

STATE OF MICHIGAN  
 DEPARTMENT OF MILITARY & VETERANS AFFAIRS  
 GRAND RAPIDS HOME FOR VETERANS  
 PURCHASING & CONTRACTS  
 3000 MONROE AVENUE NE  
 GRAND RAPIDS, MI 49505

**NOTICE OF CONTRACT NO. 511B3200035**  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Medical Staffing Network Healthcare LLC 901 Yamato Road, Suite 110 Boca Raton, FL 33431-4415	Beth Bauer	<a href="mailto:bethbauer@msnhealth.com">bethbauer@msnhealth.com</a>
	TELEPHONE	CONTRACTOR #, MAIL CODE
	800-223-9230	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DMVA-GRHV	John Carlson	616-364-5355	<a href="mailto:CarlsonJ1@michigan.gov">CarlsonJ1@michigan.gov</a>
BUYER:	DMVA-GRHV	Kerri Bielski	616-364-5327	<a href="mailto:BielskiK@michigan.gov">BielskiK@michigan.gov</a>

CONTRACT SUMMARY:			
<b>DESCRIPTION:</b>			
Back-up Pharmacy Services – Grand Rapids Home for Veterans			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
3-Years	July 15, 2013	September 30, 2016	Two 1-Year Options
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
2%15/Net30	Delivered	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:			\$60,480.00

**THIS IS NOT AN ORDER:** This Contract Agreement is awarded on the basis of our inquiry bearing the solicitation #RFP-KB-511B3200035. 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 #: 511B3200035**

<b>FOR THE CONTRACTOR:</b>	<b>FOR THE STATE:</b>
Medical Staffing Network Healthcare LLC Firm Name	Signature
Authorized Agent Signature	Kimberly Graham, Buyer Manager Name/Title
Authorized Agent (Print or Type)	Dept. of Military & Veterans Affairs Name of Agency
Date	Date

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## **DEFINITIONS**

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

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

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

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

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

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

**CCI** means Contract Compliance Inspector.

**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.

**DMVA** mean Department of Military and Veterans Affairs.

**DTMB** 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.

**GRHV** mean the Grand Rapids Home for Veterans.

**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.

**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.

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

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

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

**SLA** means Service Level Agreement.

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

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

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

**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 Request**

This is a Contract for Back-up Pharmacy Services for the Department of Military and Veterans Affairs (DMVA) Grand Rapids Home for Veterans (GRHV).

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 Background**

The GRHV is a long term assisted care facility operated by the State of Michigan, DMVA. The GRHV provides both nursing and domiciliary care to qualified Michigan veterans and their dependents. The GRHV is licensed by the United States Department of Veterans Affairs and is a State Veteran's Home. The census as of May 2013 is 430 nursing care members across 12 nursing care units, and 62 domiciliary care members. The 12 nursing care units include 2 units dedicated to Alzheimer's/dementia care and 1 unit dedicated to special needs care. The mission of the GRHV is to provide compassionate quality interdisciplinary care for the members to achieve their highest potential of independence, self-worth, wellness and dignity.

Back-up Pharmacy Services for GRHV includes medication preparation and dispensing, monitoring activities, record keeping, stock control activities, repackaging, administrative tasks, and various other associated activities.

The services will be required to cover extended leaves of absence and vacation. Services will be required on a temporary, as-needed basis.

### **1.020 Scope of Work and Deliverables**

#### **1.021 In Scope**

The Contractor will be required to provide accurate, ethical and responsible pharmacist services to the residents of the GRHV. The Contractor will be required to maintain the pharmaceutical practice at the Home in accordance with federal, state, departmental and hospital laws and standards.

#### **Contractor Response:**

Medical Staffing Network Healthcare, LLC (MSN) – doing business as Pharmstaff – is a Joint Commission-certified staffing agency, and we will provide accurate, ethical, and responsible pharmacist services to the residents of the Grand Rapids Home for Veterans (GRHV). We also will maintain the pharmaceutical practice in accordance with federal, state, departmental, and hospital laws and standards.

MSN is the fifth-largest healthcare staffing firm in the United States, and we have provided healthcare staffing services for 15 years and were originally founded in Delaware on January 7, 1998 as Medical Staffing Network, Inc. In August 2010, Medical Staffing Network Healthcare, LLC (MSN) was formed as a Delaware limited liability company, and in September 2010, it acquired the assets of Medical Staffing Network, Inc. and its subsidiaries. MSN's staffing solutions include permanent placement, contract to hire, per diem, and long-term (travel) staffing in such areas as pharmacy, nursing, allied health, anesthesiology, and clinical research. MSN also provides non-bedside nursing, vendor management system (VMS), and managed services program (MSP) solutions. In 2012, MSN launched an even wider range of outsourcing solutions through Optimal Workforce Solutions (OWS), a wholly-owned subsidiary.

We have long been recognized as one of the premier healthcare staffing companies – consistently raising the standards of quality and excellence. With 700 corporate employees, over 60 locations nationwide, more than 66 recruiters, and immediate access to a network of 50,000 qualified and



motivated healthcare professionals, MSN is one of the few staffing companies that have a national presence while providing local delivery of service. As a result, we can address the purchasing needs of our clients as well as the varied personal needs of the healthcare professionals we hire. This powerful combination lays the groundwork for the high rates of employee satisfaction and staff retention that lead directly to the high levels of service quality our clients require.

MSN has a tradition of working with state institutions, and we provide healthcare professionals to long-term care facilities, hospitals, schools, correctional facilities, managed care organizations, and other institutions that need dependable workforce solutions. In the past year, MSN has served as a trusted staffing partner to over 3,400 acute and non-acute care clients – providing technologies and services that reflect industry best practices.

MSN's healthcare professionals are available 24 hours a day, 365 days a year. Furthermore, our after-hours support center is fully staffed exclusively by MSN employees. This means you will receive seamless support and service from our internal staff. It enables us to respond immediately and effectively with the resources, technologies, and expertise you need.

In 2005, MSN was first awarded the Certificate of Distinction for Healthcare Staffing Services by The Joint Commission. We have maintained our certification without interruption ever since.

### **1.022 Work and Deliverable**

1. Medication Preparation Activities:  
Fill prescriptions, physician orders, load orders, controlled substance orders, and orders from floor stock.  
Check orders completed by pharmacy assistant.  
Enter computer data to generate labels for refill orders.
2. Dispensing Activities:  
Interpret, process (including computer input), and fill medication orders.  
Prepare and process physician medication order renewals.  
Dispense controlled substances and maintain records as required by law and Pharmacy policies and procedures.  
Replace drugs used from night drug cabinet and monitor expiration dates of the same.
3. Monitoring Activities:  
Monitor drug therapy for interactions, allergies, contraindications, dose and appropriateness.  
Monitor drug storage.  
Check the repackaging of bulk drugs into unit dose packages.
4. Record Keeping Activities:  
File and maintain patient records in the Pharmacy.  
Maintain controlled substance inventory records.  
Maintain record of products ordered and received.  
Maintain cost of medications for patient/client groups.
5. Stock Control Activities:  
Maintain inventory.  
Check expiration dates on inventory.  
Process incoming/return drug orders from wholesaler.
6. Administrative Duties:  
Ensure thorough and complete ethical practices and compliance with federal, state and departmental regulations.
7. Repackaging Activities:  
Repackage and/or check bulk medication that has been packaged into unit dose packages.  
Maintain packaging records.  
Clean packaging machine.



8. **Computer Activities:**  
Enter dose and laboratory levels in computer and transmit to national registry.  
Order needed products from wholesaler.  
Prompt computer to generate labels.
  9. **Other Activities:**  
Must speak English proficiently.  
Must be available Monday through Friday from 8:00a.m. – 4:30p.m. or 9:00a.m. – 5:30p.m.  
Must have a current unrestricted Michigan Pharmacist License.
- It is preferred that the Contractor have Long Term Care experience along with QS1 and Pyxis proficiency.
- Sub-Contracting will not be permitted for this Contract.

#### **Contractor Response to Task:**

MSN will provide a pharmacist that will perform all of the tasks cited and required in this section.

#### **HIRING PROCESS**

MSN uses a comprehensive screening process to validate qualifications and ensure the quality of its healthcare workers. Consequently, we can offer staffing predictability and placement of skilled and experienced healthcare professionals. Taken together, these procedures enable MSN to provide competent, oriented, dependable, and available (CODA) healthcare professionals to all clients.

#### **Continuous Automatic Alerts**

Our operating system automatically identifies expiring licenses and certifications within a 90, 60, and 30-day period so that employees can be notified about the need for renewal. No employee with expired documents will be placed in an assignment until the required documentation has been satisfactorily renewed.

#### **Education (Optional, On Request)**

If a client requires verification of the educational background of an applicant, MSN uses the services of Pre-Employ.com. Pre-Employ first conducts an on-line search for a candidate's educational records. If these are not readily available, Pre-Employ contacts the educational institution directly and issues a report of its findings.

#### **Licensure**

Applicant licenses are verified before hiring for each state where applicants were ever licensed. Current employee licenses are re-verified at the time of renewal.

#### **Certifications**

Specific certifications may be required depending on the profession or discipline. Certifications are verified at the time of application and again upon renewal of the certification.

#### **Specialty Competency Exams**

Applicants must successfully complete competency exams within their areas of practice, receiving a score of 80% or better. Exams contain validated, scenario-based questions that assess knowledge of both medications and clinical practice.

#### **Lifesaving Training**

Depending on the type of placement, there may be additional training in cardiopulmonary resuscitation (CPR), which also is known as basic life support, or BLS, advanced cardiac life support (ACLS), pediatric advanced life support (PALS), neonatal resuscitation program (NRP), and trauma nursing core course (TNCC). Upon client request and contract conditions, MSN can supplement these requirements. These and other procedures are designed to ensure the competency and employability of each candidate.



### **Skills Checklists**

All applicants must complete a detailed, up-to-date skills checklist to assess the range and depth of their expertise and experience. These checklists address everything from communication skills and patient rights to confidentiality, family interactions, and applicable sub-disciplines, as appropriate. Within each sub-discipline, the checklists address topics such as standard practices and procedures, relevant problem situations and precautions, and variable treatment options based on age and complicating conditions. They also gather information about types and brands of equipment used within a discipline, key aspects of operating the equipment, and information about each healthcare professional's credentials.

