

the date of execution of this Change Notice exceed a total cap of \$4,000,000.

- B. The State and HP hereby agree to the specific standards and time schedules for performance of Services set forth in this Change Notice. It is agreed between HP and the State that the actual damages to the State as a result of HP's failure to provide promised Services in the manner specified would be difficult or impossible to determine with accuracy. The State and HP therefore agree that liquidated damages as set out herein shall be a reasonable approximation of the damages that shall be suffered by the State as a result thereof. Accordingly, in the event of such damages, at the written direction of the State, HP shall pay the State the indicated amount as liquidated damages, and not as a penalty, but in no event will the aggregate amount of liquidated damages in respect of events that occur on or after to the date of execution of this Change Notice exceed \$7,800,000. Amounts due the State as liquidated damages, if not paid by HP within fifteen (15) days of notification of assessment, may be deducted by the State from (i) any Holdback Amounts retained by the State pursuant to Section 5.3, or (ii) any money payable to HP pursuant to this Contract. The State will notify HP in writing of any claim for liquidated damages pursuant to this paragraph on or before the date the State deducts such sums from the Holdback Amounts or money payable to HP. No delay by the State in assessing or collecting liquidated damages shall be construed as a waiver of such rights.
- C. HP shall not be liable for liquidated damages when performance failures or delays that would otherwise trigger the imposition of liquidated damages result from causes that are not due predominantly to the fault or negligence of HP, with the burden of proof being on HP to demonstrate that the failure or delay was not due predominantly to the fault or negligence of HP. Performance failures or delays will not be deemed to be due predominantly to the fault of HP if caused directly by any of the following: (i) acts of God, fires, floods, epidemics, and labor unrest not caused by HP's negligence and outside its control; or (ii) the failure of the State (or its other contractors or suppliers) to perform in a timely manner State responsibilities under the Contract on which HP's ability to perform is dependent.
- D. Liquidated damages (LDs) will be assessed as follows:
1. For failure to meet the contractual achievement date set forth in Section 8.1 above for any of the Critical Milestones 2, 3, 5, 6 and 7, liquidated damages in the amount of \$505,765.00 per month (which is equal to the monthly payment made by MDOS to DTMB through an Interdepartmental Grant for support of the dual system) shall be payable. The State, in its sole discretion, may allow HP a grace period of 60 days prior to assessing any monthly liquidated damages. In addition, the following process will be followed:
 - I. Missed contractual achievement date for one of the listed Critical Milestones: The State will send HP a notice that will become part of the Contract file to indicate when LDs will begin accruing (the day after the missed Critical Milestone).
 - II. If HP believes its failure to meet the contractual achievement date for the Critical Milestone should be excused under Section 8.2.C, HP can appeal the State's decision to impose LDs by submitting to the EC, within 10 days after receiving the State's notice, a written explanation of the reasons why HP believes the failure should be excused under Section 8.2.C and the new contractual achievement date that HP proposes be established for the affected Critical Milestone.
 - III. Within 30 days after receiving HP's written notice challenging the State's decision to impose LDs, the EC will issue a written decision

to HP, either affirming the imposition of LDs by the State on account of HP's failure or, alternatively, excusing HP's failure and setting a new contractual achievement date for the affected Critical Milestone.

- IV. Notwithstanding anything else to the contrary in the Contract, if LDs have accrued under this Section 8.2.D.1 for a period of 100 days and HP has still not achieved the affected Critical Milestone, such failure shall constitute a material breach of Contract in respect of which the State may, without prejudice to any other rights and remedies available to the State under the Contract, at law or in equity, immediately terminate the Contract for default by HP and seek its available remedies without being required to afford HP any further opportunity to cure.
2. HP agrees to maintain the uptime of the BAM Applications and Modules deployed in production at a minimum level of 99.99% during each fiscal quarter. In the event that a branch or in-house unit's operations experience a disruption in service due to the BAM Application or Module, HP will provide a practical temporary workaround or permanent correction restoring normal branch operations within one hour after first being notified of the service interruption. If HP fails to do so, HP agrees to pay liquidated damages in the amount of \$20,000.00, plus an additional \$5,000.00 for every additional business hour that the service disruption continues, but in no event will the aggregate amount of liquidated damages assessed under this paragraph for any calendar month exceed the total amount payable to HP for Production Support for that month.
3. It is agreed to by both parties that liquidated damages may be established for any future System Enhancements or other Changes that add to the BAM System's functionality. The specifics of the liquidated damages will be negotiated and documented in the associated Change Order.
4. It is acknowledged that Unauthorized Removal of Key Personnel will interfere with the timely and proper completion of the Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to determine the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, HP and the State agree that in the case of any Unauthorized Removal, the State may assess liquidated damages against HP as follows.

For the Unauthorized Removal of any of the Key Personnel listed above in Section 3.1, the liquidated damages amount will be \$5,000.00 per individual if HP identifies a replacement approved by the State, which approval shall not be unreasonably withheld, and assigns the replacement to the Project to work with the Key Person who is leaving for a transition period of at least 30 calendar days before the Key Person's removal. It is understood that HP's personnel may have valid reasons for leaving the Project outside the control of HP, including termination of their employment, serious illness, or other leaves of absence, and replacement of Key Personnel for such reasons shall not be considered an Unauthorized Removal.

