



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

CONTRACT CHANGE NOTICE

Change Notice Number **2**

to

Contract Number **071B4300083**

CONTRACTOR	DU HADWAY KENDALL & ASSOCIATES INC
	5160 Falconview Avenue, S.E.
	Kentwood, MI 49512
	Sindia Narber
	616-656-0123
	sindianarber@dksecurity.com
*****6234	

STATE	Program Manager	Jeff Pratt	DTMB
		517-241-4391	
		prattj@michigan.gov	
	Contract Administrator	Lymon C. Hunter, CPPB	DTMB
		(517) 284-7015	
		hunterl@michigan.gov	

CONTRACT SUMMARY

ARMED SECURITY GUARD SERVICES			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
May 1, 2014	September 30, 2016	2 - 1 Year	September 30, 2017
PAYMENT TERMS		DELIVERY TIMEFRAME	
		Per the attached specifications	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<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

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		September 30, 2017
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$1,111,435.85	\$30,643.00	\$1,142,078.85		

DESCRIPTION

Effective February 1, 2017, the hourly bill rates have been increased per the attached revised pricing sheet summary. Also, the revised guard compensation is as follows:

ARMED SECURITY OFFICERS SHALL BE COMPENSATED AT NO LESS THAN \$16.18 PER HOUR.
ARMED SHIFT SUPERVISORS SHALL BE COMPENSATED AT NO LESS THAN \$16.68 PER HOUR.
ARMED SITE SUPERVISORS SHALL BE COMPENSATED AT NO LESS THAN \$17.68 PER HOUR.

Contract is also increased by \$30,643.00. All other terms, conditions, and specifications remain the same. Per vendor and agency agreement and DTMB Procurement approval.

Attachment B
REVISED PRICING SHEET SUMMARY
Armed Security Guard Service
DTMB – Office of Infrastructure Protection
Michigan Hall of Justice
925 W. Ottawa St.
Lansing, MI 48913

Service shall be in accordance with the attached terms, conditions, specifications and guard schedule detailed below:

Item	Unit	Description	Bill Rate per Hour
1	HR	All year: One (1) Armed Site Supervisor – 8 hours/day, Monday – Friday, 8:00 a.m. to 4:00 p.m. 5 days per week, M-F with the exception of legal holidays (excluding Election Day). 8 hrs/day for 627 days	\$20.82
2	HR	All year: Two (2) Armed Shift Supervisors/Security Officers – Shift schedule: 8 hours/day, Monday – Friday, 6:00 a.m. to 2:00 p.m. 8 hours/day, Monday – Friday, 2:30 pm. to 10:30 p.m. 5 days per week, M-F with the exception of legal holidays (excluding Election Day). 16 hrs/day for 627 days	\$20.82
3	HR	September 1 – May 31*: Six (6) Armed Security Officers Shift schedule: 8 hours/day, Monday – Friday, 6:30 a.m. to 2:30 p.m. 8 hours/day, Monday – Friday, 7:30 a.m. to 3:30 p.m. 8 hours/day, Monday – Friday, 8:00 a.m. to 4:00 p.m. 8 hours/day, Monday – Friday, 8:00 a.m. to 4:00 p.m. 8 hours/day, Monday – Friday, 9:00 a.m. to 5:00 p.m. 8 hours/day, Monday – Friday, 2:30 pm. to 10:30 p.m. 5 days per week, M-F with the exception of legal holidays (excluding Election Day). 48 hrs/day for 433 days	\$20.82
4	HR	June 1 – August 31* Four (4) Armed Security Officers Shift schedule: 8 hours/day, Monday – Friday, 7:30 a.m. to 3:30 p.m. 8 hours/day, Monday – Friday, 8:00 a.m. to 4:00 p.m. 8 hours/day, Monday – Friday, 8:00 a.m. to 4:00 p.m. 8 hours/day, Monday – Friday, 2:30 pm. to 10:30 p.m. 5 days per week, M-F with the exception of legal holidays. 32 hrs/day for 194 days	\$20.82

*** Schedule may change due to court sessions and other Hall of Justice activities per instructions from the Judicial Security Director.**

Guards shall be given a 30 minute paid lunch break for each shift. However, guards are required to remain on site and to respond to any emergencies during their lunch break.

Contractor pledges and affirms that guards in the employ of Contractor's company will be compensated as follows through the life of the Contract:

ARMED SECURITY OFFICERS SHALL BE COMPENSATED AT NO LESS THAN \$16.18 PER HOUR.

ARMED SHIFT SUPERVISORS SHALL BE COMPENSATED AT NO LESS THAN \$16.68 PER HOUR.

ARMED SITE SUPERVISORS SHALL BE COMPENSATED AT NO LESS THAN \$17.68 PER HOUR.

**Attachment B
PRICING SHEET SUMMARY
Armed Security Guard Service**

**DTMB – Office of Infrastructure Protection
Michigan Hall of Justice
925 W. Ottawa St.
Lansing, MI 48913**

Discretionary Hours

Service shall be in accordance with the attached terms, conditions, specifications and guard schedule detailed below:

Item	Unit	Description	Bill Rate per Hour
1	HR	<p>Discretionary hours to accommodate extra guards and schedule changes as necessary for the Michigan Hall of Justice.</p> <p>Maximum of 1,000 hours per year</p> <p>Guard Shift: As needed basis</p> <p>Total Guard Hours Per Day: varies</p> <p>DISCRETIONARY ARMED SECURITY OFFICERS, REGARDLESS OF RANK, SHALL BE COMPENSATED AT NO LESS THAN \$16.18 PER HOUR.</p>	\$20.82

Guards shall be given a 30 minute paid lunch break for each shift. However, guards are required to remain on site and to respond to any emergencies during their lunch break.



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

CONTRACT CHANGE NOTICE

Change Notice Number 1

to

Contract Number **071B4300083**

CONTRACTOR	DU HADWAY KENDALL & ASSOCIATES INC
	5160 Falconview Avenue, S.E.
	Kentwood, MI 49512
	Kathryn Kendall
	616-656-0123
	kathrynkendall@dksecurity.com
*****6234	

STATE	Program Manager	Jeff Pratt	DTMB
		517-241-4391	
		prattj@michigan.gov	
	Contract Administrator	Lymon C. Hunter, CPPB	DTMB
		(517) 284-7015	
		hunterl@michigan.gov	

CONTRACT SUMMARY

ARMED SECURITY GUARD SERVICES			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
May 1, 2014	September 30, 2016	2 - 1 Year	September 30, 2016
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45 Days		Per the attached specifications	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<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

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	12 Months	<input type="checkbox"/>		September 30, 2017
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$850,714.00	\$260,721.85	\$1,111,435.85		

DESCRIPTION

Effective October 11, 2016, the 1st option year on this contract is hereby exercised. The new contract end date is September 30, 2017. Contract is also increased by \$260,721.85. All other terms, conditions, specifications and pricing remain the same. Per vendor and agency agreement, DTMB Procurement approval and the approval of the State Administrative Board on October 25, 2016.

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

**NOTICE
 OF
 CONTRACT NO. 071B4300083**
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
DK Security 5160 Falconview Avenue, S.E. Kentwood, MI 49512	Kathryn A. Kendall	KathrynKendall@dksecurity.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(616) 656-0123	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DTMB	Jeff Pratt	517-241-4391	prattj@michigan.gov
BUYER:	DTMB	Lymon Hunter	517-284-7015	hunterl@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Armed Security Guard Services – University Region – Michigan Hall of Justice			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
2.5 years	May 1, 2014	September 30, 2016	2, one year
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			
MISCELLANEOUS INFORMATION:			
N/A			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:			\$850,714.00

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

CONTRACT NO. 071B4300083
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
DK Security 5160 Falconview Avenue, S.E. Kentwood, MI 49512	Kathryn A. Kendall	KathrynKendall@dksecurity.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(616) 656-0123	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DTMB	Jeff Pratt	517-241-4391	prattj@michigan.gov
BUYER:	DTMB	Lymon Hunter	517-284-7015	hunterl@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Armed Security Guard Services – University Region – Michigan Hall of Justice			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
2.5 years	May 1, 2014	September 30, 2016	2, one year
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			
MISCELLANEOUS INFORMATION:			
N/A			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:		\$850,714.00	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the solicitation #0071141114B0001048. 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 #: 071B4300083

FOR THE CONTRACTOR:

DK Security

Firm Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

Jeff Brownlee, Chief Procurement Officer

Name/Title

DTMB Procurement

Enter Name of Agency

Date



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

Contract No. [071B4300083](#)

ARMED SECURITY GUARD SERVICES

Buyer Name: Lymon C. Hunter, CPPB
Buyer Direct Telephone Number: 517.284.7015
Toll-Free Office Number: 855-MI-PURCH (855-647-8724)
E-Mail Address: HunterL@michigan.gov



