

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. 071B4300082
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Retired Engineering Technical Assistance Foundation (RETAF) 32401 W. 8 Mile Rd Livonia, MI 48152	Richard W. Savage	dicks@retaf.org
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(248) 478-8030	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DEQ	David Herb	(517) 284-6863	Herbd@michigan.gov
BUYER	DTMB	Pamela Platte	(517) 284-7022	platttep@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: RETAP Services - DEQ			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
April 18, 2014	April 17, 2017	2, one year	April 17, 2017
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
Net 45	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input 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:		
\$85,621.68		\$1,692,804.36		

Effective November 17, 2014, pricing on this Contract is hereby UPDATED, per Attachment A Revised Price Proposal and INCREASED by \$85,621.68.

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



Attachment A Revised Price Proposal - New Contract Totals w Additional FY15 P2 Assessments

All costs for each category listed are included. Costs are based on the completion of on-site P2 assessments (23,400 hours, 260 facilities), 5,400 TA Hours for on-site energy efficiency assessments (30 facilities), energy audits (15 buildings), on-site source reduction planning assistance (15 facilities), 45 miscellaneous TAH requests, and a total of 150 Technical Assistance Hours to complete brief information exchanges to provide basic P2 technical assistance. 28,950 Technical Assistance Hours total for the Contract period.

A. Technical Services
On-site P2 Assessments, Technical Assistance Hours (TAH)
and TAH Information Exchanges

1	Total Staffing Costs		\$	106,266.91
2	Total Subcontractor Costs			656,410.93
3	Total Direct Costs			86,086.98
4	Overhead Calculation:	Item 1	\$	106,266.91
		Item 2		656,410.93
			\$	762,677.84 (@15%)
	Subtotal A		\$	963,166.50

B. Technical Services: Technology Transfer

1	Total Staffing Costs		\$	30,600.00
2	Total Subcontractor Costs			4,400.00
3	Total Direct Costs			3,048.78
4	Overhead Calculation:	Item 1	\$	30,600.00
		Item 2		4,400.00
			\$	35,000.00 (@15%)
	Subtotal B		\$	43,298.78

C. Technical Services: Recruiting

1	Total Staffing Costs		\$	12,600.00
2	Total Subcontractor Costs			4,915.00
3	Total Direct Costs			3,466.53
4	Overhead Calculation:	Item 1	\$	12,600.00
		Item 2		4,915.00



Vendor Price Sheets	Retired Engineer Technical Assistance Program (RETAP) Technical Assistance (TA) - Price Proposal Contract No. 071B4300082	Vendor Price Sheets
	\$ 17,515.00 (@15%)	2,627.25
Subtotal C		\$ 23,608.78
D. Technical Services: <u>Training</u>		
1	Total Staffing Costs	\$ 49,830.00
2	Total Subcontractor Costs	151,315.00
3	Total Direct Costs	63,474.10
4	Overhead Calculation: Item 1	\$ 49,830.00
	Item 2	151,315.00
		\$ 201,145.00 (@15%)
		30,171.75
Subtotal D		\$ 294,790.85
E. Technical Services: <u>Marketing</u>		
1	Total Staffing Costs	\$ 24,960.00
2	Total Subcontractor Costs	26,166.67
3	Total Direct Costs	8,443.87
4	Overhead Calculation: Item 1	\$ 24,960.00
	Item 2	26,166.67
		\$ 51,126.67 (@15%)
		7,669.00
Subtotal E		\$ 67,239.54
F. Technical Services: <u>Program Measurement</u>		
1	Total Staffing Costs	\$ 38,400.00
2	Total Subcontractor Costs	52,000.00
3	Total Direct Costs	11,762.70
4	Overhead Calculation: Item 1	\$ 38,400.00
	Item 2	52,000.00
		\$ 90,400.00 (@15%)
		13,560.00
Subtotal F		\$ 115,722.70



Vendor Price Sheets Retired Engineer Technical Assistance Program (RETAP)
 Technical Assistance (TA) - Price Proposal
 Contract No. 071B4300082 Vendor Price Sheets

G. Program Management

1	Total Staffing Costs	\$ 120,030.00
2	Total Subcontractor Costs	27,000.00
3	Total Direct Costs	15,892.71
4	Overhead Calculation: Item 1	\$ 120,030.00
	Item 2	27,000.00
		\$ 147,030.00 (@15%)
		22,054.50
	Subtotal G	\$ 184,977.21
	Total Cost (Subtotals A through G)	\$ 1,692,804.36

UNIT PRICE:

Technical Assistance

\$ 33.27	x 28,950 hours =	\$ 963,166.50
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Unit Price includes related expenses and overhead

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	TELEPHONE	CONTRACTOR #, MAIL CODE
	(248) 478-8030	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DEQ	David Herb	517-284-6863	herbd@michigan.gov
BUYER:	DTMB	Pam Platte	517-284-7022	plattep@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION:			
RETAP Services - DEQ			
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3 years	April 18, 2014	April 17, 2017	2, one year
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MINIMUM DELIVERY REQUIREMENTS:			
N/A			
MISCELLANEOUS INFORMATION:			
N/A			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:			\$1,607,182.68

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MINIMUM DELIVERY REQUIREMENTS:			
N/A			
MISCELLANEOUS INFORMATION:			
N/A			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:		\$1,607,182.68	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the solicitation #761R4300396. Orders for delivery will be issued directly by the Department of Technology, Management & Budget through the issuance of a Purchase Order Form.

Notice of Contract #: 071B4300082

FOR THE CONTRACTOR:	FOR THE STATE:
Retired Engineer Technical Assistance Foundation (RETAF)	
_____ Firm Name	_____ Signature
_____ Authorized Agent Signature	Jeff Brownlee, Chief Procurement Officer _____ Name/Title
_____ Authorized Agent (Print or Type)	DTMB Procurement _____ Enter Name of Agency
_____ Date	_____ Date



STATE OF MICHIGAN
Department of Technology Management and Budget
DTMB-Procurement

Contract No.
Retired Engineer Technical Assistance Program (RETAP)
Technical Assistance for the Department of Environmental Quality

Buyer Name: Pamela Platte
Buyer Direct Telephone Number: 517-373-0484
Toll-Free Office Number: 855-MI-PURCH (855-647-8724)
E-Mail Address: plattep@michigan.com



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DEFINITIONS

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

Additional Service means any Services within the scope of the Contract, but not specifically provided under any Statement of Work.

Audit Period means the seven year period following Contractor's provision of any work under the Contract.

Bidder(s) are those companies that submit a proposal in response to this RFP.

Business Day means any day other than a Saturday, Sunday or State-recognized legal holiday from 8:00am EST through 5:00pm EST unless otherwise stated.

Blanket Purchase Order is an alternate term for Contract and is used in the Plan Sponsors' computer system.

CCI means Contract Compliance Inspector.

Confidentiality applies to information on companies assessed by the RETAP. The Contractor must not divulge facility names or proprietary data. Any report generated for the business and any information that can be used to identify the assisted business will not be shared outside of the RETAP without the approval of the business. With regard to public entities, the Freedom of Information Act applies and the report in possession of the entity may not be confidential.

Contractor means the successful Bidder who is awarded the Contract.

Days means calendar days unless otherwise specified.

Deliverable means physical goods and/or services required or identified in a Statement of Work.

DTMB means the Michigan Department of Technology, Management and Budget.

Eligibility refers to the priorities set by the Department of Environmental Quality (DEQ) for RETAP technical assistance based on demand, funds, and the needs of the applicants; taking into consideration the most effective use of the assistance. Currently, on-site P2 assessments are available to businesses with 500 or fewer full-time employees in Michigan. Institutions of any size are also eligible to receive on-site pollution prevention (P2) assessments.

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

Full-Time Employee (FTE) means an individual that works at the facility 2,080 hours per year. It is calculated by dividing the total number of employee hours per year by 2,080.

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

Incident means any interruption in any function performed for the benefit of a Plan Sponsor.



Institution means any public entity including schools, hospitals, and local, county, and State government agencies.

Key Personnel means any personnel identified in **Section 1.031** as Key Personnel.

New Work means any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, such that once added will result in the need to provide the Contractor with additional consideration. “New Work” does not include Additional Service.

On-site Energy Audit is broadly defined as an in-depth building review by two or more RETAP professionals to document energy saving improvements equivalent to or exceeding the requirements of an American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Level II energy audit. A typical energy audit will provide detailed project costs and savings information with a high level of confidence sufficient for capital investment decisions similar to, but in more detail, than an energy efficiency assessment. The audit typically focuses on potential capital-intensive projects and involves detailed gathering of field data and engineering analysis. An energy audit is usually conducted by or approved by a certified energy manager or professional engineer. A complete energy audit includes the delivery of a final written report on the audited building.

On-site Energy Efficiency Assessment, On-site Energy Conservation Assessment are used interchangeably. For purposes of this Contract, they are a facility review by one or more RETAP professionals to recommend energy saving improvements that exceed the requirements of the ASHRAE Level I energy audit. It is not regulatory and does not include “hands-on” assistance with implementation. It typically requires a pre-assessment for purposes of collecting needed background information on the building/facility structure, equipment, operations, energy/utility usages, energy demand and power factor, etc. A complete on-site energy efficiency assessment includes the delivery of a final written assessment report to the accessed facility.

On-site Pollution Prevention (P2) Assessment means a evaluation of the equipment, practices, and operations of a facility by one or more RETAP assessor(s) to recommend P2 and cost-saving opportunities. It is not regulatory and does not include “hands-on” assistance with implementation. It typically requires a pre-assessment for purposes of collecting needed background information on the facility’s operations, waste generation, and material and utility usages. For purposes of this Contract, a complete on-site P2 assessment includes the delivery of a final written assessment report to the accessed facility.

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

Pollution Prevention (P2) means source reduction and environmentally sound on-site or off-site reuse or recycling. For purposes of this Contract, P2 includes energy efficiency and energy conservation. Waste treatment, control, management, and disposal are not considered P2.

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

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

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



RETAP means the Michigan Retired Engineer Technical Assistance Program, established under Section 14511, Part 145, Waste Reduction Assistance, Natural Resources and Environmental Protection Act (NREPA), 1994, PA 451, as amended. This program provides P2 technical assistance pursuant to Section 14504 of the NREPA. Retired engineers, scientists, and other qualified professionals participating in the program conduct this assistance.

RETAP Professionals, RETAP Assessors are used interchangeably. They are the retired engineers, scientists, and other qualified professionals who participate in the program. The RETAP professionals have, on average, 35 years of experience in Michigan industry.

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

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

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

SLA means Service Level Agreement.

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

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

Subcontractor means a company selected by the Contractor to perform a portion of the Services, but does not include independent contractors engaged by Contractor solely in a staff augmentation role.

Technical Assistance means on-site P2 assessments, onsite energy efficiency assessments, on-site energy audits, and other on-site assistance to facilities for specialized assignments specified by the DEQ, such as source reduction planning, detailed cost analyses, process mapping, engineering student mentoring, and evaluations of grant proposals.

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

Waste Prevention means source reduction and reuse, but not recycling.

Pollution Prevention (P2) means the practice of minimizing the generation of waste at the source and, when wastes cannot be prevented, utilizing environmentally sound on-site or off-site reuse and recycling. The term includes equipment or technology modifications, process or procedure modifications, product reformulation or redesign, and raw material substitutions. Waste treatment, control, management, and disposal are not considered pollution prevention, per the definitions under Part 143, Waste Minimization, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended. For purposes of this Contract, P2 includes energy efficiency and energy conservation.

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

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



Article 1 – Statement of Work (SOW)

1.010 Project Identification

1.011 Project Request

This is a Contract for the daily operation of the pollution prevention (P2) technical assistance services of the Retired Engineer Technical Assistance Program (RETAP). For purposes of this Contract, P2 includes energy efficiency and energy conservation. The primary activities for the Contractor will be to organize and coordinate the work of the retired engineers and scientists participating in the RETAP, including recruiting and training RETAP professionals, marketing RETAP services, completing on-site assessments, conducting technology transfer activities, performing ongoing program measurement and reporting, drafting technical assistance procedures and quality assurance measures, and other P2 technical assistance activities as approved by the RETAP Manager (see Section 2.022) or Department of Environmental Quality (DEQ), Office of Environmental Assistance (OEA) Project Manager (see Section 2.023).

1.012 Background

The Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended; Sections 324.14301 et seq. and 324.14501 et seq., delineates activities to be undertaken by the State to advance P2. It stipulates the provision of technical assistance to business and industry, and prescribes an emphasis on in-plant P2 and prevention of hazardous waste. Section 324.14511 established the RETAP to provide on-site P2 technical assistance, stipulating the assistance shall be conducted by the retired professionals participating in RETAP. The goal is to facilitate and measure reductions in hazardous and raw material usage, environmental waste generated, energy consumed, and costs incurred in the State by businesses receiving the assistance.

The RETAP was initiated as a pilot program in 1994, and established as a permanent program in 1998 PA 288 Section 19608 et seq. The structure of the RETAP was designed to encourage business and industry to request on-site P2 technical assistance. RETAP assistance is voluntary, confidential and non-regulatory, utilizing Michigan-based retired professionals. The assistance is provided free of charge as further incentive to request RETAP assistance. Those receiving RETAP assistance are not obligated to act on the recommendations of the retired professionals, although potential resource and cost savings included with the recommendations provide the impetus.

Currently, institutions, government agencies, and businesses with 500 or fewer full-time employees in the State are eligible for RETAP assistance. The RETAP additionally serves as the on-site technical assistance provider to the P2 programs of the DEQ, OEA. To date, the RETAP has completed over 1,800 on-site P2 assessments and provided over 3,500 technical assistance hours to supplement the on-site P2 assessments.

The RETAP professionals are located throughout the State. They have received training and have experience in conducting on-site P2 assessments. The Contractor will subcontract with these individuals and recruit additional retired professionals to maintain a diverse pool of expertise to provide assistance in a variety of industrial sectors, geographical areas within Michigan, media and types of waste, and building, process and environmental systems. The DEQ, OEA will provide a list of RETAP professionals currently active in the RETAP to the Contractor.

The business objective for the RETAP is realizing consistent high client cost savings to program expenditure ratios through meaningful on-site P2 technical assistance. Factors critical to the success of the RETAP include:

- A. A Contractor with the ability to make project adjustments and continual improvements to program deliverables and services while reducing overall expenditures on a cost to benefit basis;
- B. Enhancing RETAP technical assistance capabilities by continually incorporating advanced, innovative or expert P2 systems, approaches and software tools into program services;
- C. Achieving significant reductions in hazardous and raw material usage, environmental waste generated, energy consumed, and costs incurred in the State by RETAP clients;
- D. Collecting and reporting in-depth program measurement data, particularly P2 outcome measures, from a significant majority of RETAP clients;
- E. Demonstrating program success through testimonials or case studies from a significant number of RETAP clients, and letters of support from a broad spectrum of relevant organizations, and



F. Maintaining client information in a confidential manner.

1.020 Scope of Work and Deliverables

1.021 In Scope

The overall purpose of the RETAP is to fulfill the on-site P2 technical assistance obligations of the State under Section 324.14504 of NREPA, 1994 PA 451, as amended. Section 324.14511 directs the State to establish the priorities for RETAP technical services based on demand, funds available, and applicant needs, taking into consideration the most effective use of the assistance. The DEQ, OEA will administer, manage, and monitor the RETAP and be responsible for establishing policies and procedures for RETAP assistance. The DEQ, OEA reserves the right to refocus RETAP goals, objectives and technical assistance services. The Contractor will carry out this project under the direction and control of the DEQ, OEA Project Manager (see Section 2.023). Definitions pertinent to this Contract are provided in the Definitions section.

The Contractor is responsible for the daily operation of RETAP technical services. The primary activity for the Contractor is to organize and coordinate the work of the RETAP professionals for the on-site P2 technical assistance, as follows:

1. General

The Contractor is responsible for performing the daily operations of RETAP technical services in accordance with the policies and procedures established for the RETAP by the DEQ, OEA.

The Contractor is responsible for conducting all activities for managing, organizing, supervising, scheduling, and paying the retired professionals (as subcontractors). The Contractor must determine the rate of compensation for the RETAP professionals, who must be paid for their hours worked and be reimbursed for travel. Travel expenses will be reimbursed at the prevailing State of Michigan travel rates (see Attachment B). The mileage reimbursement rate will be limited to the Standard Mileage Rate set by the DTMB (see Attachment B). All out-of-state travel must be preapproved by the RETAP Manager. No out-of-state travel is anticipated for the project.

- A. The Contractor must maintain the ability to have regular and effective communication with the RETAP professionals.
- B. The Contractor must have the infrastructure to respond to and process inquiries, including from the public and the RETAP Manager, during the business hours of 9:00 AM to 3:00 PM EST, Monday through Friday.
- C. The Contractor must have the infrastructure to report performance, measurement, and financial data and reports electronically in a format compatible with DEQ, OEA software requirements.
- D. The Contractor must assist the RETAP Manager with all activities, as necessary, for a successful transition of the RETAP from one contractor to the next, including transferring all records, files, and equipment.
- E. The Contractor is responsible for undertaking quality assurance measures to monitor the performance and behavior of the RETAP professionals, evaluate the quality, timeliness, and significance of the technical assistance recommendations and reports, and gauge the effectiveness of recruiting, marketing, training and technology transfer efforts. The goal is to assure (1) the behavior of the RETAP professionals is appropriate and contributing to program goals; (2) technical assistance recommendations and reports meet industry standards and continually improve in quality and effectiveness; (3) recruiting, marketing, training, and technology transfer efforts are cost effective; and (4) the daily operation of RETAP technical assistance services is efficient, cost effective, and achieving program goals. Current program quality assurance needs are directed to updating technical assistance and program measurement protocols to meet or surpass established industry standards by incorporating newly available resources, tools and techniques, and assuring the RETAP professionals consistently follow the updated protocols

2. On-site Technical Assistance

- A. The Contractor is responsible for the daily operation of RETAP services and organizing and coordinating the work of the RETAP professionals for the on-site P2 technical assistance. RETAP



technical assistance must be (1) timely, cost effective, meaningful, and significant; (2) facilitating reductions in hazardous material usage, waste generated, energy consumed, and costs incurred in the State by clients receiving the assistance, and (3) addressing the demand and rapidly evolving needs of industry and business in Michigan. Current needs are directed to incorporating innovative or expert P2 systems, approaches and software tools into program services. The DEQ, OEA reserves the right to redirect on-site P2 technical assistance efforts to achieving the goals and objectives of DEQ, OEA programs/projects or other designated State programs/projects.

- B. The Contractor is responsible for performing 21,600 Technical Assistance Hours to complete on-site P2 assessments at a minimum of 240 facilities during the Contract period. In general, the P2 assessments will be limited to occupied buildings/facilities experiencing significant daily use, with a minimum floor space of not less than 15,000 square feet and a minimum annual utilities and waste disposal cost of not less than \$25,000. Note: An on-site P2 assessment is an evaluation of the hazardous and raw materials used, wastes generated, utilities consumed, and equipment, processes, practices, and operations of a facility (including building systems and structure) by one or more RETAP professionals to recommend P2, efficiency and cost saving opportunities. It is not regulatory and does not include in-depth analyses of operational efficiencies or required engineering specifications for the implementation of recommendations.
- C. The Contractor is responsible for performing 5,400 Technical Assistance Hours to complete a minimum of 105 Technical Assistance Hours (TAH) requests during the Contract period by the RETAP professionals for specialized assignments approved by the RETAP Manager to the Contractor. TAH requests encompass the technical assistance activities assigned to the RETAP professionals that fall outside the scope of an on-site P2 assessment/report, such as energy efficiency assessments, energy audits, source reduction planning assistance, detailed cost analyses, process mapping, extensive P2 research, student mentoring, evaluation of grant proposals, etc. The Contractor must designate 15 of the TAH requests to completing source reduction planning assistance, 15 of the TAH requests to completing energy audits, and up to 30 of the TAH requests to completing energy efficiency assessments. In general, the energy efficiency assessments and energy audits will be limited to occupied buildings experiencing significant daily use, with a minimum floor space of not less than 15,000 square feet and a minimum annual energy cost of not less than \$15,000. TAH requests may be directed by the DEQ, OEA Project Manager to achieving the goals and objectives of the DEQ, OEA programs/projects or other designated State programs/projects.
- D. The Contractor is responsible for providing a detailed report to each facility that undergoes an on-site assessment or energy audit by the RETAP. [Note: Many facilities encompass multiple buildings. Hence, an assessment report typically includes the recommendations for multiple buildings. However, energy audit reports will normally be restricted to a single building due to the in-depth analyses/complexities of completing energy audits.] Each report must detail the energy efficiency, P2, and cost saving opportunities identified by an on-site assessment or energy audit (as appropriate), and provide sufficient guidance for making business decisions to implement the recommendations based on a simple payback approach where possible. The report must be provided to the assessed facility within 60 days after the on-site assessment or energy audit is completed. Paper reports will be printed double-sided on recycled paper. The Contractor must additionally provide an electronic copy of each report to the RETAP Manager.
- E. The Contractor is responsible for providing a summary report to the originating entity for the Technical Assistance Hours request. Each report must summarize the technical assistance requested and the RETAP engineer's recommendations. Where appropriate, the report should include any energy, P2, and cost savings identified, and provide sufficient guidance for making business decisions to implement the recommendations based on a simple payback approach. The report must be mailed to the assessed facility within 30 days after the on-site Technical Assistance Hours request is completed. Paper reports will be printed double-sided on recycled paper. The Contractor must provide an electronic copy of each report to the RETAP Manager.



