

Form No. DTMB-3522 (Rev. 4/2012)
 AUTHORITY: Act 431 of 1964
 COMPLETION: Required
 PENALTY: Contract will not be executed unless form is filed

STATE OF MICHIGAN
 DEPARTMENT OF CORRECTIONS
 PROCUREMENT
 P.O. BOX 30003, LANSING, MI 48909
 OR
 206 E. MICHIGAN AVENUE, LANSING, MI 48933

NOTICE OF CONTRACT NO. 472B5500001
 between
THE STATE OF MICHIGAN
 and

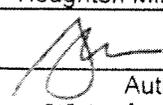
NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Houghton Mifflin Harcourt Publishing Company 222 Berkeley Street Boston, MA 02116	Thomas Benz	thomas.benz@hnhco.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(603) 661-1245 (Cell) (603) 484-4900 (Office)	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER:	Corrections	Tony Costello	(517) 373-7204	costellot@michigan.gov
BUYER:	Corrections	Lisa Lehnert	(517) 335-4904	LehnertL@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION:			
Pre-Release/Employment Readiness Program Curriculum and Workbooks			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
3 years	October 1, 2014	September 30, 2017	two - one year options
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
Net 30 Days	Destination	30-45 Days	Various
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:			
None			
MISCELLANEOUS INFORMATION:			
Contract Changes should be e-mailed to Shawn Weirather, Senior Director, Business Desk, shawn.weirather@hnhco.com			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:		\$540,250.00	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the solicitation #047214B0002255. Orders for delivery will be issued directly by the Department of Corrections through the issuance of a Purchase Order Form.

Notice of Contract #: 472B5500001

FOR THE CONTRACTOR:	FOR THE STATE:
Houghton Mifflin Harcourt Publishing Company Firm Name	 Signature
 Authorized Agent Signature	Jeri Ann Sherry, Deputy Director Name/Title
Shawn Weirather, Senior Director, HMH Business Desk Authorized Agent (Print or Type)	Department of Corrections Enter Name of Agency
July 25, 2014 Date	9/16/14 Date

Contract 472B5500001



**STATE OF MICHIGAN
Department of Corrections
Procurement**

Contract 472B5500001
Pre-Release/Employment Readiness Program
Curriculum, Textbooks and Materials

Proposal Manager Name: Lisa Lehnert
Telephone Number: (517) 335-4904
E-Mail Address: LehnertL@michigan.gov

STATE OF MICHIGAN

Pre-Release/Employment Readiness Program Curriculum, Textbooks and Materials

EXHIBIT A STATEMENT OF WORK CONTRACT ACTIVITIES

This exhibit identifies the anticipated requirements of the Contract.

Background:

Pre-Release/Employment Readiness classes are required by Michigan Department of Corrections (MDOC) Policy Directive 05.02.112 "Education Programs for Prisoners" as transitional programming to assist prisoners with reentry into the community. These classes are also listed as required programming in the MDOC's Education Action Plan and are a vital part of the new Prisoner Reentry model.

Project Request:

The MDOC is looking for established Pre-Release/Employment Readiness curriculum materials to service approximately 12,000 inmates paroling annually. However, no specific order amount is guaranteed. The curriculum needs to be evidence based and developed in conjunction with a recognized corrections organization. The program should take prisoners less than 70 hours to complete and include materials that inmates can keep.

The contract term will be for a three (3) year period with two – one year options for renewal.

Requirements

1. **Specifications**
2. **The Contractor must review the proposed "Standard Contract Term" attachment and note its agreement and any exception(s) in Exhibit B, #9.**