Table of Contents

DEFINITIONS.....9

Article 1 – Statement of Work (SOW).....12

1.010 Project Identification.....12

 1.011 Project.....12

 1.012 Reserved.....12

1.020 Scope of Work and Deliverables12

 1.021 In Scope12

A. Out-Of-Scope.....12

B. Environment12

C. Issue Management.....12

 1.022 Work and Deliverable12

1.030 Roles and Responsibilities13

 1.031 Contractor Staff, Roles, and Responsibilities13

 See Attachment A (LSS) II-H13

 1.040 Reserved.....13

 1.042 Reports.....13

1.050 Acceptance.....13

 1.051 Criteria.....13

 1.052 Reserved.....13

1.060 Pricing.....14

 1.061 Pricing14

 1.062 Price Term.....14

 1.063 Tax Excluded from Price14

 1.064 Reserved.....14

1.070 Additional Requirements.....14

 1.071 Reserved.....14

Article 2, Terms and Conditions.....15

2.000 Contract Structure and Term15

 2.001 Contract Term15

 2.002 Options to Renew.....15

 2.003 Legal Effect15

 2.004 Attachments & Exhibits15

 2.005 Ordering15

 2.006 Order of Precedence15

 2.007 Headings16

 2.008 Form, Function & Utility16

 2.009 Reformation and Severability16

 2.010 Consents and Approvals16

 2.011 No Waiver of Default16

 2.012 Survival.....16

2.020 Contract Administration16

 2.021 Issuing Office.....16

 2.022 Contract Compliance Inspector16

 2.023 Reserved.....17

 2.024 Change Requests.....17

 2.025 Notices17

 2.026 Binding Commitments17

 2.027 Relationship of the Parties17

 2.028 Covenant of Good Faith18

 2.029 Assignments.....18

2.030 General Provisions18

 2.031 Administrative Fee And Reporting.....18



- 2.032 Media Releases..... 18
- 2.033 Contract Distribution..... 19
- 2.034 Permits 19
- 2.035 Website Incorporation 19
- 2.036 Future Bidding Preclusion 19
- 2.037 Freedom of Information 19
- 2.038 Disaster Recovery 19
- 2.040 Financial Provisions** 19
 - 2.041 Fixed Prices for Services/Deliverables..... 19
 - 2.042 Adjustments for Reductions in Scope of Services/Deliverables..... 19
 - 2.043 Services/Deliverables Covered 19
 - 2.044 Invoicing and Payment – In General 19
 - 2.045 Pro-ration..... 20
 - 2.046 Antitrust Assignment 20
 - 2.047 Final Payment 20
 - 2.048 Electronic Payment Requirement..... 20
- 2.050 Taxes**..... 20
 - 2.051 Employment Taxes..... 20
 - 2.052 Sales and Use Taxes 20
- 2.060 Contract Management** 21
 - 2.061 Contractor Personnel Qualifications..... 21
 - 2.062 Contractor Key Personnel 21
 - 2.063 Re-assignment of Personnel at the State’s Request..... 21
 - 2.064 Contractor Personnel Location..... 22
 - 2.065 Contractor Identification 22
 - 2.066 Cooperation with Third Parties 22
 - 2.067 Contractor Return of State Equipment/Resources 22
 - 2.068 Contract Management Responsibilities..... 22
- 2.070 Subcontracting by Contractor** 22
 - 2.071 Reserved..... 22
 - 2.072 Reserved..... 22
 - 2.073 Reserved..... 22
 - 2.074 Reserved..... 22
 - 2.075 Reserved..... 22
- 2.080 State Responsibilities**..... 23
 - 2.081 Equipment 23
 - 2.082 Facilities 23
- 2.090 Security**..... 23
 - 2.091 Background Checks 23
- 2.100 Confidentiality** 23
 - 2.101 Confidentiality..... 23
 - 2.102 Protection and Destruction of Confidential Information 24
 - 2.103 Reserved..... 24
 - 2.104 Exclusions 24
 - 2.105 No Implied Rights 24
 - 2.106 Security Breach Notification 24
 - 2.107 Respective Obligations..... 24
- 2.110 Records and Inspections** 25
 - 2.111 Inspection of Work Performed..... 25
 - 2.112 Retention of Records..... 25
 - 2.113 Examination of Records 25
 - 2.114 Audit Resolution 25
 - 2.115 Errors..... 25
- 2.120 Warranties**..... 25



- 2.121 Warranties and Representations.....25
- 2.122 Reserved.....26
- 2.123 Reserved.....26
- 2.124 Reserved.....26
- 2.125 Reserved.....26
- 2.126 Reserved.....26
- 2.127 Reserved.....26
- 2.128 Consequences For Breach.....26
- 2.130 Insurance.....26**
 - 2.131 Liability Insurance.....26
 - 2.132 Reserved.....28
 - 2.133 Certificates of Insurance.....28
- 2.140 Indemnification.....28**
 - 2.141 General Indemnification28
 - 2.142 Code Indemnification.....28
 - 2.143 Employee Indemnification28
 - 2.144 Patent/Copyright Infringement Indemnification29
 - 2.145 Continuation of Indemnification Obligations29
 - 2.146 Indemnification Procedures.....29
- 2.150 Termination/Cancellation.....30**
 - 2.151 Notice and Right to Cure30
 - 2.152 Termination for Cause.....30
 - 2.153 Termination for Convenience31
 - 2.154 Termination for Non-Appropriation.....31
 - 2.155 Termination for Criminal Conviction31
 - 2.156 Termination for Approvals Rescinded31
 - 2.157 Rights and Obligations upon Termination32
 - 2.158 Reservation of Rights32
- 2.160 Reserved.....32**
- 2.170 Transition Responsibilities.....32**
 - 2.171 Contractor Transition Responsibilities.....32
 - 2.172 Contractor Personnel Transition.....32
 - 2.173 Contractor Information Transition.....33
 - 2.174 Contractor Software Transition.....33
 - 2.175 Transition Payments.....33
 - 2.176 State Transition Responsibilities33
- 2.180 Stop Work.....33**
 - 2.181 Stop Work Orders.....33
 - 2.182 Cancellation or Expiration of Stop Work Order33
 - 2.183 Allowance of Contractor Costs34
- 2.190 Dispute Resolution.....34**
 - 2.191 In General.....34
 - 2.192 Informal Dispute Resolution34
 - 2.193 Injunctive Relief.....34
 - 2.194 Continued Performance35
- 2.200 Federal and State Contract Requirements.....35**
 - 2.201 Nondiscrimination.....35
 - 2.202 Unfair Labor Practices.....35
 - 2.203 Workplace Safety and Discriminatory Harassment35
- 2.210 Governing Law.....35**
 - 2.211 Governing Law35
 - 2.212 Compliance with Laws.....35
 - 2.213 Jurisdiction35
- 2.220 Limitation of Liability.....35**



- 2.221 Limitation of Liability36
- 2.230 Disclosure Responsibilities36**
 - 2.231 Disclosure of Litigation36
 - 2.232 Call Center Disclosure.....37
 - 2.233 Bankruptcy and Insolvency37
- 2.240 Performance37**
 - 2.241 Time of Performance37
 - 2.242 Reserved37
 - 2.243 Deductions37
 - 2.244 Excusable Failure.....38
- 2.250 Approval of Deliverables38**
 - 2.251 Reserved38
 - 2.252 Reserved38
 - 2.253 Reserved38
 - 2.254 Reserved38
 - 2.255 Reserved38
 - 2.256 Process for Approval of Services39
 - 2.257 Reserved39
 - 2.258 Reserved39
- 2.260 Ownership.....39**
 - 2.261 Reserved39
 - 2.262 Reserved39
 - 2.263 Rights in Data.....39
 - 2.264 Reserved39
- 2.270 State Standards39**
 - 2.271 Reserved39
 - 2.272 Reserved39
 - 2.273 Reserved39
 - 2.274 Reserved39
- 2.280 Extended Purchasing Program40**
 - 2.281 Extended Purchasing Program40
- 2.290 Environmental Provision40**
 - 2.291 Reserved40
- 2.300 Other Provisions40**
 - 2.311 Reserved40

Attachment A, Location Specification Sheet (LSS)
Attachment B, Pricing Sheets



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.

Agency means the unit of State government covered by this Contract.

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. "Contract Compliance Inspector (CCI)" means the DTMB – Office of Infrastructure Protection (OIP) employee responsible for day-to-day administration of the contract.

Contractor means a person, firm or corporation licensed by the Michigan Department of Licensing and Regulatory Affairs to provide security services.

Days means calendar days unless otherwise specified.

Deleted – N/A means that section is not applicable or included in this RFP. This is used as a placeholder to maintain consistent numbering.

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

Director means the State Procurement Director.

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

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

Hall of Justice (HOJ) Security Director means the Michigan Supreme Court (MSC) Security and Emergency Management Director responsible for security and emergency management administration and oversight of facilities and personnel for the Supreme Court, Court of Appeals, and State Court Administrative Offices.

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.

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



LSS means the Location Specification Sheet which includes the individual location specifications, guard duties and requirements, and guard schedules.

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.

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

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

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

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

Representative means the person designated by the agency to coordinate and supervise the security service.

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.