- F. The Contractor will be compensated on a Technical Assistance Hour unit price basis for the on-site technical assistance. The Technical Assistance Hour unit price must incorporate all costs associated with providing the on-site technical assistance and delivering the required written reports, including Contractor staffing costs, subcontractor costs, travel costs, equipment costs, supplies and materials, overhead/indirect costs, etc.
- G. The Contractor is responsible for organizing, managing, supervising, compensating and scheduling the RETAP professionals who will conduct the on-site assessments, energy audits, as well as performing the Technical Assistance Hours requests.

3. Technology Transfer

- A. The Contractor is responsible for conducting technology transfer activities to share information on high impact or innovative P2 technologies, practices or systems, and the results of on-site P2 assessments/energy audits to encourage other Michigan facilities to reduce hazardous material usage and waste, conserve energy, water and material resources, and eliminate waste and pollution. Technology transfer activities must respect the confidentiality of assessed facilities as appropriate. The Contractor must assure the knowledge base of RETAP professionals remains up-to-date, while building program awareness and support to encourage additional requests for RETAP services. Current program technology transfer needs are directed to building a resource library of innovative P2 technologies and practices, developing case studies and guidance documents, and giving presentations. The DEQ, OEA reserves the right to redirect technology transfer efforts to achieve the P2 objectives of DEQ, OEA programs/projects or other designated State programs/projects.

4. Recruitment

- A. The Contractor is responsible for recruiting additional retired professionals to maintain a diverse pool of expertise for providing P2 technical assistance across a range of industrial sectors, geographical areas within Michigan, media and types of waste, as well as building, process and environmental systems. Recruitment must comply with State of Michigan hiring guidelines for nondiscrimination. The Contractor and the RETAP Manager must jointly determine the necessity for recruitment. The Contractor must conduct the recruitment efforts with input from the RETAP Manager. Current program recruitment needs are directed to securing retired engineers in northern Michigan, in addition to securing retired professionals retaining their professional engineering license, energy management and/or energy auditing certifications, and working knowledge/experience with building HVAC systems, hazardous and liquid industrial waste regulations, asset management, Lean / Six Sigma, source reduction planning, spill prevention planning, Environmental Management Systems / ISO 14001, and other advanced P2 related methodologies. The DEQ, OEA reserves the right to redirect recruitment efforts to secure specific skill sets within the RETAP to achieve the goals and objectives of DEQ, OEA programs/projects or other designated State programs/projects.

5. Training

- A. The Contractor is responsible for assessing the skill levels and identifying the training needs of the RETAP professionals. The Contractor and the RETAP Manager must jointly determine the necessity for training. The Contractor must conduct the training efforts with input and direction from the RETAP Manager. All training to be paid by the State must be pre-approved by the RETAP Manager. The Contractor must provide the RETAP professionals with training (practical energy efficiency, process efficiency, P2, etc.) that will improve their assessment skills and the quality, depth and significance of the recommendations in the technical assistance reports. Current program training needs are directed to developing/securing advanced P2 related skill sets among individual RETAP professionals, including, but not limited to: energy auditing, source reduction planning, spill prevention planning, Environmental Management System / ISO 14001, asset management, green chemistry / hazardous material alternatives, Lean / Six Sigma. These capabilities must include usage of related software tools. The DEQ, OEA reserves the right to redirect training efforts to the development of specific P2 related



skill sets by individual RETAP professionals to achieve the technical assistance objectives of DEQ, OEA programs/projects or other designated State programs/projects.

- B. The Contractor is responsible for paying the RETAP assessors to attend the training, including all costs for food and lodging. RETAP professionals must be paid for their hours worked and be reimbursed for travel. Time related to conducting on-site assessments/audits as part of the training must be covered under the "On-site Technical Assistance" task. Travel expenses must be reimbursed at the prevailing State of Michigan travel rates (see Attachment B). The mileage reimbursement rate will be limited to the Standard Mileage Rate set by the DTMB (see Attachment B). All out-of-state travel must be preapproved by the RETAP Manager. No out-of-state travel is anticipated for the project.
- C. The Contractor is responsible for conducting orientation/P2 assessment training for new RETAP recruits, three one-day, "in-house" trainings per Contract year for all RETAP professionals, the advanced P2 related training for individual RETAP professionals as discussed in Article 1.021, subsection 5A above, and in-depth P2 assessment training of two DEQ, OEA personnel.

6. Marketing

- A. The Contractor must maintain joint responsibility with the DEQ, OEA for marketing the RETAP to increase awareness of and build support for the program, assure the minimum number of P2 assessments, energy audits, and Technical Assistance Hours requests are achieved (as specified in this Contract) and to direct RETAP services based on the priorities established by the DEQ, OEA under Section 324.14511. The Contractor must assist the DEQ, OEA in marketing the RETAP.

7. Program Measurement and Reporting

- A. Program measurement and reporting is critical to the continued success and future funding of the RETAP. The Contractor is responsible for measuring program effectiveness, including methods of follow-up to assisted facilities. The Contractor is required to use the current RETAP measurement forms or preapproved facsimiles for this purpose. The Contractor must measure program results to determine effectiveness in increasing P2 awareness and implementation, reducing hazardous material, water, energy, and raw material usages, minimizing/eliminating environmental waste, and achieving cost savings; and make improvements when needed. The methodology must obtain enough information to determine program effectiveness and disseminate P2 information with other businesses, while respecting the confidentiality needs and the amount of time required of the businesses. Current program measurement needs are directed to significantly improving (1) overall program measurement response rates by assisted facilities; (2) response rates on resource and cost saving estimates for implemented recommendations; (3) data collection on the economic impacts of the assistance; (4) the identification of innovative P2 technologies and practices employed by assisted facilities; (5) the number of testimonials and/or letters of support from assisted facilities, and (6) the utilization of measurement data to improve RETAP services.
- B. The Contractor and the RETAP Manager must determine, on an ongoing basis, what information must be provided to meet program measurement needs. The RETAP Manager will evaluate the data received from the Contractor and work with them to continually make improvements. Measurement criteria must be explained so that review and interpretation of the data collected can be readily quantified. The DEQ, OEA reserves the right to redirect program measurement and reporting efforts to meet its reporting obligations under current and future federal and State funding sources supporting RETAP services. The Contractor must provide program and financial information essential for the DEQ, OEA to meet its reporting obligations under these funding sources. The RETAP is currently funded in part by the United States Environmental Protection Agency (EPA) Pollution Prevention Grant Program.
- C. The Contractor is responsible for electronically reporting to the RETAP Manager, program measurement and financial data on a monthly and Contract year basis (as described in Article 1.022, subsection 7, and Article 1.042 below) using Microsoft Office Suite 2010 software. Future changes in electronic report submittal requirements will be directed by the RETAP Manager.



- D. The Contractor is responsible for following up with the assisted facilities at regular intervals after the technical assistance report is sent (i.e. eight weeks, one year, and two years) for answering questions, providing additional information, pursuing case study opportunities, evaluating the assistance, encouraging testimonials and letters of support, and obtaining the information necessary for the monthly and yearly reports. This includes assessments/energy audits completed under the prior RETAP Contract.
- E. All reports must be submitted electronically to the RETAP Manager in a format compatible with the DEQ, OEA software requirements.

8. The Following Activities are Out of Scope

A. RETAP Policies and Procedures

The DEQ, OEA will administer, manage, and monitor the RETAP and be responsible for establishing policies and procedures for the RETAP services. The Contractor must carry out this Contract under the direction and control of the DEQ, OEA Project Manager (see Section 2.023). The RETAP Manager (see Section 2.022) must approve any policy & procedure changes for RETAP services. Conducting activities that violate the policies and procedures established for the RETAP are strictly prohibited.

B. Compliance Assistance

The RETAP services are non-regulatory. The RETAP does not provide assistance with environmental compliance and the on-site energy audits, energy assessments and/or P2 assessments are not environmental compliance audits, risk assessments, or environmental impact studies.

C. Technical Services

The Contractor must subcontract with the RETAP professionals to conduct the on-site P2 technical assistance. Providing technical assistance without using the RETAP professionals, partnering with other organizations, conducting specific RETAP projects without the approval of the DEQ, OEA Project Manager, or utilizing the RETAP to solicit work for other organizations, businesses, or private consultants is not allowed under this Contract.

D. Financial Assistance

The RETAP was established to provide on-site technical assistance to Michigan businesses and industry. Providing grants or other direct financial assistance is not allowed under this Contract.

1.022 Work and Deliverable

The following is a preliminary analysis of the major tasks involved for developing the deliverables of this project. The Contractor is not constrained from supplementing this listing with additional steps, sub-tasks or elements deemed necessary to achieve the deliverables, or to permit the development of alternative approaches or the application of proprietary analytical techniques for achieving the goals and objectives of RETAP technical services, pending final approval of the DEQ, OEA Project Manager.

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

1. General

- A. The Contractor must develop and provide a detailed project work plan to perform the daily operations and deliverables of RETAP technical services in accordance with the policies and procedures established for the RETAP. At a minimum, the plan must provide the key tasks and subtasks, approximate hours, anticipated milestone and/or completion dates, and responsible individuals for completing each task, report, and deliverable outlined herein, including steps for identifying and proposing needed changes to current RETAP policies and procedures, and/or the development of new procedures where none currently exist. The detailed project work plan need only reference the abbreviated work plans required below and need not duplicate the information included therein. The Contractor must obtain prior approval from the RETAP Manager before implementing changes to the



work plan, existing policies and procedures, or implementing new procedures for RETAP technical services.

- B. The Contractor must submit an abbreviated work plan for RETAP Manager approval for achieving the quality assurance objectives and current program needs as given in Article 1.021, subsection 1G above and Article 1.041, subsection 1D below. The plan must include the key tasks and sub-tasks, approximate hours, anticipated milestone and/or completion dates, and responsible individuals for completing the work. Final approval of the work plan will be given by the DEQ, OEA Project Manager. The Contractor must implement the work plan approved by the DEQ, OEA Project Manager. The Contractor must obtain the approval of the RETAP Manager prior to implementing any changes to the quality assurance plan. The quality assurance work plan must include the following:
1. A system for tracking and reporting the status of requests, pre-assessments, on-site assessments/audits, Technical Assistance Hours requests, reports/deliverables, and follow-up contacts, including measures to assure required timelines are followed. The Contractor must demonstrate the abbreviated work plan to the RETAP Manager.
 2. An abbreviated procedure to periodically update technical assistance and program measurement protocols (and report formats) to meet or surpass established industry standards by incorporating newly available resources and techniques or as recommended by the RETAP Manager. When a modification is proposed, submittal to the RETAP Manager for approval is necessary.
 3. An abbreviated procedure for monitoring the behavior of the RETAP professionals while on-site at a facility. The procedure will include measures for addressing any conflict of interest behavior by the RETAP professionals, and notifying the RETAP Manager of such occurrences. The Contractor must submit the procedure for RETAP Manager approval.
 4. An abbreviated procedure to determine if the RETAP professionals consistently follow the updated protocols, including steps for corrective action if they are not.
 5. A mechanism for reviewing the performance of the RETAP professionals and maintaining a record of this information on file for review by the DEQ, OEA Project Manager.
 6. A system for periodically determining if recruiting, marketing, training and technology transfer efforts are cost effective including measures for corrective action if they are not. The Contractor must demonstrate the abbreviated work plan to the RETAP Manager.
- C. The Contractor must subcontract with the RETAP professionals to conduct the on-site technical assistance. Upon award of this Contract, a copy of the subcontract agreement must be provided to the RETAP Manager. To assure program integrity, the subcontract must include, at a minimum, provisions to (1) avoid any conflicts of interest (including an explicit statement that the RETAP professional must not offer or market their personal services or those of any other organization they work for to any RETAP client); (2) assure information from assisted businesses remains confidential, and (3) RETAP professionals are not representatives of or authorized to speak on behalf of the State. The Contractor must notify the RETAP Manager upon discovering a RETAP professional has violated the terms of the subcontract. The Contractor must have a procedure for removing RETAP professionals that have violated their contract from the Contractor's payroll.
- D. The Contractor is responsible for management and payment of the retired professionals, and determining their rate of compensation. The RETAP assessors work on a part-time basis, receive reimbursement for travel expenses, and are paid at a nominal hourly rate set by the Contractor. Travel expenses will be reimbursed at the prevailing State of Michigan travel rates (see Attachment B). The mileage reimbursement rate will be limited to the Standard Mileage Rate set by the DTMB (see Attachment B). All out-of-state travel must be preapproved by the RETAP Manager. No out-of-state travel is anticipated for the project.
- E. The Contractor must demonstrate the ability to establish regular, effective and responsive communication with the RETAP professionals. The Contractor must provide to the RETAP Manager abbreviated procedures for maintaining effective communication with the RETAP professionals.



- F. The Contractor must demonstrate that it has the infrastructure to respond to and process inquiries, including inquiries from the public and the RETAP Manager, during the business hours of 9:00 AM to 3:00 PM EST, Monday through Friday.
- G. The Contractor must demonstrate that it has the infrastructure to report performance, measurement, and financial data and reports electronically in a format compatible with DEQ, OEA software requirements, currently Microsoft Office Suite 2010 software. At this time, the Contractor must be able to electronically submit and exchange technical assistance, financial data, reports, and other documents with the DEQ, OEA using an appropriate Microsoft Office Suite 2010 software product. The DEQ, OEA reserves the right to determine which Microsoft Office Suite 2010 software product will be used.
- H. The Contractor must maintain a toll-free telephone number, a Michigan mailing address, and a non-descript email address for inquiries and requests for RETAP services.
- I. The Contractor must develop and implement appropriate procedures to maintain on-site technical assistance for businesses in a secure and, if necessary, confidential manner. These procedures must incorporate the quality assurance requirements given in Article 1.022, subsections 2Y and 7J below. A copy of the procedures will be provided to the RETAP Manager. The DEQ, OEA reserves the right to obtain documentation to address complaints brought to the attention of the DEQ regarding RETAP services.
- J. The Contractor must include an acknowledgement of RETAP support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this Contract. Attachment E provides example language for the acknowledgement and disclaimer. The Contractor must include the RETAP acronym in the page footer of any table, chart, graph, or diagram included within such materials.
- K. The Contractor must meet semi-annually, at a minimum, with the RETAP Manager and DEQ, OEA Project Manager (or their designated representative) for the purpose of reviewing progress and providing guidance in solving problems which arise.

2. On-site Technical Assistance

- A. The Contractor must submit, for RETAP Manager approval, an abbreviated work plan for achieving RETAP technical assistance objectives, deliverables, and current program needs as given below (see also Article 1.041, subsection 2A). The plan must include the key tasks and sub-tasks, approximate hours, anticipated milestone and completion dates, and responsible individuals for completing the work. The Contractor must not allow the RETAP professionals to undertake active technical assistance efforts prior to tentative work plan approval by the RETAP Manager. Final approval of the work plan will be given by the DEQ, OEA Project Manager. The Contractor must implement the work plan approved by the DEQ, OEA Project Manager.
- B. The Contractor must conduct a literature search to identify up-to-date resources and tools for performing in-depth, on-site P2 assessments and energy audits such as: checklists, data collection sheets, manuals, handbooks, industry protocols/standards, software programs, training materials, courses, etc. The Contractor must provide the RETAP Manager a listing of resources/tools identified, including recommendations for purchase at cost for any available resources/tools.
- C. The Contractor must develop and submit, for RETAP Manager approval, protocols for conducting the on-site P2 assessments, on-site source reduction planning assistance, on-site energy efficiency assessments, energy audits, and the Technical Assistance Hours (TAH) requests. Attachment C provides an abbreviated protocol for the assessments. The RETAP professionals will be prohibited from conducting on-site technical assistance until the protocols are tentatively approved by the RETAP Manager. The procedures must further include a mechanism to periodically review and modify the



protocols and report formats, as necessary, or recommended by the RETAP professionals, editors, the RETAP Manager, or DEQ, OEA Project Manager. The Contractor must obtain RETAP Manager approval prior to implementing any changes to the protocols. The protocols must be used.

- D. The Contractor must determine the rate of compensation for the RETAP professionals for conducting the on-site assessments, energy audits, and performing the TAH requests. Travel expenses will be reimbursed at the prevailing State of Michigan travel rates (see Attachment C). The mileage reimbursement rate will be limited to the Standard Mileage Rate set by the DTMB (see http://michigan.gov/dmb/0,1607,7-150-9141_13132---,00.html). All out-of-state travel must be preapproved by the RETAP Manager. No out-of-state travel is anticipated for the project.
- E. The Contractor must complete 21,600 Technical Assistance Hours to complete on-site P2 assessments at a minimum of 240 facilities during the Contract period. In general, the P2 assessments will be limited to occupied buildings/facilities experiencing significant daily use, with a minimum floor space of not less than 15,000 square feet and a minimum annual utilities and waste disposal cost of not less than \$25,000. No more than fifteen of the assessments can be conducted at church facilities lacking school operations beyond half-day kindergarten classes. For each P2 assessment request, the Contractor must electronically provide a completed Technical Assistance (TA) Contact form (see Attachment D) or preapproved facsimile to the RETAP Manager.
- F. The Contractor must complete 15 or more of the on-site P2 assessments at small manufacturing facilities in support of current funding under a United States EPA Agency Pollution Prevention Grant Program grant. The Contractor and the RETAP Manager must jointly approve the small manufacturing facilities to be assessed prior to initiating the technical assistance. These 15 or more P2 assessments must be conducted by one or more assessment teams comprised of RETAP professionals completing the training task given in Article 1.022, subsection 5E below. Under the grant agreement, the RETAP Manager must participate in approximately half of these assessments and give final approval of the delivered assessment report.
- G. The Contractor must complete 5,400 Technical Assistance Hours to complete a minimum of 105 Technical Assistance Hours (TAH) requests during the Contract period by the RETAP professionals for specialized assignments approved by the RETAP Manager. The Contractor must designate 15 of the TAH requests to completing energy audits, and may use up to 30 of the TAH requests to completing energy efficiency assessments. In general, the energy efficiency assessments and energy audits will be limited to occupied buildings experiencing significant daily use, with a minimum floor space of not less than 15,000 square feet and a minimum annual energy cost of not less than \$15,000. For each TAH request, the Contractor will electronically provide a completed Technical Assistance (TA) Contact form (see Attachment E) or preapproved facsimile to the RETAP Manager.
- H. The Contractor must complete five or more of the on-site P2 assessments, and up to five of the energy audits at traditional agricultural businesses. The Contractor and the RETAP Manager must jointly approve the traditional agricultural business facilities/buildings to be assessed/audited prior to initiating the technical assistance. These P2 assessments and energy audits are to be conducted following completion of the training task given in Article 1.022, subsection 5F below.
- I. The Contractor must utilize 15 or more of the TAH requests to provide on-site source reduction planning assistance to an equal number of small manufacturing facilities in support of current funding under a United States EPA Pollution Prevention Grant Program grant. The Contractor and the RETAP Manager must jointly agree to the small manufacturing facilities to be assisted prior to initiating the technical assistance. These 15 or more TAH requests will be conducted by the RETAP professional(s) completing the source reduction planning training given in Article 1.022, subsection 5E below. Under the EPA grant agreement, the RETAP Manager must participate in approximately half of these TAH requests and give final approval of the delivered TAH report.
- J. The Contractor must complete up to 50 Technical Assistance Hours per contract year for brief information exchanges (i.e. TAH information exchange) to provide basic P2 technical assistance in



response to DEQ, OEA pollution prevention partnership/initiative member questions. The Contractor and the RETAP Manager must come to an agreement on a procedure for electronically surveying the RETAP professionals to compile information or resources they are familiar with to address each question.