1.1 The Contractor must provide the following:

- a. This Contract is for educational commodities only. The Contractor must provide a written curriculum that is evidence based and was developed specifically for prisoners. This curriculum must be 70 hours or less. The curriculum must cover the following topics: soft-skills (financial planning, come to work on time, work ethic, workplace communication, workplace etiquette, getting along with others, effective communication, etc.) conflict resolution, reentry issues (counseling, family reunification, positive attitude, staying out of prison, changing behavior, values clarification, awareness of self and others, parenting, community reentry concerns, individual reentry concerns, family dynamics, perceive external factors, etc.), employment skills (including resume building, job seeking skills, job application and interviewing), goal setting and achieving (short term and long term), problem solving/decision making and anger management (review assessment, dealing with unresolved anger, etc.).
- b. The Contractor must provide workbooks and teacher's guides, as proposed in its bid response. The MDOC prefers the textbooks and materials to be kept or maintained by prisoners and be specifically drafted for offenders. These materials must be professionally printed and bound. **The workbooks will be bound using small staples that fall apart if the staples are removed. Spiral bindings are not permitted. The publications must be black and white/gray.**
- c. The Contractor has the capacity to customize the textbooks/materials upon request from the MDOC. Minor content updates will be done at no extra charge. Customization requiring new content development or adding additional pages to the current product will have a charge associated to it. The fee will be negotiated between the Contractor and MDOC upon the MDOC's customization request. The "Michigan Department of Corrections" must be printed on the book cover, the materials may incorporate State of Michigan data or statistics, and content that is not necessary for the program, must be removed at the Department's request.

Contractors should be aware that there is a possibility of a mobilization and/or delay at any of the correctional facilities which prohibits delivery carriers entering the facility at time of arrival. The State will not be responsible for any additional charges which may arise due to delivery delays; however, if the delivery must be rescheduled to another day due to the documented uncontrollable circumstance, MDOC will pay the additional freight charges. The Contractor is only required to coordinate with the receiving facility 24 hours prior to delivery when the Contractor will be delivering within the inside of the secure perimeter. The majority of the deliveries will be outside the secure perimeter of the facility. In the event of an uncontrollable circumstance within the correctional facility, the MDOC will work diligently with the Contractor to ensure that goods are unloaded from the truck as quickly as possible to get the truck off facility grounds.

All tobacco products are prohibited at all correctional facilities. This includes vendors/drivers who will be prohibited from bringing in personal tobacco products to these locations.

All cellular devices are prohibited from all correctional facilities.

Correctional facilities will provide a lock box for cellular devices and personal tobacco products in the vehicle sallyport. Contractor(s) that come into the Administration Building of a correctional facility will need to secure their cellular devices and personal tobacco products in their vehicle prior to entrance. If the Contractor arrives with such products, the Contractor will be requested to return the item to their vehicle. Delivery vehicles that carry tobacco and/or alcoholic products for other organizations will not be allowed to bring such products into correctional facilities. Overfamiliarity with prisoners is strictly prohibited.

If the Contractor's vehicle is equipped with video equipment, the Contractor must have locking capability of interior and exterior facing lenses. Video equipment cannot be used within correctional facilities.

Weapons, fireworks and explosives are prohibited from all State facilities.

All vehicles entering a correctional facility must be inspected before entry of the secure perimeter. All delivery drivers must be LEIN cleared before entry to a correctional facility or before delivery is allowed. LEIN clearances must be completed at least 24 hours in advance of delivery.

- d. The Contractor acknowledges the delivery time frame and will attempt to meet the above delivery time frame.
- e. Since the MDOC requires a customized order, the Contractor will work with the MDOC on any customized order requests and will communicate delivery times if they fall outside of the delivery times noted in requirement 2.1.

2.3 Training - Reserved

2.4 Reporting - Reserved

2.5 Meetings

The State may request a kick-off meeting with the Contractor within thirty (30) days of the Effective Date. The State may request other meetings as it deems appropriate.

3. Staffing

3.1 Contractor Representative

The Contractor must appoint one or more knowledgeable individuals (the "Contractor Representative"), specifically assigned to State of Michigan accounts, that will respond to State inquiries regarding the Contract Activities, answering questions related to ordering and delivery, etc. within 24 hours.

The Contractor offers the following forms of technical support and customer service:

- Online Self Support at <http://techsupport.hmnpub.com/default.asp>
 - 24 Hours a Day, 7 Days a Week

- d. The Contractor must have the ability to produce or procure textbooks and materials for up to approximately 12,000 inmates per year. No specific amounts of orders are guaranteed.
- e. The Contractor's curriculum consists of six modules and a comprehensive answer key for instructors. The products supplied to the MDOC under this Contract must be identical to the items proposed by the Contractor in its bid response, unless approved by the MDOC.
- f. The Contractor must be the sole contact for the Contract, assuming full responsibility for carrying out all aspects of the Contract.

1.2 Warranties

The product supplied under this Contract will be identical to or the equivalent of the samples included with its bid submission. Should the MDOC receive any damaged product, the MDOC may contact the customer service department at 800-225-5425 to request a replacement, or use the online claims service at <http://customercare.hmhco.com/csrportal/onlineClaimValidateUser.do>.