Security Guard means a person employed by the Contractor, who provides protection, and who also meets the requirements of Act 330 of the Public Acts of 1968, as amended, and the requirements of these specifications. Please refer to: http://www.michigan.gov/documents/mcoles/mcl-Act-330-of-1968_253580_7.pdf.

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 means the State of Michigan.

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.

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

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

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



Article 1 – Statement of Work (SOW)

1.010 Project Identification

1.011 Project

This is a Contract(s) for armed security guard service for various State of Michigan facilities as detailed in the Attachment A, Location Specification Sheet (LSS).

Any awarded Contract(s) between the State and any awarded Contractor(s) is a separate document, whose terms are limited by Article 2.

1.012 Reserved

1.020 Scope of Work and Deliverables

1.021 In Scope

The Contractor shall provide all personnel, equipment, tools, materials, supervision and other items and services necessary to perform the services as described in the specifications herein.

Personnel assigned pursuant to this Contract shall be trained to the standards established by the Michigan Commission on Law Enforcement Standards (MCOLES) of training and qualifications in the use of firearm, pursuant to the new statute Public Act 381. Personnel shall also maintain a Michigan Concealed Weapons Permit (CCW).

A. Out-Of-Scope

The following tasks are **considered out-of-scope** for this Contract (unless otherwise stated as a requirement on the Attachment A- Location Specification Sheet(s) (LSS)):

- Performance of personal chores for anyone (i.e., porter or courier service);
- Providing of transportation for agency staff or visitors (i.e., chauffeur service);
- Courier / Porter Services
- Provide services for State Agency Operations. (i.e., answering phones)

B. Environment

The services requested are identified herein and during the hours specified in the Attachment A (LSS) or as requested in writing by the Contract Compliance Inspector (CCI).

All work shall be done in accordance with all regulations governing the State agency wherein the work is to be performed and with minimum possible interference with the proper functioning of the activities of that State agency. Supplies, materials, equipment, etc. shall be confined so as not to unduly encumber the premises.

C. Issue Management

When issues or discrepancies against the specifications and terms of this Contract occur, the Contract Compliance Inspector will contact the Contractor's designated representative. All issues or discrepancies must be resolved by a mutually agreed time period between the Contract Compliance Inspector and the Contractor.

The State reserve the right to initiate Contractor performance documentation in MAIN to record relevant performance activities. If issues are not resolved in the designated time, the Contract Compliance Inspector will follow their agency's procedures for Contractor performance resolution.

1.022 Work and Deliverable

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



- A. The Contractor, through innovation, technology or other means, shall perform and provide the required services and staff to complete the frequencies determined by the State and otherwise do all things necessary for, or incidental, to the performance of work. Compliance will be based on the State’s overall evaluation and interpretation in accordance with frequencies set forth in this document.

The Contractor shall provide all services and related items and services necessary for, or incidental, to the performance of work in accordance with this contract, including, but not limited to:

1. All personnel;
2. Equipment;
3. Tools;
4. Supplies;
5. Materials;
6. Training; and
7. Supervision of Staff

- C. The Contractor shall provide services at the locations described in the Attachment A (LSS) and/or directed by the CCI, in emergency situations only.

- D. Emergency Security Guard Deployment.
In the event that an emergency situation has been declared which requires additional temporary security guards, the Contractor hereby agrees to provide the additional number of guards requested at the earliest opportunity, but not later than 48 hours after notification. This deployment shall include general orders and will be determined on a case-by-case basis.

Payment shall be based on the following:

1. Request made that is less than 48 hour notice shall be billed at a rate of one and one half (1.5) times the current Contract hourly bill rate.
- ~~2.~~ The premium rate will be charged with less than 48 hour notice for the first 48 hours of coverage.

1.030 Roles and Responsibilities

1.031 Contractor Staff, Roles, and Responsibilities

See Attachment A (LSS) II-H

1.040 Reserved

1.042 Reports

The State reserves the right to request reports, at no additional charge.

1.050 Acceptance

1.051 Criteria

The Contractor should submit bi-weekly invoices that detail the period billed, guard location, guard position (i.e. site supervisor, shift supervisor or security guard), hours worked per guard, hourly rate and the total amount billed.

1.052 Reserved



1.060 Pricing

1.061 Pricing

For authorized Services and Price List, see Attachment A.

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

1.062 Price Term

Adjustments will be based on changes in actual Contractor costs. Any request must be supported by written evidence documenting the change in costs. The State may consider sources, such as the Consumer Price Index; Producer Price Index; other pricing indices as needed; economic and industry data; manufacturer or supplier letters noting the increase in pricing; and any other data the State deems relevant.

Following the presentation of supporting documentation, both parties will have 30 days to review the information and prepare a written response. If the review reveals no need for modifications, pricing will remain unchanged unless mutually agreed to by the parties. If the review reveals that changes are needed, both parties will negotiate such changes, for no longer than 30 days, unless extended by mutual agreement.

The Contractor remains responsible for performing according to the Contract terms at the Contract price for all orders received before price revisions are approved or before the Contract is cancelled.

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 Reserved

1.070 Additional Requirements

1.071 Reserved



Article 2, Terms and Conditions

2.000 Contract Structure and Term

2.001 Contract Term

The Contract is for a period of 30 months beginning May 1, 2014 through September 30, 2016. 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. 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

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

- (a) Mandatory sections (2.1.1, Contract Term, 2.24.9, Legal Effect, 2.2.2, Payment Deadlines, 2.14, Insurance, 2.15, Indemnification, 2.16, Termination, 2.23, Governing Law, 2.15.7, Limitation of Liability);
- (b) The most recent Statement of Work related to this Contract in Article 1 and Attachment A (LSS)
- (c) All sections from Article 2 - Terms and Conditions, not listed in subsection (a);
- (d) Any other attachment or exhibit to the Contract documents;
- (e) Any Purchase Order, Direct Voucher, or Procurement Card Order issued under the Contract; and
- (f) Bidder Responses contained in any of the RFP documents.



2.007 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 (1) 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, Procurement and multiple State Agencies identified within this document (collectively, including all other relevant State of Michigan departments and agencies, the "State"). Procurement is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. 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 Procurement for the Contract is:

Lymon C. Hunter, CPPB, Buyer Specialist
Department of Technology Management and Budget
Procurement
Constitution Hall, 1st Floor
PO Box 30026
Lansing, MI 48909
HunterL@michigan.gov
517.284.7015

2.022 Contract Compliance Inspector

After DTMB-Procurement receives the properly executed Contract, it is anticipated that the Director of Procurement, in consultation with various state agencies, 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 each location is noted in the Attachment A, LSS and will be included in the Contract or Purchase Order.

2.023 Reserved

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 Administrative Fee And Reporting

The Contractor must remit an administrative fee of 1% on all payments remitted to Contractor under the Contract including transactions with (excluding State departments, divisions, agencies, offices, and commissions), MiDEAL members, and other states (including governmental subdivisions and authorized entities). Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales.

Itemized purchasing activity reports should be mailed to DTMB-Procurement and the administrative fee payments shall be made by check payable to the State of Michigan and mailed to:

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

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

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 after the proposed Contract Agreement has been signed and accepted by both the Contractor and the Director of Procurement, Department of Technology, Management & Budget. This activity will occur only upon the specific written direction from Procurement.

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 (2) 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 Reserved

2.072 Reserved

2.073 Reserved

2.074 Reserved

2.075 Reserved



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

All Contractor personnel employed under this contract are required to have background checks initiated by the Contractor. Contractor will submit copies of results to the CCI prior to first day of work at a State facility. All Contractor personnel will be individually reviewed and decisions made with respect to the individual based upon the totality of the individual's qualifications and the results of the background check. The background checks will include at a minimum Michigan State Police Background checks (ICHAT) and at the State's discretion, may include the National Crime Information Center (NCIC) Finger Prints which will require submission of an RI-8 Fingerprint Card for the NCIC Finger Print Check. The scope of the background check may be expanded at the discretion of the State and used to determine Contractor personnel eligibility for working within State facilities and systems.

All Contractor personnel must comply with the State's security and acceptable use policies for State IT equipment and resources. See http://www.michigan.gov/cybersecurity/0,1607,7-217-34395_34476---.00.html. Furthermore, Contractor personnel must agree to the State's security and acceptable use policies before the Contractor personnel will be accepted as a resource to perform work for the State. The Contractor must present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff must comply with all Physical Security procedures in place within the facilities where they are working.

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 7 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 3 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) **Reserved**

(g) **Reserved**

(h) **Reserved**

2.122 Reserved

2.123 Reserved

2.124 Reserved

2.125 Reserved

2.126 Reserved

2.127 Reserved

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

The Contractor must provide proof of the minimum levels of insurance coverage as indicated below. The insurance must protect the State from claims which may arise out of or result from the Contractor's performance of Services under the terms of the Contract, whether the Services are performed by the Contractor, or by any Subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.