- K. For each on-site assessment and energy audit, the Contractor must assemble a team of RETAP professionals based on experience and location relative to the facility to be assessed or audited. The assessment team must clearly inform facility management/representatives, during initial introductions or meeting, that the technical assistance is made possible by the RETAP. If applicable, the assessment team must inform eligible facilities about the Small Business Pollution Prevention Loan Program, applicable utility rebates, and relevant P2 programs, partnerships and initiatives.
- L. The Contractor must consider retaining lead RETAP assessor positions in several regions of the State. The Contractor must provide the names of the RETAP professionals designated as lead RETAP assessors to the RETAP Manager.
- M. The Contractor must gather and provide research/background information to the RETAP team for each on-site assessment and energy audit applicable to the facility to be assessed/audited. At a minimum, the information must include recommendations from similar facilities previously assessed by the RETAP and the United States Department of Energy Industrial Assessment Centers, and data from publically available DEQ and EPA databases, particularly the Waste Data System (WDS), the Michigan Air Emissions Reporting System (MAERS) and the Toxic Chemical Release Inventory (TRI) databases. The Contractor must submit, for RETAP Manager approval, abbreviated procedures for assuring the research/background information will be provided to the RETAP team for each on-site assessment and energy audit.
- N. The Contractor must respond to requests and inquires for RETAP assistance within three business days and schedule on-site assessments/audits at the earliest date possible. The Contractor must submit for RETAP Manager approval abbreviated procedures for assuring requests and inquires for RETAP assistance are responded to within three business days.
- O. The Contractor is responsible for requesting management of the facility to sign an indemnification agreement. An example indemnification agreement is given in Attachment N. The RETAP professionals are prohibited from conducting the technical assistance if facility management refuses to sign the agreement or wants to make changes to the agreement.
- P. The Contractor must provide a detailed report to each assessed/audited facility within 60 days after the on-site assessment/audit is completed. These reports must identify P2 opportunities and, at a minimum, contain specific recommendations to save money, increase efficiency, eliminate environmental waste and greenhouse gases, recycle and/or reuse wastes, and reduce energy, water and material usages, particularly the use of hazardous materials. Where possible, each report must provide sufficient guidance for making business decisions to implement each recommendation based on a simple payback approach. These reports must also contain information on additional resources that are available to provide further guidance and implementation assistance, and may include a packet of DEQ literature (provided by the RETAP Manager). All written reports must be printed double-sided, on recycled paper and must include an electronic copy of the report.
- Q. The Contractor must develop and submit for DEQ, OEA Project Manager approval working templates for drafting the assessment, energy audit and source reduction planning reports. The Contractor must use the approved templates. All templates must contain an Executive Summary table listing the significant recommendations along with the estimated savings and payback for each listed opportunity/recommendation (as appropriate). Attachment E provides the basic P2 assessment report outline. Attachment F provides the generalized energy audit report content, and Attachment G provides the Executive Summary table to be included in each assessment/energy audit report. The working templates must be based on a compendium of potential recommendations with guidance on required



information/data needed to be collected during the assessment/audit process for determining and estimating the anticipated resource and associated cost savings for each recommendation (where possible). The working template must further include means for representing energy and water usage, waste generation, and associated cost data graphically and/or in table form.

- R. The Contractor must develop, and submit for DEQ, OEA Project Manager approval, a report template outlining format and content to provide the requested information for the TAH requests (excluding energy efficiency assessments, energy audits and source reduction planning assistance). Attachment H provides the current TAH report outline.
- S. The Contractor must develop and submit for RETAP Manager approval a form to provide information detailing the termination of a request for RETAP services. The Contractor must use the approved form to electronically notify the RETAP Manager of a terminated/canceled assessment, energy audit, or TAH request.
- T. The Contractor must demonstrate the ability to maintain the technical assistance files in a secure and, if necessary, confidential manner.
- U. The Contractor must maintain files on the (1) skills, contact information, and performance of the RETAP professionals, (2) status of requests and status of on-site assessments and TAH requests, and (3) reports or other deliverables resulting from assessments and TAH requests. The Contractor must provide the RETAP Manager updated information on the skills and contact information of the RETAP professionals at the start of the calendar year, contract and fiscal year or on request.
- V. The Contractor must periodically identify and recommend the purchase of hand-held instruments or other equipment useful for identifying P2 opportunities during on-site assessments/audits, and to maintain the safety of the RETAP professionals during on-site assessments. The Contractor must take necessary steps to assure the RETAP assessors are properly trained to use these instruments / equipment. Equipment purchased with State funds must be surrendered to the State on completion or termination of the Contract.
- W. The Contractor must continually build a knowledge bank/database of P2 recommendations as a resource for the on-site assessments/audits and for training purposes. The Contractor must periodically provide this information to the RETAP Manager for concurrence and quality control purposes if requested by the DEQ, OEA Project Manager.
- X. The Contractor must provide an electronic copy of each completed assessment report, energy audit report, and TAH request report to the RETAP Manager within five business days of the report being delivered to the client.
- Y. The Contractor must make appropriate arrangements to allow the RETAP Manager to attend one on-site assessment/audit per calendar quarter for quality assurance purposes. Both the Contractor and the RETAP Manager must agree to the on-site assessment for this purpose. The appropriate manager of the facility for this on-site assessment must provide prior approval for allowing the attendance of the RETAP Manager during the on-site assessment/audit. The RETAP Manager will make the Contractor aware of any concerns identified during the on-site assessment/audit, and the Contractor must notify the RETAP Manager with the steps taken to address the concerns, particularly in reference to all future on-site assessments/audits.
- Z. The Contractor and the RETAP Manager must come to agreement on procedures for piloting innovative approaches to partially funding RETAP services through minor fees for greater confidentiality or expert services such as ASHRAE Level II energy audits and Lean / Six Sigma assessments. Any pilots would be limited to 20 assessments and 10 TAH requests of Article 1.022, subsections 2E and 2G above.

3. Technology Transfer

- A. The Contractor must submit, for RETAP Manager approval, an abbreviated work plan for achieving the technology transfer objectives and current program needs as given in Article 1.021, subsection 3A



above. The plan must include the key tasks and sub-tasks, approximate hours, anticipated milestone and/or completion dates, and responsible individuals for completing the work. The plan must include steps to periodically review and modify technology transfer efforts relative to case study, guidance document, and webinar targets, or as recommended by the RETAP Manager. The Contractor will not undertake active technology transfer efforts prior to tentative work plan approval by the RETAP Manager. Final approval of the work plan must be given by the DEQ, OEA Project Manager. The Contractor must implement the work plan approved by the DEQ, OEA Project Manager.

- B. The Contractor must research and continually build a library of P2 information, resources, tools and recommendations as a resource for enhancing on-site assessment/auditing capabilities and providing an updated listing of library contents to the RETAP Manager on a quarterly basis. The information collected must focus on cost effective technologies, systems, equipment, and practices for reducing on-site energy, water and hazardous material usage, waste generation/disposal, and other cost savings measures. Particular emphasis must be given to methods and techniques for estimating on-site energy, water, and material usages, and waste generation rates, and methods for estimating anticipated on-site energy, water, material, waste, and cost reduction benefits and paybacks associated with assessment/audit recommendations.
- C. The Contractor must provide, to the RETAP Manager, a minimum of four summary case studies per Contract year on the successful implementation of RETAP recommendations by individual facilities assessed/audited by the RETAP. A summary case study must be provided quarterly. Past summary case studies have been one page summaries focusing on the recommendations implemented and the resource and dollar savings achieved by the facility along with a testimonial of their experience. The Contractor and the RETAP Manager must agree to the basic content and format of a standard summary case study. The RETAP Manager must preapprove which RETAP assisted facilities qualify for a summary case study.
- D. The Contractor must direct the RETAP professionals given in Article 1.022, subsection 5E below to present their P2 focus area PowerPoint presentations at a workshop organized by the RETAP Manager. The Contractor must have these RETAP professionals update their presentations to incorporate lessons learned in completing the technical assistance given in Article 1.022, subsections 2F and 2I above prior to the workshop. Feedback from the workshop will be used to finalize the presentations prior to being recorded by the DEQ, OEA as an online webinar. The DEQ, OEA will be responsible for marketing and conducting the webinars.
- E. The Contractor must direct appropriate RETAP professionals to develop an up-to-date guidance document targeted to small manufacturers on developing or completing (1) P2 plan; (2) source reduction plan, and (3) self-conducted environmental waste audits. This task must be undertaken after completion of Article 1.022, subsection 5E below. The Contractor must provide the guidance documents to the RETAP Manager for comment and approval prior to being placed on the DEQ, OEA website.
- F. The Contractor must direct selected RETAP professionals to develop and give PowerPoint presentations on innovative or complex P2 technologies or practices as DEQ, OEA online webinars. The Contractor must deliver two presentations per Contract year, preferably semi-annually. The presentations must be submitted to the RETAP Manager for comment and approval prior to being presented online. The webinar must be given in conjunction with an abbreviated RETAP overview presentation by the RETAP Manager. The intent of the webinars is to demonstrate the technical capabilities of the RETAP to solicit additional requests for assistance and to further technology transfer efforts. The DEQ OEA will be responsible for marketing and conducting the webinars.

4. Recruitment

- A. The Contractor must submit for RETAP Manager approval an abbreviated work plan for achieving the recruitment objectives, requirements, and current program needs as given in Article 1.021, subsection 4A above. The plan must include the key tasks and sub-tasks, approximate hours, anticipated



milestone and completion dates, and responsible individuals for completing the work. The Contractor will not undertake active recruitment efforts prior to tentative work plan approval by the RETAP Manager. Final approval of the work plan must be given by the DEQ, OEA Project Manager. The Contractor must implement the work plan approved by the DEQ, OEA Project Manager.

- B. The Contractor and the RETAP Manager must jointly determine the need to develop a questionnaire and hypothetical P2 problems requiring a written response to assess the problem-solving and writing skills of the candidates.
- C. The Contractor must submit suggested interview questions and selection criteria for approval by the RETAP Manager.
- D. The Contractor must publicize position availability and provide notice to the RETAP Manager including copies of any documents distributed/posted regarding the available position(s).
- E. The Contractor must interview and select candidates in cooperation with the RETAP Manager, who may participate on the interview panel. The Contractor must provide a copy of the candidate's completed application and resume (if available) to the RETAP Manager prior to their interview.
- F. The Contractor must provide RETAP business cards and a permanent RETAP name tag for the RETAP professionals. The business card must clearly display the RETAP logo and only be used in support of, or while conducting, RETAP work.
- G. The Contractor must develop an electronic spreadsheet with individual profiles of the qualifications and contact information of the RETAP professionals. The Contractor must provide the RETAP Manager with an up-to-date copy of the spreadsheet at the start of each contract, calendar, and fiscal year. The spreadsheet must be compatible with the DEQ, OEA software requirements, currently Microsoft Office Suite 2010 software.
- H. The Contractor must notify the RETAP Manager of a RETAP professional leaving the program, including the date the Contractor was notified and reason for leaving.

5. Training

- A. The Contractor must submit, for RETAP Manager approval, an abbreviated work plan for achieving the training objectives, requirements, and current program needs as given in Article 1.021, subsection 5 above. The plan must include the key tasks and sub-tasks, approximate hours, anticipated milestone and completion dates, and responsible individuals for completing the work. The Contractor will not undertake active training efforts prior to tentative work plan approval by the RETAP Manager. Final approval of the work plan must be given by the DEQ, OEA Project Manager. The Contractor must implement the work plan approved by the DEQ, OEA Project Manager.
- B. The Contractor must provide new RETAP recruits with orientation training (to include assessment/auditing protocols and P2 and cost savings information). A one-day orientation session is consistent with past RETAP practices for new recruits located in the Lower Michigan peninsula. The Contractor must notify the RETAP Manager of a scheduled orientation session, including date, location, agenda, attendees, etc. The Contractor must provide copies of the orientation materials to the RETAP Manager on request.
- C. The Contractor must develop and submit for the RETAP Manager's approval, abbreviated procedures for experienced RETAP professionals to properly mentor new recruits during their first several on-site assessments. The approved procedures must be used.
- D. The Contractor must conduct (or direct appropriate RETAP professionals to conduct) a literature search to identify up-to-date resources and tools in each of the following P2 focus areas: source reduction planning, hazardous material usage reduction / greener alternatives, environmentally preferred purchasing, Lean / Six Sigma assessments, spill prevention planning, water conservation, ASHRAE Level II energy auditing, Environmental Management System / ISO 14001, ISO 50001, utility incentive



rebates, variable frequency drives, ultrasonic leak detection, and infrared thermal imaging. Resources and tools include, but are not limited to; checklists, manuals, handbooks, industry protocols/standards, software programs, training materials, courses, etc. The Contractor must provide the RETAP Manager a listing of resources/tools identified for each focus area including recommendations for purchase resources/tools made available only at cost.

- E. The Contractor must have a RETAP professional (with the appropriate background, skill set, and availability) self-train in each of the P2 focus areas given in Article 1.022, subsection 5D above. The Contractor must have a RETAP professional (with the appropriate background, skill set, and availability) self-train in utilizing each of the following software tools: Energy Star Portfolio Manager, EPA P2 Greenhouse Gas calculator, EPA P2 Cost Savings calculator, 3E Plus Insulation Thickness calculator, and Department of Energy AIRMaster+ tool. The training must include developing a one hour (minimum) PowerPoint presentation on their focus area and giving a practice presentation to a selected audience of DEQ staff and P2 partners for feedback and enhancing presentation content. All PowerPoint presentations must be provided to the RETAP Manager prior to and after the practice presentation for review and suggestions for improvement.
- F. The Contractor must determine the training needs for developing the ability of one or two RETAP professionals (having the appropriate background and skill level) to perform in-depth, on-site P2 assessments and energy audits at traditional agricultural businesses (e.g. dairy farms, grain elevators, greenhouses, etc.). Upon approval of the RETAP Manager, the Contractor must pay/reimburse the designated RETAP professionals for attending the P2 and/or energy auditing training courses or workshops specific to traditional agricultural businesses. The Contractor must provide a written summary report and a copy of materials obtained to the RETAP Manager for each course or workshop attended by these RETAP professionals. This report must describe the lessons learned or other information obtained relevant to RETAP technical services and how these lessons will be disseminated among the RETAP professionals.
- G. The Contractor must develop the content and provide instruction for three one-day “in-house” trainings of the RETAP professionals per Contract year. The Contractor must obtain RETAP Manager approval for the content of these trainings and any significant costs anticipated for the trainings such as speaker, room, food expenditures; and overnight accommodations for the RETAP professionals. One training session should be directed to reviewing and properly following (updated) technical assistance protocols and procedures and using data collection, report writing, recommendation calculation tools. The DEQ, OEA Project Manager may require one or more of these trainings to be directed to achieving the technical assistance objectives of DEQ, OEA programs/projects or other designated State programs/projects. All activities and associated costs necessary for conducting these trainings are the responsibility of the Contractor.
- H. The Contractor must pay and reimburse one RETAP professional for attending an energy audit certification course or workshop offered by other organizations as approved by the RETAP Manager. The Contractor must provide a written summary report and a copy of materials obtained to the RETAP Manager for each course or workshop attended by the RETAP professional. This report must describe the lessons learned or other information obtained relevant to RETAP technical services. If appropriate and feasible, these lessons must be disseminated among the RETAP professionals.
- I. The Contractor must train two designated DEQ, OEA staff personnel on conducting in-depth, on-site P2 assessments and delivering high quality written assessment reports containing meaningful recommendations with resource and cost saving estimates. The training must include the RETAP professionals mentoring the designated staff on six RETAP assessments each. Two assessments must involve active shadowing the RETAP professionals. Two assessments must involve active identification of P2 opportunities by staff for direct feedback and guidance by the RETAP professionals, and two assessments must involve near independent identification of P2 opportunities by staff with guidance by RETAP staff as necessary. The RETAP team must remain responsible for providing the assessed facility with an independent P2 assessment report. DEQ, OEA staff generated recommendations and reports will be reviewed for educational purposes and feedback by the Contractor. The Contractor must



make appropriate arrangements to allow the designated DEQ, OEA staff to participate in the on-site assessments. Both the Contractor and the RETAP Manager must agree to the on-site assessments for this purpose. The appropriate manager of the facility for each on-site assessment must provide prior approval for allowing the attendance/participation of the DEQ, OEA staff during the on-site assessment.

6. Marketing

- A. The Contractor must submit, for RETAP Manager approval, an abbreviated work plan for achieving the marketing objectives as given in Article 1.021, subsection 6A above. The plan must include the key tasks and sub-tasks, approximate hours, anticipated milestone and/or completion dates, and responsible individuals for completing the work. The plan must include steps to periodically review and modify marketing efforts relative to assessment / auditing targets, or as recommended by the RETAP Manager. The Contractor must not undertake active marketing efforts prior to tentative work plan approval by the RETAP Manager. Final approval of the work plan must be given by the DEQ, OEA Project Manager. The Contractor must implement the work plan approved by the DEQ, OEA Project Manager.
- B. As standard marketing practice, the Contractor must ask each assisted RETAP client how they learned of RETAP services and suggestions on potential clients or marketing partners.
- C. The Contractor must assist the RETAP Manager in marketing and building support for the program by routinely requesting testimonials and letters of support from RETAP clients, and periodically identify potential partners (such as trade associations, chambers of commerce, environmental organizations, etc.) to approach and secure working relations with. The Contractor must provide the testimonials and letters of support to the RETAP Manager.
- D. The Contractor must semi-annually (or more frequently as directed) distribute an informational newsletter electronically to subscribed RETAP clients and others. The newsletter will go out under the RETAP logo and include RETAP summary success/case stories and P2 related funding opportunities, events, best practices, innovative technologies, resources, etc. The RETAP Manager will approve the content of the newsletter prior to its distribution. The newsletter may be posted on the RETAP website. The intent of the newsletter is to maintain a connection with past RETAP clients to improve program measurement response rates, advance P2 technology transfer efforts, spur testimonials and build general support for the program.

7. Program Measurement and Reporting

- A. Program measurement and reporting is critical to the continued success, improvement, and future funding of the RETAP. The Contractor must submit for RETAP Manager approval an abbreviated work plan for achieving the program measurement objectives and current needs as given in Article 1.021, subsection 7 above. The plan must include the key tasks and sub-tasks, approximate hours, anticipated milestone and/or completion dates, and responsible individuals for completing the work. The plan must include steps to periodically review and modify program measurement efforts relative to follow-up measurement targets, or as recommended by the RETAP Manager. The Contractor must not undertake active program measurement efforts prior to tentative work plan approval by the RETAP Manager. Final approval of the work plan must be given by the DEQ, OEA Project Manager. The Contractor must implement the work plan approved by the DEQ, OEA Project Manager.
- B. The Contractor must submit for DEQ, OEA Project Manager approval separate protocols for conducting the Supplemental, Eight Week, 12-Month, and 24-Month program measurement follow-ups, which apply to completed P2 assessments, and energy efficiency assessments, energy audits and source reduction planning assistance classified as TAH requests. The RETAP professionals will be prohibited from conducting program measurement follow-ups until the protocols are tentatively approved by the RETAP Manager. The procedures must further include a mechanism to periodically review and modify the protocols and measurement forms, as necessary, or recommended by the RETAP professionals,



editors, the RETAP Manager, or DEQ, OEA Project Manager. The Contractor must obtain RETAP Manager approval prior to implementing any changes to the protocols. The protocols must be used. The Eight Week, 12-Month, and 24-Month program measurement are for answering questions, providing additional information, pursuing case study opportunities, evaluating the assistance, securing testimonials, etc., and obtaining the information necessary for the monthly and Contract Year reports. The Contractor must continue and complete these follow-ups with those facilities that received an assessment report from the RETAP under the prior Contract. The RETAP Manager will provide the Contractor with a listing of active Eight Week, 12-Month, and 24-Month program measurement follow-ups at the start of the Contract. The Contractor must complete 90% of the Eight Week follow-ups, 70% of the 12-Month follow-ups, and 50% of the 24-Month follow-ups. The Contractor must provide to the RETAP Manager a minimum of 10 testimonials per Contract year from RETAP assisted facilities, including the name and title of the facility representative and date of the testimonial. Testimonials are provided on the organization's letterhead, signed, and dated by the facility representative.