1.3 Recall Requirements and Procedures - Reserved

1.4 Quality Assurance Program

In general, the Contractor's commitment to program quality is evidenced by initiatives in three major areas:

- Task-specific quality standards integrated into individual functions and services
- A network of systems and procedures that coordinates quality across development functions and services
- A proactive employee training and empowerment program that provides employees with not only the knowledge and skills needed to perform their duties accurately, but also instills a sense of individual responsibility for assuring high-quality throughout a process

1.5 Incentives

The MDOC may work with the Contractor's Account Executive, upon award for any product purchase incentives available at the time of purchase.

2. Service Levels

2.1 Time Frames

All Contract orders must be delivered within 30-45 calendar days from receipt of order. The receipt of order date is pursuant to Section 2, Notice provisions of the Standard Contract.

2.2 Delivery

- a. Delivery of items will be expected within 30-45 calendar days upon date of order. The Contractor will be required to deliver the items to various facilities as noted in each individual purchase order. (See Attachment A for MDOC locations.) The MDOC reserves the right to add or remove MDOC locations throughout the Contract.
- b. The Contractor will work with the MDOC on any the delivery time of customized orders, and will communicate delivery times if they exceed the delivery time frames noted in requirement 2.1.
- c. Deliveries shall be Monday through Friday 8:00 a.m.-2:30 p.m. No deliveries will be accepted on State of Michigan holidays. The State of Michigan will provide the Contractor with a calendar of the State holidays after award.

If delivering to a location inside the correctional facility's secure perimeter, the carrier must call the correctional facility at least 24 hours prior to delivery of the order and provide the information for Law Enforcement Information Network (L.E.I.N.) clearance of the delivery driver and rider(s). Minors under the age of 17 will not be allowed to enter the correctional facility.

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- Troubleshooting System
- User Tips and Hints
- Frequently Asked Questions
- Current Patches & Updates
- Telephone Support
 - Technical support available Monday through Friday, 7:00 A.M.–10:00 P.M. CST, excluding holidays, by calling 800-323-9239.
 - Customer Service support available at 800-225-5425 Monday through Friday, 7:30 A.M.– 8:00 P.M. CST, excluding holidays.

In addition, Thomas Benz, the MDOC's Account Executive, can be reached at 603-661-1245 or at thomas.benz@hnhco.com.

The Contractor must notify the Contract Administrator upon removal or re-assigning of a new Contractor Representative.

The Contractor's Customer Service Center is located at:

Houghton Mifflin Harcourt
9400 Southpark Center Loop
Orlando, FL 32819

The Contractor is able to receive orders by any of the following methods: electronically, phone, facsimile transmission, or by written order.

3.2 Customer Service Toll-Free Number

The Contractor's Customer Service support is available at 800-225-5425 Monday through Friday, 7:30 a.m.- 8:00 p.m. CST, excluding holidays.

3.3 Disclosure of Subcontractors

The Contractor will not be employing any subcontractors to perform any work on the Contract; however, if the Contractor intends to utilize subcontractors during the duration of the contract term, the Contractor must disclose the following:

1. The legal business name; address; telephone number; a description of subcontractor's organization and the services it will provide; and information concerning subcontractor's ability to provide the Contract Activities.
2. The relationship of the subcontractor to the Contractor.
3. Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.
4. A complete description of the Contract Activities that will be performed or provided by the subcontractor.
5. Of the total Contract price, the price of the subcontractor's work.

3.4 Security

The Contractor will utilize a common carrier for deliveries. If the Contractor's staff will be used, the Contractor must send a list of those staff member names to the Program Manager for pre-approval. The State will conduct a background check, which may include, but is not limited to a LEIN check. The Program Manager will inform the Contractor which staff are approved to make deliveries on-site.

The Contractor's staff may be required to enter State facilities. The Contractor must: (a) ensure the security of State facilities, (b) use uniforms and/or ID badges, etc., (c) identify the company that will perform background checks, and (d) the scope of the background checks, if requested by the MDOC. The State may require the Contractor's personnel to wear state issued identification badges.

The State reserves the right to deny access to any institution and/or facility to any Contractor(s) staff member who fails to comply with any applicable State, federal or local law, ordinance or regulation or whose presence may compromise the security of the facility, its members, or staff.