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

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

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

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

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

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

- 1. Commercial General Liability with the following minimum coverage:
 \$2,000,000 General Aggregate Limit other than Products/Completed Operations
 \$2,000,000 Products/Completed Operations Aggregate Limit
 \$1,000,000 Personal & Advertising Injury Limit
 \$1,000,000 Each Occurrence Limit

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the Commercial General Liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

- 2. If a motor vehicle is used to provide services or products under the Contract, the Contractor must have vehicle liability insurance on any auto including owned, hired and non-owned vehicles used in Contractor's business for bodily injury and property damage as required by law.

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the vehicle liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

- 3. Workers' compensation coverage must be provided according to applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If the applicable coverage is provided by a self-insurer, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees

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

Any certificates of insurance received must also provide a list of states where the coverage is applicable.

The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company. This provision must not be applicable where prohibited or limited by the laws of the jurisdiction in which the work is to be performed.



- 4. Employers liability insurance with the following minimum limits:
 \$100,000 each accident
 \$100,000 each employee by disease
 \$500,000 aggregate disease
- 5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor or its Subcontractors, acting alone or in collusion with others, in a minimum amount of \$1,000,000.00 with a maximum deductible of \$50,000.00.
- 6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars (\$10,000,000.00), which must apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.
- 7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: \$3,000,000.00 each occurrence and \$3,000,000.00 annual aggregate.
- 8. Fire and Personal Property Insurance covering against any loss or damage to the office space used by Contractor for any reason under the Contract, and the equipment, software and other contents of the office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to its replacement value, where the office space and its contents are under the care, custody and control of Contractor. The policy must cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State must be endorsed on the policy as a loss payee as its interests appear.

2.132 Reserved

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 2.13.1, Liability Insurance. Each certificate must be on the standard "Accord" form or equivalent and **MUST IDENTIFY THE APPLICABLE CONTRACT OR PURCHASE ORDER NUMBER.**

2.140 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 24 hours. 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 Reserved

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 Call Center Disclosure

Contractor and/or all Subcontractors involved in the performance of the Contract providing call or contact center services to the State must disclose the location of its call or contact center services to inbound callers. Failure to disclose this information is a material breach of the Contract.

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 Deductions

The parties acknowledge that security guard or supervisor failure to report to jobsite will interfere with the timely or proper completion of the Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any such delay. Failure to report to jobsite is defined as no security guard on post two (2) hours after the scheduled shift start time. Therefore, Contractor and the State agree that in the case of any such security guard or supervisor failure to report to jobsite in respect of which the State does not elect to exercise its rights under **Section 2.152**, the State may assess invoice deductions against Contractor as specified in this Section. If security guard or supervisor failure to report to jobsite occurs, then the State must be entitled to collect invoice deductions in the amount of \$500.00 and an additional \$100.00 per day for each day Contractor fails to remedy security guard or supervisor failure to report to jobsite.



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 Reserved

2.252 Reserved

2.253 Reserved

2.254 Reserved

2.255 Reserved



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 Reserved

2.258 Reserved

2.260 Ownership

2.261 Reserved

2.262 Reserved

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 Reserved

2.270 State Standards

2.271 Reserved

2.272 Reserved

2.273 Reserved

2.274 Reserved

**2.280 Extended Purchasing Program****2.281 Extended Purchasing Program**

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

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

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

2.290 Environmental Provision**2.291 Reserved****2.300 Other Provisions****2.311 Reserved**



Attachment A
Armed Security Guard Services
CONTRACT#: 007114P00000566

LOCATION SPECIFICATION SHEET (LSS)

SECTION I – PLACE OF SERVICES REQUESTED

LOCATION: MICHIGAN HALL OF JUSTICE

CONTRACT INFORMATION

ESTIMATED CONTRACT START DATE:	5-1-14	CONTRACT END DATE:	09/30/2016
<i>PREVIOUS BPO #:</i>			
NUMBER OF YEARS / EXTENSION OPTIONS:	Approximately 2.5 Year Contract with Two (1) Year Extension Options		
CONTRACTING AGENCY NAME:	Department of Technology, Management & Budget		
AGENCY BUILDING NAME AND NUMBER:	Michigan Hall of Justice (HOJ)		
AGENCY BUILDING ADDRESS:	925 W. Ottawa, Lansing, MI 48913		
REGION / COUNTY:	University / Ingham County		

AGENCY PROCUREMENT CONTACT INFORMATION

Agency PROCUREMENT OFFICE NAME:	<i>DTMB–Financial Services</i>		
Agency PROCUREMENT OFFICE CONTACT NAME:	<i>Denice Ballard</i>	CONTACT PHONE #:	<i>517-373-7567</i>
Agency PROCUREMENT OFFICE CONTACT E-MAIL:	ballardd@michigan.gov v	CONTACT FAX #:	<i>517-241-4856</i>
Agency CONTRACT COMPLIANCE INSPECTOR (CCI) & HALL OF JUSTICE SECURITY DIRECTOR NAME:	<i>Jeff Pratt – DTMB CCI & John Ort - HOJ Security Director</i>	CONTACT PHONE #:	<i>Jeff Pratt - 517-241-4391 John Ort - 517-373-4427</i>
Agency CCI CONTACT E-MAIL:	PrattJ@michigan.gov v OrtJ@courts.mi.gov	CONTACT FAX #:	<i>Jeff Pratt - 517-241-5639 John Ort 517-373-4427</i>

LOCATION INFORMATION

OFFICIAL WORKING DAYS OF BUILDING OCCUPANTS:	<i>M-F</i>	OFFICIAL WORKING HOURS OF BUILDING OCCUPANTS:	<i>6:30 a.m. to 10:30 p.m.</i>
ESTIMATE OF AREA TO BE SERVICED: (IF APPLICABLE)	<i>N/A</i>	(FILL IN IF NEEDED)	
IDENTIFY DAYS OF SERVICE:	<i>M-F</i>	IDENTIFY HOURS OF SERVICE: [EXAMPLE: 5:30 A.M. To 5:30 P.M.]	<i>6:30 a.m. to 10:30 p.m.</i>



Attachment A

Section II - REQUIREMENTS

II-A INTRODUCTION

This Contract is for armed security guard service for the Department of Technology, Management and Budget at the Michigan State Hall of Justice (HOJ).

II-B SPECIFIC REQUIREMENTS

1. STAFFING

The Contractor must be able to provide appropriate staff to properly service the requirements of this Contract. All persons assigned by the Contractor to the performance of Services under this Contract shall be employees of the Contractor or its majority-owned (directly or indirectly, at any tier) subsidiaries and shall be fully qualified to perform the work assigned to them.

Personnel assigned pursuant to this Contract shall be trained to the standards established by the Michigan Council on Law Enforcement Standards (MCOLES) of training and qualifications in the use of firearms. Personnel shall also maintain a Michigan Concealed Pistol License (CPL).

Staffing levels must be maintained so that the contractually specified coverage is provided by qualified, trained guards. Contractor shall not delegate any duties under this Contract to a Subcontractor.

2. SPECIFICATIONS

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

II-C GENERAL INFORMATION

1. The Contractor will be required to furnish properly trained and equipped security guards to maintain order, protect clients, staff, visitors and property from harassment, injury, damage or theft and take appropriate action as specified in the Procedure Manual for each building and/or location.
2. Invoices shall be for actual hours of security service provided. Separate invoices shall be issued for each building and/or location, if applicable. Invoices shall include contract number, hours billed, hourly rate and building and/or location name. Additional hours are NOT allowed without prior approval from the Contract Compliance Inspector. Contractor shall attach documentation showing total hours worked for billing period. **TRAINING HOURS, IN-HOUSE AND ON-THE-JOB, REQUIRED TO COMPLY WITH THIS CONTRACT SHALL NOT BE BILLED TO THE STATE BUT SHALL BE PART OF CONTRACTOR'S OPERATIONAL OVERHEAD.**

Invoices shall be sent to:

Michigan Department of Technology, Management and Budget
Financial Services Accounts Payable
P.O. Box 30026
Lansing, MI 48909

Or scanned and emailed to:

DTMB-Accounts-Payable@michigan.gov



II-D STATEMENT OF WORK

1. Legislated Requirements

All Contractors and their employees shall comply with all requirements set forth under Public Act 330 of 1968, as amended, and any regulatory legislation enacted during the term of this contract. Wherein the State's specifications and requirements exceed those of Public Act 330 of 1968, for the purpose of this Contract the State's specifications and requirements take precedence.

2. Recognition of Purpose

The Contractor shall ensure that all Contractor Guards are aware that their primary purpose is to maintain order, protect client's staff, visitors and/or all who enter the Hall of Justice building, grounds, parking lots and ramps from harassment, injury, damage or theft and take appropriate action as specified by the State.