### **In-Services (Core Mandatories for the Clinical Staff)**

MSN requires completion of in-service training activities by all clinical staff at the time of hire and annually thereafter. MSN's required in-services meet basic Joint Commission requirements and include OSHA and HIPAA-mandated training. In-services that include post-testing must be passed with a score of 80% or better. Prophecy is our nurse-testing vendor. Required topics include body mechanics/ergonomics, disaster preparedness, environmental safety, fire safety, hazardous chemicals, HIPAA, infection control/blood borne pathogens, age-specific competencies, cultural diversity, ethics for healthcare, national patient safety goals, and patient rights. Optional in-services for the following topics are available on request: tuberculosis, pain management, restraints and seclusion, preventing violence in the workplace, living with chronic pain, elderly abuse, and patients' rights.

### **Reference Check**

References are obtained and verified before extending an offer of employment. At least one supervisory reference and an additional verification of employment are required.

### **Pre-Employment Health Screening**

Upon hire, all employees must provide authorized documentation that they are in good physical health, free from communicable disease, and are able to perform the duties of a healthcare professional without physical limitations. In addition to tuberculosis clearance, evidence of immunity and/or vaccination status for hepatitis B, mumps, rubella, rubeola, varicella, and influenza, among others, will be obtained where indicated by state or facility contractual requirements.

### **TB Screening (PPD)**

Documentation of tuberculosis screening within the past 12 months is required at the time of hire and annually thereafter from the date administered. A tuberculosis screening record is completed for those with history of positive purified protein derivative (PPD) results.

### **Drug Testing/Screening and Results**

MSN is committed to a drug-free, safe, and healthy work environment. A minimum 10-panel preemployment drug screening is performed on applicants following a strict chain-of-custody procedure. MSN's medical review officer (MRO) reviews the results. Any non-negative result constitutes a violation of MSN's substance abuse policy, and the applicant will not be hired. Subject to applicable state laws, MSN reserves the right to conduct drug screening and testing for reasonable suspicion at any time during employment. If a facility requests the screening of an MSN employee "for cause," MSN will seek documentation of the circumstances surrounding the request and suspend the employee from any scheduled assignments until the MRO reviews the results.

### **Background Checks**

Pursuant to federal, state, and local laws, all applicants undergo a criminal background check – once per employment period or otherwise as required by the client. Hiring is contingent on passing this pre-employment check. Any applicant who does not consent to a criminal background check will not be considered for employment. Any field applicant must not have been found guilty, pled guilty, or entered a plea of *nolo contendere* to any offense prohibited under state statutes or under any similar statute of another jurisdiction for healthcare providers. MSN has a company-wide contract with Preemploy.com, our criminal background-check vendor. The package that we use meets all compliance needs and includes the following items:



- SSN address locator covering the past 7 years
- Criminal state-wide search for each state indicated in the SSN address locator, covering the past 7 years

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- U.S. national criminal search for counties indicated in the SSN locator, covering the past 7 years
- OIG/GSA search
- Sex Offender Registry
- Terrorist Watch list
- Past employment (optional, upon request)

Additional searches such as education verification, employment verification, and more can be ordered, but the standard package is the MSN minimum requirement. The *only* exceptions to this requirement would be client (or state) specific requirements that have been approved by the Legal and Human Resource Departments.

### **I-9 Verification**

MSN adheres to federal I-9 verification guidelines to verify that employees are eligible to work. In particular, we use E-Verify to determine the eligibility of candidates to work in the United States.

### **Orientation and Compliance**

At hiring time and annually thereafter, MSN provides an *Employment Handbook* to all field employees. It includes policies and processes that orient employees to our employment and attendance policies, legal requirements, professional performance and safety practices, behavioral expectations, code of conduct, and our compliance program, which encourages all employees to “do the right thing” by reporting all incidents of non-compliance. All employees and clients have access to the MSN Compliance Hotline to report violations of the code of conduct and other concerns. Clients may request additional orientations for their facilities.

### **HIPAA & CONFIDENTIALITY (SECURITY)**

#### **Employee Policy at MSN**

All protected patient information shall be kept safeguarded pursuant to the policies and procedures at each facility, respectively, and in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the regulations issued thereunder, and any applicable state law to prevent impermissible disclosure, loss or misuse, and to ensure that only authorized persons have access to such protected information. Consult the Facility Privacy Officer in the event you have any questions regarding the scope or application of the privacy policies described in this statement. Private and confidential information will only be released to an outside party when legally required to do so and to the extent minimally necessary to respond to the request. Failure to maintain confidentiality and privacy may lead to disciplinary action up to and including termination as well as any actions designated by the appropriate disciplinary and/or credentialing board. Any breach of confidentiality may be grounds for immediate termination of employment as well as any appropriate legal actions.

#### **Privacy Training for MSN Staff**

All MSN staff are required to complete a HIPAA in-service at time of hire and annually thereafter.

Inservice

includes reading a study guide and passing a HIPAA test with a minimum score of 80%.

#### **Computer/Workstation Security Control**

MSN's security policies also include but are not limited to the following: employees may not share account or password information with another person; computers may not be left unattended; computers must be locked or logged out when staff leave their desk; employees must contact the IT Administrator to obtain a new password if they have reason to believe that any unauthorized person has learned their password.

#### **Access**

Medical Staffing Network Staff (MSN) will only have access to client patient data when working in the client facility. All client policies and processes as well as all HIPAA regulations will be followed in order to protect patient data.



MSN's pharmacy professionals have had QS1 and Pyxis proficiency. In addition, MSN serves thousands of long-term care facilities -- including the following list of long-term-care facilities in Michigan:

- Aspen Grove, Lambertville, MI
- Brookhaven Medical Care Facility, Muskegon, MI
- Burcham Hills Retirement Center, East Lansing, MI
- Durand Senior Care & Rehab, Durand, MI
- Eaton County Medical Care Facility, Charlotte, MI
- Herrick Manor, Tecumseh, MI
- Holly Convalescent Center, Holly, MI
- Holt Home Of Compassionate Care, Holt, MI
- Hoyt Nursing & Rehab Centre, Saginaw, MI
- Ingham County Medical Care Facility, Okemos, MI
- Livonia Woods Nursing and Reha, Livonia, MI
- Lynwood Manor, Adrian, MI
- MCHS Kingsford MI, Kingsford, MI
- Nexcare Dimondale Center, Dimondale, MI
- NexCare Livonia Woods Nursing & Rehab , Livonia, MI
- Oak Pointe Senior Care & Rehab, Brighton, MI
- OakPointe SCR, Detroit, MI
- Ovid Healthcare Center, Ovid, MI
- Provincial House, Adrian, MI
- Select Specialty Corporation, Saginaw, MI
- Shiawassee County Medical Care, Corunna, MI
- Sparrow Specialty Hospital, Lansing, MI

### **1.030 Roles and Responsibilities**

#### **1.31 Contractor Staff, Roles, and Responsibilities**

1. Contractor agrees to maintain all required State and Federal and DEA licensures as pharmacist, such as controlled substance license, registered pharmacist license, and approved preceptor license, and submit copies of all license prior to contract award. Failure to maintain such licenses will result in immediate cancellation of the Contract.
2. All Pharmacy Services must be performed by a legally qualified, registered pharmacist. All Pharmacy Services must be performed under the direction of the designated Project Manager at each facility.
3. Contractor agrees to replace all employees found to perform unsatisfactorily within 24-hours of notification. Records must be kept per employee regarding such requests for replacement and the employee must not be sent to service the GRHV if two valid complaints have been filed.
4. Contractor must conform and abide with all Facility Credentialing Criteria or Michigan Department of Military and Veterans Affairs health policy requirements.
5. Contractor must provide in-house Pharmacy Services, sufficient to provide contracted service at least 40 hours per week when required. The working hours of the in-house pharmacist will be 8:00a.m. – 4:30p.m. or 9:00a.m. – 5:30p.m. Monday through Friday. All Pharmacy Services must be performed during scheduled hours or as arranged and approved by the Project Manager.
6. Services must be provided in a professional manner and in accordance with the rules, regulations and guidelines of Federal, State and Local government statutes.
7. The Contractor must bill the GRHV directly for services provided. Under no circumstances is the Contractor to bill GRHV residents or employees for services provided.



8. The Contractor must bill the GRHV on a monthly basis, by the 15<sup>th</sup> of each month for all services performed for facility residents the prior month. Under no circumstances will the Contractor bill, or will the Home pay for more than the contracted price.
9. The Contractor must provide, upon request, all records related to services rendered for audit by the State of Michigan.
10. The Contractor must adhere to strict confidentiality of all information relating to resident records.
11. The Contractor will agree to fingerprints, a physical and drug test and a criminal background check. The Contractor further agrees that no pharmacist with a record of felony, drug or alcohol crimes or high misdemeanors are acceptable.

Some tasks under this Contract involve access to Protected Health Information (PHI) and as such need to be handled according to the health Insurance Portability and Accountability Act (HIPAA) requirements.

### **Contractor Response:**

#### **KEY PERSONNEL**

MSN agrees to abide by the requirements cited in this section. Please refer to MSN's response in Section 1.022 for detailed information about the rigorous qualifications process that will be used to identify pharmacy staff used at your facility. Section 1.022 also contains information about our HIPAA practices. In this section, we will provide resumes of the two individuals that are directly responsible for servicing the GRHV:

- Aimee Mundo, Director of Operations, Pharmstaff. Ms. Mundo will oversee this project.
- Bryahna Miller, Manager of Account Services. Ms. Miller will oversee the staffing and day-to-day service of this account and furnish qualified staff to GRHV.

#### **ON-SITE PHARMACISTS**

##### **Caro Center**

- Suzanne Smith
- Mary MacWilliams
- Shawna O'Shea

##### **Walther P Reuther**

- Vincent Duncan
- Christine Hoffman

##### **Hawthorne Center**

- Illze Berzins

#### **AIMEE M. MUNDO, DIRECTOR OF OPERATIONS, PHARMSTAFF**

##### **Experience**

*Medical Staffing Network Healthcare, LLC (MSN, formerly Pharmstaff); 1999-present*

While at MSN, Aimee Mundo advanced from her original position as an account executive to positions of increasing responsibility – including senior account executive, branch director, and director of operations for our pharmacy service line, Pharmstaff, which is her current position. In her current position as director of operations for Pharmstaff (2008-present), Ms. Mundo is familiar with every healthcare staffing task related to pharmacy, and she has successfully managed this service line. She is responsible for oversight of recruitment for pharmacy professionals; compliance with all state, client, payroll, accounts receivable, billing, and accounts payable requirements; budgeting requirements; evaluation of all field and administrative employees; branch office business requirements; branch profitability; and all phases of employee and client relations – including oversight of all account management activities.