The Contractor acknowledges that any of its staff entering State correctional facilities for meetings, training sessions, or other purposes related to the performance of this Contract, will be required to read and sign the MDOC Vendor Handbook as required. The Contractor will provide copies of each signed Employee Acknowledgement to the MDOC upon request.

4. Pricing

4.1 Price Term

Pricing is firm for the entire length of the Contract. All shipping costs are the responsibility of the Contractor. Any liability for loss or damage shall remain with the Contractor until final inspection and acceptance by the State. **Once the items are purchased, the items become the property of the State.**

4.2 Special Pricing

The Contractor will notify the State of any temporary, promotional, special, or other pricing lower than the Contract price, and such pricing must immediately be given to the State and all entities eligible to purchase from the Contract.

5. Ordering

No specific amounts of orders are guaranteed.

5.1 Authorizing Document

The State will issue purchase order(s), which must be approved by the Program Manager, or designee, to order deliverables. The Contractor is not authorized to begin performance until receipt of a purchase order.

The payment and appropriate authorizing document for the Contract will be an undisputed invoice due and payable by the State.

5.2 Order Verification

The Contractor must have internal controls, approved by MDOC-Procurement, to verify abnormal orders and to ensure that only authorized individuals place orders.

6. Delivery

6.1 Delivery Programs

The Contractor uses UPS as its preferred carrier for shipments up to 300 pounds. Typically, any shipment in excess of 300 pounds will be sent via LTL freight carrier. The specific freight carrier is determined based on cost, weight, and destination. Special arrangements, such as expedited service, inside delivery, or collect shipments with the customer's preferred carrier, can be arranged on an individual basis through the Customer Service group.

6.2 Packaging and Palletizing

Packaging must be optimized to permit the lowest freight rate. Shipments must be palletized whenever possible using manufacturer's standard 4-way shipping pallets.

The Contractor must package all items in cardboard boxes to protect from damage and debris. Metal wire ties, metal clips, paper-coated wire ties, or staples must not be used in the packaging.

Cartons shall weigh less than 50 lbs., and shall be clean and of adequate strength to provide protection and stacking strength. Cartons must be labeled in English with the Purchase Order number, deliverable, shipped quantity and name of the delivery location, on the outside of the carton.

The Contractor must include an itemized packing slip with each delivery. The packing slip must include the Purchase Order number, date, deliverable, shipped quantity and name of the delivery location.

The Contractor shall shrink wrap or band multiple packages for a correctional facility on a single pallet. Products must not exceed the pallet dimensions (40"x48"60"H), with no overhang.

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The Contractor must clearly mark all orders for delivery with the appropriate correctional facility and Purchase Order number. Each skid must be marked.

7. Acceptance

7.1 Acceptance, Inspection and Testing

The State will use the following criteria to determine acceptance of the Contract Activities:

a. The Contractor shall provide goods and services, according to the specifications and delivery term of the Contract.

b. The MDOC may return damaged, defective, and unwanted items by calling our Customer Service Department at (800) 225-5425 for approved authorization. If the return needs to be made because of errors made by the Contractor, the Contractor will arrange for pickup by issuing a call tag. The account will be credited or a refund will be sent to the MDOC. Upon completion of adjustments, the Contractor's Customer Service group will issue credit memos to the MDOC. Any discrepancies should be reported as soon as possible to the Customer Service Department at the above phone number. All returns for incorrect orders are at no cost to the State, including re-stocking fees.

7.2 Final Acceptance

Final acceptance will be once all curriculum, materials and training have been delivered according to the terms of the contract.

8. Invoice and Payment

8.1 Invoice Requirements

All invoices submitted to the State must include: (a) date; (b) purchase order; (c) quantity; (d) description of the Contract Activities; (e) unit price; and (f) total price.

9. Additional Requirements

9.1 Environmental and Energy Efficient Products

The Contractor must identify any energy efficient, bio-based, or otherwise environmental friendly products used in the products. Contractor must include any relevant third-party certification.

The Contractor acknowledges that this requirement is not applicable to this Contract.

9.2 Hazardous Chemical Identification

In accordance with the federal Emergency Planning and Community Right-to-Know Act, 42 USC 11001, *et seq.*, as amended, the Contractor must provide a Material Safety Data Sheet listing any hazardous chemicals, as defined in 40 CFR §370.2, to be delivered. Each hazardous chemical must be properly identified, including any applicable identification number, such as a National Stock Number or Special Item Number.