- C. The Contractor must provide program progress and financial information essential for the DEQ, OEA to meet its reporting obligations under current and future federal and State funding sources supporting RETAP services. The RETAP is currently funded in part by the United States EPA Pollution Prevention Grant Program. The RETAP Manager will determine, on an ongoing basis, what information will be collected and provided to meet program measurement needs. The RETAP Manager will evaluate the data received from the Contractor and work with them to continually make improvements.
- D. The Contractor must provide to the RETAP Manager, by the 15th of each month, an invoice report with the supporting financial data using the current RETAP accounting forms and Contract ledger or preapproved facsimiles for this purpose. [Note: The September invoice and supporting documentation is typically required by October 7th to meet end of fiscal year deadlines.] Attachment I provides the current forms for reporting the program financial data to the RETAP Manager. This data includes: a summary of monthly expenses, detail of expenses incurred by subcontractors, and a record of invoices and payments to subcontractors for services. The RETAP Manager will inform the Contractor what information must be reported for the DEQ, OEA to meet its reporting obligations under current or future federal and state funding sources used to support RETAP services.
- E. The Contractor must use the current RETAP forms or preapproved facsimiles for the Program Measurement task. Attachment J provides the current forms for the monthly reporting of program progress to the RETAP Manager. The Contractor must submit the forms electronically by the 15th of each month using Microsoft Office Suite 2010 software. Future changes in electronic report submittal requirements must be directed by the RETAP Manager. The RETAP Manager will determine what information must be reported. At a minimum, the Contractor must include the following additional information with the monthly program progress report:
 - 1. Number of source reduction planning requests, onsite visits, and reports delivered;
 - 2. Number of in-depth measurement follow-ups initiated and reports delivered;
 - 3. Number of summary case studies delivered;
 - 4. Number of testimonials received;
 - 5. Listing of Eight Week follow-ups closed-out with no information collected;
 - 6. Listing of 12-Month follow-ups closed-out with no information collected; and
 - 7. Listing of 24-Month follow-ups closed-out with no information collected.
- F. The Contractor must use the current RETAP forms or preapproved facsimiles for the Program Measurement task. Attachments N, O, and P provide the current forms for reporting the Supplemental, Eight Week, 12-Month, and 24-Month program measurement follow-up data to the RETAP Manager. The Contractor must submit the forms electronically by the 15th of each month using Microsoft Office Suite 2010 software. Future changes in electronic report submittal requirements must be directed by the RETAP Manager. The RETAP Manager will determine what information must be reported. At a minimum, the Contractor must include the following additional information with the program measurement follow-up data:



1. Number of jobs created/retained due to RETAP assistance (12-Month and 24-Month follow-ups);
 2. Total dollars in capital investment from implementations (12-Month and 24-Month follow-ups);
 3. Description of significant or innovative P2 technologies implemented since receiving the assessment/energy audit report (12-Month and 24-Month follow-ups);
 4. Testimonials from the facilities on their RETAP technical assistance experience including name, title, and date (12-Month and 24-Month follow-ups; and
 5. Separate listings of Eight Week, 12-Month, and 24-Month program measurement follow-ups closed-out due to non-responsive clients or otherwise unsuccessful contacts, including notification of closed facilities.
- G. The Supplemental Program Measurement report (i.e. Supplemental) is strictly confidential, limited, and restricted to internal RETAP use only. Attachment K provides the current Supplemental Program Measurement report form. A completed Supplemental report must only be used by the RETAP Manager and the Contractor's designated staffer and assessment team member responsible for providing the completed form. The primary intent of the Supplemental is to allow the RETAP Manager to accurately estimate the value and impact of RETAP technical assistance by providing estimates (in the absence of available data) on the amount of (1) wastes generated and utilities used at a facility, and (2) resource and cost savings anticipated by implementing each recommendation offered. This function is considered critical to improving program services, strengthening program support, and securing future funding. The Contractor must provide a completed Supplemental report for each assessment/energy audit report within 10 business days of the report being delivered to the client. The RETAP Manager reserves the right to contact the facility for quality assurance purposes and to encourage submission of testimonials and annual follow-ups where the facility representative has agreed to such contact.
- H. The Contractor must report in-depth measurement follow-up data on the raw material, critical/hazardous material elimination, waste reduction, energy, labor, cost, and all other savings achieved by five of the facilities previously receiving an on-site P2 assessment. The Contractor and the RETAP Manager must jointly agree upon the facilities to report the in-depth measurement data. The Contractor must develop and submit for the RETAP Manager's approval, the data elements necessary for reporting the in-depth measurement data. The RETAP Manager will determine, on an ongoing basis, what in-depth measurement data will be provided to meet program measurement needs for this task. The Contractor must report the in-depth measurement data for the one year, and two year follow-up reports for these facilities. The Contractor must identify the facilities, obtain the necessary approvals, and conduct the necessary activities to collect and report the in-depth measurement data. The in-depth measurement follow-up must be conducted by a team of two or more RETAP engineers, one of which must be the original assessment team leader (if available) and at least one RETAP engineer with the experience and capability of successfully estimating energy, waste, and cost savings associated with implemented RETAP recommendations. The Contractor is encouraged to employ this specialized RETAP engineer(s) on multiple in-depth measurement follow-ups.
- I. The Contractor must provide the information contained in the TA Contact form for RETAP assessments completed prior to October 1, 2009, to the extent the information remains available. A copy of the form is given in Attachment D. The TA Tracking form information is strictly confidential, limited and restricted to internal RETAP use only. The RETAP Manager will provide the Contractor with a listing of the assessments requiring the Technical Assistance Tracking form information. The Contractor and the RETAP Manager will agree on the most efficient manner for electronically providing the information.
- J. The Contractor must make appropriate arrangements to allow the RETAP Manager to attend one on-site program measurement follow-up per calendar quarter for quality assurance purposes. Both the Contractor and the RETAP Manager must agree to the program measurement follow-up for this purpose. The appropriate manager of the facility for this on-site program measurement follow-up must provide prior approval for allowing the attendance of the RETAP Manager during the on-site follow-up. The RETAP Manager will make the Contractor aware of any concerns identified during the on-site



program measurement follow-up, and the Contractor must notify the RETAP Manager with the steps taken to address the concerns, particularly in reference to all future program measurement follow-ups.

- K. The Contractor must provide to the RETAP Manager up-to-date contact information of an assessed/audited facility within 10 business days of closeout of the 24-Month program measurement follow-up. The DEQ, OEA reserves the right to have the RETAP Manager contact the facility for quality assurance purposes and to encourage submission of testimonials and letters of support.

1.030 Roles and Responsibilities

1.031 Contractor Staff, Roles, and Responsibilities

Contractor must provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth in this Contract. The DEQ, OEA reserves the right to approve personnel for this Contract and to require replacement of personnel found to be unacceptable at any time during the Contract.

The on-site TA will be conducted by the retired engineers, scientists, and other qualified professionals that constitute the RETAP. The Contractor must subcontract with these individuals and recruit additional retired professionals to maintain a diverse pool of expertise to provide assistance across a range of industrial sectors, geographical areas within Michigan, media and types of waste, as well as building, process, and environmental systems.

The following key personnel are required for this Contract by the Contractor for the daily operation of RETAP technical services:

- Project Manager designated as the primary contact for the project with overall responsibility for carrying out the terms of the Contract and managing program measurement and reporting results to the State.
- Assistant Project Manager designated to serve on behalf of the Project Manager in their absence with overall quality assurance responsibility for the Contract.
- Marketing, Recruitment, and Training Manager responsible for managing the marketing, recruitment, and training tasks/deliverables of the Contract.
- Accountant responsible for the financial procedures, tracking, and reporting requirements of the Contract.
- Office Manager responsible for all office operations including, but not limited to, routine communications with the RETAP professionals, maintenance of technical assistance files, and submission of non-financial reports to the RETAP Manager.
- Editor responsible for editing technical assistance reports and updating/improving report templates including language and data collection/calculation guidance.
- Program Measurement Follow-up Expert designated to overcome the many challenges the RETAP professionals face in securing program measurement follow-up data from assisted clients. This individual should directly assist RETAP professionals in their follow-ups to obtain appropriate and detailed responses from each client, make resource and cost saving calculations and/or estimates for implemented recommendations, securing testimonials and summary case stories, and assuring the process is timely. The Program Measurement Follow-up Expert should be given responsibility to follow-up with individual companies when the assessment team members are unavailable, unwilling, or ineffective in completing follow-ups, and may even be given responsibility to follow-up with the majority of companies if proven highly effective.

1.040 Project Plan

1.041 Project Plan Management

The work must be carried out according to the agreed upon project plan by the Contractor and the DEQ, OEA Project Manager. All written materials and major work elements must be provided to the RETAP Manager for review, prior to finalizing and be acceptable to the DEQ, OEA Project Manager. The work performed must be completed by staff acceptable to the DEQ, OEA Project Manager.



- A. The Contractor must carry out this project under the overall direction and control of the DEQ, OEA Project Manager (see Section 2.023). The RETAP Manager will review monthly and annual progress and financial reports, and draft procedures, protocols, report templates, and work plans.
- B. Although there will be continuous liaison with the Contractor, the RETAP Manager (see Section 2.022) must have weekly contact (at a minimum) with the Contractor for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise. The objective of this step is to ensure that the RETAP Manager is promptly informed of progress and the major issues that confront the Contractor throughout the Contract. The process for resolution for this contact will be a mutually agreed upon manner.
- C. Conferences, meetings, or conference calls may be held by the DEQ, OEA Project Manager or the RETAP Manager to review progress and re-chart direction. These engagements must be attended by the Contractor Project Manager/Director. Key Contractor team members may also be requested to attend. The Contractor will receive appropriate advanced notice from the RETAP Manager prior to each engagement.
- D. Within 15 working days of the award of the Contract, the Contractor must electronically submit a work plan to the RETAP Manager for tentative approval, with final approval by the DEQ, OEA Project Manager (see also Article 1.022 Section 1A). This final implementation plan must be in agreement with the work plan proposed by the Contractor and accepted by the State, and must include the following:
 - 1. The Contractor's project organizational structure.
 - 2. The Contractor's staffing table with names and title of personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.
 - 3. Methods, tools, and processes proposed to oversee the project, address issues/changes as they may arise, and keep the appropriate parties apprised of progress.
 - 4. The project breakdown showing sub-projects, activities and tasks, and resources required and allocated to each.
 - 5. A Gantt chart showing each key task, event, milestone, and decision point in the Contractor's work plan.

1.042 Reports

All reports and other documents must be submitted electronically in a format compatible with the DEQ, OEA software requirements using an appropriate Microsoft Office Suite 2010 software product.

The Contractor must provide to the RETAP Manager, by the 15th of each month, an invoice report with the supporting financial data using the current RETAP accounting forms and Contract ledger or preapproved facsimile for this purpose. Attachment I provides the current RETAP accounting forms and Contract ledger.

The Contractor must provide the monthly progress and program measurement data reports as outlined in Article 1.022, subsection 7.

An approved (Contract year) annual report is due within 30 days following completion of a Contract year. The DEQ OEA Project Manager must approve the annual report. The Contractor must submit one hard copy and an electronic copy of each approved annual report to the RETAP Manager. A draft version of the annual report must be electronically submitted to the RETAP Manager no later than 10 days following completion of the Contract year to allow the DEQ, OEA sufficient time to review and request any needed changes to the report. At a minimum, the annual report must contain the following:

- A. A summary of Contract achievements/outcomes and overall impacts, milestones reached, lessons learned, and obstacles experienced during the year;



- B. A table, Gantt chart or similar listing and approximate percent completion of each task outlined in Article 1.022, noting and discussing all tasks significantly behind in percent completion from the original project work plan projection including corrective actions being taken;
- C. A financial report reconciling expenditures to budget line items; and
- D. Final work products, not submitted previously.

1.050 Acceptance

1.051 Criteria

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

The work must be carried out and accepted by the DEQ, OEA Project Manager. All written documentation and major work elements must be provided for the RETAP Manager to review prior to finalizing, and be acceptable to the DEQ, OEA Project Manager.

All questions which may arise as to the quality and acceptability of work, the manner of performance and rate of progress of the work, the interpretation and fulfillment of data and document deliverables, and as to the satisfactory and acceptable fulfillment of the terms of this Contract must be decided by the DEQ, OEA Project Manager.

A. Document Deliverables

Documents must include, but not be limited to, monthly and yearly reports, financial reports, assessment/audit reports, and any documents resulting from or required of Technical Assistance Hours (TAH) requests.

1. Documents are dated and in electronic format, compatible with the DEQ, OEA software requirements, currently Microsoft Office Suite 2010 software in accordance with Article 1.042;
2. The documents will be reviewed and accepted in accordance with the requirements of this Contract; and
3. The RETAP Manager will review project documents within 15 business days of receipt. Approvals will be given by the DEQ, OEA Project Manager or designee. Issues/items found unacceptable will be documented and submitted to the Contractor. After issues are resolved or waived by the DEQ, OEA Project Manager, the Contractor must resubmit documents for approval by the DEQ, OEA Project Manager or designee within 15 business days of receipt.

B. Service Deliverables

Services must include, but not be limited to, on-site energy efficiency assessments, on-site P2 assessments, energy audits, Technical Assistance Hours (TAH) requests, and quality assurance, recruitment, training, marketing, technology transfer and program measurement activities outlined in Article 1.022.

1. The services have been completed in accordance with the protocols and procedures developed for RETAP services;
2. The services will be accepted in accordance with the requirements of this Contract; and
3. Issues and disagreements over the delivery and acceptance of RETAP services provided by the Contractor will be brought to the attention of the DEQ, OEA Project Manager and resolved in a timely and mutually agreeable manner.

C. Data Deliverables

Data deliverables must include, but not be limited to, information/data on RETAP services, requested by the RETAP Manager, but not otherwise included in the document or service deliverables supplied by the Contractor.



1. Data deliverables are compatible with the DEQ, OEA software requirements, currently Microsoft Office Suite 2010 software in accordance with Article 1.042;
2. The data deliverables will be reviewed and accepted in accordance with the requirements of this Contract; and
3. The RETAP Manager will review the data deliverables within 10 days of receipt. Issues/data found unacceptable will be documented and submitted to the Contractor. After issues are resolved or waived by the DEQ, OEA Project Manager, the Contractor must resubmit the data deliverable for approval by the DEQ, OEA Project Manager or designee within 10 business days of receipt.

1.052 Final Acceptance

Final acceptance will occur upon successful completion of the final Contract year's reporting requirements. Any intermediate acceptance of sub-deliverables does not complete the requirement of Final Acceptance.

The following criteria will be used by the DEQ, OEA Project Manager to determine Final Acceptance under this Contract:

- A. Each task listed under Article 1.022 has either been completed by the Contractor or waived by the DEQ, OEA Project Manager;
- B. All documents, services, and data are delivered and accepted by the DEQ, OEA Project Manager in accordance with the requirements of this Contract; and
- C. All invoices related to this Contract have been submitted and approved for payment.

1.060 Proposal Pricing

1.061 Proposal Pricing

For authorized Services and Price List, see Attachment A.

Contractor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for the expense at the State's current travel reimbursement rates. See www.michigan.gov/dtmb for current rates.

Attachment A reflects a lump sum price for the whole Contract, line item prices for the tasks listed in Section 1.022, and a unit price for a TAH. This unit price includes costs for all related tasks associated with providing the on-site technical assistance. Travel expenses will be reimbursed at the prevailing State of Michigan travel rates (see Appendix B for current rates). The mileage reimbursement rate will be limited to the Standard Mileage Rate set by the DTMB (see http://michigan.gov/dmb/0,1607,7-150-9141_13132---,00.html). All out-of-state travel must be preapproved by the RETAP Manager. No out-of-state travel is anticipated for the project.

The Contractor can anticipate a total of 21,600 TAH to complete on-site P2 assessments for a minimum of 240 facilities during the Contract period. The Contractor can anticipate an additional 5,400 TAH during the Contract period to complete approximately 105 TAH requests, which includes on-site energy efficiency assessments for a maximum of 30 facilities, energy audits on a minimum of 15 buildings, on-site source reduction planning assistance for a minimum of 15 facilities, and other specialized P2 assignments that don't qualify as an on-site P2 assessment. The Contractor can anticipate a further 150 TAH during the Contract period for brief information exchanges (i.e. TAH information exchange) to provide basic P2 technical assistance in response to DEQ, OEA pollution prevention partnership/initiative member questions. Note: a total of 27,150 TAH for the Contract period.

The assessments (including the pre-visit) rarely take more than one day of on-site time. For large institutions (e.g. universities) the full on-site assessment may last about three days, but such requests only occur once to twice per year. For a smaller business, the pre-assessment may yield enough information to support a report of energy efficiency and/or P2 opportunities. The energy audits (including the pre-visit) may take one to two days of on-site time.



For the purpose of estimating costs of an on-site P2 assessment and report, an average of 90 subcontractor hours can be expected. For the purpose of estimating costs of an on-site energy efficiency assessment and report, an average of 50 subcontractor hours can be expected. For the purpose of estimating costs of an on-site energy audit and report, an average of 100 subcontractor hours can be expected. For the purpose of estimating costs of an on-site source reduction planning assistance and report, an average of 70 subcontractor hours can be expected. For the purpose of estimating costs of all other TAH requests and report, an average of 30 subcontractor hours can be expected. For the purpose of estimating costs of a TAH information exchange, an average of one subcontractor hour can be expected.

Any assessments/audits and Technical Assistance Hours (TAH) requests conducted beyond the contractually obligated amounts will be compensated at a rate as identified in the payment schedule. Payment for these “additional” assessments will be determined from available State funding at the time of the completion of the work. It is suggested that a determination of funding availability be requested before undertaking any additional assessments.

The TAH will be compensated on a unit price basis, with the unit price representing the average hourly cost for all costs associated with completing all on-site technical assistance and delivering the associated reports based on maximum of 27,900 assessor hours. This includes all staffing, subcontractor, travel, supplies and materials, and direct and overhead costs.

The TAH and the recruitment, training, quality assurance, program measurement and reporting, and technology transfer, and marketing tasks will be reimbursed on per hour basis as stated on Attachment A of the Contract.

Overhead costs will be limited to a set percentage of the total cost for staff and subcontractor salaries/wages.

All invoices must reflect actual work done. At a minimum, requests for on-site assistance will be assigned an identifier number that will be used throughout the assessment and measurement reporting process for each facility/request. The identifier number will be used on invoices to document actual hours against a specific assessment/audit or Technical Assistance Hours (TAH) request and will be used to document status of completion of each. Specific details of invoices and payments will be agreed upon between the RETAP Manager and the Contractor after the Contract has been signed and accepted by both the Contractor and the DTMB-Procurement

The DEQ, OEA Project Manager (or designee) will accept for payment, only invoices that are error free as of the invoice date. Any invoicing errors or omissions that are the fault of the Contractor will result in the DEQ rejecting such invoices, requiring that the Contractor correct the invoice problems and then create a new invoice, with a new invoice date reflecting that the invoice is being reissued after the corrections have taken place. Contractors demonstrating a continuing problem with invoicing errors and omissions may be considered in default of Contract; resulting in termination of the Contract.

The State does not pay for time spent on non-working meal breaks (i.e. breakfast, lunch, and dinner).

In the situation where a business or institution terminates RETAP services prior to completion of the on-site assessment/audit, the Contractor must use TAH for compensation of work completed. The Contractor must include, with the monthly invoice, information detailing the termination of the assessment process by the business or institution.

1.062 Price Term

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

1.063 Tax Excluded from Price

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



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

1.064 Holdback

The State has the right to hold back, as a retainage, an amount equal to 5.0% of all amounts invoiced by Contractor for Services/Deliverables. The amounts held back must be released to Contractor after the State has granted Final Acceptance.

1.070 Additional Requirements

1.071 Additional Terms and Conditions

- A. All questions which may arise as to the quality and acceptability of work, the manner of performance and rate of progress of the work, the interpretation of designs and specifications, and as to the satisfactory and acceptable fulfillment of the terms of this agreement must be decided by the DEQ, OEA Project Manager.
- B. The Contractor must agree that it will not volunteer, offer, or sell its services to any litigant against the DEQ with respect to any services that it has agreed to perform for the DEQ, OEA, provided that this provision must not apply either when the Contractor is issued a valid subpoena to testify in a judicial or administrative proceeding or when the enforcement of this provision would cause the Contractor to be in violation of any Michigan or federal law.
- C. All documents and other materials prepared by the Contractor during the execution of a Contract will be the property of the DEQ. This includes, but is not limited to, all new business processes created, all planning and design work performed, the source and object code of all software programs and systems, any business objects or databases created, all related documentation (written or automated), and reports. The State will own and retain intellectual property rights covering technology developed as part of the services, described in the Contract.
- D. The Contractor must not furnish or disclose any items owned by the DEQ to a third party without the written permission of the DEQ, OEA Project Manager; this includes both items created as part of this Contract and items owned by the DEQ that are incidental to the Contract. The Contractor must not use items owned by the DEQ for other purposes without the prior written permission by the DEQ, OEA Project Manager.
- E. Individuals assigned by the Contractor are employees of that Contractor, and are not, under any circumstances or conditions, employees of the DEQ.
- F. The DEQ will retain the right to release outright or request the replacement of any Contractor representative who is working at an inferior level of performance, as determined by the DEQ, OEA Project Manager. The Contractor will be given 24 hours advance notice of this action. The Contractor must provide an acceptable replacement within five working days of notice of this release.
- G. The Contractor must assume full responsibility for the behavior of its employees and must remove any of its employees from State premises at the request of the DEQ, OEA Project Manager.
- H. The individual(s) assigned to the Contract may not be replaced during the course of the Contract without the prior approval of the DEQ, OEA Project Manager. The DEQ, OEA Project Manager and/or his representatives may interview candidates prior to this approval.