As a branch director (2004-2008), she was responsible for local applications of our pharmacy services and per diem allied health services for multiple client accounts. As a senior account executive (2002-2004), Ms. Mundo was responsible for pharmacy accounts in a designated territory – maintaining adequate qualified staff and servicing our clients. As an account executive (1999-2002), she was responsible for initiating accounts with new clients and oversight of services.

*Lutheran General Hospital (1998-1999)*



As a critical care pharmacy technician, Ms. Mundo prepared medications and IV medication for critical and cardiac patients.

*Walgreens Corporation (1994-2004)*

As a senior certified pharmacy technician, Ms. Mundo supervised other pharmacy technicians as an administrator and scheduler.

#### **Education**

Columbia College, Bachelor of Fine Arts (with an emphasis in design); Chicago, IL

#### **Licensure**

Licensed Pharmacy Technician, 049-108246, State of Illinois

### **BRYAHNA MILLER, SENIOR ACCOUNT MANAGER**

#### **Experience**

*Medical Staffing Network Healthcare, LLC (MSN, formerly Pharmstaff); 2003-present*

Bryahna Miller joined MSN/Pharmstaff in 2003 and has risen – as a result of her growing expertise – through a series of positions of increasingly greater responsibility to both her clients and the staff that she manages. These have included staffing coordinator (2003-2005), account manager (2005-2007), and her current position as senior account manager (2007-present). She is expert in every phase of pharmacy recruitment and staff management.

*Senior Account Manager (Northeast); 2007-present.* In her current role, she is responsible for overseeing all sales operations for the multi-million-dollar northeast sales territory in the Pharmacy Division of MSN. She has developed and executed operational, service, and sales strategies for pharmacy staffing services that include per diem, temporary, and permanent placement for many of MSN's key hospital, health system, long-term-care, and retail pharmacy accounts. She has consistently service both new and existing clients – developing and maintaining these relationships by providing responsive oversight of their accounts. She also has directly supervised and managed internal staffing and recruitment personnel to ensure that they provide clients with efficient, responsive, and excellent service.

*Account Manager (Pacific); 2005-2007.* As an account manager, Ms. Miller was directly responsible for enhancing our Pacific territory. She did this by providing responsive management services and staffing solutions as well as overseeing contracts for pharmacy services in various settings – including hospitals, home health care, long-term care, independent, industry, and retail settings on a per diem, temporary, and permanent-placement basis. She managed a territory consisting of three staffing coordinators and assigned projects and duties as needed – always keeping current on industry trends and best practices for her clients.

*Staffing Coordinator (West); 2003-2005.* As a staffing coordinator, Ms. Miller was responsible for recruiting, qualifying, placing, and managing pharmacists and pharmacy technicians in the West Coast territory. In particular, she managed compliance, scheduling, and expense reimbursement of field employees placed with clients. She participated in workshops and aided in the training of new employees within the company. She gained superior knowledge of Joint Commission, OSHA, HIPAA, and quality improvement (QI) policies and procedures and became familiar with developing industry trends and best practices.

#### **Education**

Bachelor of Arts in Sociology (Minor in Psychology); Northern Illinois University; DeKalb, IL

### **1.040 Project Plan**

#### **1.041 Project Plan Management**

The Contractor will carry out this project under the direction and control of the DMVA – GRHV. The Contractor will carry out the individual duties identified in Sections 1.020 and 1.030.

Within five (5) working days of the award of Contract, the Contractor will submit to GRHV the name and contact information for the supervisor in the Contractor's facility who will be responsible for responding to inquiries from GRHV staff regarding credentialing.

#### **Contractor Response:**

#### **PROJECT MANAGEMENT**

Senior management oversight responsibility for this project will be provided by Aimee Mundo, Director of Operations of MSN Pharmstaff. Her contact email is [AimeeMundo@MSNHealth.com](mailto:AimeeMundo@MSNHealth.com). Her phone number is 630-791-2000 (Ext. 42019)



### **DAY-TO-DAY STAFFING**

The MSN supervisor responsible for responding to inquiries from GRHV staff regarding credentialing is Bryahna C. Miller, Manager of Account Services. Her contact email is [BryahnaMiller@MSNHealth.com](mailto:BryahnaMiller@MSNHealth.com). Her phone number is 717-502-6139.

### **ON-SITE PHARMACISTS**

#### **Caro Center**

- Suzanne Smith
- Mary MacWilliams
- Shawna O'Shea

#### **Walther P Reuther**

- Vincent Duncan
- Christine Hoffman

#### **Hawthorne Center**

- Illze Berzins

### **1.042 Reports**

The Contractor must be available to provide various reports when requested by the GRHV. Examples include Monthly Drug Usage, Monthly Psychotropic Usage, Patient Profiles, Prescriber Profiles, Delivery Compliance Reports, Quantity Reports, etc.

#### **Contractor Response:**

MSN will be providing pharmacy staffing services for GRHV. The qualified pharmacy staff that MSN provides will be able to perform all of the required duties, including those listed in this section, while on site at your facility. All MSN-provided staff will be trained on the current reporting system in place at each facility and will be required to submit all of the requested reports to the respective facility in a timely manner.

### **1.050 Acceptance**

#### **1.051 Criteria**

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

Project Manager will be responsible for verifying that the work:

1. Was performed in the time period referenced;
2. Meets the deliverable criteria;
3. Was performed according to the Contract specifications.

### **1.052 Final Acceptance - RESERVED**

### **1.060 Proposal Pricing**

#### **1.061 Proposal Pricing**

For authorized Services and Price List, see Attachment A.

2% discount off invoice if paid within 15-days.

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](http://www.michigan.gov/dtmb) for current rates.

**1.062 Price Term**

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

**1.063 Tax Excluded from Price**

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

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

**1.064 Holdback - RESERVED****1.070 Additional Requirements****1.071 Additional Terms and Conditions specific to this RFP**

1. Under no circumstances will the Contractor represent him/herself as an employee of the GRHV.
2. The Contractor agrees that he/she will not at any time either during or after the terms of this agreement reveal, divulge or make known to any person, firm or corporation any confidential information whatsoever in connection with the GRHV or its residents. The Contractor may disclose confidential information in accordance with legal requirement.
3. The Contractor must not charge their employees a fee for employment placement. Additionally, the GRHV will not pay a finder's fee for hiring staff placed at the GRHV by a Contractor.



## **Article 2, Terms and Conditions**

### **2.000 Contract Structure and Term**

#### **2.001 Contract Term**

The Contract is for a period of three years and two months beginning July 15, 2013 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 not less than 30 days before its expiration. The Contract may be renewed for up to two additional one-year periods.

#### **2.003 Legal Effect**

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

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

#### **2.004 Attachments & Exhibits**

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

#### **2.005 Ordering**

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

#### **2.006 Order of Precedence**

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

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

#### **2.007 Headings**

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



### **2.008 Form, Function & Utility**

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

### **2.009 Reformation and Severability**

Each provision of the Contract is severable from all other provisions of the Contract and, if one (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 Military and Veterans Affairs, Grand Rapids Home for Veterans-Purchasing & Contracts. GRHV-Purchasing is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. GRHV-Purchasing **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 GRHV-Procurement for the Contract is:

[Kerri L. Bielski, Buyer](#)  
 GRHV-Purchasing & Contracts  
 Department of Military & Veterans Affairs  
 3000 Monroe Ave NE  
 Grand Rapids, MI 49505  
 (616) 364-5327  
[BielskiK@michigan.gov](mailto:BielskiK@michigan.gov)

### **2.022 Contract Compliance Inspector**

After GRHV-Purchasing receives the properly executed Contract, it is anticipated that GRHV-Purchasing, 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 GRHV Procurement.** The CCI for the Contract is:

John Carlson, Pharmacy Director  
 Department of Military & Veterans Affairs  
 3000 Monroe Ave NE  
 Grand Rapids, MI 49505  
[CarlsonJ1@michigan.gov](mailto:CarlsonJ1@michigan.gov)  
 Phone: (616) 364-5355  
 Fax: (616) 364-5286



### 2.023 Project Manager

The following individual will oversee the project:

For the Grand Rapids Home for Veterans:

John Carlson, Pharmacy Director  
 Department of Military & Veterans Affairs  
 3000 Monroe Ave NE  
 Grand Rapids, MI 49505  
[CarlsonJ1@michigan.gov](mailto:CarlsonJ1@michigan.gov)  
 Phone: (616) 364-5355  
 Fax: (616) 364-5286

For the Contractor:

Beth Bauer  
 Medical Staffing Network Healthcare LLC  
 215 Shuman Blvd Suite 405  
 Naperville, IL 60563  
[bethbauer@msnhealth.com](mailto:bethbauer@msnhealth.com)  
 Phone: (800) 223-9230  
 Fax: (866) 717-3657

### 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 GRHV-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 – RESERVED**

**2.032 Media Releases**

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

**2.033 Contract Distribution**

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

**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 Contractor if the State determines that the Contractor 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.

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

#### **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 Contractor Full Responsibility – RESERVED**

**2.072 State Consent to Delegation – RESERVED**

**2.073 Subcontractor Bound to Contract – RESERVED**

**2.074 Flow Down – RESERVED**

**2.075 Competitive Selection – 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**

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

### **2.092 Security Breach Notification**

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

### **2.093 PCI Data Security Standard**

(a) Contractors that process, transmit or store credit/debit cardholder data, must adhere to the Payment Card Industry (PCI) Data Security Standards. The Contractor is responsible for the security of cardholder data in its possession. The data may only be used to assist the State or for other uses specifically authorized by law.

(b) The Contractor must notify the CCI (within 72 hours of discovery) of any breaches in security where cardholder data has been compromised. In that event, the Contractor must provide full cooperation to the Visa, MasterCard, Discover and state Acquirer representative(s), and/or a PCI approved third party to conduct a thorough security review. The Contractor must make the forensic report available within two weeks of completion. The review must validate compliance with the current PCI Data Security Standards for protecting cardholder data.

(c) The Contractor must properly dispose of cardholder data, in compliance with GRHV policy, when it is no longer needed. The Contractor must continue to treat cardholder data as confidential upon contract termination.

(d) The Contractor must provide the CCI with an annual Attestation of Compliance (AOC) or a Report on Compliance (ROC) showing the contractor is in compliance with the PCI Data Security Standards. The Contractor must notify the CCI of all failures to comply with the PCI Data Security Standard.