The Contractor acknowledges that this requirement is not applicable to this Contract.

9.3 Mercury Content

Pursuant to MCL 18.1261d, mercury-free products must be procured when possible. The Contractor acknowledges that this requirement is not applicable to this Contract.

9.4 Brominated Flame Retardants

The State prefers to purchase products that do not contain brominated flame retardants (BFRs) whenever possible. The Contractor discloses that its products do not contain BFRs.

9.5 Licensing Agreement

The Contractor does not have any licensing agreements for the proposed products that will require the Department to agree to or sign as part of the terms of this Contract.

9.6 Key Personnel

The Contractor's appointed Customer Service Representative who will be directly responsible for the day to day operations of the Contract ("Key Personnel") is Thomas Benz, Account Executive-Adjacent

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Markets/Adult Education, Northeastern U.S. Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquires within 24 hours.

Thomas Benz,
Account Executive – Adjacent Markets/Adult Education, Northeastern U.S.
11 Morgan Drive
Hooksett, NH 03016
thomas.benz@hmhco.com
603-661-1245 (Cell)
603-484-4900 (Office)

9.7 Project Plan

The Contractor's proposed project plan, including a timeline, for the training requirement is as follows:

Training Timeline

The materials have been developed to be extremely straightforward and easy to use for both instructors and students. Accordingly, the department might conclude that its training needs are not extensive. In any case, the publisher will provide an initial program overview at no charge to acquaint instructors with the various features and uses of the materials. This training will be scheduled at a time(s) and site(s) mutually agreed upon by the Program Manager and the publisher's representatives.

A wide range of more in-depth, fee-based customized professional development services are also available as needed. The Program Manager is welcome to contact the publisher's representatives with any questions or suggestions in this regard.

Curriculum Updates

The materials have been developed to fit the specific program needs of the Michigan Department of Corrections Employment Readiness Program. If the department is interested in additional customization of content that would require new and/or significantly revised pages to be created, such changes as proposed in writing by the Department will be considered by the publisher. Major changes not currently anticipated, but proposed by the department in the future, will possibly require additional compensation to the publisher. We will be pleased to discuss any such ideas as proposed by the Department.

The materials are routinely subject to minor changes such as error corrections each and every time they are reprinted. The frequency of reprints would depend on the timing and volume of the Michigan Department of Corrections' purchases of the materials.

For any questions or concerns, the Program Manager is welcome to contact Christopher Tabbert, Senior Product Manager for Adult Education at Houghton Mifflin Harcourt, 3800 Golf Road, Rolling Meadows, Illinois 60008. He can be contacted by phone at 630-467-7233 or via e-mail at cr.tabbert@hmhco.com.

The Contractor will carry out this project under the direction and control of the Program Manager. Within 30 calendar days of the Effective Date, the Contractor will submit an initial training plan to the Program Manager for final approval if requested by the MDOC.

Additional Requirements

Patent/Copyright Infringement Indemnification

To the extent permitted by law, the Contractor must indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to

the extent that the action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its subcontractors, or the operation of the equipment, software, commodity or service, or the use or reproduction of any documentation provided with the equipment, software, commodity or service infringes any United States patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States.

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

Bankruptcy

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.

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

The Contractor must immediately notify the MDOC-State if any of the above occurs during the term of the contract.

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

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

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

Vendor Handbook

The Contractor will require all its employees working inside a MDOC correctional facility, to read and sign the MDOC Vendor Handbook (Attachment B). The purpose of the MDOC Vendor Handbook is to provide contractors with general information regarding basic requirements of working within the Michigan Department of Corrections, provide notice of work rules and consequences of rule violations. The awarded Contractor must provide copies of each signed Employee Acknowledgment to the CCI at the completion of the employee's orientation.

Exhibit C
 Request For Proposal No. 047214B0002255
 Pre-Release/Employment Readiness Program
 Curriculum, Textbooks and Materials
 Pricing

The MDOC is estimating that approximately 12,000 inmates will be paroling annually.