3. Qualifications

The Contractor shall provide security guards who possess demonstrated ability to:

- a. Understand and carry out oral and written instructions.
- b. Instruct others on necessary rules, duties and functions.
- c. Recognize dangerous conditions about buildings and grounds and respond as necessary.
- d. Meet and deal courteously, diligently, and effectively with employees and visitors.
- e. Have knowledge of safety precautions and of fire prevention methods.
- f. Prepare clear, concise, complete, and true written reports.
- g. If required to operate a motor vehicle, security guard must possess a valid State of Michigan driver's license.
- h. Walk, stand, run, and climb over prolonged periods of time so that guard personnel can perform the tasks detailed in the specifications.
- i. Remain alert, even tempered, and exercise good judgment.
- j. Read and understand regulations detailed written orders and training materials.
- k. Operate telephone and law enforcement radio communications equipment as provided by the agency.
- l. Determine the identity and business of visitors and employees.
- m. Maintain the integrity and confidentiality of the tour of duty.
- n. Be competent, proficient and safe in the handling and use of firearms.
- o. Keep a critical eye to safeguard persons and property.
- p. Speaks English clearly and distinctly.
- q. Give directions and instructions telephonically to the general public, agency personnel, visitors and other tenants.
- r. Summon telephonically emergency fire/ambulance/medical assistance when necessary.



- s. Use State property including keys entrusted to his/her responsibility, operate X-ray equipment, NOAA Weather Alert equipment, building access control system and detection equipment as provided by the agency.
- t. See with normal color vision to distinguish color-coded entry media and have the ability to hear audible alarms.
- u. Complete all necessary forms provided by the State.
- v. Initiate and render first assistance in first aid to members, employees, volunteers and visitors in situations of emergency, injury, or illness. Personnel assigned to this facility must be CPR and First Aid Certified prior to the commencement of employment at these locations. CPR and First Aid training (both initial and re-certifications) shall be at no cost to the employee.
- w. Must be able to solve problems and de-escalate situations in a non-confrontational manner.
- x. Must possess the ability to perform basic mathematical calculations, such as addition, subtraction, multiplication, and division as a minimum.
- y. Must possess a valid Michigan Concealed Pistol License (CPL).

4. Educational Requirements

Each security guard shall possess at minimum a high school diploma or a G.E.D. certificate. However, it is desirable that armed guards have a minimum of two (2) years of prior law enforcement experience. The experience must consist of two (2) years employment with a law enforcement agency as defined by MCOLES, or other states equivalent standards.

On-Site Supervisors shall have completed a minimum of 24 semester credit hours of coursework at the college or university level, preferably in law enforcement and/or personnel management, or two (2) years of relevant supervisory experience. A supervisor must also have two (2) years employment with a law enforcement agency as defined by MCOLES, or other states equivalent standards.

All personnel must have basic computer skills, capable of completing Windows based (i.e., Microsoft Word and Excel) on-line incident reports, daily logs, time reporting; and navigating the security monitoring equipment.

5. Physical Requirements

Security guards may be required to sit or stand for extended periods of time; walk long distances, including up and down stairs; use hands and fingers to handle or feel objects, tools, or controls; and be able to speak and hear. Guards shall also be able to reach with hands and arms, and to hold objects. Guards shall also be able to lift up to 50 pounds.

6. Work Hours

Security guards and supervisors shall not work more than 16 consecutive hours without a 12 hour rest period. SECURITY GUARDS PROVIDED UNDER THIS CONTRACT SHALL NOT BE ASSIGNED TO PROVIDE SERVICE AT OTHER LOCATIONS WHICH WOULD RESULT IN FAILURE TO PROVIDE ALL HOURS SPECIFIED IN THIS CONTRACT.

Security guards that report to or depart from work during non-standard business hours (outside of Monday - Friday, 8:00 a.m. to 5:00 p.m. excluding legal State holidays) shall contact their supervisor upon arrival and departure. The security guard supervisor shall maintain a log of locations, security guard's name and reporting times.



7. Uniform Requirements

Contractor employees shall be clearly identifiable while on State property. Each security guard shall wear a consistent uniform prescribed by the Contractor with no ornamentation; specifically, political buttons, tags, union badges, etc., which are not related to the performance of security work. The uniform and related equipment of all security guards shall be kept neat, clean, in good repair and shoes shall be polished. During warm temperatures, indoors or outdoors, security guards shall not roll up long-sleeve shirts. Shoes shall be dark in color, preferably black. Platforms, 1" or higher heels, or tennis shoes shall not be worn on duty. The Contractor shall supply all weather gear (raincoat and overcoat) to each location for the use of the security guards for exterior patrolling (if applicable).

Security guards shall be outfitted with uniforms incorporating a blazer to be worn as the outer garment over the shirt. This uniform must incorporate identifying insignia and name tags (as stipulated in the guard equipment section of the specifications). In addition, the attire prescribed in this paragraph shall be in compliance with Public Act 330 of 1968, as amended and shall be acceptable to the Hall of Justice Security Director.

Any deviations from uniform requirements listed above, must be requested from the State by the Contractor in writing. The Contractor must present the request to the Contract Compliance Inspector for approval prior to implementation of any changes. Any proposed changes to uniform patches or shields that affects the uniform standards outlined in Public Act 330 of 1968 must be approved by the Michigan Department of Licensing and Regulatory Affairs.

8. Guard Equipment

The Contractor shall guarantee that each duty security guard shall possess, at all times, on his or her person:

- a. Hall of Justice Security Director approved pocket identification badge with legible 1/4" letters, of uniform size and color, worn on the outer garment over the right breast pocket.
- b. One (1) operating timepiece.
- c. One (1) operable pen and one (1) operable pencil.
- d. Belt which shall be capable of bearing the load of a revolver with a holster and proper number of rounds to fully reload the pistol with duty ammunition at least once.
- e. Holster specifically designated for the size (frame and barrel length) pistol carried by the guard. Any style holster is acceptable providing it is safe (able to hold the weapon securely and is serviceable); except that mechanical clamshell holsters and full flap holsters are prohibited.
- f. Pistol – make, model and caliber shall be approved by the HOJ Security Director prior to being carried by the guard.
- g. Duty ammunition, which shall be conventional, factory loaded cartridges of appropriate (proper) caliber for the pistol being used. Specific load shall be approved by the Contract Compliance Inspector.
- h. Maintenance shall be covered by the Contractor for weapons which are supplied to their personnel.
- i. All weapons shall be maintained in a serviceable condition.
- j. Registration, licensing, and liability costs and responsibilities will be covered by the Contractor for the weapons used by the Contract security guards.



Arming of Contract security employees will be in accordance with all State and Federal statutes pertaining to firearms, and the Contractor’s Policy and Procedure for the Use of Force.

Each guard shall comply with State of Michigan’s Concealed Pistol License Laws.

9. Contractor Equipment

The Contractor shall:

- a. Maintain a telephone number for a contact person(s) that is accessible 24 hours per day, seven (7) days per week, 365 days per year that may be contacted in case of an emergency. This contact shall have the capability of dispatching a security guard(s) upon notification.
- b. Supply at least three (3) operable 3-cell D-type battery flashlight with batteries or rechargeable batteries with charger.
- c. Guarantee that security guards carry only authorized weapons.

10. Supervision by Contractor

The Contractor shall:

- a. Guarantee that, at least once per week, or upon call, a security supervisor shall appear in person during normal business hours to discuss security issues with the Hall of Justice (HOJ) Security Director. Contractor shall provide the Hall of Justice Security Director with a 12 month meeting schedule within two (2) weeks of award of Contract.

Contractor shall respond within eight (8) hours of request from the HOJ Security Director for on-site meeting with a supervisory representative from corporate headquarters.

Contractor shall provide a written plan to resolve problems within 24 hours upon request by the HOJ Security Director.

- b. The Contractor shall designate one of the guards as a lead worker or supervisor with respect to the other guard(s). **SUCH LEAD WORKER AND SITE MANAGER SHALL BE COMPENSATED BY THE CONTRACTOR AT AN INCREASED HOURLY RATE COMMENSURATE WITH THE EXTRA RESPONSIBILITY** represented by such designation and assignments.
- c. Provide another trained security guard when one, while in the line of duty and/or result of same, is required to appear in court or at an employee grievance hearing on behalf of the agency. Payment will be made by the agency for the number of hours required for appearance in court, less witness fees.
- d. Provide at the request of the CCI, additional temporary security guards required to secure additional properties needing protection for an interim period of time, including 24 hour assignment, should that be required. **ANY PERMANENT INCREASE IN NUMBER OF GUARDS OR HOURS OF SERVICE AT A GIVEN LOCATION MUST BE AUTHORIZED BY Contract Change Notice, INCLUDING any additional security guards for covered properties or other additional properties which may require protection.** Such additional security guards shall be provided when the suitable agreement is reached by the State and the Contractor. Such manpower additions, as well as general orders, shall be based on a case by case survey of the properties in question.