## **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 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.

### **2.104 No Implied Rights**

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

### **2.105 Respective Obligations**

The parties' respective obligations under this Section must survive the termination or expiration of 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, GRHV 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 GRHV 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) It is qualified and registered to transact business in all locations where required.

(g) Neither the Contractor nor any affiliates, nor any employee of either, has, must have, or must acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under the Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.

(h) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after the Contract start date, the Contractor must report those changes immediately to GRHV-Procurement.

**2.122 Warranty of Merchantability – RESERVED**

**2.123 Warranty of Fitness for a Particular Purpose – RESERVED**

**2.124 Warranty of Title – RESERVED**

**2.125 Equipment Warranty – RESERVED**

**2.126 Equipment to be New – RESERVED**

**2.127 Prohibited Products – 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**

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

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

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



- (c) All insurance coverage provided relative to this Contract is primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State.
- (d) The State, in its sole discretion, may approve the use of a fully-funded self-insurance program in place of any specified insurance identified in this Section.
- (e) Unless the State approves otherwise, any insurer must have an A.M. Best rating of "A" or better and a financial size of VII or better, or if those ratings are not available, a comparable rating from an insurance rating agency approved by the State. All policies of insurance must be issued by companies that have been approved to do business in the State.
- (f) Where specific coverage limits are listed in this Section, they represent the minimum acceptable limits. If the Contractor's policy contains higher limits, the State is entitled to coverage to the extent of the higher limits.
- (g) The Contractor must maintain all required insurance coverage throughout the term of this Contract and any extensions. However, in the case of claims-made Commercial General Liability policies, the Contractor must secure tail coverage for at least three years following the termination of this Contract.
- (h) The Contractor must provide, within five business days, written notice to the Director of GRHV-Procurement if any policy required under this section is cancelled. The notice must include the applicable Contract or Purchase Order number.
- (i) The minimum limits of coverage specified are not intended, and may not be construed, to limit any liability or indemnity of the Contractor to any indemnified party or other persons.
- (j) The Contractor is responsible for the payment of all deductibles.
- (k) If the Contractor fails to pay any premium for a required insurance policy, or if any insurer cancels or significantly reduces any required insurance without the State's approval, the State may, after giving the Contractor at least 30 days' notice, pay the premium or procure similar insurance coverage from another company or companies. The State may deduct any part of the cost from any payment due the Contractor, or require the Contractor to pay that cost upon demand.
- (l) In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Michigan Attorney General.
- (m) The Contractor is required to pay for and provide the type and amount of insurance checked  below:

**(i) Commercial General Liability**

Minimal Limits:

- \$2,000,000 General Aggregate Limit other than Products/Completed Operations;
- \$2,000,000 Products/Completed Operations Aggregate Limit;
- \$1,000,000 Personal & Advertising Injury Limit; and
- \$1,000,000 Each Occurrence Limit.

Deductible maximum:

\$50,000 Each Occurrence

Additional Requirements:

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

**(ii) Umbrella or Excess Liability**

Minimal Limits:

\$10,000,000.00 General Aggregate

Additional Requirements:

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



**(iii) Motor Vehicle**

Minimal Limits:

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

**(iv) Hired and Non-Owned Motor Vehicle**

Minimal Limits:

\$1,000,000 Per Accident

Additional Requirements:

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

**(v) Workers' Compensation Insurance**

Minimal Limits:

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

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

Additional Requirements:

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

**(vi) Employers Liability**

Minimal Limits:

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

Additional Requirements:

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

**(vii) Employee Fidelity (Crime)**

Minimal Limits:

\$1,000,000 Employee Theft Per Loss

Deductible Maximum:

\$50,000 Per Loss

Additional Requirements:

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



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

**(viii) Professional Liability (Errors and Omissions)**

Minimal Limits:

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

Deductible Maximum:

\$50,000 Per Loss

**(ix) Medical Malpractice**

Minimal Limits:

\$200,000 Each Occurrence  
\$600,000 Annual Aggregate

Deductible Maximum:

\$5,000 Each Occurrence

**(x) Cyber Liability**

Minimal Limits:

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

Additional Requirements:

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

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

**(xi) Property Insurance**

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

**2.132 Subcontractor Insurance Coverage**

Except where the State has approved a subcontract with other insurance provisions, the Contractor must require any Subcontractor to purchase and maintain the insurance coverage required in Section 2.13.1, Liability Insurance. Alternatively, the Contractor may include a Subcontractor under the Contractor's insurance on the coverage required in that Section. The failure of a Subcontractor to comply with insurance requirements does not limit the Contractor's liability or responsibility.



### **2.133 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 GRHV-Purchasing 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 30-days. These efforts must include, but are not limited to, those listed in **Sections 2.171, 2.172, 2.173, 2.174, and 2.175.**

**2.172 Contractor Personnel Transition**

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

**2.173 Contractor Information Transition**

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

**2.174 Contractor Software Transition**

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

**2.175 Transition Payments**

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

**2.176 State Transition Responsibilities**

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

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

**2.180 Stop Work****2.181 Stop Work Orders**

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by the Contract for a period of up to 90 calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work



order must be identified as a stop work order and must indicate that it is issued under this **Section 2.180**. Upon receipt of the stop work order, Contractor must immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State must either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.150**.

### **2.182 Cancellation or Expiration of Stop Work Order**

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

### **2.183 Allowance of Contractor Costs**

If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, the termination must be deemed to be a termination for convenience under **Section 2.150**, and the State will pay reasonable costs resulting from the stop work order in arriving at the termination settlement. The State is not liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.180**.

## **2.190 Dispute Resolution**

### **2.191 In General**

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

### **2.192 Informal Dispute Resolution**

(a) All disputes between the parties must be resolved under the Contract Management procedures in the Contract. If the parties are unable to resolve any disputes after compliance with the processes, the parties must meet with the Director of Procurement, GRHV, 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, GRHV, 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**

The only circumstance in which disputes between the State and Contractor will not be subject to the provisions of **Section 2.192** is where a party makes a good faith determination that a breach of the terms of the Contract by the other party is the that the damages to the party resulting from the breach will be so immediate, so large or severe and so incapable of adequate redress after the fact that a temporary restraining order or other immediate injunctive relief is the only adequate remedy.

### **2.194 Continued Performance**

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

## **2.200 Federal and State Contract Requirements**

### **2.201 Nondiscrimination**

In the performance of the Contract, Contractor must comply with the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101 et seq., as amended, and all applicable federal, State and local fair employment practices and equal opportunity laws as amended. Contractor agrees not to discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, or physical or mental disability. Contractor further agrees that every subcontract entered into for the performance of the Contract or any purchase order resulting from the Contract must contain a provision requiring non-discrimination in employment, as specified here, binding upon each Subcontractor. This covenant is required under the Elliot Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, et seq., as amended, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, et seq., as amended, and any breach of this provision may be regarded as a material breach of the Contract.

### **2.202 Unfair Labor Practices**

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

### **2.203 Workplace Safety and Discriminatory Harassment**

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

### **2.204 Prevailing Wage**

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



occupational classification and wage rates and fringe benefits for the local where the work is to be performed. The term Contractor must include all general contractors, prime contractors, project managers, trade contractors, and all of their contractors or subcontractors and persons in privity of contract with them.

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

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

## **2.210 Governing Law**

### **2.211 Governing Law**

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

### **2.212 Compliance with Laws**

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

### **2.213 Jurisdiction**

Any dispute arising from the Contract must be resolved in the State of Michigan and the Contractor expressly consents to personal jurisdiction in Michigan. With respect to any claim between the parties, the Contractor consents to venue in Ingham County, Michigan, and irrevocably waives any objections to this venue. Contractor agrees to appoint agents in the State of Michigan to receive service of process.

## **2.220 Limitation of Liability**

### **2.221 Limitation of Liability**

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

## **2.230 Disclosure Responsibilities**

### **2.231 Disclosure of Litigation**

(a) Disclosure. Contractor must disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each Subcontractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Contractor (and each Subcontractor) must notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions, to which Contractor (or, to the extent Contractor is aware, any Subcontractor) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Contractor or any Subcontractor; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor by a



governmental or public entity arising out of their business dealings with governmental or public entities. The Contractor must disclose in writing to the Contract Administrator any litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") within 30 days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated. Information provided to the State from Contractor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section.

(b) Assurances. If any Proceeding disclosed to the State under this Section, or of which the State otherwise becomes aware, during the term of the Contract would cause a reasonable party to be concerned about:

- (i) the ability of Contractor (or a Subcontractor) to continue to perform the Contract according to its terms and conditions, or
- (ii) whether Contractor (or a Subcontractor) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in the Proceeding, which conduct would constitute a breach of the Contract or a violation of Michigan law, regulations or public policy, then the Contractor must provide the State all reasonable assurances requested by the State to demonstrate that:

- (a) Contractor and its Subcontractors must be able to continue to perform the Contract and any Statements of Work according to its terms and conditions, and
- (b) Contractor and its Subcontractors have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in the Proceeding.

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

- (1) Within 30 days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor must notify GRHV-Procurement.
- (2) Contractor must also notify GRHV 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 GRHV Procurement within 30 days whenever changes to company affiliations occur.

## **2.232 Call Center Disclosure – RESERVED**

### **2.233 Bankruptcy and Insolvency**

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

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

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

### **2.240 Performance**

#### **2.241 Time of Performance**

- (a) Contractor must use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables according to the time schedules contained in the Statements of Work and other Exhibits governing the work, and with professional quality.



(b) Without limiting the generality of **Section 2.241(a)**, Contractor must notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and must inform the State of the projected actual delivery date.

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

#### **2.242 Service Level Agreements (SLAs)**

(a) SLAs will be completed with the following operational considerations:

- (i) SLAs will not be calculated for individual Incidents where any event of Excusable Failure has been determined; Incident means any interruption in Services.
- (ii) SLAs will not be calculated for individual Incidents where loss of service is planned and where the State has received prior notification or coordination.
- (iii) SLAs will not apply if the applicable Incident could have been prevented through planning proposed by Contractor and not implemented at the request of the State. To invoke this consideration, complete documentation relevant to the denied planning proposal must be presented to substantiate the proposal.
- (iv) Time period measurements will be based on the time Incidents are received by the Contractor and the time that the State receives notification of resolution based on 24x7x365 time period, except that the time period measurement will be suspended based on the following:
  - 1. Time period(s) will not apply where Contractor does not have access to a physical State Location and where access to the State Location is necessary for problem identification and resolution.
  - 2. Time period(s) will not apply where Contractor needs to obtain timely and accurate information or appropriate feedback and is unable to obtain timely and accurate information or appropriate feedback from the State.