ITEM DESCRIPTION	UNIT OF MEASURE	UNIT COST PER EACH
Teacher Answer Key (ISBN # 9780544320277)	Each	\$2.50
Additional materials:		
Workbooks (set of all six of the below)	Set	\$15.00
Workbooks (individual)	Each	\$2.50
1) Problem Solving and Decision Making-Student (ISBN # 9780544320390) 2) Values Clarification, Goal Setting, and Achieving-Student (ISBN # 9780544320291) 3) Employment Skills-Student (ISBN # 9780544321892) 4) Job Placement Assistance-Student (ISBN # 9780544320703) 5) Counseling on Individual Community Reentry Concerns-Student (ISBN # 9780544320604) 6) Conflict Resolution-Student (ISBN # 9780544320505)		

All shipping costs are the responsibility of the Contractor. Any liability for loss or damage shall remain with the Contractor until final inspection and acceptance by the State.

STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT ("Contract") is agreed to between the State of Michigan (the "State") and Houghton Mifflin Harcourt Publishing Company ("Contractor"), a Commonwealth of Massachusetts corporation. This Contract is effective on October 1, 2014 ("Effective Date"), and unless terminated, expires on September 30, 2017.

This Contract may be renewed for up to two additional one year period(s). Renewal must be by written agreement of the parties

The parties agree as follows:

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

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

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

Contractor must also: (a) be clearly identifiable while on State property by wearing identification issued by the State; and (b) clearly identify themselves whenever making contact with the State.

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

If to State:

State of Michigan
MDOC-Procurement
Attention: Lisa Lehnert
PO Box 30003
Lansing, MI 48909
LehnertL@michigan.gov
Facsimile: (517) 335-0871

If to Contractor:

Houghton Mifflin Harcourt Publishing Company
Attn: Shawn Weirather, Senior Director,
Business Desk
3800 Golf Road, Suite 200
Rolling Meadows, IL 60008
shawn.weirather@hrehco.com
Phone: (630) 467-6557 (800-767-8420)

3. **Contract Administrator.** The Contract Administrator for each party is the only person authorized to modify any terms and conditions of this Contract:

State:
 Lisa Lehnert, Buyer
 Department of Corrections
 PO Box 30003
 Lansing, MI 48909
LehnertL@michigan.gov
 Phone: (517) 335-4904

Contractor:
 Shawn Weirather, Senior Director, Business Desk
 Houghton Mifflin Harcourt Publishing Company
 3800 Golf Road, Suite 200
 Rolling Meadows, IL 60008
shawn.weirather@hnhco.com
 Phone: (630) 467-6557 (800-767-8420)

4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract.

State:
 Tony Costello, Assistant Education Manager
 206 E. Michigan Avenue
 Lansing, MI 48933
costellot@michigan.gov
 517-373-7204

Contractor:
 Thomas Benz, Account Executive
 [11 Morgan Drive
 Hooksett, NH 03016
Thomas.benz@hnhco.com
 Cell: (603) 661-1245
 Office: (603) 484-4900

5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in Exhibit A) if, in the opinion of the State, it will ensure performance of the Contract.
6. **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by an company with an A.M. Best rating of "A" or better and a financial size of VII or better.

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

Employers Liability Insurance	
<u>Minimal Limits:</u> \$100,000 Each Accident \$100,000 Each Employee by Disease \$500,000 Aggregate Disease.	

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

Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or purchase order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

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

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

12. **Ordering.** Contractor is not authorized to begin performance until receipt of an authorizing document as identified in Exhibit A, Statement of Work.

13. **Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in Exhibit A. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted, but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 21, Termination for Cause.

Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any Contract Activities, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Contract Activities to the State. If acceptance with deficiencies or rejection of the Contract Activities impacts the content or delivery of other non-completed Contract Activities, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract. However, nothing herein affects, alters, or relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract.

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

14. **Delivery.** Contractor must deliver all Contract Activities F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless otherwise specified in Exhibit A. All containers and packaging becomes the State's exclusive property upon acceptance.
15. **Risk of Loss and Title.** Until final acceptance, title and risk of loss or damage to Contract Activities remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Contract Activities, Contractor must remove them from the premises within 10 calendar days after notification of rejection. The risk of loss of rejected or non-conforming Contract Activities remains with Contractor. Rejected Contract Activities not removed by Contractor within 10 calendar days will be deemed abandoned by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Contract Activities.
16. **Warranty Period.** The warranty period, if applicable, for Contract Activities is a fixed period commencing on the date specified in Exhibit A. If the Contract Activities do not function as warranted during the warranty period the State may return such non-conforming Contract Activities to the Contractor for a full refund.
17. **Terms of Payment.** Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities performed as specified in Exhibit A. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Contract Activities purchased under the Contract are for the State's exclusive use. Prices are exclusive of all taxes, and Contractor is solely responsible for payment of any applicable taxes.