- I. The Contractor must use all DEQ software, in accordance with applicable license agreements and any further restrictions imposed by the DEQ, where determined necessary by the DEQ, OEA Project Manager. Contractors must not make any unauthorized copies of any DEQ licensed software under any circumstances. Contractors found copying or knowingly using copyrighted software, other than for backup purposes, are subject to removal. Contractors must not provide software to any outsiders including consultants, local governmental units, and others when this would be in violation of law or copyright or license agreements.
- J. The Contractor must certify in writing that they are in conformance with applicable federal and State civil rights laws and practices, equal employment opportunity for all persons regardless of race, creed, color, religion, national origin, gender, or handicap; it is also in conformance with the requirements of the Americans with Disabilities Act. Failure to comply with the aforementioned laws may result in the termination of the Contract.
- K. The Contractor's name, logo, or other company identifier may not appear on documentation delivered to the State without written authorization from the DEQ, OEA Project Manager. An exception to this will be transmittal of cover letters showing delivery of said documents.
- L. The DEQ, OEA Project Manager reserves the right to interview and approve the Contractor's personnel. The DEQ, OEA Project Manager reserves the right to reject any proposed staff member or subcontractor and require the appointment of a satisfactory Contractor staff member or subcontractor, as well as to require verification of a proposed staff member or subcontractor's skills through demonstration and/or testing.
- M. The Contractor will not be limited to the tasks identified in this document or work plan, and may supplement them with an alternate list of tasks or sub-tasks that will still permit the proper development of the project. Any additions or modifications of the tasks by the Contractor must be so noted, along with reasons the changes were necessary. Changes and modifications are subject to written approval by the DEQ, OEA Project Manager or designated representative.



Article 2, Terms and Conditions

2.000 Contract Structure and Term

2.001 Contract Term

The Contract is for a period of three years beginning April 18, 2014 through April 17, 2017. All outstanding Purchase Orders must also expire upon the termination (cancellation for any of the reasons listed in **Section 2.150**) of the Contract, unless otherwise extended under the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

2.002 Options to Renew

The Contract may be renewed in writing by mutual agreement of the parties not less than 30 days before its expiration. The Contract may be renewed for up to two additional one year periods.

2.003 Legal Effect

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

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

2.004 Attachments & Exhibits

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

2.005 Ordering

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

2.006 Order of Precedence

(a) The Contract, including any Statements of Work and Exhibits, to the extent not contrary to the Contract, each of which is incorporated for all purposes, constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior agreements, whether written or oral, with respect to the subject matter and as additional terms and conditions on the purchase order must apply as limited by **Section 2.005**.

(b) In the event of any inconsistency between the terms of the Contract and a Statement of Work, the terms of the Statement of Work will take precedence (as to that Statement of Work only); provided, however, that a Statement of Work may not modify or amend the terms of the Contract, which may be modified or amended only by a formal Contract amendment.



2.007 Headings

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

2.008 Form, Function & Utility

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

2.009 Reformation and Severability

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

2.010 Consents and Approvals

Except as expressly provided otherwise in the Contract, if either party requires the consent or approval of the other party for the taking of any action under the Contract, the consent or approval must be in writing and must not be unreasonably withheld or delayed.

2.011 No Waiver of Default

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

2.012 Survival

Any provisions of the Contract that impose continuing obligations on the parties, including without limitation the parties' respective warranty, indemnity and confidentiality obligations, survive the expiration or termination of the Contract for any reason. Specific references to survival in the Contract are solely for identification purposes and not meant to limit or prevent the survival of any other section.

2.020 Contract Administration

2.021 Issuing Office

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

Pamela Platte
Procurement
Department of Technology, Management and Budget
Constitution Hall, 1NE
525 West Allegan,
Lansing, MI 48933
plattep@michigan.gov
517-284-7022

2.022 Contract Compliance Inspector

After DTMB-Procurement receives the properly executed Contract, it is anticipated that the Chief Procurement Officer, DTMB-Procurement, in consultation with DEQ, will direct the person named below, or any other person so designated, to monitor and coordinate the activities for the Contract on a day-to-day basis during its term.



However, monitoring of the Contract implies **no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of the Contract as that authority is retained by DTMB-Procurement.** The CCI for the Contract is:

David Herb, RETAP Manager
Office of Environmental Assistance
Department of Environmental Quality
525 West Allegan, 1N
Lansing, MI 48933

Email: herbd@michigan.gov
Phone: (517) 241-8176
Fax: (517) 241-0858

2.023 Project Manager

The following individual will oversee the project:

Richard Alexander, Assistant Chief
Office of Environmental Assistance
Department of Environmental Quality
525 West Allegan, 1N
Lansing, MI 48933
Email: alexanderr1@michigan.gov
Phone: (517) 335-7310
Fax: (517) 241-0858

2.024 Change Requests

The State reserves the right to request, from time to time, any changes to the requirements and specifications of the Contract and the work to be performed by the Contractor under the Contract. During the course of ordinary business, it may become necessary for the State to discontinue certain business practices or create Additional Services/Deliverables. At a minimum, to the extent applicable, the State would like the Contractor to provide a detailed outline of all work to be done, including tasks necessary to accomplish the services/deliverables, timeframes, listing of key personnel assigned, estimated hours for each individual per task, and a complete and detailed cost justification.

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

Change Requests:

- (a) By giving Contractor written notice within a reasonable time, the State must be entitled to accept a Contractor proposal for Change, to reject it, or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice must be prepared and issued under the Contract, describing the Change and its effects on the Services and any affected components of the Contract (a "Contract Change Notice").
- (b) No proposed Change may be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the DTMB-Procurement.
- (c) If the State requests or directs the Contractor to perform any activities that Contractor believes constitute a Change, the Contractor must notify the State that it believes the requested activities are a Change before beginning to work on the requested activities. If the Contractor fails to notify the State before beginning to work on the requested activities, then the Contractor waives any right to assert any claim for additional compensation or time for performing the requested activities. If the Contractor commences performing work outside the scope of 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.

**2.025 Notices**

Any notice given to a party under the Contract must be deemed effective, if addressed to the State contact as noted in Section 2.021 and the Contractor's contact as noted on the cover page of the contract, upon: (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this Section; (iii) the third Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

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

2.026 Binding Commitments

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

2.027 Relationship of the Parties

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

2.028 Covenant of Good Faith

Each party must act reasonably and in good faith. Unless stated otherwise in the Contract, the parties must not unreasonably delay, condition, or withhold the giving of any consent, decision, or approval that is either requested or reasonably required of them in order for the other party to perform its responsibilities under the Contract.

2.029 Assignments

(a) Neither party may assign the Contract, or assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign the Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign the Contract to an affiliate so long as the affiliate is adequately capitalized and can provide adequate assurances that the affiliate can perform the requirements of the Contract. The State may withhold consent from proposed assignments, subcontracts, or novations when the transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

(b) Contractor may not, without the prior written approval of the State, assign its right to receive payments due under the Contract. If the State permits an assignment, the Contractor is not relieved of its responsibility to perform any of its contractual duties, and the requirement under the Contract that all payments must be made to one (1) entity continues.

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

2.030 General Provisions**2.031 Reserved****2.032 Media Releases**

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



RFP and Contract are to be released without prior written approval of the State and then only to persons designated.

2.033 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.

2.034 Permits

Contractor must obtain and pay any associated costs for all required governmental permits, licenses and approvals for the delivery, installation and performance of the Services.

2.035 Website Incorporation

The State is not bound by any content on the Contractor's website, even if the Contractor's documentation specifically referenced that content and attempts to incorporate it into any other communication, unless the State has actual knowledge of the content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representative of the State.

2.036 Future Bidding Preclusion

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

2.037 Freedom of Information

All information in any proposal submitted to the State by Contractor and the Contract is subject to the provisions of the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231, et seq (the "FOIA").

2.038 Disaster Recovery

Contractor and the State recognize that the State provides essential services in times of natural or man-made disasters. Therefore, except as so mandated by Federal disaster response requirements, Contractor personnel dedicated to providing Services/Deliverables under the Contract must provide the State with priority service for repair and work around in the event of a natural or man-made disaster.

2.040 Financial Provisions

2.041 Fixed Prices for Services/Deliverables

Each Statement of Work or Purchase Order issued under the Contract must specify (or indicate by reference to the appropriate Contract Exhibit) the firm, fixed prices for all Services/Deliverables, and the associated payment milestones and payment amounts. The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

2.042 Adjustments for Reductions in Scope of Services/Deliverables

If the scope of the Services/Deliverables under any Statement of Work issued under the Contract is subsequently reduced by the State, the parties must negotiate an equitable reduction in Contractor's charges under such Statement of Work commensurate with the reduction in scope.

2.043 Services/Deliverables Covered

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

2.044 Invoicing and Payment – In General

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



(b) Each Contractor invoice must show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. Invoices for Services performed on a time and materials basis must show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 1.064**.

(c) Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 PA 279, MCL 17.51 et seq., within 45 days after receipt, provided the State determines that the invoice was properly rendered.

(d) All invoices should reflect actual work done. Specific details of invoices and payments will be agreed upon between the CCI and the Contractor. (5% of the total price to remain for final payment).

The specific payment schedule for any Contract(s) entered into, as the State and the Contractor(s) must mutually agree upon. The schedule must show payment amount and must reflect actual work done by the payment dates, less any penalty cost charges accrued by those dates. As a general policy, statements must be forwarded to the designated representative by the 15th day of the following month.

The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the CCI, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

2.045 Pro-ration

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

2.046 Antitrust Assignment

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

2.047 Final Payment

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

2.048 Electronic Payment Requirement

Electronic transfer of funds is required for payments on State contracts. The Contractor must register with the State electronically at <http://www.cpexpress.state.mi.us>. As stated in 1984 PA 431, all contracts that the State enters into for the purchase of goods and services must provide that payment will be made by Electronic Fund Transfer (EFT).

2.050 Taxes

2.051 Employment Taxes

Contractors are expected to collect and pay all applicable federal, State, and local employment taxes.



2.052 Sales and Use Taxes

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

2.060 Contract Management

2.061 Contractor Personnel Qualifications

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

2.062 Contractor Key Personnel

- (a) The Contractor must provide the CCI with the names of the Key Personnel.
- (b) Key Personnel must be dedicated as defined in the Statement of Work to the Project for its duration in the applicable Statement of Work with respect to other individuals designated as Key Personnel for that Statement of Work.
- (c) The State reserves the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor must notify the State of the proposed assignment, must introduce the individual to the appropriate State representatives, and must provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. If the State disapproves an individual, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection.
- (d) Contractor must not remove any Key Personnel from their assigned roles on the Contract without the prior written consent of the State. The Contractor’s removal of Key Personnel without the prior written consent of the State is an unauthorized removal (“Unauthorized Removal”). Unauthorized Removals does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation or for cause termination of the Key Personnel’s employment. Unauthorized Removals does not include replacing Key Personnel because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides 30 days of shadowing unless parties agree to a different time period. The Contractor with the State must review any Key Personnel replacements and appropriate transition planning must be established. Any Unauthorized Removal may be considered by the State to be a material breach of the Contract.
- (e) The Contractor must notify the CCI and the Contract Administrator at least 10 business days before redeploying non-Key Personnel, who are dedicated to primarily to the Project, to other projects. If the State does not object to the redeployment by its scheduled date, the Contractor may then redeploy the non-Key Personnel.



(f) Liquidated damages may be assessed by the State for Unauthorized Removal as provided in Section 2.243, Liquidated Damages.

2.063 Re-assignment of Personnel at the State's Request

The State reserves the right to require the removal from the Project of Contractor personnel found, in the judgment of the State, to be unacceptable. The State's request must be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request must be based on legitimate, good-faith reasons. Replacement personnel for the removed person must be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed personnel, the State agrees to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any incident with removed personnel results in delay not reasonably anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Service will not be counted for a time as agreed to by the parties.

2.064 Contractor Personnel Location

All staff assigned by Contractor to work on the Contract must perform their duties either primarily at Contractor's offices and facilities or at State facilities. Without limiting the generality of the foregoing, Key Personnel must, at a minimum, spend at least the amount of time on-site at State facilities as indicated in the applicable Statement of Work. Subject to availability, selected Contractor personnel may be assigned office space to be shared with State personnel.

2.065 Contractor Identification

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

2.066 Cooperation with Third Parties

Contractor must cause its personnel and the personnel of any Subcontractors to cooperate with the State and its agents and other contractors including the State's Quality Assurance personnel. The Contractor must provide to the State's agents and other contractors reasonable access to Contractor's Project personnel, systems and facilities to the extent the access relates to activities specifically associated with the Contract and will not interfere or jeopardize the safety or operation of the systems or facilities.

2.067 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.

2.068 Contract Management Responsibilities

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

2.070 Subcontracting by Contractor

2.071 Contractor Full Responsibility

Contractor has full responsibility for the successful performance and completion of all of the Services and Deliverables. The State will consider Contractor to be the sole point of contact with regard to all contractual matters under the Contract, including payment of any and all charges for Services and Deliverables.



2.072 State Consent to Delegation

Contractor must not delegate any duties under the Contract to a Subcontractor unless the DTMB-Procurement has given written consent to such delegation. The State reserves the right of prior written approval of all Subcontractors and to require Contractor to replace any Subcontractors found, in the reasonable judgment of the State, to be unacceptable. Replacement Subcontractor(s) for the removed Subcontractor must be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed Subcontractor, the State will agree to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with a removed Subcontractor results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLA for the affected Work will not be counted for a time agreed upon by the parties.

2.073 Subcontractor Bound to Contract

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

2.074 Flow Down

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

2.075 Competitive Selection

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

2.080 State Responsibilities

2.081 Equipment

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

2.082 Facilities

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

2.090 Security



2.091 Background Checks

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

2.100 Confidentiality

2.101 Confidentiality

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

2.102 Protection and Destruction of Confidential Information

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

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

2.103 Reserved

2.104 Exclusions

Notwithstanding the foregoing, the provisions of **Section 2.100** will not apply to any particular information which the State or Contractor can demonstrate (i) was, at the time of disclosure to it, in the public domain; (ii) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure to it without an obligation of confidentiality; (iv) was received after disclosure to it from a third party who had a lawful right to disclose the information to it without any obligation to restrict its further disclosure; or (v) was independently developed by the receiving party without reference to Confidential Information of the furnishing party. Further, the provisions of **Section 2.100** will not apply to any particular Confidential Information to the extent the



receiving party is required by law to disclose the Confidential Information, provided that the receiving party (i) promptly provides the furnishing party with notice of the legal request, and (ii) assists the furnishing party in resisting or limiting the scope of the disclosure as reasonably requested by the furnishing party.

2.105 No Implied Rights

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

2.106 Security Breach Notification

If the Contractor breaches this Section, the Contractor must (i) promptly cure any deficiencies and (ii) comply with any applicable federal and state laws and regulations pertaining to unauthorized disclosures. Contractor and the State will cooperate to mitigate the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor must report to the State, in writing, any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by the Contract within 72 hours after becoming aware of the use or disclosure or the shorter time period as is reasonable under the circumstances.

2.107 Respective Obligations

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

2.110 Records and Inspections

2.111 Inspection of Work Performed

The State's authorized representatives 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 at any time. The Contractor must provide reasonable assistance for the State's representatives during inspections.

2.112 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.

2.113 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 three years after the later of the expiration date or final payment under the Contract.

2.114 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.



2.115 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.

2.120 Warranties

2.121 Warranties and Representations

The Contractor represents and warrants:

- (a) It is capable in all respects of fulfilling and must fulfill all of its obligations under the Contract. The performance of all obligations under the Contract must be provided in a timely, professional, and workman-like manner and must meet the performance and operational standards required under the Contract.
- (b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.
- (c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under the Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under the Contract, nor their use by the State, will infringe the patent, copyright, trade secret, or other proprietary rights of any third party.
- (d) If, under the Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to the items in the Contract, Contractor must assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.
- (e) The Contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into the Contract, on behalf of Contractor.
- (f) It is qualified and registered to transact business in all locations where required.
- (g) Neither the Contractor nor any affiliates, nor any employee of either, has, must have, or must acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under the Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.
- (h) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after the Contract start date, the Contractor must report those changes immediately to DTMB-Procurement.

2.122 Warranty of Merchantability

Goods provided by Contractor under this agreement must be merchantable. All goods provided under the Contract must be of good quality within the description given by the State, must be fit for their ordinary purpose, must be adequately contained and packaged within the description given by the State, must conform



to the agreed upon specifications, and must conform to the affirmations of fact made by the Contractor or on the container or label.

2.123 Warranty of Fitness for a Particular Purpose

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

2.124 Warranty of Title

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

2.125 Reserved

2.126 Equipment to be New

If applicable, all equipment provided under the Contract by Contractor must be new where Contractor has knowledge regarding whether the equipment is new or assembled from new or serviceable used parts that are like new in performance or has the option of selecting one or the other. Equipment that is assembled from new or serviceable used parts that are like new in performance is acceptable where Contractor does not have knowledge or the ability to select one or other, unless specifically agreed otherwise in writing by the State.

2.127 Prohibited Products

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against the Contract, is considered default by the Contractor of the terms and conditions of the Contract and may result in cancellation of the Contract by the State. The brand and product number offered for all items must remain consistent for the term of the Contract, unless DTMB-Procurement has approved a change order pursuant to **Section 2.024**.

2.128 Consequences For Breach

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

2.130 Insurance

2.131 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 years following the termination of this Contract.
- (h) The Contractor must provide, within five business days, written notice to the Director of DTMB-Procurement 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:

\$10,000,000.00 General Aggregate

Additional Requirements:

Umbrella or Excess Liability limits must at least apply to the insurance required in (i), General Commercial 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) Hired and Non-Owned Motor Vehicle

Minimal Limits:

\$1,000,000 Per Accident



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 vehicle liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

(v) Workers' Compensation Insurance

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.

(vi) Employers Liability

Minimal Limits:

- \$100,000 Each Incident;
- \$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.

(vii) Employee Fidelity (Crime)

Minimal Limits:

- \$1,000,000 Employee Theft Per Loss

Deductible Maximum:

- \$50,000 Per Loss

Additional Requirements:

Insurance must cover Forgery and Alteration, Theft of Money and Securities, Robbery and Safe Burglary, Computer Fraud, Funds Transfer Fraud, Money Order and Counterfeit Currency.

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

(viii) Professional Liability (Errors and Omissions)

Minimal Limits:

- \$3,000,000 Each Occurrence
- \$3,000,000 Annual Aggregate

Deductible Maximum:

- \$50,000 Per Loss

(ix) Medical Malpractice



Minimal Limits:

(Small Provider)\$200,000 Each Occurrence
\$600,000 Annual Aggregate

(Large Provider)\$1,000,000 Each Occurrence
\$3,000,000 Annual Aggregate

Deductible Maximum:

\$5,000 Each Occurrence

(x) Cyber Liability

Minimal Limits:

\$1,000,000 Each Occurrence
\$1,000,000 Annual Aggregate

Additional Requirements:

Insurance should cover (a) unauthorized acquisition, access, use, physical taking, identity theft, mysterious disappearance, release, distribution or disclosures of personal and corporate information; (b) Transmitting or receiving malicious code via the insured's computer system; (c) Denial of service attacks or the inability to access websites or computer systems.

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

(xi) Property Insurance

Property Insurance covering any loss or damage to the State-owned office space used by Contractor for any reason under this Contract, and the State-owned equipment, software and other contents of the office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to its replacement value, where the office space and its contents are under the care, custody and control of Contractor. The State must be endorsed on the policy as a loss payee as its interests appear.

2.132 Subcontractor Insurance Coverage

Except where the State has approved a subcontract with other insurance provisions, the Contractor must require any Subcontractor to purchase and maintain the insurance coverage required in Section 2.131, 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.

2.133 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-Procurement with all applicable certificates of insurance verifying insurance coverage or providing, if approved, satisfactory evidence of self-insurance as required in Section 2.131, Liability Insurance. Each certificate must be on the standard "Accord" form or equivalent and **MUST IDENTIFY THE APPLICABLE CONTRACT OR PURCHASE ORDER NUMBER.**

2.140 Indemnification

2.141 General Indemnification

The Contractor must indemnify, defend and hold harmless the State from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm or corporation



that may be injured or damaged by the Contractor in the performance of the Contract and that are attributable to the negligence or tortious acts of the Contractor or any of its Subcontractors, or by anyone else for whose acts any of them may be liable.

2.142 Code Indemnification

The Contractor must indemnify, defend and hold harmless the State from any claim, loss, or expense arising from Contractor's breach of the No Surreptitious Code Warranty.