(b) Chronic Failure for any Service(s) is defined as three unscheduled outage(s) or interruption(s) on any individual Service for the same reason or cause or if the same reason or cause was reasonably discoverable in the first instance over a rolling 30 day period. Chronic Failure will result in the State's option to terminate the effected individual Service(s) and procure them from a different vendor for the chronic location(s) with Contractor to pay the difference in charges for up to three additional months. The termination of the Service must not affect any tiered pricing levels.

(c) Root Cause Analysis must be performed on any business critical outage(s) or outage(s) on Services when requested by the Contract Administrator. Contractor must provide its analysis within two weeks of outage(s) and provide a recommendation for resolution.

(d) All decimals must be rounded to two decimal places, with five and greater rounding up and four and less rounding down, unless otherwise specified.

#### **2.243 Liquidated Damages – RESERVED**

##### **2.244 Excusable Failure**

Neither party will be liable for any default, damage, or delay in the performance of its obligations that is caused by government regulations or requirements, power failure, electrical surges or current fluctuations, war, water or other forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, or acts or omissions of common carriers, fire; riots, civil disorders; labor disputes, embargoes; injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of a party; provided the non-performing party and its Subcontractors are without fault in causing the default or delay, and the default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans.



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

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

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

## **2.250 Approval of Deliverables**

### **2.251 Delivery Responsibilities – RESERVED**

### **2.252 Delivery of Deliverables**

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

### **2.253 Testing**

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

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

### **2.254 Approval of Deliverables, In General**

(a) All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, according to the following procedures. Formal approval by the State



requires the State to confirm in writing that the Deliverable meets its specifications. Formal approval may include the successful completion of Testing as applicable in **Section 2.253**, to be led by the State with the support and assistance of Contractor. The approval process will be facilitated by ongoing consultation between the parties, inspection of interim and intermediate Deliverables and collaboration on key decisions.

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

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

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

(e) If, after three opportunities (the original and two (2) repeat efforts), the Contractor is unable to correct all deficiencies preventing Final Acceptance of a Deliverable/Service, the State may: (i) demand that the Contractor cure the failure and give the Contractor additional time to cure the failure at the sole expense of the Contractor; or (ii) keep the Contract in force and do, either itself or through other parties, whatever the Contractor has failed to do, and recover the difference between the cost to cure the deficiency and the contract price plus an additional sum equal to 10% of the cost to cure the deficiency to cover the State's general expenses provided the State can furnish proof of the general expenses; or (iii) terminate the particular Statement of Work for default, either in whole or in part by notice to Contractor provided Contractor is unable to cure the breach. Notwithstanding the foregoing, the State cannot use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.

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

### **2.255 Process For Approval of Written Deliverables**

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



### **2.256 Process for Approval of Services**

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

### **2.257 Process for Approval of Physical Deliverables**

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

### **2.258 Final Acceptance**

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

### **2.260 Ownership**

#### **2.261 Ownership of Work Product by State**

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

#### **2.262 Vesting of Rights**

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

#### **2.263 Rights in Data**

(a) The State is the owner of all data made available by the State to the Contractor or its agents, Subcontractors or representatives under the Contract. The Contractor must not use the State's data for any purpose other than providing the Services, nor will any part of the State's data be disclosed, sold, assigned, leased or otherwise disposed of to the general public or to specific third parties or commercially



exploited by or on behalf of the Contractor. No employees of the Contractor, other than those on a strictly need-to-know basis, have access to the State's data. Contractor must not possess or assert any lien or other right against the State's data. Without limiting the generality of this Section, the Contractor must only use personally identifiable information as strictly necessary to provide the Services and must disclose the information only to its employees who have a strict need-to-know the information. The Contractor must comply at all times with all laws and regulations applicable to the personally identifiable information.

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

### **2.264 Ownership of Materials**

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

## **2.270 State Standards**

### **2.271 Existing Technology Standards**

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

### **2.272 Acceptable Use Policy**

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

### **2.273 Systems Changes**

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

### **2.274 Electronic Receipt Processing Standard**

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

## **2.280 Extended Purchasing Program**

### **2.281 Extended Purchasing Program – RESERVED**

## **2.290 Environmental Provision**

### **2.291 Environmental Provision**



#### Hazardous Materials:

For the purposes of this Section, "Hazardous Materials" is a generic term used to describe asbestos, ACBMs, PCBs, petroleum products, construction materials including paint thinners, solvents, gasoline, oil, and any other material the manufacture, use, treatment, storage, transportation, or disposal of which is regulated by the federal, State, or local laws governing the protection of the public health, natural resources, or the environment. This includes, but is not limited to, materials such as batteries and circuit packs, and other materials that are regulated as (1) "Hazardous Materials" under the Hazardous Materials Transportation Act, (2) "chemical hazards" under the Occupational Safety and Health Administration standards, (3) "chemical substances or mixtures" under the Toxic Substances Control Act, (4) "pesticides" under the Federal Insecticide Fungicide and Rodenticide Act, and (5) "hazardous wastes" as defined or listed under the Resource Conservation and Recovery Act.

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

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

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

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

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

#### Refrigeration and Air Conditioning:

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

#### Environmental Performance:

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



**2.300 Other Provisions**

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

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

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



Attachment A, Price Proposal

Back-up Pharmacy Services

Pricing should be based strictly on per hour charge. No further consideration will be made for mileage, travel, meals, equipment or supplies. No overtime rates will be paid.	
Pharmacist – Hourly Rate:	\$69.95

2% discount off invoice if paid within 15-days.

STATE OF MICHIGAN  
 DEPARTMENT OF MILITARY AND VETERANS AFFAIRS  
 GRAND RAPIDS HOME FOR VETERANS  
 3000 MONROE AVE NE  
 GRAND RAPIDS, MI 49505

**CHANGE NOTICE NO. 1**

to

**CONTRACT NO. 511B3200035**

between

**THE STATE OF MICHIGAN**

and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Medical Staffing Network Healthcare LLC 901 Yamato Road, Suite 110 Boca Raton, FL 33431-4415	Beth Bauer	<a href="mailto:bethbauer@msnhealth.com">bethbauer@msnhealth.com</a>
	TELEPHONE	CONTRACTOR #, MAIL CODE
	800-223-9230	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	GRHV	John Carlson	(616) 364-5355	<a href="mailto:CarlsonJ1@michigan.gov">CarlsonJ1@michigan.gov</a>
BUYER:	GRHV	Kerri Bielski	(616) 364-5327	<a href="mailto:BielskiK@michigan.gov">BielskiK@michigan.gov</a>

CONTRACT SUMMARY:				
DESCRIPTION: Back-up Pharmacy Services – Grand Rapids Home for Veterans				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS	CURRENT EXPIRATION DATE	
July 15, 2013	September 30, 2016	Two 1-Year Options	-	
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM	
2%15/Net30	Delivered			
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				

DESCRIPTION OF CHANGE NOTICE:		
OPTION EXERCISED: <input type="checkbox"/> NO <input type="checkbox"/> YES	IF YES,EFFECTIVE DATE OF CHANGE:	NEW EXPIRATION DATE:
PROVIDE THE DETAIL OF THE CHANGE NOTICE		
<p><b>Effective October 24, 2013 through September 30, 2014, Pharmacy Technician Services have been added to the Contract at \$24.95 per hour. All services are to be provided in accordance with the current Contract terms, conditions and specifications. Total hours worked must not exceed 832-hours.</b></p>		
VALUE/COST OF CHANGE NOTICE:	\$39,495.85	
ESTIMATED REVISED AGGREGATE CONTRACT VALUE:	\$99,975.85 (\$60,480.00 + 39,495.85)	

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**FOR THE CONTRACTOR:**

Medical Staffing Network Healthcare LLC

Firm Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

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**FOR THE STATE:**

Signature

Kimberly Graham, Buyer Manager

Name/Title

Dept. of Military & Veterans Affairs

Enter Name of Agency

Date

STATE OF MICHIGAN  
 DEPARTMENT OF MILITARY & VETERANS AFFAIRS  
 GRAND RAPIDS HOME FOR VETERANS  
 PURCHASING & CONTRACTS  
 3000 MONROE AVENUE SE  
 GRAND RAPIDS, MI 49505

**CHANGE NOTICE NO. 2**

to

**CONTRACT NO. 511B3200035**

between

**THE STATE OF MICHIGAN**

and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Medical Staffing Network Healthcare LLC 901 Yamato Road, Suite 110 Boca Raton, FL 33431-4415	Beth Bauer	<a href="mailto:bethbauer@msnhealth.com">bethbauer@msnhealth.com</a>
	TELEPHONE	CONTRACTOR #, MAIL CODE
	800-223-9230	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DMVA-GRHV	John Carlson	616-364-5355	<a href="mailto:CarlsonJ1@michigan.gov">CarlsonJ1@michigan.gov</a>
BUYER:	DMVA-GRHV	Kerri Bielski	616-364-5327	<a href="mailto:BielskiK@michigan.gov">BielskiK@michigan.gov</a>

CONTRACT SUMMARY:			
DESCRIPTION: Back-up Pharmacy Services – Grand Rapids Home for Veterans			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS	CURRENT EXPIRATION DATE
July 15, 2013	September 30, 2016	Two 1-Year Options	September 30, 2016
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
2%15/Net30	Delivered	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:		
OPTION EXERCISED: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	IF YES,EFFECTIVE DATE OF CHANGE:	NEW EXPIRATION DATE:
Effective immediately the Grand Rapids Home for Veterans' Policies for Abuse/Neglect Member and Facility Complaint Resolution Process for Members/Families are hereby added to the Contract.		
VALUE/COST OF CHANGE NOTICE:	\$0.00	
ESTIMATED REVISED AGGREGATE CONTRACT VALUE:	\$60,480.00	

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**FOR THE CONTRACTOR:**

Medical Staffing Network Healthcare LLC

Firm Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

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**FOR THE STATE:**

Signature

Kimberly Graham, Buyer Manager

Name/Title

Dept. of Military & Veterans Affairs

Enter Name of Agency

Date

GRAND RAPIDS HOME FOR VETERANS  
ADMINISTRATIVE POLICIES AND PROCEDURES

Policy Number: 01-02-A4  
Policy Subject: **ABUSE/NEGLECT-MEMBER**  
Effective Date: 11/08/13  
Responsible Persons: Administrator  
Division Directors  
All Staff  
  
Submitted by: JoAnne Cripps, R.N., MSN, Director of Nursing

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Policy: To promptly investigate alleged abuse/neglect/exploitation and take appropriate administrative action.  
  