The State has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. The State will notify Contractor of any dispute within a reasonable time. Payment by the State will not constitute a waiver of any rights as to Contractor's continuing obligations, including claims for deficiencies or substandard Contract Activities. Contractor's acceptance of final payment by the State constitutes a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed.

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

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

19. **Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or purchase order. The State will not pay for Contract Activities; Contractor's lost profits; or any additional compensation during a stop work period.
20. **Termination for Cause.** The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the State to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 21, Termination for Convenience.

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

21. **Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any reason including but not limited to appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 22, Transition Responsibilities. The State will pay all reasonable costs, as determined by the State, for State approved "Transition Responsibilities."
22. **Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a reasonable period of time specified by the State (not to exceed 90 days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include but is not limited to: (a) continuing to perform the Contract Activities under the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts ("Transition Responsibilities"). This Contract will automatically be extended through the end of the transition period.
23. **General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and its employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of its employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, or warranties contained in this Contract; (b) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of its employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (c) any acts or omissions of Contractor (or any of its employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

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

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

Any litigation activity on behalf of the State, or any of its subdivisions under this Section and Section 25, Intellectual Property Indemnification, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

- 24. Intellectual Property Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and its employees harmless, without limitation, from and against any claims arising out of or relating to copyright, patent, trademark, or trade secret infringement. Notwithstanding the foregoing, Contractor has no obligation to pay any costs, damages or attorneys' fees related to any infringement claim that arises out of: (a) compliance with designs, plans, or specifications furnished by or on behalf of the State as to any piece of equipment, software, commodity, or service; (b) use of the equipment, software, commodity or service in a manner for which the same was neither designed nor contemplated; or (c) the combination, operation or use of the equipment, software or commodity with equipment, software or commodities not supplied by Contractor under this Contract.

If, in either party's opinion, any piece of equipment, software, commodity or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

- 25. Limitation of Liability.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
- 26. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to have to perform under this Contract.
- 27. State of Michigan Data.** All data and information provided to Contractor by or on behalf of the State, and all data and information derived therefrom, is the exclusive property of the State ("**State Data**"); this definition is to be construed as broadly as possible. Upon request, Contractor must provide to the State, or a third party designated by the State, all State Data within 10 calendar days of the request and in the format requested by the State. Contractor will assume all costs incurred in compiling and supplying State Data. No State Data may be used for any marketing purposes.
- 28. Confidentiality.** All information of the parties, except information that is: (a) disclosable under the Michigan Freedom Of Information Act (FOIA); (b) otherwise available to the public without breach of this Contract; (c) released in writing by the disclosing party; (d) obtained from a third party with no obligation of confidentiality; (e) publicly disclosed pursuant to federal or state law; or (f) independently developed by the receiving party without reference to Confidential Information of the disclosing party, is confidential information ("**Confidential Information**"). Nothing in this Section will be construed as an obligation to disclose any particular Confidential Information to the other party.

Each party must use the same care to prevent unauthorized disclosure of Confidential Information as it uses to prevent disclosure of its own information of a similar nature, but no less than a reasonable degree of care. Neither party will: (a) make any use of Confidential Information of the other except as contemplated by this Contract; (b) acquire any interest or license in or assert any lien against the Confidential Information of the other; or (c) refuse any request to promptly return the other party's Confidential Information. Each party will limit disclosure of the other party's Confidential Information to employees, agents, and Subcontractors who must have access to fulfill the purposes of this Contract. Disclosure to a Subcontractor is permissible where: (a) use of a Subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the Subcontractor's responsibilities; and (c) Contractor obligates the Subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any Subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.

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

The provisions of this Section, will not apply where a party is required by law to disclose the other party's Confidential Information provided that the party: (a) promptly provides the furnishing party with notice of the legal request; and (b) assists the disclosing party in resisting or limiting the scope of the disclosure as reasonably requested.

If Contractor breaches this Section, it must (a) promptly cure any deficiencies (b) comply with any applicable federal and state laws and regulations pertaining to unauthorized disclosures, (c) 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, and (d) pay all costs associated with the breach. Contractor and the State will cooperate to mitigate the effects of any breach, intrusion, or unauthorized use or disclosure.

