c) During the course of negotiations, each party will honor all reasonable requests made by the other for non-privileged information reasonably related to the claim.

2.20.2 Informal Dispute Resolution

(a) If, after a reasonable time following submission of a claim under Section 2.20.1, General, the parties are unable to resolve the claim, the parties must meet with the Director of DTMB-Procurement, or his or her designee, for the purpose of attempting to resolve the dispute without the need for formal legal proceedings.

(b) Within 60 calendar days of the meeting with the Director of DTMB-Procurement, or such other time as agreed to by the parties, the Director of DTMB-Procurement will issue a written recommendation regarding settlement of the claim. The Contractor must notify DTMB-Procurement within 21 days after the recommendation is issued whether the Contractor accepts or rejects the

recommendation. Acceptance by the Contractor constitutes the final resolution of the claim addressed in the recommendation, and the Contractor may not assert that claim in any future litigation or other proceeding between the parties.

(c) The recommendation of the Director of DTMB-Procurement is not admissible in any future litigation or other proceeding between the parties. The conduct and statements made during the course of negotiations or dispute resolution under Section 2.20, Dispute Resolution, are subject to Michigan Rule of Evidence 408 and are not admissible in any future litigation or other proceeding between the parties.

(d) This section will not be construed to prohibit either party from instituting formal proceedings to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or under Section 2.20.3, Injunctive Relief.

(e) DTMB-Procurement will not mediate disputes between the Contractor and any other entity, except State agencies, concerning responsibility for performance of work.

2.20.3 Injunctive Relief

A claim between the State and the Contractor is not subject to the provisions of Section 2.20.2, Informal Dispute Resolution, where a party makes a good faith determination that a breach of the Contract by the other party will result in damages so immediate, so large or severe, and so incapable of adequate redress that a temporary restraining order or other injunctive relief is the only adequate remedy.

2.20.4 Continued Performance

Each party will continue performing its obligations under the Contract while a claim is being resolved, except to the extent the claim precludes performance and without limiting either party's right to terminate the Contract as provided in Section 2.16, Termination by the State or Section 2.17, Termination by the Contractor. A claim involving payment does not preclude performance.

2.21 Disclosure Responsibilities

2.21.1 Disclosure of Litigation

(a) Within 30 days after receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "Proceeding") that arises during the term of this Contract, the Contractor must disclose the following to the Contract Administrator:

(i) A criminal Proceeding involving the Contractor (or any Subcontractor) or any of its officers or directors;

(ii) A parole or probation Proceeding;

(iii) A Proceeding involving the Contractor (or any Subcontractor) or any of its officers or directors under the Sarbanes-Oxley Act; and

(iv) A civil Proceeding to which the Contractor (or, if the Contractor is aware, any Subcontractor) is a party, and which involves (A) a claim that might reasonably be expected to adversely affect the viability or financial stability of the Contractor or any Subcontractor; or (B) a claim or written allegation of fraud against the Contractor (or, if the Contractor is aware, any Subcontractor) by a governmental or public entity arising out of the Contractor's business dealings with governmental or public entities.

(b) Information provided to the State from the Contractor's publicly filed documents will satisfy the requirements of this Section.

(c) If any Proceeding that is disclosed to the State 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 the Contractor (or a Subcontractor) to continue to perform this Contract; or (ii) whether the Contractor (or a Subcontractor) is engaged in conduct that is similar in nature to the conduct alleged in the Proceeding and would constitute a breach of this Contract or a violation of federal or state law, regulations, or public policy, then the Contractor must provide the State all requested reasonable assurances that the Contractor and its Subcontractors will be able to continue to perform this Contract.

2.21.2 Other Disclosures

The Contractor must notify DTMB-Financial Services within 30 days of:

- (a) becoming aware that a change in the Contractor's ownership or officers has occurred or is certain to occur; or
- (b) any changes to company affiliations.

2.21.3 Call Center Disclosure

The Contractor and 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.

2.22 Reserved

2.22.1 Reserved

2.23 Laws

2.23.1 Governing Law

This Contract is 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 another jurisdiction to the extent not inconsistent with or preempted by federal law.

2.23.2 Compliance with Laws

The Contractor must comply with all applicable federal, state, and local laws and ordinances in providing the Deliverable(s).

2.23.3 Jurisdiction

Any dispute arising from the Contract must be resolved in the State of Michigan. With respect to any claim between the parties, the Contractor consents to venue in Ingham County, Michigan, and irrevocably waives any objections to this venue that it may have, such as lack of personal jurisdiction or *forum non conveniens*. The Contractor must appoint agents in the State of Michigan to receive service of process.