To maintain operational integrity and compliance with lawfully applied regulations, requirements, and standards.

Purpose: To provide a process for administrative response to allegations of abuse/neglect/exploitation of members and to promote the prevention of abuse/neglect/exploitation of members.

References: Reference to 11-05-M1, Member Incident Reporting  
United States Veterans Administration Rules and Regulations

Attachments: A1-2 Incident Report (GRHV 138)  
B. LARA Investigation Guide  
C. LARA Algorithm

Approved by:	
<hr style="width: 80%; margin-left: 0;"/>	<u>November 8, 2013</u>
Sara Dunne, Administrator	Date

**I. STANDARDS**

- A. All employees at GRHV, including state employees, contract employees, and volunteers, are required to report all suspicions of abuse, neglect, and exploitation immediately to their supervisor, who will in turn report to the Director of Nursing and the Administrator.
1. Employees will assure the following:
- a. Staff shall refrain from use of oral, written, or gestured language that includes disparaging and/or derogatory terms to members or their families to describe members, regardless of their age, ability to comprehend, or disability.
  - b. Staff shall not hit, slap, pinch, kick, or otherwise physically abuse any member or attempt to control member behavior through corporal punishment.
  - c. Staff shall not humiliate, harass, or threaten any member with punishment or deprivation.
  - d. Staff shall respond immediately to each member's request for help and/or assistance in a positive, supportive manner, regardless of member's cognitive abilities/impairment or repeated injuries.
  - e. Staff will assist in identifying/marketing member's possessions to prevent loss or theft.
  - f. Staff will not be allowed to accept gifts from members/families unless approved by the Administrator.
  - g. Staff shall not move or relocate member's belongings/property without member (family) notification. Such notifications must be documented.
  - h. Staff will assist in facility searches to locate a member's missing items. Results of such searches shall be documented.
  - i. Staff shall complete an Incident Report (GRHV 138) for any accidents involving injury to member(s). (See *Member Incident Reporting Policy 11-05-M1*).

- B. Failure to report suspected abuse/neglect/exploitation immediately is a violation of GRHV work rules and can result in disciplinary action, up to and including termination.
- C. When abuse or neglect is suspected, member rights and safety must be assured at all times to prevent further potential abuse and/or retaliation while the investigation is in progress.
- D. The orientation of new employees includes provision and discussion of the *Abuse and Neglect Policy 01-02-A4* with signed acknowledgment of same.
- E. Annual review of the Abuse/Neglect Policy will be provided for employees in the yearly mandatory in-service module.
- F. Investigative questioning of employees shall be in accordance with Civil Service Rules, Department of Military and Veterans Affairs Administrative Policies and all current union contracts.
- G. An employee is entitled to a representative being present during investigative questioning if that employee is suspected of misconduct for the incident.
- H. When necessary, involved employees may be suspended pending investigation.
- I. For the purpose of the 24-Hour Intershift Communication Report, "Special Incident" refers to an allegation of abuse and neglect.

**II. DEFINITIONS – The following examples do not represent an all-inclusive list.**

**ABUSE: Willful harm or threatened harm to a member's health or welfare including physical or mental injury and sexual abuse.**

**Examples**

- Shoving, slapping, poking, punching or pinching a member.
- Unwanted physical contact, with or without propositions for sexual intercourse, such as pushing, touching, pinching, and brushing the body or assault.
- Verbal intimidation, demeaning, harassing, ridiculing, teasing, threatening or coercing of a member.
- Demeaning, threatening or forceful gestures.
- Physical isolation and non-ordered restraint of a member.

**NEGLECT: Any impaired quality of life for an individual because of the absence of minimal services or resources to meet basic needs.**

Examples

- Willful failure to provide appropriate food, fluids, turning, etc.
- Willful violation of the Home's policies and/or work rules in caring for members and performing other job responsibilities.
- Inadequate supervision of members.
- Failure to immediately report significant member status changes to the charge person.
- Intentional failure to adhere to fire/safety regulations.

**SEXUAL HARASSMENT: Conduct, which constitutes unwelcome sexual advances requests for sexual favors or other verbal or physical conduct of a sexual nature, where such conduct has the purpose or effect of creating an offensive living environment.**

Examples – Verbal Conduct:

- Sexual slurs, comments, innuendoes, sexually degrading words used to describe an individual, sexual propositions, comments about an individual's body, threats, and suggestive comments or jokes of a sexual nature.

Examples – Non-Verbal Conduct:

- Sexually suggestive objects or pictures, posters with graphic commentaries, suggestive or insulting sounds, whistling, obscene gestures.

**EXPLOITATION: Any action involving misuse of a member's funds, property or personal dignity.**

Examples:

- Accepting money from members.
- Using a photograph of a member without their consent.
- Allowing unauthorized persons to observe care or treatment without the member's consent.
- Personal use or disposal of a member's property or resources.
- Eating or drinking food or fluids intended for members.
- Using a member's belongings for another member.

### III. PROCEDURE FOR REPORTING ABUSE/NEGLECT

#### SUSPECTED ABUSE/NEGLECT MUST LEGALLY BE REPORTED.

<u>Who</u>	<u>Does What</u>
Employee	<ol style="list-style-type: none"><li>1. Verbally reports observation/knowledge to immediate supervisor and/or nursing house supervisor.</li><li>2. When employee is from a department other than nursing and has not notified the nursing supervisor, then the employee's supervisor will notify the nursing house supervisor (or designee), Unit Coordinator, or Charge Nurse.</li></ol>
House Supervisor, Unit Coordinator, or Charge Nurse	<ol style="list-style-type: none"><li>3. Notifies Director of Nursing (or designee) immediately.</li><li>4. Assesses member and assures appropriate care and a safe environment is provided.</li><li>5. Photographs visible injuries (with patient consent or Guardian's consent).</li><li>6. Collaborates with reporting employee to complete the incident report per <i>Member Incident Reporting Policy 11-05-M1</i> and delivers to Director of Nursing.</li><li>7. In a member's record, complete a brief, factual description of what happened without speculation, opinion, commentary or conclusion, including statements from member, if applicable.</li><li>8. Documents incident on 24-hour Inter-shift Communication Record as "Special Incident—refer to Interdisciplinary Notes".</li></ol>
Director of Nursing (or designee)	<ol style="list-style-type: none"><li>9. Reviews incident report.</li><li>10. Immediately notifies Administrator (or designee), Human Resources (or designee), Social Work Director (or designee) and member's family or guardian.</li><li>11. In the event abuse occurs between members, investigation</li></ol>

procedures will be the same. In the event that abuse is substantiated, the Director of Nursing/Designee will follow the VA recommendations for reporting.

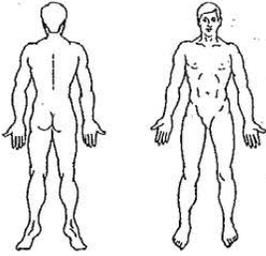
12. The Administration or Director of Nursing shall report the results of all investigations to appropriate officials and agencies in accordance with State and Federal Laws.
13. Forwards incident report to Administrator (or designee).
- Human Resources  
(or designee)**
  14. Directs investigation and maintains a central location for all information pertaining to the investigation
  15. Provides written investigation report and recommendations to Administrator (or designee) and Director of Nursing (or designee) within five (5) working days of the incident.
- Administrator  
(or designee)**
  16. Reviews Incident Report.
  17. Collaborates with Director of Nursing (or designee) and Human Resources (or designee) in planning investigation, reviewing report.
  18. Collaborates with Human Resources (or designee) and appropriate department heads to determine action to be taken with employee(s) involved in validated abuse/neglect/ exploitation of members.
  19. Penalty for substantiated abuse action: If an alleged violation of abuse or neglect is verified, appropriate disciplinary action shall be taken which may include official reprimand, demotion, suspension, reassignment, or dismissal. The decision is under the discretion of the Administrator. No employee shall be continued in an assignment involving direct member care, when in the opinion of the Administrator, his actions have demonstrated an impairment in judgment or emotional control which may be detrimental to the safety and/or health of members.
  20. Reports to Bureau of Health Care Services (BHCS) Facility Complaint & Investigation Section, Department of Community

Health (DCH): When an allegation of abuse or neglect has been made, which results in physical evidence of abuse or neglect and is entered into member's nursing notes, a report will be made to the BHCS Facility Complaint & Investigation Section and the VA Medical Center of jurisdiction (as soon as possible). At such a time as the allegation of abuse or neglect has been substantiated in the opinion of the Administrator and penalty action has been invoked, copies of the reports on which the decision of the Administrator is based, will also be furnished to the BHCS, DCH, and the VA within ten (10) working days; providing a copy of report to the accused employee will be in compliance with statute.