2.143 Employee Indemnification

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

2.144 Patent/Copyright Infringement Indemnification

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

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

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

2.145 Continuation of Indemnification Obligations

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

2.146 Indemnification Procedures

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



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

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

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

2.150 Termination/Cancellation

2.151 Notice and Right to Cure

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

2.152 Termination for Cause

(a) The State may terminate the Contract, for cause, by notifying the Contractor in writing, if the Contractor (i) breaches any of its material duties or obligations under the Contract (including a Chronic Failure to meet any particular SLA), or (ii) fails to cure a breach within the time period specified in the written notice of breach provided by the State

(b) If the Contract is terminated for cause, the Contractor must pay all costs incurred by the State in terminating the Contract, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the Services/Deliverables required by the Contract from other sources. Re-procurement costs are not consequential, indirect or



incidental damages, and cannot be excluded by any other terms otherwise included in the Contract, provided the costs are not in excess of 50% more than the prices for the Service/Deliverables provided under the Contract.

(c) If the State chooses to partially terminate the Contract for cause, charges payable under the Contract will be equitably adjusted to reflect those Services/Deliverables that are terminated and the State must pay for all Services/Deliverables for which Final Acceptance has been granted provided up to the termination date. Services and related provisions of the Contract that are terminated for cause must cease on the effective date of the termination.

(d) If the State terminates the Contract for cause under this Section, and it is determined, for any reason, that Contractor was not in breach of contract under the provisions of this section, that termination for cause must be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties must be limited to that otherwise provided in the Contract for a termination for convenience.

2.153 Termination for Convenience

The State may terminate the Contract for its convenience, in whole or part, if the State determines that a termination is in the State's best interest. Reasons for the termination must be left to the sole discretion of the State and may include, but not necessarily be limited to (a) the State no longer needs the Services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Services no longer practical or feasible, (c) unacceptable prices for Additional Services or New Work requested by the State, or (d) falsification or misrepresentation, by inclusion or non-inclusion, of information material to a response to any RFP issued by the State. The State may terminate the Contract for its convenience, in whole or in part, by giving Contractor written notice at least 30 days before the date of termination. If the State chooses to terminate the Contract in part, the charges payable under the Contract must be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of the Contract that are terminated for cause must cease on the effective date of the termination.

2.154 Termination for Non-Appropriation

(a) Contractor acknowledges that, if the Contract extends for several fiscal years, continuation of the Contract is subject to appropriation or availability of funds for the Contract. If funds to enable the State to effect continued payment under the Contract are not appropriated or otherwise made available, the State must terminate the Contract and all affected Statements of Work, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The State must give Contractor at least 30 days advance written notice of termination for non-appropriation or unavailability (or the time as is available if the State receives notice of the final decision less than 30 days before the funding cutoff).

(b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise unavailable, the State may, upon 30 days notice to Contractor, reduce the level of the Services or the change the production of Deliverables in the manner and for the periods of time as the State may elect. The charges payable under the Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of the reduction.

(c) If the State terminates the Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor under this Section, the State must pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available.

2.155 Termination for Criminal Conviction

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



2.156 Termination for Approvals Rescinded

The State may terminate the 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 must pay the Contractor for only the work completed to that point under the Contract. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in the written notice.

2.157 Rights and Obligations upon Termination

(a) If the State terminates the Contract for any reason, the Contractor must (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from the Contract that may be in Contractor's possession, (c) return all materials and property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of the Contract and which are resulting from the Contract (which must be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of the items included compensation to Contractor for the provision of warranty services in respect of the materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.

(b) If the State terminates the Contract before its expiration for its own convenience, the State must pay Contractor for all charges due for Services provided before the date of termination and, if applicable, as a separate item of payment under the Contract, for Work In Process, on a percentage of completion basis at the level of completion determined by the State. All completed or partially completed Deliverables prepared by Contractor under the Contract, at the option of the State, becomes the State's property, and Contractor is entitled to receive equitable fair compensation for the Deliverables. Regardless of the basis for the termination, the State is not obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.

(c) Upon a good faith termination, the State may assume, at its option, any subcontracts and agreements for Services and Deliverables provided under the Contract, and may further pursue completion of the Services/Deliverables under the Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

2.158 Reservation of Rights

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

2.160 Reserved

2.170 Transition Responsibilities

2.171 Contractor Transition Responsibilities

If the State terminates the Contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. If the Contract expires or terminates, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed 90 days. These efforts must include, but are not limited to, those listed in **Sections 2.171, 2.172, 2.173, 2.174, and 2.175.**



2.172 Contractor Personnel Transition

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

2.173 Contractor Information Transition

The Contractor agrees to provide reasonable detailed specifications for all Services/Deliverables needed by the State, or specified third party, to properly provide the Services/Deliverables required under the Contract. The Contractor must provide the State with asset management data generated from the inception of the Contract through the date on which the Contractor is terminated in a comma-delineated format unless otherwise requested by the State. The Contractor must deliver to the State any remaining owed reports and documentation still in Contractor's possession subject to appropriate payment by the State.

2.174 Contractor Software Transition

The Contractor must reasonably assist the State in the acquisition of any Contractor software required to perform the Services/use the Deliverables under the Contract. This must include any documentation being used by the Contractor to perform the Services under the Contract. If the State transfers any software licenses to the Contractor, those licenses must, upon expiration of the Contract, transfer back to the State at their current revision level. Upon notification by the State, Contractor may be required to freeze all non-critical changes to Deliverables/Services.

2.175 Transition Payments

If the transition results from a termination for any reason, reimbursement must be governed by the termination provisions of the Contract. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after contract expiration that result from transition operations) at the rates agreed upon by the State. The Contractor must prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

2.176 State Transition Responsibilities

In the event that the Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to perform the following obligations, and any others upon which the State and the Contractor agree:

- (a) Reconciling all accounts between the State and the Contractor;
- (b) Completing any pending post-project reviews.

2.180 Stop Work

2.181 Stop Work Orders

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by the Contract for a period of up to 90 calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order must be identified as a stop work order and must indicate that it is issued under this **Section 2.180**. Upon receipt of the stop work order, Contractor must immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State must either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.150**.



2.182 Cancellation or Expiration of Stop Work Order

The Contractor must resume work if the State cancels a Stop Work Order or if it expires. The parties will agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract must be modified, in writing, accordingly, if: (a) the stop work order results in an increase in the time required for, or in Contractor's costs properly allocable to, the performance of any part of the Contract; and (b) Contractor asserts its right to an equitable adjustment within 30 calendar days after the end of the period of work stoppage; provided that, if the State decides the facts justify the action, the State may receive and act upon a Contractor proposal submitted at any time before final payment under the Contract. Any adjustment must conform to the requirements of **Section 2.024**.

2.183 Allowance of Contractor Costs

If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, the termination must be deemed to be a termination for convenience under **Section 2.150**, 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 Contractor for loss of profits because of a stop work order issued under this **Section 2.180**.

2.190 Dispute Resolution

2.191 In General

Any claim, counterclaim, or dispute between the State and Contractor arising out of or relating to the Contract or any Statement of Work must be resolved as follows. For all Contractor claims seeking an increase in the amounts payable to Contractor under the Contract, or the time for Contractor's performance, Contractor must submit a letter, together with all data supporting the claims, executed by Contractor's Contract Administrator or the Contract Administrator's designee certifying that (a) the claim is made in good faith, (b) the amount claimed accurately reflects the adjustments in the amounts payable to Contractor or the time for Contractor's performance for which Contractor believes the State is liable and covers all costs of every type to which Contractor is entitled from the occurrence of the claimed event, and (c) the claim and the supporting data are current and complete to Contractor's best knowledge and belief.

2.192 Informal Dispute Resolution

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

- (i) The representatives of Contractor and the State must meet as often as the parties reasonably deem necessary to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives must discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.
- (ii) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract must be honored in order that each of the parties may be fully advised of the other's position.
- (iii) The specific format for the discussions will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.
- (iv) Following the completion of this process within 60 calendar days, the Director of Procurement, DTMB, or designee, must issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State's final action and the exhaustion of administrative remedies.



(b) This Section must not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or under **Section 2.193**.

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

2.193 Injunctive Relief

A claim between the State and the Contractor is not subject to the provisions of Section 2.192, 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.

2.194 Continued Performance

Each party agrees to continue performing its obligations under the Contract while a dispute is being resolved except to the extent the issue in dispute precludes performance (dispute over payment must not be deemed to preclude performance) and without limiting either party's right to terminate the Contract as provided in **Section 2.150**, as the case may be.

2.200 Federal and State Contract Requirements

2.201 Nondiscrimination

In the performance of the Contract, Contractor must comply with the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101 et seq., as amended, and all applicable federal, State and local fair employment practices and equal opportunity laws as amended. 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. Contractor further agrees that every subcontract entered into for the performance of the Contract or any purchase order resulting from the Contract must contain a provision requiring non-discrimination in employment, as specified here, binding upon each Subcontractor. This covenant is required under the Elliot Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, et seq., as amended, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, et seq., as amended, and any breach of this provision may be regarded as a material breach of the Contract.

2.202 Unfair Labor Practices

Under 1980 PA 278, MCL 423.321, et seq., the State must not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled under Section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A Contractor of the State, in relation to the Contract, must not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Under Section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, after award of the Contract, the name of Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of Contractor appears in the register.

2.203 Workplace Safety and Discriminatory Harassment

In performing Services for the State, the Contractor and any Subcontractor must comply with all applicable state and federal laws.

2.204 Prevailing Wage

The rates of wages and fringe benefits to be paid each class of individuals employed by the Contractor, its subcontractors, their subcontractors, and all persons involved with the performance of the Contract in privity of contract with the Contractor must not be less than the wage rates and fringe benefits established by the Michigan Department of Licensing and Regulatory Affairs, Wage and Hour Division, schedule of occupational classification and wage rates and fringe benefits for the local where the work is to be performed. The term



Contractor must include all general contractors, prime contractors, project managers, trade contractors, and all of their contractors or subcontractors and persons in privity of contract with them.

The Contractor, its subcontractors, their subcontractors and all persons involved with the performance of the Contract in privity of contract with the Contractor must keep posted on the work site, in a conspicuous place, a copy of all wage rates and fringe benefits as prescribed in the contract. You must also post, in a conspicuous place, the address and telephone number of the Michigan Department of Licensing and Regulatory Affairs, the office responsible for enforcement of the wage rates and fringe benefits. The Contractor must keep an accurate record showing the name and occupation of the actual wage and benefits paid to each individual employed in connection with the Contract. This record must be available to the State upon request for reasonable inspection.

If any trade is omitted from the list of wage rates and fringe benefits to be paid to each class of individuals by the Contractor, it is understood that the trades omitted must also be paid not less than the wage rate and fringe benefits prevailing in the local where the work is to be performed.

2.210 Governing Law

2.211 Governing Law

The Contract must in all respects be governed by, and construed according to, the substantive laws of the State of Michigan without regard to any Michigan choice of law rules that would apply the substantive law of any other jurisdiction to the extent not inconsistent with, or pre-empted by federal law.

2.212 Compliance with Laws

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

2.213 Jurisdiction

Any dispute arising from the Contract must be resolved in the State of Michigan and the Contractor expressly consents to personal jurisdiction in 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. Contractor agrees to appoint agents in the State of Michigan to receive service of process. .

2.220 Limitation of Liability

2.221 Limitation of Liability

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

2.230 Disclosure Responsibilities

2.231 Disclosure of Litigation

(a) Disclosure. Contractor must disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each Subcontractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Contractor (and each Subcontractor) must notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions, to which Contractor (or, to the extent Contractor is aware, any Subcontractor) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Contractor or any Subcontractor; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor by a governmental or public entity arising out of their business dealings with governmental or public entities. The Contractor must disclose in writing to the Contract Administrator any litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") within 30 days of its occurrence. Details of settlements which are prevented from disclosure by



the terms of the settlement may be annotated. Information provided to the State from Contractor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section.

- (b) Assurances. If any Proceeding disclosed to the State under this Section, or of which the State otherwise becomes aware, during the term of the Contract would cause a reasonable party to be concerned about:
- (i) the ability of Contractor (or a Subcontractor) to continue to perform the Contract according to its terms and conditions, or
 - (ii) whether Contractor (or a Subcontractor) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in the Proceeding, which conduct would constitute a breach of the Contract or a violation of Michigan law, regulations or public policy, then the Contractor must provide the State all reasonable assurances requested by the State to demonstrate that:
 - (a) Contractor and its Subcontractors must be able to continue to perform the Contract and any Statements of Work according to its terms and conditions, and
 - (b) Contractor and its Subcontractors have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in the Proceeding.
- (c) Contractor must make the following notifications in writing:
- (1) Within 30 days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor must notify DTMB-Procurement.
 - (2) Contractor must also notify DTMB Procurement within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.
 - (3) Contractor must also notify DTMB Procurement within 30 days whenever changes to company affiliations occur.

2.232 Reserved

2.233 Bankruptcy and Insolvency

The State may, without prejudice to any other right or remedy, terminate the Contract, in whole or in part, and, at its option, may take possession of the "Work in Process" and finish the Works in Process by whatever appropriate method the State may deem expedient if:

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

The Contractor must place appropriate notices or labels on the Work in Process to indicate ownership by the State. To the extent reasonably possible, materials and Work in Process must be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.

2.240 Performance

2.241 Time of Performance

- (a) Contractor must use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables according to the time schedules contained in the Statements of Work and other Exhibits governing the work, and with professional quality.
- (b) Without limiting the generality of **Section 2.241(a)**, Contractor must notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and



successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and must inform the State of the projected actual delivery date.

(c) If the Contractor believes that a delay in performance by the State has caused or will cause the Contractor to be unable to perform its obligations according to specified Contract time periods, the Contractor must notify the State in a timely manner and must use commercially reasonable efforts to perform its obligations according to the Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent the delay is caused by the State.

2.242 Reserved

2.243 Reserved

2.244 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, water or other forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, or acts or omissions of common carriers, fire; riots, civil disorders; labor disputes, embargoes; injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of a party; provided the non-performing party and its Subcontractors are without fault in causing the default or delay, and the default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans.

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

If any of the above-enumerated circumstances substantially prevent, hinder, or delay the Contractor's performance of the Services/provision of Deliverables for more than 10 Business Days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected Services/Deliverables from an alternate source, and the State is not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in performance continues; (b) the State may terminate any portion of the Contract so affected and the charges payable will be equitably adjusted to reflect those Services/Deliverables terminated; or (c) the State may terminate the affected Statement of Work without liability to Contractor as of a date specified by the State in a written notice of termination to the Contractor, except to the extent that the State must pay for Services/Deliverables provided through the date of termination.

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

2.250 Approval of Deliverables

2.251 Delivery Responsibilities



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

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

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

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

Where there is no obvious or suspected damage, all deliveries to a State Location must be opened by the State and the contents inspected for possible internal damage not visible externally within 14 days of receipt. Any damage must be reported to the Contractor within five days of inspection

2.252 Delivery of Deliverables

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

2.253 Testing

(a) Before delivering any of the above-mentioned Statement of Work Physical Deliverables or Services to the State, Contractor must first perform all required quality assurance activities to verify that the Physical Deliverable or Service is complete and conforms with its specifications listed in the applicable Statement of Work or Purchase Order. Before delivering a Physical Deliverable or Service to the State, Contractor must certify to the State that (1) it has performed the quality assurance activities, (2) it has performed any applicable testing, (3) it has corrected all material deficiencies discovered during the quality assurance activities and testing, (4) the Deliverable or Service is in a suitable state of readiness for the State's review and approval, and (5) the Deliverable/Service has all Critical Security patches/updates applied.

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

2.254 Approval of Deliverables, In General

(a) All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, according to the following procedures. Formal approval by the State requires the State to confirm in writing that the Deliverable meets its specifications. Formal approval may include the successful completion of Testing as applicable in **Section 2.253**, to be led by the State with the support and assistance of Contractor. The approval process will be facilitated by ongoing consultation between the parties, inspection of interim and intermediate Deliverables and collaboration on key decisions.

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



(c) Before commencement of its review or testing of a Deliverable/Service, the State may inspect the Deliverable/Service to confirm that all components of the Deliverable/Service have been delivered without material deficiencies. If the State determines that the Deliverable/Service has material deficiencies, the State may refuse delivery of the Deliverable/Service without performing any further inspection or testing of the Deliverable/Service. Otherwise, the review period will be deemed to have started on the day the State receives the Deliverable or the Service begins, and the State and Contractor agree that the Deliverable/Service is ready for use and, where applicable, certification by Contractor according to **Section 2.253**.

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

(e) If, after three opportunities (the original and two repeat efforts), the Contractor is unable to correct all deficiencies preventing Final Acceptance of a Deliverable/Service, the State may: (i) demand that the Contractor cure the failure and give the Contractor additional time to cure the failure at the sole expense of the Contractor; or (ii) keep the Contract in force and do, 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 sum equal to 10% of the cost to cure the deficiency to cover the State's general expenses provided the State can furnish proof of the general expenses; or (iii) terminate the particular Statement of Work for default, either in whole or in part by notice to Contractor provided Contractor is unable to cure the breach. 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.

(f) The State, at any time and in its reasonable discretion, may halt the testing or approval process if the process reveals deficiencies in or problems with a Deliverable/Service in a sufficient quantity or of a sufficient severity that renders continuing the process unproductive or unworkable. If that happens, the State may stop using the Service or return the applicable Deliverable to Contractor for correction and re-delivery before resuming the testing or approval process.

2.255 Process For Approval of Written Deliverables

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

2.256 Process for Approval of Services

The State Review Period for approval of Services is governed by the applicable Statement of Work (and if the Statement of Work does not state the State Review Period, it is by default 30 Business Days for Services). The State agrees to notify the Contractor in writing by the end of the State Review Period either stating that the Service is approved in the form delivered by the Contractor or describing any deficiencies that must be



corrected before approval of the Services (or at the State's election, after approval of the Service). If the State delivers to the Contractor a notice of deficiencies, the Contractor must correct the described deficiencies and within 30 Business Days resubmit the Service in a form that shows all revisions made to the original version delivered to the State. The Contractor's correction efforts must be made at no additional charge. Upon implementation of a corrected Service from Contractor, the State must have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Service for conformity and that the identified deficiencies have been corrected.

2.257 Process for Approval of Physical Deliverables

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

2.258 Final Acceptance

Unless otherwise stated in the Article 1, Statement of Work or Purchase Order, "Final Acceptance" of each Deliverable must occur when each Deliverable/Service has been approved by the State following the State Review Periods identified in **Sections 2.251-2.257**. Payment will be made for Deliverables installed and accepted. Upon acceptance of a Service, the State will pay for all Services provided during the State Review Period that conformed to the acceptance criteria.

2.260 Ownership

2.261 Ownership of Work Product by State

The State owns all Deliverables as they are works made for hire by the Contractor for the State. The State owns all United States and international copyrights, trademarks, patents, or other proprietary rights in the Deliverables.

2.262 Vesting of Rights

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

2.263 Rights in Data

(a) The State is the owner of all data made available by the State to the Contractor or its agents, Subcontractors or representatives under the Contract. The Contractor must not use the State's data for any purpose other than providing the Services, nor will any part of the State's data be disclosed, sold, assigned, leased or otherwise disposed of to the general public or to specific third parties or commercially exploited by or on behalf of the Contractor. No employees of the Contractor, other than those on a strictly need-to-know basis, have access to the State's data. Contractor must not possess or assert any lien or other right against the State's data. Without limiting the generality of this Section, the Contractor must only use personally



identifiable information as strictly necessary to provide the Services and must disclose the information only to its employees who have a strict need-to-know the information. The Contractor must comply at all times with all laws and regulations applicable to the personally identifiable information.

(b) The State is the owner of all State-specific data under the Contract. The State may use the data provided by the Contractor for any purpose. The State must not possess or assert any lien or other right against the Contractor's data. Without limiting the generality of this Section, the State may use personally identifiable information only as strictly necessary to utilize the Services and must disclose the information only to its employees who have a strict need to know the information, except as provided by law. The State must comply at all times with all laws and regulations applicable to the personally identifiable information. Other material developed and provided to the State remains the State's sole and exclusive property.

2.264 Ownership of Materials

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

2.270 State Standards

2.271 Existing Technology Standards

The Contractor must adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at <http://www.michigan.gov/dmb/0,4568,7-150-56355-108233--,00.html>.

2.272 Acceptable Use Policy

To the extent that Contractor has access to the State computer system, Contractor must comply with the State's Acceptable Use Policy, see http://www.michigan.gov/cybersecurity/0,1607,7-217-34395_34476---,00.html. All Contractor employees must be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State system. The State reserves the right to terminate Contractor's access to the State system if a violation occurs.

2.273 Systems Changes

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

2.274 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).

2.280 Reserved

2.290 Environmental Provision

2.291 Environmental Provision

Hazardous Materials:

For the purposes of this Section, "Hazardous Materials" is a generic term used to describe asbestos, ACBMs, PCBs, petroleum products, construction materials including paint thinners, solvents, gasoline, oil, and any other material the manufacture, use, treatment, storage, transportation, or disposal of which is regulated by the federal, State, or local laws governing the protection of the public health, natural resources, or the environment. This includes, but is not limited to, materials such as batteries and circuit packs, and other materials that are regulated as (1) "Hazardous Materials" under the Hazardous Materials Transportation Act, (2) "chemical hazards" under the Occupational Safety and Health Administration standards, (3) "chemical



substances or mixtures” under the Toxic Substances Control Act, (4) “pesticides” under the Federal Insecticide Fungicide and Rodenticide Act, and (5) “hazardous wastes” as defined or listed under the Resource Conservation and Recovery Act.