- e. Submit a package, prior to Contract start date, containing names of all guards and each guard's certification of training, whether temporary or permanent, who will be performing duties under this Contract to the HOJ Security Director. In addition, the packages provided shall also include results of pre-employment drug testing.
- f. **A minimum of 48 hours prior** to introduction of new personnel, temporary or permanent, Contractor shall provide replacement guard's name and certification of training to the HOJ Security Director. In addition, the HOJ Security Director shall also be provided the results of pre-employment drug testing.
- g. HOJ Security Director reserves the right to meet with potential security officers and/or security supervisors prior to their assignment.
- h. HOJ Security Director reserves the right to conduct a background investigation on potential security officers and/or security supervisors prior to their assignment. In addition, HOJ Security Director reserves the right to conduct additional background investigation(s) on security officers and/or supervisors during the course of this Contract as deemed necessary by HOJ Security Director. The agency reserves the right to accept, reject, or have replaced a given guard based on the information available. Name, driver's license number, social security number, and date of birth shall be provided for guard or supervisor proposed for this service.
- i. Replace any employee immediately upon notification by the Contract Compliance Inspector that a criminal history exists disqualifying employee from employment based on the requirements of Act 330 PA 1968. Such employee may not be reassigned to any State location.
- j. Maintain copies of each guard's application and investigative reports and provide a training package for each guard as described above. Each guard must present a training package to the HOJ Security Director prior to starting work at the facility. The agency reserves the right to accept or reject a given guard based on the information available. Contractor shall update each guard's information for agency files as necessary during the life of this Contract.
- k. The Contractor shall certify in writing to the HOJ Security Director that guards assigned to locations encompassed within this Contract have successfully passed both pre-employment and random urine testing for drugs. The testing must include, but is not limited to the following analytes (drug groups): Amphetamines, Cannabinoids, Cocaine Metabolites, Opiates, and Phencyclidine. Random drug screens shall be conducted at least twice (2) per year. Written verification from the laboratory that each assigned guard, due to be tested, has successfully passed the drug screen, shall be presented at the monthly meeting between the HOJ Security Director and staff from the Contractor's administrative office. In addition, the State reserves the right to see copies of actual test results from the laboratory. The Contractor shall replace any employee immediately upon notification that they have failed their random drug screen. Such employee may not be reassigned to any other State location.
- l. The agency may require the Contractor to immediately remove any of its employees from the agency's premises for just cause. Any and all such removals shall be made in the name of the Contractor and all responsibilities will be assumed by the Contractor. Any such guard shall not be placed in another State agency.



- m. The security supervisor shall be responsible for training all on-site personnel in the proper use of the emergency procedure manual at each location. Certification of such training shall be provided to the HOJ Security Director prior to the introduction of personnel to the work site. Additionally, quarterly training updates shall be conducted by the security supervisor for all employees located at the work site. Certification of quarterly training shall be provided to the Contract Compliance Inspector.
 - n. The Contractor shall be responsible for all acts and omissions of its employees, as well as acts and omissions of any other personnel furnished by the Contract to perform the Services.
11. Security Guard Duties
The security guards shall:
- a. Report to the designated HOJ Security Director representative(s) who shall be responsible for on-site supervision. The state may waive this requirement and delegate time and attendance to the Contractor.
 - b. Operate X-ray equipment and metal detection equipment. Contractor shall adhere to Ionizing Radiation Rules governing the use of radiation machines outlined in Act No. 368 of the Public Acts of 1978, as amended.
 - c. Be familiar with site specific procedures at their respective location(s).
 - d. Immediately report to the HOJ Security Director any time a weapon is discharged or unholstered and pointed on the property.
 - e. Log any time a weapon is discharged on the property, all unusual events, found articles and hazardous conditions in writing. The log book shall be the official record of the activity. The log book shall be available at all times for inspection by the Contractor or by the representative.
 - f. Receive, safely keep and turn over to appropriate persons, official mail, messages and telegrams when so authorized.
 - g. Be alert to any emergency (i.e. fire, menacing individual, bomb threat, etc.) and take appropriate action as defined by the procedure manual for this facility. In the event of injury to or illness of an employee or client, render first aid until professional help is obtained. Notify the HOJ Security Director immediately.
 - h. Report potentially hazardous conditions and items in need of repair including lighting, plumbing, wet floors, etc., and shall include this in the log book.
 - i. Require all employees to visibly display their employee identification before allowing access to the building.
 - j. Require all employees who do not have valid employee identification and ALL VISITORS to present valid government issued photo identification, sign in and be issued a dated visitor pass prior to entering the building.
 - k. When guard services are provided during non-office hours, employees entering the premises shall stop at the security desk, show their employee identification to the security officer on duty and sign in/out when entering and leaving the building in a logbook provide by the agency.



- I. Question persons gaining unauthorized access to the area and notify proper authorities. All employees authorized to enter the building shall have the proper identification visibly displayed on their person.
- m. Provide security in HOJ courtrooms as directed. Note, this may require the guard to call the court to order in the absence of a bailiff or court crier.

II-E TRAINING

- 1. Security guards, including additional staff that will provide security in the absence of assigned guards or an emergency, shall be paid their hourly rate for all training hours. Training hours, in-house and on-the-job, required to comply with this contract shall not be billed to the state but shall be part of Contractor’s operational overhead. Upon award of contract a schedule of all training shall be provided to the Contract Compliance Inspector. A representative from the agency may attend training sessions at their discretion.

All security guards shall have a minimum of 16 hours classroom training prior to providing security for the State of Michigan. Guards shall be compensated for training at the wages stipulated in this

Contract (Attachment B –Pricing Sheet); however, training hours shall not be billed to the State of Michigan, training costs shall be incurred by the Contractor. Classroom training shall include, but not be limited to, the following subjects:

- a. Company and Position Orientation - MINIMUM 6 HOURS
 - Minimum uniform requirements and appearance
 - Limits of authority and employment
 - Persons or authorities to be contacted in emergencies or unusual occurrences
 - Licensee or parent company structure which affect guard's duties
 - Guard courtesy and public demeanor
 - Report writing
- b. Emergency Preparedness - MINIMUM 2 HOURS
 - General responsibilities regarding: medical emergencies-response, crowd control, exposure to bodily fluid, fire prevention & safety, bomb threats, searches & types, weather emergencies, chemical spills, leaks & related waste and evacuation procedures.
- c. Successfully pass X-ray and metal detection training as prescribed by the HOJ Security Director.
- d. Additionally, no less than sixteen (16) hours on-the-job training for their specific site shall be required during which time the new guard shall be under the immediate supervision of an experienced guard service supervisor.

- 2. Alternatively, the above requirements (b-c) may be waived by the State (at the State’s discretion) for experienced security guards with documented training meeting the hours as specified. On-the-job training may be waived by the State (at the State’s discretion) for guards who have been providing adequate service at the site(s) in question.
- 3. The Contractor shall allow security guards to participate in special training programs which may be offered by the Agency, during normal work hours.
- 4. The Contractor is encouraged to participate in maintenance training of the above requirements
 - b - d on an annual basis.



5. All armed security guards assigned to this location shall be trained in the use of firearms by an instructor certified by the Michigan Commission on Law Enforcement Standards (MCOLES) or an equivalent firearms instructor certification approved by the HOJ Security Director. The training shall (at a minimum) consist of the following topics:
 - a) Pistol Knowledge
 - b) Safe Weapon Handling
 - c) Ammunition Knowledge
 - d) MCOLES Combat Qualification Course or equivalent course approved by the HOJ Security Director
 - e) Weapons retention
 - f) Firearms and Weapons Law
 - g) Use of Deadly Force (i.e., Shoot, Don't Shoot) Written Examination
6. The live fire exercise detailed in item D (above) shall be conducted a minimum of once per year as part of the proficiency and re-qualification process.
7. Arming of Contract security employees will be in accordance with all State and Federal statutes pertaining to firearms, and in accordance with the Contractor's Policy and Procedure for The Use of Force.
8. Guards must comply with the State of Michigan Concealed Pistol License Laws.
9. The Contractor shall certify to the CCI and the HOJ Security Director that the above training requirements have been met by providing the names of all guards who will be assigned to this Contract. This certification shall also indicate the areas of instruction, the date of instruction and the names of instructor(s).
10. A training package shall be maintained and provided, within twenty-four (24) hours of request from the State, for each employee used to fulfill this contract. The training package shall contain at a minimum, the following information:
 - a. Copy of a valid driver's license.
 - b. Sufficient resume information about named guard to show evidence of compliance with educational and physical requirements of these Contract stipulations.
 - c. Documentation substantiating that guard personnel meet the firearm training requirements and re-qualification requirements stipulated in this Contract. Also, documentation substantiating that the guard firm's firearm instructor is certified by the Michigan Council on Law Enforcement Standards (MCOLES) or equivalent shall be submitted upon request from the State.
 - d. List of classes taken by this individual, together with the dates of completion of each subject covered in the training provided by Contractor, and names of instructors providing that training, showing fulfillment of training requirements.
 - e. Any other information considered pertinent to this position (i.e. first aid card & dates of training).
 - f. Guard identification card, together with a schedule for the completion of the required on-the-job training.



- g. All personnel employed under this contract are required to complete Federal Emergency Management Administration (FEMA), National Incident Management System Independent Study courses IS-100 (Introduction to Incident Command Systems) and IS -700.a (National Incident Management Systems (NIMS) an Introduction). Successful completion of each course must be documented and included with employment training packet prior to assignment under this Contract.

NOTE: The Contract Compliance Inspector will retain copies of each assigned guard's training package on file at the location, so that verification of specification compliance is available to any State inspector at whatever time an unscheduled inspection may be required by the Department of Licensing and Regulatory Affairs.