Attachment A-1

CAREGIVER NAME : \_\_\_\_\_

MICHIGAN DEPARTMENT OF MILITARY AFFAIRS  
GRAND RAPIDS HOME FOR VETERANS  
INCIDENT REPORT MEMBER/VISITOR

An incident is any happening that is not consistent with the routine operation of the facility or the routine care of a particular member. It may be an accident or a situation that could result in an accident.						For office use only: Code #		
Person Involved (Last Name)		(First Name)		(M.I.)	M	F	DOB	UNIT
Date of Incident		LOCATION INCIDENT OCCURRED						
Time of Incident: AM <input type="checkbox"/> PM <input type="checkbox"/>		<input type="checkbox"/> Member RM#	<input type="checkbox"/> Parking Lot	<input type="checkbox"/> Laundry Room	<input type="checkbox"/> Other: _____			Was person involved authorized to be at location of incident? <input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Hallway	<input type="checkbox"/> Kitchen	<input type="checkbox"/> Dining Room				
If VISITOR <input type="checkbox"/> Complete → OTHER <input type="checkbox"/> Complete →		Home Address			Home Phone			
		Occupation		Reason for presence at this facility				
If observed, by (Name, Title, Address & Phone)								
DESCRIBE EXACTLY WHAT HAPPENED IF YOU KNOW or WHAT YOU SAW or WHAT YOU HEARD:								
SIGNATURE OF STAFF PERSON DISCOVERING INCIDENT: _____ Date: _____								
EQUIPMENT				TYPE OF INCIDENT				
<input type="checkbox"/> None involved				<input type="checkbox"/> Observed <input type="checkbox"/> Unobserved				
Bedrails <input type="checkbox"/> Not present <input type="checkbox"/> Up <input type="checkbox"/> Down <input type="checkbox"/> Not adjustable <input type="checkbox"/> Up <input type="checkbox"/> Down				<input type="checkbox"/> Fall				<input type="checkbox"/> Physical Assault/Altercation
Safety devices <input type="checkbox"/> Not ordered <input type="checkbox"/> In use <input type="checkbox"/> Not in use				<input type="checkbox"/> Medication related				<input type="checkbox"/> Food/beverage related
Wheelchair/Walker/Mobility Device <input type="checkbox"/> Not ordered <input type="checkbox"/> In use <input type="checkbox"/> Not in use				<input type="checkbox"/> Blood/IV related				<input type="checkbox"/> Elopement or other leave-taking event
Other: _____				<input type="checkbox"/> Treatment/Test/Procedure related				<input type="checkbox"/> Property damage/loss/theft
Was equipment functioning properly? <input type="checkbox"/> Yes <input type="checkbox"/> No, Describe: _____				Was family/member's Representative notified <input type="checkbox"/> Yes <input type="checkbox"/> No		If Yes, Person Contacted		Time notified <input type="checkbox"/> AM <input type="checkbox"/> PM
Was attending Physician notified? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, Physician's Name		Time notified <input type="checkbox"/> AM <input type="checkbox"/> PM	Was person involved seen by a physician? <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, Physician's Name		Date/Time	
Was person taken to hospital? <input type="checkbox"/> Yes <input type="checkbox"/> No			If yes, Hospital name		By Whom:		Date	
PERTINENT HEALTH STATUS INFORMATION - including assessment, injuries & post-incident care				Indicate on diagram type and location of injury.				
Vital Signs		Meds given in last 12 hours:		TYPE OF INJURY				
T				<input type="checkbox"/> 1. None				
P				<input type="checkbox"/> 2. Laceration				
R				<input type="checkbox"/> 3. Hematoma				
B/P				<input type="checkbox"/> 4. Abrasion				
Other information, including First Aid administered:				<input type="checkbox"/> 5. Burn				
				<input type="checkbox"/> 6. Swelling				
				<input type="checkbox"/> 7. Other (specify below)				
OT/PT:								
USUAL COGNITIVE STATUS <input type="checkbox"/> No impairment <input type="checkbox"/> Memory impaired <input type="checkbox"/> Decision making impaired				<input type="checkbox"/> Delirium indicators present <input type="checkbox"/> Comatose				
				Other: _____ Diagnoses: _____				
SIGNATURE OF NURSE: _____							Date: _____	
Physician Statement: _____							Date: _____	
Physician Signature: _____							Date: _____	

GRHV 138 (12/12/12)  
ACT 152; PA 1885

THIS REPORT IS CONSIDERED CONFIDENTIAL  
AND IS NOT PART OF THE MEMBER MEDICAL RECORD. DO NOT FILE IN MEMBER CHART (OVER)

Attachment A-2

Grand Rapids Home for Veterans  
**Supervisory Analysis**

NAME:		AGE	UNIT	TIME OF DAY <input type="checkbox"/> AM <input type="checkbox"/> PM	DATE															
Location of Incident:		IF EMPLOYEES WERE INVOLVED INDICATE:																		
		Dept:	Position:	How long in this capacity:																
WHY DID IT HAPPEN? Get all the facts by studying the incident, including job hindrances involved.																				
WHAT SHOULD BE DONE?																				
WHAT HAVE YOU DONE THUS FAR:				Determine which of the 12 items under EMP required additional attention:  <table border="0"> <tr> <td><u>Equipment</u></td> <td><u>Material</u></td> <td><u>People</u></td> </tr> <tr> <td>Select</td> <td>Select</td> <td>Select</td> </tr> <tr> <td>Arrange</td> <td>Place</td> <td>Place</td> </tr> <tr> <td>Use</td> <td>Handle</td> <td>Train</td> </tr> <tr> <td>Maintain</td> <td>Use</td> <td>Lead</td> </tr> </table>		<u>Equipment</u>	<u>Material</u>	<u>People</u>	Select	Select	Select	Arrange	Place	Place	Use	Handle	Train	Maintain	Use	Lead
<u>Equipment</u>	<u>Material</u>	<u>People</u>																		
Select	Select	Select																		
Arrange	Place	Place																		
Use	Handle	Train																		
Maintain	Use	Lead																		
				<u>Take or recommend action</u> , depending upon your authority. Was action effective?																
HOW WILL THIS IMPROVE PROCEDURES? <u>OBJECTIVE</u> : Minimize Risk																				
Analysis by:				Date:																
Reviewed by:				Date:																
Nursing Service/Department Head:			Incident Code:	Date																
Medical Director				Date																
Administrator				Date																

Attachment B



**INVESTIGATION GUIDE**

**ABUSE, NEGLECT, MISTREATMENT, MISAPPROPRIATION  
AND INJURY OF UNKNOWN ORIGIN**

- ▶ TO REPORT AN ALLEGATION OR SUSPICION OF ABUSE, NEGLECT, OR MISAPPROPRIATION OF RESIDENT PROPERTY, USE PAGE 1
- ▶ IF INJURY OF UNKNOWN ORIGIN, SEE PAGE 2

**1. IMMEDIATELY**

- Secure resident's safety
- Assess the resident, provide medical and/or psychosocial treatment as necessary
- Examine the resident's injury and/or psychosocial changes and document the description in the medical record
- Remove alleged perpetrator (staff, family, or visitor) from contact with all residents and staff pending outcome of investigation
- Take measures to prevent recurrence if alleged perpetrator is a resident
- Document date and time injury was discovered in the resident's medical record
- Notify physician if the injury (physical and/or psychosocial) has the potential to require physician intervention
- Notify the resident's legal representative if there is a significant change in health status
- Immediately (as soon as possible but no later than 24 hours) notify the administrator
- Administrator or designee notifies BHS, local law enforcement, and/or other state agencies as required
- Immediately (as soon as possible but no later than 24 hours) notify BHCS of all allegations: by completing the **BHCS-LTC-362** online submission form found on the BHCS website.

**2. INVESTIGATE**

- Document date and time of all notifications per facility policy
- Interview and/or obtain statement from person reporting allegation or suspicion
- Interview and/or obtain statement from victim/resident
- Interview and/or obtain statement from alleged perpetrator
- Interview and/or obtain statements from potential witnesses as determined by the scope of the investigation
- Review the resident's medical record for relevant information (diagnosis, history, similar injuries, etc.)
- Review materials and complete investigation (refer to abuse investigation protocol and facility policy)
- Conduct root cause analysis

**3. WITHIN 10 WORKING DAYS  
OF INCIDENT**

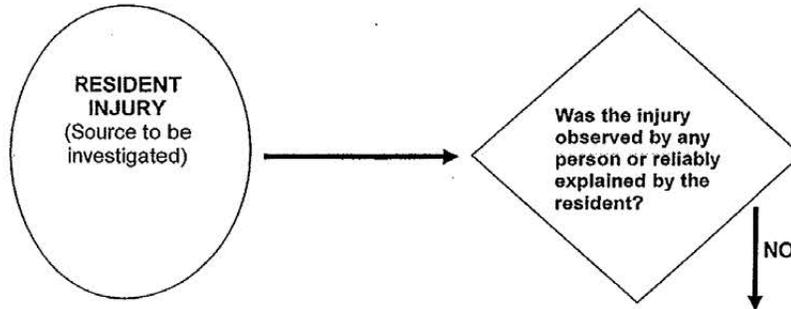
- Report the results of investigation to the administrator
- Report the results of investigation to BHCS on the **BHCS-LTC-363** form within five (5) working days and with supporting documentation scanned and attached
- Initiate corrective measures (if applicable) to prevent recurrence

LARA, Bureau of Health Care Services (BHCS)  
Facility Complaint & Investigation Section  
611 W. Ottawa Street, Lansing MI 48933  
Hotline: 1-800-882-6006  
BHS Website: <http://www.michigan.gov/bhcs>

Attachment C

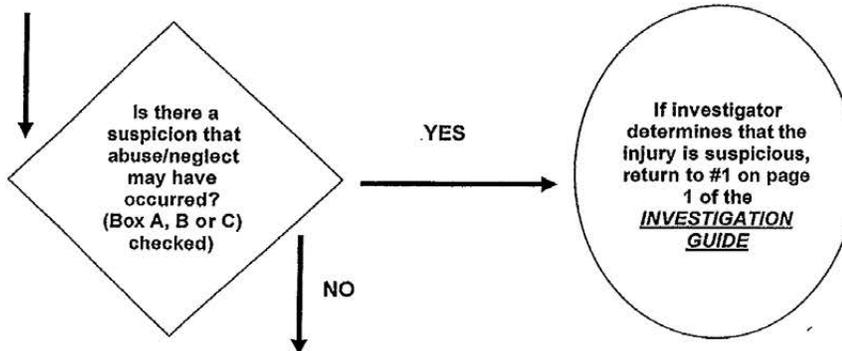


INJURY OF UNKNOWN ORIGIN ALGORITHM



The Director of Nursing (or designated licensed staff) should determine the scope of the investigation based on the nature of the injury (such as skin tears or bruises) and professional judgment with the following:

- A. Is the injury suspicious because of the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma such as the trunk, breast or inner thigh) or because of the extent of the injury (e.g., multiple bruises) OR
- B. Is the injury suspicious due to the number of injuries observed at one particular point in time or the incidents of injuries over time? OR
- C. Does the injury impair function or limit range of motion?



- Document the summary of investigation and conclusions.
- Review the resident's plan of care and revise as necessary to prevent recurrence of injury.
- Complete documentation of injury within 24 hours. No report to BHS is necessary.