2.23.4 Nondiscrimination

In the performance of the Contract, the 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, or physical or mental disability. The Contractor further agrees that every subcontract entered into for the performance of this Contract will contain a provision requiring non-discrimination in employment, as specified here, binding upon each Subcontractor. This covenant is required under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and any breach of this provision may be regarded as a material breach of the Contract.

2.23.5 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 MCL 423.322. 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 MCL 423.324, the State may void any Contract if, after award of the Contract, the name of the Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of the Contractor appears in the register.

2.23.6 Environmental Provision

For the purposes of this section, "Hazardous Materials" include 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:

(a) The Contractor must use, handle, store, dispose of, process, transport, and transfer any Hazardous Material according to all federal, State, and local laws. The State must immediately advise the Contractor of the presence of any known Hazardous Material at the work site. If the Contractor encounters material reasonably believed to be Hazardous Material that may present a substantial danger, the Contractor must: (i) immediately stop all affected work; (ii) notify the State in accordance with Section 2.3.6, Notices; (iii) notify any entities required by law; and (iv) take appropriate health and safety precautions.

(b) The State may issue a Stop Work Order if the material is a Hazardous Material that may present a substantial danger and the Hazardous Material was not brought to the site by the Contractor, or does not wholly or partially result 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 may remove the Hazardous Material, render it harmless, or terminate the affected work for the State's convenience.

(c) If the Hazardous Material was brought to the site by the Contractor, or wholly or partially results 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.

2.23.7 Freedom of Information

This Contract and all information submitted to the State by the Contractor is subject to the Michigan Freedom of Information Act (FOIA), 1976 PA 442, MCL 15.231, *et seq.*

2.23.8 Reserved

2.23.9 Reserved

2.23.10 Abusive Labor Practices

The Contractor may not furnish any Deliverable(s) that were produced fully or partially by forced labor, convict labor, forced or indentured child labor, or indentured servitude.

"Forced or indentured child labor" means all work or service (1) 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 (2) performed by any person under the age of 18 under a contract the enforcement of which can be accomplished by process or penalties.

2.24 General Provisions

2.24.1 Bankruptcy and Insolvency

The State may, without prejudice to any other right or remedy, fully or partially terminate this Contract and, at its option, take possession of the work-in-progress and finish the work-in-progress by whatever method the State deems appropriate if:

- (a) the Contractor files for bankruptcy protection;
- (b) an involuntary petition is filed against the Contractor and not dismissed within 30 days;
- (c) the Contractor becomes insolvent or 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 provide the Deliverable(s) under this Contract.

2.24.2 Media Releases

News releases (including promotional literature and commercial advertisements) pertaining to the RFP and this Contract or the project to which it relates will not be made without prior approval by the State, and only in accordance with the instructions from the State.

2.24.3 Contract Distribution

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

2.24.4 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 Contract.

2.24.5 Website Incorporation

The State is not bound by any content on the Contractor's website unless incorporated directly into this Contract.

2.24.6 Reserved

2.24.7 Antitrust Assignment

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

2.24.8 Disaster Recovery

Contractor and the State recognize that the State provides essential services in times of natural or man-made disasters. Therefore, except as mandated by federal disaster response requirements, Contractor personnel dedicated to providing Deliverable(s) under this Contract will provide the State with priority.

2.24.9 Legal Effect

The State is not liable for costs incurred by the Contractor or for payment(s) under this Contract until the Contractor is authorized to perform under Section 1.2.4, Ordering.

2.24.10 Entire Agreement

This Contract constitutes the entire agreement between the parties and supersedes all prior agreements, whether written or oral, with respect to the subject matter. All attachments referenced in this Contract are incorporated in their entirety and form part of this Contract.

2.24.11 Order of Precedence

Any inconsistency in the terms associated with this Contract will be resolved by giving precedence to the terms in the following descending order:

- (a) Mandatory sections (2.1.1, Contract Term, 2.24.9, Legal Effect, 2.2.2, Payment Deadlines, 2.14, Insurance, 2.15, Indemnification, 2.16, Termination, 2.23, Governing Law, 2.15.7, Limitation of Liability);
 - (b) The most recent Statement of Work related to this Contract;
 - (c) All sections from Article 2 - Terms and Conditions, not listed in subsection (a);
 - (d) Any attachment or exhibit to the Contract documents;
 - (e) Any Purchase Order, Direct Voucher, or Procurement Card Order issued under the Contract;
- and
- (f) Bidder Responses contained in any of the RFP documents.

2.24.12 Headings

The captions and section headings used in this Contract are for convenience only and may not be used to interpret the scope and intent of this Contract.

2.24.13 Form, Function and Utility

If this Contract is for statewide use, but the Deliverable(s) does not the meet the form, function, and utility required by a State agency, that agency may, subject to State purchasing policies, procure the Deliverable(s) from another source.