(a) The Contractor must use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material according to all federal, State, and local laws. The State must provide a safe and suitable environment for performance of Contractor’s Work. Before the commencement of Work, the State must advise the Contractor of the presence at the work site of any Hazardous Material to the extent that the State is aware of the Hazardous Material. If the Contractor encounters material reasonably believed to be a Hazardous Material and which may present a substantial danger, the Contractor must immediately stop all affected Work, notify the State in writing about the conditions encountered, and take appropriate health and safety precautions.

(b) Upon receipt of a written notice, the State will investigate the conditions. If (a) the material is a Hazardous Material that may present a substantial danger, and (b) the Hazardous Material was not brought to the site by the Contractor, or does not result in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Materials, the State must order a suspension of Work in writing. The State must proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State must terminate the affected Work for the State’s convenience.

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the Contractor must resume Work as directed in writing by the State. Any determination by the Michigan Department of Community Health or the Michigan Department of Environmental Quality that the Hazardous Material has either been removed or rendered harmless is binding upon the State and Contractor for the purposes of resuming the Work. If any incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.242** for a time as mutually agreed by the parties.

(d) If the Hazardous Material was brought to the site by the Contractor, or results in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Material, or from any other act or omission within the control of the Contractor, the Contractor must bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material according to Applicable Laws to the condition approved by applicable regulatory agency(ies).

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

Refrigeration and Air Conditioning:

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

Environmental Performance:

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

2.300 Other Provisions

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

Equipment, materials, or supplies, that will be furnished to the State under the Contract must not be produced in whole or in part by forced labor, convict labor, forced or indentured child labor, or indentured servitude.



“Forced or indentured child labor” means all work or service: 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 performed by any person under the age of 18 under a contract the enforcement of which can be accomplished by process or penalties.



Attachment A, Price Proposal

Proposed cost includes all costs for each category listed. Costs are based on the completion of (1) 21,600 TAH to complete on-site P2 assessments for a minimum of 240 facilities; (2) 5,400 TAH to complete 105 TAH requests, which includes on-site energy efficiency assessments for a maximum of 30 facilities, energy audits on a minimum of 15 buildings, on-site source reduction planning assistance for a minimum of 15 facilities, and other specialized P2 assignments that don't qualify as an on-site P2 assessment, and (3) a total of 150 TAH to complete brief information exchanges (i.e. TAH information exchanges) to provide basic P2 technical assistance in response to DEQ, OEA pollution prevention partnership/initiative member questions. Note: 27,150 TAH total for the Contract period.

Overhead costs will be limited to a set percentage of the total cost for staff and subcontractor salaries/wages.

A. TECHNICAL SERVICES: On-site P2 Assessments, TAH Requests, and TAH Information Exchanges

1.	Total Staffing Costs	\$99,660.00
2.	Total Subcontractor Costs	\$615,600.00
3.	Total Direct Costs	\$80,783.05
4.	Overhead Cost	\$107,289.00

SUBTOTAL A	\$903,332.05
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B. TECHNICAL SERVICES: Technology Transfer

1.	Total Staffing Costs	\$30,600.00
2.	Total Subcontractor Costs	\$4,400.00
3.	Total Direct Costs	\$3,048.78
4.	Overhead Costs	\$5,250.00

SUBTOTAL B	\$43,298.78
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C. TECHNICAL SERVICES: Recruitment

1.	Total Staffing Costs	\$12,600.00
2.	Total Subcontractor Costs	\$4,375.00
3.	Total Direct Costs	\$3,404.13
4.	Overhead Costs	\$2,546.25



SUBTOTAL C \$22,925.38

- D. TECHNICAL SERVICES: Training
 - 1. Total Staffing Costs \$49,830.00
 - 2. Total Subcontractor Costs \$147,225.00
 - 3. Total Direct Costs \$62,051.10
 - 4. Overhead Cost \$29,558.25

SUBTOTAL D \$288,664.35

- E. TECHNICAL SERVICES: Marketing
 - 1. Total Staffing Costs \$23,400.00
 - 2. Total Subcontractor Costs \$24,250.00
 - 3. Total Direct Costs \$7,259.88
 - 4. Overhead Costs \$7,147.50

SUBTOTAL E \$62,057.38

- F. TECHNICAL SERVICES: Program Measurement
 - 1. Total Staffing Costs \$36,000.00
 - 2. Total Subcontractor Costs \$48,750.00
 - 3. Total Direct Costs \$4,465.03
 - 4. Overhead Cost \$12,712.50

SUBTOTAL F \$101,927.53

- B. Program Management
 - 1. Total Staffing \$120,030.00
 - 2. Total Subcontractor Costs \$27,000.00



3.	Total Direct Costs	\$15,892.71
4.	Overhead Cost	\$22,054.50

SUBTOTAL G		<input type="text" value="\$184,977.21"/>
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TOTAL COST (SUBTOTALS A through F)		<input type="text" value="\$1,607,182.68"/>
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UNIT PRICE:

Technical Assistance Hour		TOTAL FOR TECHNICAL ASSISTANCE HOURS*
<input type="text" value="\$33.27"/>	x 27,150 hours =	<input type="text" value="\$903,332.05"/>

*The total for Technical Assistance Hours Should Equal SUBTOTAL A.

Overhead Costs 15%



Attachment B, Current State of Michigan Travel Rates

See Travel Rates & Select Cities at below link for current reimbursement rates:

http://www.michigan.gov/dtmb/0,5552,7-150-9141_13132---,00.html



Attachment C. Abbreviated Protocol for RETAP Assessments

Purpose: The purpose of this procedure is to establish minimum standards for conducting Michigan Retired Engineer Technical Assistance Program (RETAP) assessments at businesses or institutions that have invited the assistance. It describes the protocol to be followed by the RETAP teams and the technical assistance contractor.

I. *Assessment Request*

- A. Receive request for assessment and make sure the business or institution understands the nature of RETAP and a RETAP assessment.
- B. Discuss company concerns and the RETAP procedures.
- C. Obtain information about the company and prepare tracking documents:
 1. Name, title, address, and phone number of contact person.
 2. Number of employees, square footage, and other relevant information, such as directions to facility. Assign tracking number.
 3. Inform the contact person that the company will be contacted within a few days by an assessor, designated as the Team Leader, to set up a pre-assessment.
 4. Request a copy of the most recent 13 months of utility bills (electrical, gas, water, sewer, waste disposal, etc.) to be ready for pre-assessment.
 5. Request other relevant information, such as process flow diagrams; if possible, this should be available for the pre-assessment.
 6. Find out about the company's processes and other information by looking at their Website and other sources, such as the Michigan Manufacturers Directory.
 7. Send a letter of acknowledgement immediately, including a preassessment folder containing additional information, a detailed checklist of requested technical information, and legal forms.
- D. Assign an appropriate RETAP professional as the Team Leader. Provide the information to the Team Leader, which has been entered on the tracking form. The responsibility to continue the process now shifts to the Team Leader.
- E. The Team Leader establishes the date and time for the initial site visit (hereafter called "preassessment visit") and for an on-site assessment, if appropriate at this time.

II. *Preassessment Visit*

This phase usually takes approximately one to three hours of on-site time.

- A. Team Leader (or other RETAP assessor) will make a plant visit, based on location and expertise relative to the company to be assessed. Provide available information regarding company and related industry information to the Team Leader.
- B. In an ongoing training process, Contractor and the RETAP team should establish credibility by conducting research to obtain P2 information relevant to the industry, prior to the pre-assessment or assessment. The purpose is to refresh knowledge and learn about newly-emerged P2 opportunities for possible discussion with company representatives at this time.
- C. Discuss company concerns and expectations with the highest level of management available, for brief introduction and information exchange, obtaining company support and approval.
- D. Obtain plant information, (e.g., physical layout and data on wastes, using pre-assessment checklist). Obtain signatures on the liability disclaimer forms.
- E. Ascertain the company's level of P2 knowledge. Find out what waste reduction efforts the company has already implemented.
- F. Conduct a brief plant tour.
- G. Schedule assessment (if not previously arranged).
- H. Prepare documentation for the visit and develop a file for the company assessment.
- I. Confirm participation of selected team for full on-site assessment.



III. On-Site Assessment

This phase can take one half-day to two full days of on-site time.

- A. If necessary, conduct research and study P2 methods to address opportunity areas that surface before and during the pre-assessment.
- B. The RETAP assessors meet briefly before starting time. If not already done, the Team Leader shares the pre-assessment information and the Team Leader assigns a report writer, if it is not himself.
- C. The Team Leader will lead the discussion at the opening meeting with the company officials (highest levels possible).
 1. Introduce assessors. Describe their backgrounds and experience.
 2. Discuss company concerns and assessment approach/techniques.
- D. Guided company tour – thorough review of process and waste streams. Pay special attention to problem areas and noted opportunities for waste reduction, cost savings, and improvements.
 1. Offer suggestions diplomatically. Remember, the company hosts know more about their company than the assessor does.
 2. Look at everything possible, including the outdoors. Ask to look behind closed doors and into areas not in the mainstream of the process; if refused, accept the refusal graciously.
 3. Assessors should ask as many questions as necessary to understand what they are seeing.
 4. Take many notes.
 5. Team members will assist the Team Leader in preparing a list of items to review with the company during the exit interview.
- E. After the tour, team members meet privately for a short debriefing session. Review assessment notes for discussion at the exit interview.
- F. Conduct an exit interview with company officials to ensure accuracy of notes and discuss findings briefly.
- G. Compliment the company on one or more items they have done, or are doing well.
- H. Thank the host team and leave.
- I. The Team Leader is to notify the RETAP office of assessment completion within 24 hours following assessment.

IV. Assessment Report

The report is sent to the facility within 45-60 days after assessment.

- A. Team selects a report writer, and members send copies of notes to team report writer, within two-three days after the assessment.
- B. If necessary, conduct brief research for P2 methods to address opportunity areas that surfaced during assessment.
- C. Prepare draft report and send to the RETAP office within two-three weeks following assessment. Draft is forwarded to chief editor.
- D. Edit draft, revise as needed. As necessary, discuss the draft with the team writer. Send a copy of the revised draft to the RETAP team writer for review and comments: to be returned within one week of receipt. Finalize editing and assembly of the report.
- E. Send the report to business or organization.
- F. Contractor calls company eight weeks after report is sent to determine whether the report has been received, read, and understood. The Contractor asks whether any corrections are needed.

V. Follow-Up

- A. Follow-up with the assessed company at the eight week, 12, and 24-month intervals, after the report is sent. Seek the potential for developing case studies and provide additional information, if desired.
- B. At above intervals, schedule Team Leader to revisit the company to complete the survey form regarding implementation of recommendations, cost savings, and quantified waste reduction.



Attachment D, Technical Assistance (TA) Contact Form

TA Request Date:		TA Type:	
ID No.		Requested By	
Related ID No.s		Title	
		Program / Dept.	
TA Description:		Org. / Company	
Status:		Street Address	
		PO Box	
Business Description		City	
Business Category		County	
RETAP Category		Zip Code	
SIC Code		Phone	
NAICS Code		Cell	
FTE		Fax	
		Email	
Team Leader		Web Address	
Team Member			
Team Member		Lead / Contact	
Team Member		Title	
		Phone	
		Cell	
		Email	
How Learned of RETAP:			
Notes:			



Attachment E. Basic Pollution Prevention Assessment Report Outline

*Company Name
Address*

COMPANY ASSESSMENT TEAM

Company Team Member's Name(s) and Title(s)

RETIRED ENGINEER TECHNICAL ASSISTANCE PROGRAM (RETAP) ASSESSMENT TEAM

*Team Leader's Name
Report Writer's Name
Other Team Members*

PREPARED BY THE

Name of Contractor

ON BEHALF OF THE

OFFICE OF ENVIRONMENTAL ASSISTANCE

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

Assessment Date: *month, day, and year*
Report Submitted: *month, day, and year*



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ACKNOWLEDGEMENT

This report is made possible by the State of Michigan through funds appropriated in support of the pollution prevention technical assistance activities of the Retired Engineer Technical Assistance Program (RETAP).

DISCLAIMER

This report is based largely on information provided by the assessed business or institution. The quality of the analysis is only as valid as the quality of the information received. The contents of this report are offered as guidance. The *Contractor* does not make any warranty or representation, expressed or implied (a) with respect to the accuracy, completeness, or usefulness of the information contained in this report, or (b) that the use of any information, apparatus, method, or process disclosed in this report may not infringe on privately owned rights. The *Contractor* does not assume any liabilities with respect to the use of, or for damages resulting from the use of, any information, apparatus, method, or process disclosed in this report. Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

CONFIDENTIALITY POLICY

The services of the RETAP are confidential. The report generated for a client and any information that can be used to identify the assisted facility will not be shared outside of the RETAP without preauthorization from the client.

PURPOSE AND OBJECTIVE

The Retired Engineer Technical Assistance Program (RETAP) was established by the State of Michigan to help Michigan businesses and institutions prevent pollution, reduce waste and conserve energy. The Office of Environmental Assistance within the Michigan Department of Environmental Quality (DEQ) administers the program. *Contractor* provides these technical services through a contract with the State of Michigan. RETAP assessment teams are made up of retirees from many Michigan industries willing to apply their skills, expertise and time to identify and assess potential pollution prevention and energy efficiency opportunities and to provide recommendations for improvement.

The program is not one of compliance with or enforcement of regulations. Implementation of the recommendations is entirely voluntary and at the discretion of the facility management. Acceptance of the offered assistance is evidence of a good faith effort to improve energy efficiency and reduce waste.

The following report presents the findings and recommendations of an on-site pollution prevention, waste reduction, and energy conservation assessment by a RETAP team.

INDEMNIFICATION AGREEMENT

An indemnification agreement between *Contractor* and the *Company* was signed by *Manager*, *Title*, on *Date*.



Executive Summary

- See Executive Summary table below (Attachment G).

I. Introduction and Background

- Date(s) of site visit(s).
- Description of business.
- Size of business.
- Services or products provided by business.

II. Description of Facilities and Operations

- Describe the process and equipment used (efficiencies, leaks, spills, etc.).
- Process flow diagrams and material balances.
- Raw materials used (sources, types, quantities, compositions, trends, handling, and storage).
- Product, utility, water, sewer, and raw material costs.
- Operating and maintenance costs.
- Size of facility, layout if important.
- Processing methods.

III. Current Status, Waste Streams, and Recommendations for Improvement

- Wastes generated (sources, types, quantities, compositions, trends, handling, treatment, and storage)
- Disposal/recycling practices.
- Prioritized sites of significant waste generation, including company input.
- Waste treatment and disposal costs.
- Utility costs.

A. Opportunities for Pollution Prevention

- General operating practices (such as good housekeeping, waste segregation, inventory control, material handling, waste tracking, maintenance, and better operating procedures).
- Specific management options for each waste stream.
- Feasibility analysis of options.
- Prioritized list of pollution prevention options (based on the RETAP assessor and company personnel input).
- Costs and resources required for priority options.
- Savings and benefits.
- Production impacts.
- Liabilities.

B. Opportunities for Energy Efficiency

- General operating practices.
- Specific management options for pumps, motors, etc.
- Feasibility analysis of options.
- Prioritized list of energy efficiency options (based on RETAPer and company personnel input).
- Costs and resources required for priority options.
- Savings and benefits.
- Production impacts.
- Liabilities.

IV. Conclusion

- Should indicate appreciation to the business for the assessment opportunity.
- Summary of assessment and recommendations.

**V. Attachments**

- Energy Usage, Cost and Energy Utilization Index (EUI) Data
- This section should include a list of the State staff to contact for further information on waste reduction and energy efficiency. The contractor must work with the Bureau of Energy Systems to develop this list and update periodically.
- Include other sources of assistance.



Attachment F. Generalized Energy Audit Report Content

The generalized content of a typical energy audit report is presented below for illustrative purposes only. The Contractor, in cooperation with the RETAP Manager, will review established energy auditing guidelines / resources (such as the ASHRAE Procedures for Commercial Building Energy Audits) to develop a template for the content and format of a RETAP energy audit report. The template will require approval by the DEQ, OEA Contract Administrator prior to being used by the Contractor. At this time, DEQ envisions the template closely paralleling the requirements outlined in Part II of the "Rebuild Michigan Technical Energy Analysis Guidelines" available online at:

http://www.michigan.gov/documents/dleg/TEA_Guidelines_Nov_08_255550_7.pdf

- (i) Executive summary providing a listing of all potential energy-saving opportunities typically in table format, including associated savings and costs.
- (ii) Introduction and background providing the purpose and limitations of the program and energy audit, including auditor(s) qualifications and report certification(s).
- (iii) A narrative description of the facility being audited including operations; its energy system(s) and usage; and activity profile, including graphical display. The annual quantity and price per unit of all energy types paid by the customer over the previous 12 months from the date of the audit are provided.
- (iv) A technical analysis discussing the possible interactions of the potential improvements with existing energy systems, including:
 - a) Estimated annual energy and energy costs savings expected from each possible improvement recommended.
 - b) Estimate of all direct and attendant indirect costs of each improvement.
 - c) Ranking of potential improvement measures by cost effectiveness.
- (v) A narrative description of each recommended improvement and its ability to provide needed benefits, including a discussion of non-energy benefits such as project reliability and durability. The narrative additionally provides:
 - a) Preliminary specifications for critical components.
 - b) Preliminary drawings of project layout, including any related structural changes.
 - c) Baseline data compared to projected consumption, together with any explanatory notes. When appropriate, before-and-after data in terms of consumption per unit of production, time or area. Included are at least one year's bills for those energy sources/fuel types affected by this project, and utility rate schedules, if appropriate.
 - d) Significant changes in future related operations and maintenance costs, including person-hours are identified.
 - e) A description on how outcomes should be measured annually.
- (vi) Attachments providing required tables, graphical displays, and associated analyses support of energy saving recommendations.



Attachment H, Technical Assistance Hours (TAH) Report Outline



RETIRED ENGINEER TECHNICAL ASSISTANCE PROGRAM

TECHNICAL ASSISTANCE REPORT

Company / Organization (*getting report*)

Street Address
City, State Zip Code

Name, Title (*individual getting report*)

Prepared by

Name, Title

CONTRACTOR

On behalf of the
Office of Environmental Assistance
Michigan Department of Environmental Quality

Initial Onsite Visit: Month Day, Year (if applicable)
Report Submitted: Month day, Year



ACKNOWLEDGEMENT

This report is made possible by the State of Michigan through funds appropriated in support of the pollution prevention technical assistance activities of the Retired Engineer Technical Assistance Program (RETAP).

PURPOSE AND OBJECTIVE

The Retired Engineer Technical Assistance Program (RETAP) was established by the State of Michigan to help Michigan businesses and institutions prevent pollution, reduce waste and conserve energy. The Office of Environmental Assistance within the Michigan Department of Environmental Quality (DEQ) administers the program. The (*Contractor*) provides these technical services through a contract with the State of Michigan. RETAP assessment teams are made up of retirees from many Michigan industries willing to apply their skills, expertise and time to identify and assess potential pollution prevention and energy efficiency opportunities and to provide recommendations for improvement.

The program is not one of compliance with or enforcement of regulations. Implementation of the recommendations is entirely voluntary and at the discretion of the facility management. Acceptance of the offered assistance is evidence of a good faith effort to improve energy efficiency and reduce waste.

CONFIDENTIALITY POLICY

The services of the RETAP are confidential. The report generated for a business and any information that can be used to identify the assisted business will not be shared outside of the RETAP without preauthorization from the business.

DISCLAIMER

This report is based largely on information provided by the assisted organization. The quality of the analysis is only as valid as the quality of the information received. The contents of this report are offered as guidance. The *Contractor* and the State of Michigan do not: (a) make any warranty or representation, expressed or implied, with respect to the accuracy, completeness, or usefulness of the information contained in this report, or that the use of any information, apparatus, method, or process disclosed in this report may not infringe on privately owned rights; (b) assume any liabilities with respect to the use of, or for damages resulting from the use of, any information, apparatus, method, or process disclosed in this report. Mention of trade names or commercial products does not constitute endorsement or recommendation of use.

INDEMNIFICATION AGREEMENT

An indemnification agreement between *CONTRACTOR* and the *COMPANY NAME* was signed by *NAME*, *TITLE* on *MONTH, DAY, YEAR*.

The following report presents the findings and recommendations of a RETAP engineer responding to a pollution prevention, waste reduction, or energy conservation technical assistance request.