Rev. 02/13 – 191625

GRAND RAPIDS HOME FOR VETERANS  
ADMINISTRATIVE POLICIES AND PROCEDURES

Policy Number: 01-02-F1  
Policy Subject: **FACILITY COMPLAINT RESOLUTION PROCESS  
FOR MEMBERS/FAMILIES**  
Effective Date: 8/28/2013  
Responsible Persons: Administrator  
Division Directors  
Board of Managers  
Submitted by: Gary Davis, Director of Social Services

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Purpose: To describe the appropriate mechanism for the investigation and resolution of member/family complaints  
References: USDVA Long-term care regulations  
Attachments: (1) Issue Identification Form, GRHV #146  
(2) GRHV Complaint Appeal Form, GRHV #149

Approved by:

\_\_\_\_\_  
Sara Dunne, Administrator

8/28/13

\_\_\_\_\_  
Date

## STANDARDS

1. Persons with complaints against the Home regarding policies, quality of care, or quality of life may make a written or verbal complaint.
  2. Persons believing that federal or state regulations applicable to the Home are being violated may make a written or verbal complaint.
  3. Persons are allowed to voice any and all concerns or complaints, free from interference, coercion, discrimination, or reprisal.
  4. All written complaints are maintained at the Home for four (4) years after the complaint has been resolved and indefinitely for unresolved issues.
- 

## The Home's Responsibility

1. The Facility Complaint Resolution Procedure and the Issue Identification Form will be posted on bulletin boards located throughout the Home.
2. The assigned Social Worker shall provide a copy of the Member Guide Book which identifies the procedures for complaint resolution to all members, guardians, families, and/or responsible parties at the time of admission.
3. The Home shall provide assistance for the members who need a mechanism to voice their concerns, complaints, and/or issues, and to participate in decision making.
4. The Home may provide a meeting for guardians of members, members of a resident's family, designated representatives, and/or any interested party, to voice any concerns about members' quality of care and/or quality of life.
5. Further questions may be addressed to Division Directors or the Administrator.

## Process of Resolution:

### STEP I

To resolve an issue, ask to speak with the person in charge of the area that you are concerned about. For example: For nursing issues, ask to speak with the Nursing Supervisor

- a. Issues occurring during regular state business days (Monday – Friday) between 8:00 a.m. and 4:30 p.m., ask to speak to the person in charge of the department/program area; i.e., Nutrition Services, Housekeeping, etc. Our intent is for the immediate supervisor to be able to solve the problem.
- b. Issues occurring during weekdays between 4:30 p.m. and 8:00 a.m., weekends or holidays, call the House Supervisor at 364-5365.

### STEP II

If the problem is not resolved at the Step 1 level, complete an Issue Identification form. These forms (Attachment No. 1) are readily available in boxes throughout the Home.

Department of Military & Veterans Affairs  
GRAND RAPIDS HOME FOR VETERANS  
Social Service Director  
3000 Monroe Avenue, NE  
Grand Rapids, MI 49505-3397

All complaint investigations will begin immediately upon receipt. Within ten (10) business days, a written report of the results of the investigation, or a written status report indicating when the report may be expected, will be delivered to the complainant. The complainant may request that the response be in written and/or verbal form.

The Home will maintain a tracking log of all complaints.

WHO	DOES WHAT
Social Service Director	<ol style="list-style-type: none"><li>1. Receives issue identification form and logs it for tracking purposes, indicating the date received.</li><li>2. Determines which department is responsible for addressing the complaint and sends it on to that department manager for investigation and a response.</li></ol>
Department Manager	<ol style="list-style-type: none"><li>3. Reviews the issue identification/complaint and investigates the concern. (This may be delegated to another manager when appropriate.)</li><li>4. Prepares a written response and returns it to the Social Service Director or the Administrator's designee.</li></ol>
Social Service Dir. or Designee	<ol style="list-style-type: none"><li>5. Within ten (10) business days, prepares a final written response and communicates that to the person identifying the concern.</li></ol>

### STEP III

If the complaint is not resolved at the Step II level, the person(s) that filed the complaint may request a compliance conference with the Administrator to express his/her concerns and seek another means of resolution.

- a. The compliance conference will occur within ten (10) business days after receiving a request for the compliance conference.
- b. Within ten (10) business days following a compliance conference, the Administrator will provide the complainant written notice of the Administrator's decision on the GRHV Complaint Form (Attachment No. 2).

#### STEP IV

If the complaint is not resolved at the Step III level, the person(s) that filed the complaint may request a compliance conference with the Board of Managers' Ombudsman to express his/her concerns and seek another means of resolution. The Ombudsman will work with the Administrator to review the complaint, the determination of the resolution, and to make possible recommendations for resolving the complaint.

- a. The administrator will contact the Ombudsman within ten (10) business days after receiving the request for the compliance conference.
- b. Within twenty (20) business days the Ombudsman, or designee, will meet with the complainant and the administrator, make possible recommendations, and provide a written response to the complainant and Administrator.

#### STEP V

Within fifteen (15) business days of service of the written notice of the Ombudsman's decision, the complainant may request, in writing a hearing before the Board of Managers to appeal the decision. The complainant will receive in writing the Boards availability for appearing before them. Once the appeal has been made to the Board, the complainant will receive a written decision within twenty (20) business days.

#### STEP VI

If the complaint cannot be resolved at the Administrative hearing, the complainant has the option of forwarding the complaint to any of the following listed below. Also the complainant can contact any agency, organization, or representative which advocates for individuals who reside in long term care facilities for assistance.

1. Jim Dunn, Deputy Director of  
Michigan Veteran Affairs Agency  
222 Washington Square North, 5<sup>th</sup> Floor  
Lansing, MI 48933  
Phone: (517) 284-5295  
(Mailing) P.O. Box 30104, Lansing, MI 48909
2. Adult Well-Being Services  
(Local Long-Term Care Ombudsman)  
1695 Service Road, NE, Suite #106  
Grand Rapids, MI 49503  
Phone: (616) 245-9451  
Toll Free (800) 782-2918
3. Kent County Department of Human Services  
Adult Protective Services  
121 Franklin St SE  
Suite 200  
Grand Rapids, MI 49507  
Phone: (855) 444-3911  
Reporting Abuse & Neglect – 24/7 Hotline

4. Michigan Department of Licensing & Regulatory Affairs  
Bureau of Health Care Services  
Health Professions Division  
P.O. Box 30454  
Lansing, MI 48909-9897  
(517) 373-9196
  
5. Health Care Fraud Division of  
Michigan Department of Attorney General  
P.O. Box 30218  
Lansing, MI 48909  
Phone: (517) 241-6525
  
6. Department of Civil Rights  
Grand Rapids Office, State Office Building, 4th Floor  
350 Ottawa, NW  
Grand Rapids, MI 49503  
Phone: (616) 356-0380  
Fax: (616) 356-0399  
TTY: (616) 356-0391





Attachment 2

**GRHV FACILITY COMPLAINT APPEAL FORM**

The Grand Rapids Home for Veterans encourages any and all concerns or complaints regarding members' quality of care and/or quality of life to be processed in an orderly fashion.

<b>STEP I DIVISION DIRECTOR or SOCIAL SERVICE DIRECTOR</b> <i>Follow-up of complaint and response to complainant within fifteen (15) days of receipt of complaint.</i>		
Date of complaint	Name of member involved	Unit & room no.
Name and address of person making complaint		Phone No.
What department is involved? (see listing on reverse side) Describe complaint:		
Date complaint received by division: _____ Time: _____ By: _____ Position: _____		
WAS THE COMPLAINT RESOLVED? <input type="checkbox"/> YES <input type="checkbox"/> NO In what form was response given to complainant? <input type="checkbox"/> Written <input type="checkbox"/> Verbal		
Signature		Date

<b>STEP II APPEAL TO THE ADMINISTRATOR</b> <i>Meeting with complainant must occur within ten (10) business days from the date the appeal is received.</i>	
Date complaint received by Administrator: _____ Time _____	
Resolution response of committee to complainant.	
WAS THE COMPLAINT RESOLVED? <input type="checkbox"/> YES <input type="checkbox"/> NO Recommendations for further appeals	
Signature (Administrator)	Date

**STEP III APPEAL TO THE BOARD OF MANAGERS OMBUDSMAN**  
*Meeting with complainant must occur within twenty (20) business days from the date the appeal is received.*

Date complaint received by Ombudsman: \_\_\_\_\_ Time \_\_\_\_\_

Resolution recommendations to complainant/Administrator.

WAS THE COMPLAINT RESOLVED?  YES  NO

Recommendation for further appeal?

Signature (Ombudsman) \_\_\_\_\_ Date \_\_\_\_\_

THE COMPLAINANT SHALL RECEIVE A COPY OF THIS FORM

DEPARTMENTS	
<p><b>EXECUTIVE DIVISION</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Administrator's Office</li> <li><input type="checkbox"/> Quality Management</li> <li><input type="checkbox"/> Fire/Safety</li> </ul> <p><b>BUSINESS SERVICES</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Director's Office</li> <li><input type="checkbox"/> Computers</li> <li><input type="checkbox"/> Accounting</li> <li><input type="checkbox"/> Procurement</li> </ul> <p><b>GENERAL SERVICES</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Director's Office</li> <li><input type="checkbox"/> Building/Mechanical Maintenance</li> <li><input type="checkbox"/> Grounds</li> <li><input type="checkbox"/> Transportation</li> <li><input type="checkbox"/> Housekeeping</li> <li><input type="checkbox"/> Laundry</li> <li><input type="checkbox"/> Material Management</li> </ul> <p><b>MEMBER AND COMMUNITY RELATIONS</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Activity Therapy</li> <li><input type="checkbox"/> Volunteer Services</li> </ul> <p><b>MEDICAL SERVICES</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Director's Office</li> <li><input type="checkbox"/> Pharmacy Services</li> <li><input type="checkbox"/> Medical Records</li> </ul> <p><b>NUTRITION SERVICES</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Director's Office</li> </ul>	<p><b>SOCIAL SERVICES</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Director's Office</li> <li><input type="checkbox"/> Social Work</li> <li><input type="checkbox"/> Special Concerns/Svcs/Programs for Members</li> <li><input type="checkbox"/> Chaplain Services</li> </ul> <p><b>NURSING SERVICES</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Director's Office</li> <li><input type="checkbox"/> Admissions/Transfers</li> <li><input type="checkbox"/> Medication</li> <li><input type="checkbox"/> Infection Control</li> <li><input type="checkbox"/> Safety</li> <li><input type="checkbox"/> Clinic Services</li> <li><input type="checkbox"/> Member Scheduling</li> </ul> <p><b>THERAPY DEPARTMENTS</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Occupational Therapy</li> <li><input type="checkbox"/> Physical Therapy</li> <li><input type="checkbox"/> Respiratory Therapy</li> </ul> <hr/> <p><b>FINAINCIAL SERVICES (does not report to GRHV)</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Veterans' Benefits</li> <li><input type="checkbox"/> Billing</li> <li><input type="checkbox"/> Member Finances</li> <li><input type="checkbox"/> Bank</li> </ul> <p><b>HUMAN RESOURCES (does not report to GRHV)</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Personnel Issue</li> <li><input type="checkbox"/> Labor Relations</li> </ul>