29. **Reserved**

30. **Reserved**

31. **Records Maintenance, Inspection, Examination, and Audit.** Under MCL 18.1470, the State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain, and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Contract through the term of the Contract and for 7 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

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

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

32. **Warranties and Representations.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes;

and (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading. A breach of this Section is considered a material breach of this Contract.

33. **Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.
34. **Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
35. **Reserved**
36. **Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, or mental or physical disability. Breach of this covenant is a material breach of this Contract.
37. **Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
38. **Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
39. **Non-Exclusivity.** Nothing contained in this Contract is intended nor shall be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal or like Contract Activities from other sources.
40. **Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors unless the subcontractor experiences a force majeure and cannot reasonably circumvent the effect through other means. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
41. **Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executives and either concludes that resolution is unlikely, or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.
42. **Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.

43. **Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
44. **Order of Precedence.** In the event of a conflict between the terms and conditions of the Contract, the exhibits, a purchase order, or an amendment, the order of precedence is: (a) the purchase order; (b) the amendment; (c) Exhibit A; (d) any other exhibits; and (e) the Contract.
45. **Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
46. **Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
47. **Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.
48. **Entire Contract and Modification.** This Contract is the entire agreement and replaces all previous agreements between the parties for the Contract Activities. This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**").

**Attachment A
Michigan Department of Corrections
Correctional Facility Listing**

NORTHERN AND UPPER LOWER PENINSULA	
Alger Correctional Facility N 6141 Industrial Park Drive Munising, MI 49862	Baraga Correctional Facility 13924 Wadaga Rd. Baraga, MI 49908-9204
Brooks/West Shoreline Correctional Facilities@ LRF 2500 S. Sheridan Rd. Muskegon Heights, MI 49444	Central Michigan Correctional Facility (STF) 320 N. Hubbard St. Louis, MI 48880
Chippewa Correctional Facility 4269 W. M-80 Kincheloe, MI 49784	Kinross Correctional Facility 16770 S. Watertower Drive Kincheloe, MI 49788
Marquette Branch Prison 1960 US 41 Marquette, MI 49855	Muskegon Correctional Facility 2400 South Sheridan Dr. Muskegon, MI 49442
Newberry Correctional Facility 3001 Newberry Ave. Newberry, MI 49868	Oaks Correctional Facility 1500 Caberfae Highway Manistee, MI 49660-9200
Ojibway Correctional Facility N 5705 Ojibway Rd. Marenisco, MI 49947-9771	Pugsley Correctional Facility 7401 E. Walton Rd. Kingsley, MI 49649
Saginaw Correctional Facility 9625 Pierce Rd. Freeland, MI 48623	St. Louis Correctional Facility 8201 N. Crosswell Rd. St. Louis, MI 48880
Lake County Residential Reentry Program 5565 S. M-37 Baldwin, MI 49304-0819	
SOUTHERN LOWER PENINSULA	
Bellamy Creek Correctional Facility 1727 W Bluewater Hwy Ionia, MI 48846	Carson City Correctional Facility 10522 Boyer Rd. Carson City, MI 48811
Cooper Street Correctional Facility 3100 Cooper St. Jackson, MI 49201	Cotton Correctional Facility 3500 N. Elm Rd. Jackson, MI 49201
Eceler Reception & Guidance Center 3355 Cooper St. Jackson, MI 49201	Handlon Correctional Facility 1728 Bluewater Highway Ionia, MI 48846
Gus Harrison Correctional Facilities 2727 E. Beecher St. Adrian, MI 49221	Ionia Correctional Facility 1576 W. Bluewater Highway Ionia, MI 48846
Lakeland Correctional Facility 38 Fourth St. Coldwater, MI 49036	Macomb Correctional Facility 34625 26 Mile Rd. New Haven, MI 48048

Michigan Reformatory 1342 W. Main St. Ionia, MI 48846	Detroit Reentry Center 17601 Mound Rd. Detroit, MI 48212
Parnall Correctional Facility 1780 E. Parnall Jackson, MI 49201-7138	Thumb Correctional Facility 3225 John Conley Dr. Lapeer, MI 48446
Woodland Center Correctional Facility 9036 E. M-36 Whitmore Lake, MI 48189	Women's Huron Valley Correctional Facility 3201 Bemis Rd. Ypsilanti, MI 48197
Special Alternative Incarceration Facility 18901 Waterloo Road Chelsea, MI 48118	