2.24.14 Reformation and Severability

Each provision of the Contract is severable from all other provisions of the Contract. If any provision of this Contract is held unenforceable, then the Contract will be modified to reflect the parties' original intent. All remaining provisions of the Contract remain in full force and effect.

2.24.15 Approval

Unless otherwise provided in this Contract, approval(s) must be in writing and must not be unreasonably withheld or delayed.

2.24.16 No Waiver of Default

Failure by a party to insist upon strict adherence to any term of the Contract does not waive that party's right to later insist upon strict adherence to that term, or any other term, of the Contract.

2.24.17 Survival

The provisions of this Contract that impose continuing obligations, including warranties, indemnification, and confidentiality, will survive the expiration or termination of this Contract.

Attachment A, Price Proposal
Price Matrix

REQUIRED	EQUIPMENT PURCHASE
Make/Model	Price
(1) Xerox iGen 150 Digital Press (1) EFI Fiery Controller (1) Bourg Inline Booklet Maker BMEx (Optional Crease/Bleed/Trim module included \$40,160 and \$488/mo for service) (1) 6 Month Warranty (FREE) on iGen 150 and EFI Fiery Controller, no cost for maintenance. Pay for supplies only.	\$740,122 (Digital Press - \$549,922) (Controller - \$72,200) (Booklet Maker - \$118,000)

REQUIRED	Maintenance 5 Year Lock with On-going Option years INCLUDING Supplies					
You may offer one or more of the following maintenance options. All are INCLUSIVE of supplies:						
Term	Maintenance Opt 1		Maintenance Opt 2		Maintenance Opt 3	
	Monthly Fixed Price, all-inclusive		Monthly Fixed/No image Allowance	Per image	Monthly Fixed/image Allowance	
					Fixed Price	# Images included
REQUIRED: 5 YEARS - Locked Rate	Not Available		\$3,074.02 (\$2,650 unfixed with 4% annual cap)	* See below	Not Available	
	Option Years: The State suggests years 6 & 7 be offered at a rate of increase over the previous year's price, not to exceed the LESSER of 3% or CPI. Do you agree to provide on-going maintenance in this manner?				Select YES or NO:	Yes
	If NO above, please offer an alternative maintenance plan.					

	<p>Pricing should be based on a 500,000 monthly impression allowance. No allowance included. All prints are billable. This allows the state to only pay for what is used each month.</p>
	<p><u>iGen 150 Meters Defined:</u></p> <ul style="list-style-type: none"> • Meter 1 = All Color impressions < 13.61" • Meter 2 = All Black & White impressions • Meter 3 = XL Color impressions over > 13.61" up to 20.5" • Meter 4 = XXL Color impressions over > 20.5" (clicks once at sizes >20.5" – 22.5", clicks once for sizes 22.5" – 24.5", clicks once for sizes 24.5" – 26") Three XXL clicks for a 26" sheet. <p>*Fixed 5 Year Meter Costs (Mos 7-60): Meter 1 = \$.0452, Meter 2 = \$.0057, Meter 3 = \$.0012, Meter 4 = \$.0068 -6 Mo. Warranty Meters (Mos 1-6): Meter 1= \$.029, Meter 2= \$.0035, Meter 3=\$.0012, Meter 4= \$.0068</p> <p>*Unfixed 1 Year Meter Costs (Mos 7-60): Meter 1=\$.039, Meter 2=\$.0049, Meter 3= \$.001, Meter 4= \$.0059 -6 Mo. Warranty Meters (Mos 1-6): Meter 1=\$.025, Meter 2= \$.003, Meter 3= \$.001, Meter 4= \$.0059.</p> <p>Staples not included.</p> <p>Bourg Booklet Maker BMEx monthly service is \$1,443 with crease/bleed/trim module (\$955 + \$488). Covers all parts and labor. Booklet Maker maintenance is for a five year fixed contract.</p>

Attachment B, Product Brochures



iGen150
Brochure.pdf

Xerox iGen 150 Press Overview



CPBourg_BMEx
brochure .pdf

C.P Bourg BMEx Booklet Maker

Attachment C, Customer Expectations Documents (CEDs)



CED-Press_iGen150_
08-03-12_US-Canada

Xerox iGen 150 Customer Expectations

Attachment D, Implementation Plan



State of Michigan
iGen150 Implementat

Xerox iGen 150 Implementation Plan

Attachment E, Training Guide



iGen150 2 week
Training Checklist - E)

Xerox iGen 150 Training Guide

Attachment F, Xerox Staff (Roles and Responsibilities)



Xerox Team Roles &
Resps.pdf

Xerox Team Roles and Responsibilities

Attachment G, Sample Xerox Invoice



Invoice Example.pdf

Xerox Sample Invoice