I. INTRODUCTION

The RETAP was contacted on *DATE* by *NAME*, *TITLE* of the *COMPANY / ORGANIZATION* to request assistance with.....

Provide a brief description of the requested technical assistance as initially proposed / understood. If the assistance provided was significantly altered or expanded after work was initiated, state when and why.

II. BACKGROUND

Provide a brief description of each of the following:

Company background

Facilities background

Operations background (relevant to the technical assistance request)

III. DISCUSSION

Briefly discuss the reason(s) for the technical assistance request (i.e. why important) including the negative impacts and cost(s) of the problem(s) to be addressed. Indicate the actions / solutions previously tried by the company to correct the problem(s).

Indicate when the onsite visit / meeting took place and who participated / attended. Provide titles and contact information if not previously provided.

Briefly discuss the information and operations reviewed or other actions undertaken in identifying potential recommendations. List or tabulate essential background details and data.

Include pictures and diagrams as appropriate.

IV. RECOMMENDATION(S)

Discuss each recommendation. Provide supporting calculations as required. Include the estimated / anticipated / potential resource and dollar savings and associated cost for implementing the recommendation.

Briefly discuss any additional information the company could provide or actions the company could take that could be helpful in determining appropriate recommendations or their anticipated resource and dollar savings.

V. REFERENCES

List all documents / resources used in support of recommendations provided.

VI. APPRECIATION

The RETAP engineer(s) greatly appreciates the opportunity to have assisted the *COMPANY NAME*. The input and involvement of the company being assisted are critical to providing meaningful recommendations. The engineer(s) thanks *NAMES* for providing needed information and answering critical questions. These inputs were essential in completing this report.



VII. FEEDBACK

The RETAP truly values your feedback. Your comments and testimonials are critical to our efforts to:

- Improve program services and capabilities
- Demonstrate program value
- Strengthen program support
- Secure future funding

Please email your comments, testimonials, letters, or other feedback to *Contractor Email Address* or mailed to:

Contractor
ATTN: RETAP
Street Address
City, MI Zip Code

The services of the RETAP are confidential. Your feedback will not be shared outside without your prior approval.



Attachment I, Current Monthly Financial Report Forms

State of Michigan Contract Number _____

Summary of Expenses for (Month, Year)

	A	B	C	D	E	F	
	Technical Assistance	Technology Transfer	Recruitment	Training	Marketing	Program Measurement	TOTAL
Staffing Costs	NA						
Subcontractor Costs	NA						
Overhead Costs	NA						
Supplies/Materials	NA						
Direct Costs	NA						
Sub-Total	NA						
Technical Assistance Unit Cost Basis							
Total							
CONTRACT AMOUNT							
Expenditures for Month, Year							
Expenditures for Current Fiscal Year-to-Date							
Expenditures for Prior Fiscal Year							
Expenditures for Earlier Fiscal Year							
Expenditures for Contract-to-Date							
Contract Balance							



State of Michigan Contract Number _____
Detail of Expenses for (Month, Year)

						Detail of Total													
Period End	Asses Numb er	Pay ee	Hou rs	Co de	Tot al	A [TA]		B [TT]		C [R]		D [T]		E [MK]		F [PM]		G [MAN]	
						Co st	Expen ses	Co st	Expen ses	Co st	Expen ses	Co st	Expen ses	Co st	Expen ses	Co st	Expen ses	Co st	Expen ses
Staffing																			
Costs																			
Direct																			
Costs																			
Supplies/ Materials																			
Sub- Contract or Costs																			
	EE																		
	Asme																		
	nts																		
	EA																		
	Other																		
	TAHs																		
	P2																		
	Asme																		
	nts																		
	TT																		
	Work																		
	R																		
	Work																		
	T																		
	Work																		
	MK																		
	Work																		
	PM																		
	Work																		
	E / AE																		



Work TC ACC																			
Sub-Total																			
TOTAL																			
TA Exclusions																			
To Be Invoiced																			

Code Explanations			
ACC	Accountant	P2	Pollution Prevention
Asmen	Assessment	PM	Program Measurement
AE	Associate Editor	R	Recruiting
E	Editing Reports	T	Training
EA	Energy Audit	TA	Technical Assistance
EE	Energy Efficiency	TAHs	Technical Assistance Hour
MAN	Project Management	TC	Training Coordinator
MK	Marketing	TT	Technology Transfer

**Record of Invoices and Payments to Subcontractors
for Services from (Month, Day, Year), through (Month, Day, Year)**

Date Issued	Check No.	Payee	Date	Amount	TA ID No.	Payment Amounts								OTHER	
						P2 Assessments	TAHs	TA Editing	Tech Transfer	Recruitment	Training	Marketing	Program Measurement	Code	Amount



Totals															



Attachment J, Current Monthly Progress Report Forms

CONTRACTOR MONTHLY PROGRESS REPORT, MONTH, YEAR

A. Pollution Prevention (P2) Assessment Activity

The following table summarizes P2 assessment activity for the month of *month*, *year*

Requests for Assessments	Pre-assessments	Assessments	Reports Mailed
1. (Date of Request) Type of Business; County; Facility Identifier No.; Facility SIC Codes.	1. (Date of Pre-assessment) Type of Business; County; Facility Identifier No.; Facility SIC Codes.	1. (Date of Assessment) Type of Business; County; Facility Identifier No.; Facility SIC Codes.	1. (Date Mailed) Type of Business; County; Facility Identifier No.; Facility SIC Codes.
2. (Date of Request) Type of Business; County; Facility Identifier No.; Facility SIC Codes.	2. (Date of Pre-assessment) Type of Business; County; Facility Identifier No.; Facility SIC Codes.	2. (Date of Assessment) Type of Business; County; Facility Identifier No.; Facility SIC Codes.	2. (Date of Assessment) Type of Business; County; Facility Identifier No.; Facility SIC Codes.
3. (Date of Request) Type of Business; County; Facility Identifier No.; Facility SIC Codes.	3. (Date of Pre-assessment) Type of Business; County; Facility Identifier No.; Facility SIC Codes.	3. (Date of Assessment) Type of Business; County; Facility Identifier No.; Facility SIC Codes.	3. (Date of Assessment) Type of Business; County; Facility Identifier No.; Facility SIC Codes.
4. (Date of Request) Type of Business; County; Facility Identifier No.; Facility SIC Codes.	4. (Date of Pre-assessment) Type of Business; County; Facility Identifier No.; Facility SIC Codes.	4. (Date of Assessment) Type of Business; County; Facility Identifier No.; Facility SIC Codes.	4. (Date of Assessment) Type of Business; County; Facility Identifier No.; Facility SIC Codes.
5. (Date of Request) Type of Business; County; Facility Identifier No.; Facility SIC Codes.	5. (Date of Pre-assessment) Type of Business; County; Facility Identifier No.; Facility SIC Codes.	5. (Date of Assessment) Type of Business; County; Facility Identifier No.; Facility SIC Codes.	5. (Date of Assessment) Type of Business; County; Facility Identifier No.; Facility SIC Codes.
Etc.	Etc.	Etc.	Etc.

Total number of requests received from *(date)* through *(date)* is _____.

Total number of assessments completed from *(date)* through *(date)* is _____.

Total number of assessment reports mailed from *(date)* through *(date)* is _____.



(B) Assessment Follow-Up Phone Calls

The following table summarizes the 8-week follow-up phone call activity for the month through *mm/dd/yy*

<u>Date</u>	<u>Number</u>	<u>Jobs Created/Retained</u>
1. Date	Id No.	##

Total number of follow-up phone calls completed from *mm/dd/yy* through *mm/dd/yy* is #.
 Total number of jobs created/retained from *mm/dd/yy* through *mm/dd/yy* is #.

(C) Technical Assistance (TA) Hours

The following table summarizes TA Hours activity for the month through *mm/dd/yy*

<u>Request</u>		<u>On-site</u>		<u>Mailed</u>	
1.	Date Id No.	Date Id No.	Date	Id No.	

Total number of TA Hours requests received from *mm/dd/yy* through *mm/dd/yy* is #.
 Total number of TA Hours requests completed from *mm/dd/yy* through *mm/dd/yy* is #.

(D) Cancelled Assessments and Technical Assistance (TA) Hours

The following table summarizes assessments and TA Hours cancelled in the month of month/year

<u>Date</u>	<u>Tracking No.</u>	<u>Reason Cancelled</u>
1. Date	Id No.	Reason

Total number of assessments cancelled from *mm/dd/yy* through *mm/dd/yy* is #.
 Total number of TA Hours cancelled from *mm/dd/yy* through *mm/dd/yy* is #.

**(E) RECRUITING**

Discussion of recruiting activities for month

(F) TRAINING

Discussion of marketing activities for month

(G) QUALITY ASSURANCE

Discussion of program management activities for month

(H) PROGRAM MEASUREMENT

Discussion of challenges / barriers encountered in the month

(I) TECHNOLOGY TRANSFER

Discussion of challenges / barriers encountered in the month

(J) MARKETING

Discussion of challenges / barriers encountered in the month

(K) PROGRAM MANAGEMENT

Discussion of challenges / barriers encountered in the month

(L) CHALLENGES ENCOUNTERED

Discussion of challenges / barriers encountered in the month



Measurement of RETAP Assessments – Continued

***Mm/dd/yy* Assessment Program Measurement Survey Summary**

Number of Businesses Surveyed in (*Month, Year*) = _____
 Average Assessment Effectiveness Rating = _____
 Number of Companies Willing to be a Case Study = _____
 Number of Companies with Increased Awareness of Wastes = _____

12-Month Surveys

Businesses Successfully Surveyed in *mm/yy* = #
 Average RETAP Effectiveness Rating = #
 Number of Companies Willing to be a Case Study = #
 Number of Companies with Increased Awareness of Wastes = #

Recommendations	#	%	
Recommendations Fully Implemented		#	%
Recommendations Partially Implemented	#	%	
Recommendations Planned to be Implemented		#	%
Recommendations Not Planned to be Implemented	#	%	
Recommendations Not Responded to		#	%

24-Month Surveys

Businesses Successfully Surveyed in *mm/yy* = #
 Average RETAP Effectiveness Rating = #
 Number of Companies Willing to be a Case Study = #
 Number of Companies with Increased Awareness of Wastes = #

Recommendations	#	%	
Recommendations Fully Implemented		#	%
Recommendations Partially Implemented	#	%	
Recommendations Planned to be Implemented		#	%
Recommendations Not Planned to be Implemented	#	%	
Recommendations Not Responded to		#	%

companies did not respond to requests for follow-up information (one 12-month and two 24-month)



Attachment K, Supplemental Program Measurement Report Form

**Supplemental Program Measurement Report
(For RETAP Use Only)**

RETAP Confidentiality Policy Statement

The services of the Michigan Retired Engineer Technical Assistance Program (RETAP) are confidential. The report generated for the business and any information that can be used to identify the assisted business will not be shared outside of the RETAP without the approval of the business.

RETAP Statement of Critical Need

The RETAP has a critical need to continuously measure the benefits and outcomes of its technical assistance services to:

- Improve Program Services and Technical Capabilities
- Accurately Demonstrate Program Value
- Enhance Marketing and Outreach Efforts
- Strengthen Program Support
- Secure Future Funding

The primary tools to measure the benefits and outcomes of RETAP technical assistance services are:

- Information and data sharing during the assessment process, particularly waste generation and utility usage data, to allow for meaningful and accurate estimation of resource and dollar savings and associated implementation cost of each RETAP recommendation.
- Annual follow-up measurement surveys and company approved information sharing thru testimonials, summary case studies, letters of support, etc. after delivery of the assessment report to the business.

Did the business understand the RETAP Confidentiality Policy? Circle One: **YES** **NO**

Did the business understand the critical need of the RETAP to demonstrate the value of its services thru annual follow-up measurement surveys, testimonials, summary case studies, letters of support, etc.? Circle One: **YES** **NO**

Did the business agree to being listed on the RETAP website as having been assisted by the program?
Circle One: **YES** **NO**



What did the business indicate as their primary waste and energy issues?

Did the business sign the indemnification agreement? Circle One: **YES** **NO**

Did the business allow the assessment team to take pictures during the onsite assessment?

Circle One: **YES** **NO**

Did the business indicate wanting to electronically receive quarterly pollution prevention and energy efficiency information from the RETAP? Circle One: **YES** **NO**

Name: _____

Title: _____

Email: _____

Did the business indicate wanting to receive additional information on the MBP3 and P2 loan programs?

Circle One: **YES** **NO**

Name: _____

Title: _____

Email: _____

How did the business learn of RETAP technical assistance services?

What organizations (e.g. associations, societies, chambers of commerce, etc) did the business suggest contacting to help market RETAP technical assistance services?

Did the business agree to allow the State RETAP Manager to call and discuss their RETAP assessment experience for quality control purposes?

Name: _____

Title: _____

Phone: _____

Email: _____



<u>Range Code</u>	<u>Value</u>
A	0
B	1 to 9
C	10 to 49
D	50 to 99
E	100 to 499
F	500 to 999
G	1,000 to 4,999
H	5,000 to 9,999
I	10,000 to 49,999
J	50,000 to 99,999
K	100,000 to 499,999
L	500,000 to 999,999
M	1,000,000 to 4,999,999
N	5,000,000 to 9,999,999
O	10,000,000 or more

Table 1 – Annual Waste Generation, Wastewater Discharge, Water and Energy Usage, and Associated Cost Summary

Waste	Amount* Generated	Units	Annual Cost*
Yard Waste			
Solid Waste			
Liquid Industrial Waste			
Universal Waste			
Hazardous Waste			
Medical Waste			
Wastewater	Amount* Discharged	Units	Annual Cost*
Discharge to Groundwater		Gallons	
Discharge to Surface Water		Gallons	
Discharge to POTW		Gallons	
Water	Amount* Used	Units	Annual Cost*
Potable Water		Gallons	
Non-Potable Water		Gallons	
Energy	Amount* Used	Units	Annual Cost*
Electricity		kWh	
Natural Gas		CCF	
Other (specify)			
Other (specify)			
Other (specify)			

* Enter actual amount, estimated amount or range code.



Table 2 – Top Five Specific Wastes Generated by Significance
Annual Amount, Associated Cost and Final Disposition**

Waste / Pollutant	Amount*	Units	Cost*	How Does Company Handle Waste?
1. Specify				
2. Specify				
3. Specify				
4. Specify				
5. Specify				

* Enter actual amount, estimated amount or range code.

** Significance based on quantity, cost, or characteristics

**Table 3 – Report Recommendations
Annual Resource and Dollar Savings and Associated Implementation Costs**

Rec. No.	Annual Resource Savings*	Units	Annual Dollar Savings*	Implementation Cost*
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
Etc.				

* Enter actual amount, estimated amount or range code.

Discuss any innovative or noteworthy pollution prevention / energy conservation practices and/or technologies (non - proprietary) employed at the facility.

Specify any pollution prevention / energy conservation measures the facility is doing extremely well that other businesses can learn from.



Attachment L, Eight Week Program Measurement Form

**P2 and/or ENERGY ASSESSMENT REPORT
Post Report Follow-up Contact**

Assessment Number:

Assessor: _____ Date of Contact: _____

Facility Name:

Facility Address:

Facility Contact: _____ Contact Phone: _____

Obtain answers to the following questions:

- 1.a. Was the report received? Yes No
- 1.b. Has the report been read? Yes No Partially
- 2. Is the report correct? Any changes needed?

3. What could we have done differently to make the report more useful to you, if anything?

4. Was the enclosed CD-ROM useful to you and/or your organization?
 Yes No

5. Is any additional follow-up needed? Yes No

6. Do you expect to implement at least some of the report recommendations? Yes
 No Can't tell

If yes, which ones _____

If not, why not? _____

7. How many jobs may be created and/or retained as a result of the implementation of the report recommendations? _____

Assessment Number:



8. Would you agree to being listed on the RETAP website as having received a pollution prevention (or energy) assessment? Yes No

9. Would you like to receive electronically quarterly pollution prevention and energy efficiency information relevant to Michigan small businesses from RETAP, including:

- Assistance Programs
- Best Practices
- Financial Assistance
- New Technologies
- Success Stories
- Training Events

Yes No email Address _____

10. Would you like to receive additional information on the Michigan Business Pollution Prevention Partnership (MBP3) program and the Small Business P2 loan program?

Yes No email Address _____

11. What organizations (e.g., trade associations, professional societies, chambers of commerce, service organizations, etc.) would you suggest contacting to help market RETAP technical assistance services?

12. Would you agree to allow the State RETAP Manager to call and discuss your RETAP assessment experience (for quality control purposes)? Yes No



Attachment N, Example Indemnification Agreement

Example Indemnification Agreement

Date: _____

Dear _____:
(Name of contact at Business requesting assessment)

Thank you for requesting a pollution prevention assessment for _____ (Company Name)

(herein referred to as the "Business"). Upon acceptance, this letter will serve as the agreement whereby the Business will participate in an assessment with the *Contractor Name*. This non-regulatory service is provided through the Department of Environmental Quality Retired Engineer Technical Assistance Program, which is implemented by *Contractor Name* on behalf of the State of Michigan (the "State"), who funds the program. This assessment will be conducted by a team leader and a RETAP team at no cost to the Business.

The purpose of the assessment is to bring about waste minimization through such means as source reduction, recycling, energy efficiency improvement, treatment, and other applicable methods. Upon completion of this assessment, the Business will be provided a confidential Final Report containing an overall evaluation and recommendations for options to reduce waste generation and improve energy efficiency. The Business is under no obligation under this Agreement to implement any of the options recommended in the assessment. *Contractor Name* fully respects the Business' interest in retaining the confidentiality of proprietary information.

In consideration of the assessment being conducted and services provided to Business at no cost, it is agreed as follows:

1. The Business hereby releases and discharges all members of the assessment team, *Contractor Name* the State, and their respective agents and employees from and against any claims, actions, causes of action, demands, costs, expenses, losses, liability, compensation, judgments, attorney fees, court costs, damages, interest and other amounts which arise, directly or indirectly, from the services which *Contractor Name* performs for the Business under this Agreement and any verbal or written statements made during or resulting from the assessment and final report.

It is further understood and agreed that the assessment team, *Contractor Name*, the United States, the State, and their respective directors, officers, agents and employees shall have no liability to the Business, its officers, directors, agents, employees, or to any third party for any loss of or injury to earnings, profits, savings, goodwill or reputation, or for any incidental, consequential or special damages, damages to property (both real and personal), and personal injuries, including death, directly or indirectly arising out of or in connection with the services provided under this Agreement, even if *Contractor Name* has been advised of the possibility of such damages occurring before it began its work.

2. It is further understood and agreed that each assessment team member, *Contractor Name*, the State, the United States, and any of their respective agents or employees: (a) make no warranty or representation of any kind whatsoever, either express or implied, as to the accuracy, safety, completeness, usefulness, or reliability of any information, apparatus, product, method, or process discussed in any way in *Contractor Name's* report; (b) shall have no liability or responsibility to the Business for the use of, or for damages resulting from the use of, any information, apparatus, product, method or process in any way related to the assessment or the final report; (c) make no representation or warranty, express or implied, that the use of any information, apparatus, product, method, or process in any way related to the report would not infringe privately owned rights; and (d) make no representation or warranty, express or implied, that the implementation of, or reliance upon, the assessment or of the final report will cause the Business to achieve certain results, including cost savings, waste reduction or compliance with legal requirements. The Business further understands and agrees on behalf of itself, its officers, directors, agents, and employees that it is solely responsible for determining the adaptability or suitability of the assessment and final report for its purposes.



- 3. Business agrees to indemnify and hold harmless all assessment team members, *Contractor Name*, the State and their respective officers, directors, agents and employees from any and all claims, suits, actions, liability, costs, demands, injuries, losses, expenses, damages, judgments, attorney fees, court costs, interest and other amounts paid or suffered by any of them which, directly or indirectly, in whole or in part, arise out of or are in any way connected with the services provided by *Contractor Name* under this Agreement or from the use of or reliance upon the assessment or the report produced by *Contractor Name*.

- 4. No member of the Legislature of the State of Michigan, nor any individual employed by the State, nor any agent or employee of *Contractor Name* shall be permitted to share in any benefit that arises from the assessment performed by *Contractor Name*. The Business may not offer or give, directly or indirectly, to any individual employee of the State of Michigan, member of the State Legislature, nor any director, officer, agent or employee of *Contractor Name* any gift, gratuity, favor, entertainment, loan or any other thing of monetary value. Breach of this provision shall constitute a material breach of this Agreement.

If the above correctly reflects the Agreement between *Contractor Name* and the Business, please sign the acceptance below on behalf of the Business in the space provided and return one copy to *Contractor Name* in the enclosed envelope. The original is for your files.

Thank you for your interest and agreement to participate in this worthwhile program.

Very truly yours,

Name
Executive Director, *Contractor Name*

Accepted and agreed to this date: _____

By (Company Representative): _____ Title: _____

Contractor Name Representative: _____