II-F STATE RESPONSIBILITIES

1. The agency shall supply, if applicable:
 - a. All reporting forms as necessary, for the Contract location. For example:
 - 1) Major incident report.
 - 2) Register for authorized building entry/departure.
 - 3) Removal of physical property report.
 - 4) Lost and found envelope.
 - 5) Shift security summary.
 - b. The agency shall provide communication devices for emergency communication. Each security guard on duty shall have one (1) transceiver, one (1) battery charger, and one (1) extra battery pack. **The Contractor shall be responsible for any damages to their assigned transceivers, chargers, and battery packs. Contractor shall reimburse the State for actual cost of repairs and/or replacement cost of this equipment. Payments shall be made in a timely manner.**
 - c. All necessary keys, a receipt for same to be signed by the Contractor. Keys shall not be loaned or used for purposes other than official State business. Keys issued shall remain on the premises and not be taken home by an individual security guard.
 - d. Lighting, sanitary facilities and necessary telephone communications. **NOTE:** Contractor shall reimburse the State for all personal call expense incurred by their employees.
 - e. Names and telephone numbers of authorized personnel, including police, fire, etc., to be notified in the event of mechanical failure or emergencies.
 - f. Designation of a CCI for the day to day administration of the services provided under this Contract.
 - g. The HOJ Security Director will meet monthly with staff from the Contractor's administrative office to review reports, discuss the service level(s) provided, discuss the proficiency of security guards assigned, and discuss potential modification(s) to operating procedures.
 - h. In the event that the Contractor has issues that need to be discussed with the agency, the HOJ Security Director or designee will meet with the Contractor within 3 days of request.
 - i. Training shall be provided by the HOJ Security Director or designee, if applicable, in:



1. The correct operation of any security monitoring system used at site.
 2. Supervisors in the proper use of on-site procedure manuals. Training updates shall be conducted as necessary.
 3. Administration of written test to all supervisors and guards assigned to location(s) covered under this Contract within two (2) weeks of guards' assignment to facility. Random testing of procedures will be given at the Contractor Compliance Inspector's discretion. The HOJ Security Director reserves the right to have guards and/ or supervisors who do not demonstrate an acceptable level of performance on the test to be removed from the site.
- j. All other equipment and supplies necessary to meet the specifications of this Contract shall be furnished by the Contractor.

II-G OPERATING PROVISIONS

1. General and specific orders are detailed herein and failure to carry out these orders shall be considered a violation of this Contract.
2. Security guards shall:
 - a. Show respect and courtesy to all persons on all occasions.
 - b. Refer inquiries to appropriate location.
 - c. Be sufficiently knowledgeable regarding building operations to perform their assigned duties.
 - d. Dispose of waste so as not to create custodial chores for others.
 - e. Each security officer shall provide a completed daily log and incident report.
 - f. Exclude non-employees from employees' areas except on explicit instructions of the representative. Guards shall be properly trained to question persons gaining unauthorized access to areas and the installation and to properly notify proper authorities.
 - g. Report all incidents immediately to the designated HOJ Security Director or their designee, and follow up with a written report by the end of the officer's shift.
 - h. Agree to and comply with the Computer Use Policy of the Michigan Supreme Court.
 - i. **NOT** visit or fraternize with agency staff, clients, other tenants or visitors to the building.
 - j. **NOT** perform personal chores for anyone.
 - k. **NOT** assemble with other security guards on duty except as required or related to an emergency.
 - l. **NOT** smoke while on duty.
 - m. **NOT** depart from duty station until relieved.



- n. **NOT** do any of the following while on duty:
 - 1) Read newspapers, magazines, books or other matter other than State or Contractor issued directives.
 - 2) Use personal electronic devices (Any device which electronically communicates, sends, receives, stores, reproduces or displays voice and/or text communication or data. These include, but are not limited to, cellular phones, pagers, smart phones, music and media players, gaming devices, tablets, laptop computers and personal digital assistants or any device that provides a wireless connection to the internet) while on duty.
 - 3) Use any musical instrument.
 - 4) Have pets at work.
 - 5) Consume alcoholic beverages or narcotics or be under their influence when reporting for or while on duty.
 - 6) Have relatives or personal visitors.
 - 7) Sleep or give the appearance thereof.
 - 8) Consume food or beverages in public view.
 - 9) Play radios or televisions.
 - 10) Use unauthorized space heaters or other electrical appliances.
 - o. NOT initiate or receive personal telephone calls on agency telephones. The Contractor shall be responsible for all unauthorized telephone calls placed on State telephones/lines.
 - p. NOT wear sunglasses except outdoors, as necessary.
3. The HOJ Security Director or representative may give additional written or oral instructions.

II-H CONTRACTOR ROLES & RESPONSIBILITIES

A. PERSONNEL

- 1. Contractor shall have identified personnel requirements by number and skill including names and proposed physical location of executive and professional personnel who would be employed in this project. Contractor shall also indicate the specific functions of each assigned individual with detailed qualifications of employees assigned to this project, for the key personnel, including but not limited to:
 - Mr. Mark Maddox, DK Security, Director of Security
 - Mr. Jim Burdick, Security Site Supervisor
- 2. The State reserves the right to approve personnel for this project and to require replacement of personnel found to be unacceptable at any time during the project.
- 3. Contractor shall be responsible for repair, replacement or cleanup as necessary due to carelessness or negligence on the part of the Contractor and its personnel.



B. SUPERVISION

Contractor shall provide all supervision as may be necessary to oversee its personnel:

1. Contractor shall exercise all supervisory control and general control over all day-to-day operations of his/her employees, including control over all workers duties. The Contractor shall also be responsible for payment of all wages to employees, taxes and fringe benefits, sick leave, pension benefits, vacations, medical benefits, life insurance or unemployment compensation or the like. The Contractor shall discipline his/her employees, as needed, including firing and hiring.
2. Contractor must maintain a secure environment while servicing the facility. The Contractor shall comply with all security regulations and special working conditions as required by the agency:
 - No one is allowed into the facility other than those individuals responsible for performing services.
 - In locations that include a security alarm system, Contractor must also properly set the security alarm when leaving (if applicable).
 - Failure to maintain a secure environment and set the security alarm (where applicable) will result in issuance of a complaint and possible cancellation of this Contract.
 - Any cost incurred from a security service or local police for false alarms caused by failure of the Contractor to properly set the security alarm will be the responsibility of the Contractor.
3. In addition, should this Contract be cancelled for failure to lock the building, or properly set the security alarm, the cost of changing the building locks and re-coding the security alarm, if applicable, will be charged to the Contractor. These costs may be deducted from the monthly payment due the Contractor.
4. The CCI may require that Contractor immediately remove any Contractual employee(s) from the agency's premises for just cause. The Contractor will assume any and all responsibilities relating to this removal. Any employee so removed may not be placed in another State agency.
5. The CCI shall make final determination of a contractual employee's suitability for assignment to a specific location. Problems of this nature will be addressed with the Contractor's management.

II-I STATE STAFF ROLES & RESPONSIBILITIES

Contract Compliance Inspector or their designee shall:

- A. Complete assignments related to this Contract implementation.
- B. Give additional written or oral instructions to clarify the desired performance as is determined by the State to be needed.
- C. Provide necessary, registered and returnable keys for the Contractor's entrance to areas of the buildings necessary for the completion of described work in this Contract (Contractor must not duplicate any such keys).

II-J CONTRACT IMPLEMENTATION PERIOD / TRANSITION / ORIENTATION

The State Contract Compliance Inspector will administer this Contract on a day-to-day basis during the term of this Contract. However, administration of this Contract implies no authority to change, modify, clarify, amend, or otherwise alter the terms, conditions and specification of this Contract. That authority is retained by the DTMB–Procurement.



Before commencement of work by a new Contractor, the CCI will:

- A. Schedule a meeting with the Contractor to talk about these Contract specifications and answer any questions the Contractor may have.
- B. Walk-through the facility/area with the Contractor to point out where any alarms and/or any other specifics of the building and/or area to be serviced.
- C. Contractor must provide name(s) of staff authorized to be at the building and telephone numbers of any supervisors, if other than the Contractor.
- D. Exchange emergency telephone numbers where the Contractor can be reached, day or night, and where the CCI can be reached.
- E. Do lien checks if necessary. See this Contract for information required for lien checks.
- F. Once the new Contractor has begun the work, the CCI shall:
 - 1. Provide written correspondence and feedback to the Contractor after each service. The Contractor must be informed of any deficiencies and allowed time to correct the deficiencies. If deficiencies continue, a formal Complaint to Contractor or Contractor Performance report will be filed.
 - 2. Inform Contractor where to forward invoices for immediate processing and payment.
 - 3. Be available to answer questions from the Contractor. Feedback (communication) is critical.

II-K PROJECT PLAN

1. Project Plan Management

- A. For each location, a project work plan for managing implementation of the services shall be specified and submitted to the CCI for review and approval.
- B. Project management plan shall identify methods, tools and processes proposed to oversee the project, address issues and changes as may arise, and keep the appropriate parties apprised of progress.
- C. Contractor will carry out this project under the direction and control of the specified Contract Compliance Inspector (CCI) for the respective locations where services are to be performed.
- D. Contractor shall meet with the CCI and other agency or departmental project-leads, on a basis to be established by the CCI and Contractor, but shall meet quarterly, at a minimum, for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems that arise, as well as continuously communicate with the agency/departmental project-lead.
- E. Contractor's Work Plan, which must be approved prior to commencement of work, must include the following:
 - 1. EQUIPMENT LIST - indicating description, age, manufacturer, model and serial number of each piece. Equipment must meet or exceed all requirements defined under "Equipment Requirements" per Section II-D Statement of Work 8 (a, d, e, f, g) and 9 (b). All equipment must be in the Contractor's possession, available for use and fully operational, prior to Contract award.



2. SCHEDULE OF OPERATIONS - personnel expected to complete work on this Contract.
3. Name(s) of supervisors – 24-hour contact telephone numbers and best contact times.
4. Equipment failure WILL NOT constitute an acceptable reason for failure to provide service. Adjustments to providing this service, including any weather-related deviations, must be approved by the Contract Compliance Inspector or designated representative.
5. Proof of Insurance as defined in the Standard Terms and Conditions of this Contract must be provided to DTMB-Procurement prior to Contract award.
6. Any misrepresentation by the Contractor of its ability to perform the work described in this Contract will be grounds for immediate termination. In such case, this Contract will be awarded to the next best-valued bidder who can demonstrate the ability to perform the work.

2. Issue Management, Inspection and Correction of Deficiencies

- A. CCI will conduct inspections for all specifications identified in this Contract and will provide performance evaluations to the Contractor noting deficiencies in the contract specifications. The CCI (or his/her appointed representative) shall make the final determination as to whether any task has been satisfactorily performed.
- B. CCI will also maintain a record comprised of complaints from agency or departmental staff and provide record of this to the Contractor at the beginning of each service; this record will identify the areas requiring special attention on that day, which must to be completed by Contractor within 8 hours of its receipt.
- C. Contractor must remain responsible to make any necessary changes if the CCI determines that any task has not been performed adequately or satisfactorily. Contractor must correct the deficiency within 24 hours from notice of the deficiency, or sooner depending on the severity of the task.
- D. Should the Contractor fail to correct specification deficiencies, a Complaint to Contractor (Contractor Performance form) will be filed by the Contract Compliance Inspector. Repeated failure to correct specification deficiencies resulting in issuance of subsequent Complaint to Contractor (Contractor Performance form) may result in cancellation of this Contract and/or the assessment of deductions as defined in Section 2.243 by DTMB-Procurement.

II-L PRICING BASIS FOR THIS CONTRACT

Quantities specified are estimates based on prior purchases and the State is not obligated to purchase in these or any other quantities. Exact quantities are unknown, however, the Contractor will be required to furnish all such services as may be ordered during the Contract period.

Contractor is to quote the net hourly wage to be paid by the State as full compensation to perform the specified work. The total price of the bid will be the total estimated number of hours for the location(s) listed multiplied by the net hourly wage quoted by the Contractor.

In the event that additional service is required, the Contractor will be paid at the rate of one and one-half times the net hourly wage quoted for the first 48 hours of new service requested if less than 48 hours' advance notice had been given to the Contractor. At the end of the 48 hour period, the rate of payment will revert to the net hourly wage quoted.



CONTRACTOR PLEDGES AND AFFIRMS THAT NO ARMED GUARD IN THE EMPLOY OF CONTRACTOR'S COMPANY SHALL BE COMPENSATED AT LESS THAN \$14.50 PER HOUR, NO ARMED SHIFT SUPERVISOR SHALL BE COMPENSATED AT LESS THAN \$15.00 PER HOUR AND NO SITE SUPERVISOR SHALL BE COMPENSATED AT LESS THAN \$16.00 PER HOUR DURING THE LIFE OF THE CONTRACT.

Employees shall be compensated at the minimum hourly rates stipulated in the contract. Payroll deductions for uniforms, parking, or other miscellaneous operating expenses will not be permitted.

Contractor pledges to pay full time armed guards for no less than six state holidays. (Paid after an initial 90 day waiting period; 8 hours straight pay per holiday.) The Contractor may comply with Michigan's Payment of Wages and Fringe Benefits Act, Public Act 390 of 1978, as amended, being MCL 408.471 to 408.490. The Contractor's failure to pay wages required by this Contract and/or comply with Public Act 390 of 1978, as amended, may be considered a material breach of this Contract. The State reserves the right to audit Contractor's records to verify that payment of wages is in compliance with this Contract and the Act. Unless otherwise notified by Procurement, the Contractor shall submit to the appropriate CCI, on a basis consistent with the guards payroll schedule, proof that the employees assigned by the Contractor to the location(s) covered by this Contract have been paid wages in compliance with this Contract and the Act.



**Attachment B
PRICING SHEET SUMMARY
Armed Security Guard Service
DTMB – Office of Infrastructure Protection
Michigan Hall of Justice
925 W. Ottawa St.
Lansing, MI 48913**

Service shall be in accordance with the attached terms, conditions, specifications and guard schedule detailed below:

Item	Unit	Description	Bill Rate per Hour
1	HR	All year: One (1) Armed Site Supervisor – 8 hours/day, Monday – Friday, 8:00 a.m. to 4:00 p.m. 5 days per week, M-F with the exception of legal holidays (excluding Election Day). 8 hrs/day for 627 days	\$19.10
2	HR	All year: Two (2) Armed Shift Supervisors/Security Officers – Shift schedule: 8 hours/day, Monday – Friday, 6:00 a.m. to 2:00 p.m. 8 hours/day, Monday – Friday, 2:30 pm. to 10:30 p.m. 5 days per week, M-F with the exception of legal holidays (excluding Election Day). 16 hrs/day for 627 days	\$19.10
3	HR	September 1 – May 31*: Six (6) Armed Security Officers Shift schedule: 8 hours/day, Monday – Friday, 6:30 a.m. to 2:30 p.m. 8 hours/day, Monday – Friday, 7:30 a.m. to 3:30 p.m. 8 hours/day, Monday – Friday, 8:00 a.m. to 4:00 p.m. 8 hours/day, Monday – Friday, 8:00 a.m. to 4:00 p.m. 8 hours/day, Monday – Friday, 9:00 a.m. to 5:00 p.m. 8 hours/day, Monday – Friday, 2:30 pm. to 10:30 p.m. 5 days per week, M-F with the exception of legal holidays (excluding Election Day). 48 hrs/day for 433 days	\$19.10
4	HR	June 1 – August 31* Four (4) Armed Security Officers Shift schedule: 8 hours/day, Monday – Friday, 7:30 a.m. to 3:30 p.m. 8 hours/day, Monday – Friday, 8:00 a.m. to 4:00 p.m. 8 hours/day, Monday – Friday, 8:00 a.m. to 4:00 p.m. 8 hours/day, Monday – Friday, 2:30 pm. to 10:30 p.m. 5 days per week, M-F with the exception of legal holidays. 32 hrs/day for 194 days	\$19.10

*** Schedule may change due to court sessions and other Hall of Justice activities per instructions from the Judicial Security Director.**

Guards shall be given a 30 minute paid lunch break for each shift. However, guards are required to remain *on site and to respond to any emergencies during their lunch break.*

Contractor pledges and affirms that guards in the employ of Contractor’s company will be compensated as follows through the life of the Contract:

- ARMED SECURITY OFFICERS SHALL BE COMPENSATED AT NO LESS THAN \$14.50 PER HOUR.**
- ARMED SHIFT SUPERVISORS SHALL BE COMPENSATED AT NO LESS THAN \$15.00 PER HOUR.**
- ARMED SITE SUPERVISORS SHALL BE COMPENSATED AT NO LESS THAN \$16.00 PER HOUR.**



**Attachment B
PRICING SHEET SUMMARY
Armed Security Guard Service**

**DTMB – Office of Infrastructure Protection
Michigan Hall of Justice
925 W. Ottawa St.
Lansing, MI 48913**

Discretionary Hours

Service shall be in accordance with the attached terms, conditions, specifications and guard schedule detailed below:

Item	Unit	Description	Bill Rate per Hour
1	HR	Discretionary hours to accommodate extra guards and schedule changes as necessary for the Michigan Hall of Justice. Maximum of 1,000 hours per year Guard Shift: As needed basis Total Guard Hours Per Day: varies DISCRETIONARY ARMED SECURITY OFFICERS, REGARDLESS OF RANK, SHALL BE COMPENSATED AT NO LESS THAN \$14.50 PER HOUR.	\$19.10

Guards shall be given a 30 minute paid lunch break for each shift. However, guards are required to remain *on site and to respond to any emergencies during their lunch break.*

Contractor pledges and affirms that guards in the employ of Contractor’s company will be compensated as follows through the life of the contract:

ARMED SECURITY OFFICERS SHALL BE COMPENSATED AT NO LESS THAN \$14.50 PER HOUR.