If HP fails to assign a replacement to work with the removed Key Person for at least 30 calendar days, in addition to the \$5,000.00 liquidated damages for an Unauthorized Removal, HP shall pay the State liquidated damages in the

amount of \$166.67 per day for each day of the 30-day period that the replacement does not work with the removed Key Person, up to an additional \$5,000.00 maximum per individual. The total amount of liquidated damages that may be assessed per Unauthorized Removal and failure to provide 30 days of transition shall not exceed \$10,000.00 per individual.

In cases of authorized removal of Key Personnel or other Project resources, HP will use diligent efforts to propose suitable replacement personnel. Where possible, replacement staff will overlap their role with their predecessor to ease knowledge transfer.

8.3 Defect Levels for Acceptance of BAM Application Releases (Pre-Production)

The Defect priority assignment categories for BAM Application deliverables is as follows:

Classification	Definition	Impact Based on Release	Workaround Available?	When Fixed
Critical	System is not acceptable, loss of data, severe memory leak, system can't produce legal or other required output,	Showstopper	None	Must be fixed prior to production launch for impacted release.
High	Significantly impairs the end-user normal business operations and/or causes the MI BAM system to be out of compliance with Federal or State laws and regulations; major loss of function.	Showstopper or Non-showstopper	If non-showstopper, no impact to business or Workaround must exist in order for it to be implemented post Acceptance; however, it is only acceptable for a limited time. If showstopper, must be fixed prior to going live.	A high non-showstopper may be fixed post Acceptance, however, Defects must be fixed, tested and implemented within 120 calendar days. A showstopper high must be fixed prior to production release.
Medium	Defect causes core functionality to not operate correctly; however, it does not significantly impair the end-user normal business operations or compliance of the MI BAM system.	Non-showstopper	Workaround is available and can be performed for an extended period of time	May be fixed post-Acceptance; HP and State to determine release schedule via Production Support.
Low	Defect does not significantly impair end-user normal business operations or compliance of the MI BAM and does not impact core functionality; cosmetic, misspelt words, misaligned text, GUI issues in static text or error messages.	Non-showstopper	N/A	May be fixed post-Acceptance; HP and State to determine release schedule via Production Support.

Note: The Defect priority assignment categories for BAM Application releases that have been Accepted and deployed in production are set forth in Section 3.1 of Exhibit I.

9.0 Other

9.1 Contractor Written Deliverables

The State – working with HP - will update the Project schedule to ensure all deliverables are included and have appropriate completion dates identified. All written deliverables must include the appropriate review cycles, as defined in Schedule E of this Change Notice, or as otherwise agreed to by both parties.

The State will adjust the Project schedule as necessary to accommodate the inclusion of any Changes required by new legislative or court-ordered compliance mandates. In the event this occurs, the impact to deliverables will be subject to the Change Management Process set forth in Schedule B to this Change Notice.

9.2 Required Project Management and IV&V Support

HP shall collaborate with the Project Management Office (PMO) and the Independent Verification and Validation (IV&V) vendor through all phase/stages of the Project, and as specifically described in this Change Notice. HP agrees to provide 80 hours of non-billable effort toward each cycle of IV&V.

9.3 Work Product

The State's right, title, interest, and ownership to all material provided under this Change Notice shall be governed by Sections 1.201, 2.312, 2.313 of the original contract.

Nothing in this section shall prohibit HP from replicating the BAM framework.

10. Order of Precedence

In the event of any conflict between this Change Notice and any other document comprising part of or relating to the Contract, the following order of precedence will apply:

- This Change Notice
- The Contract Terms and Conditions, other than Change Notice 1/Amendment 1 entered July 27, 2009, which is specifically repealed by this Change Notice.
- Appendix K of the Contract, Negotiation Document, supersedes the Best and Final Offer documentation, dated, August 4, 2005, language in the EDS ITB response dated July 14, 2005, clarifications (appendix L) dated July 26, 2005, and State's responses to Questions & Answers dated June 15, 2005 and June 28, 2005.
- Best and Final Offer documentation, dated, August 4, 2005, supersedes language in the EDS ITB response dated July 14, 2005, clarifications (appendix L) dated July 26, 2005, and State's responses to Questions & Answers dated June 15, 2005 and June 28, 2005.
- Responses from EDS from the State on clarifications (appendix L) on their proposal supersede any statements made in the ITB response from EDS dated July 14, 2005. Document dated July 26, 2005.
- All responses to Questions & Answers dated June 15, 2005 and June 28, 2005 are added as contractual language and supersede any previously noted sections in the State's ITB. (Attachments to the Contract section.)
- The State's original ITB
- The EDS ITB response dated July 14, 2005

11. REPORTS

Project Related: The State has established a number of weekly status meetings to monitor and control the Project Plan. The intent of these meetings will be to identify the status of the Project and where progress is not in line with current plans, put corrective actions plans in place to bring the Project back on track. These meetings will serve to keep all levels of management informed of Project status, highlighting major issues and roadblocks requiring management involvement and/or decisions. Specific

Project status reporting and schedule management will follow the approved Schedule Management and Status Reporting process currently in use on the project as agreed by the PMT.

HP will deliver the reports defined in the Scope documents with the deployment of In-House / Branch release. Any other reports that are not defined within the current Scope document will be developed and delivered as part of the Production Support (not to be change controls) as prioritized by the State.

Accepted by:

State of Michigan
Department of State

Michael J. Sevyko
Signature

MICHAEL J. SEVYKO
Name

CHIEF OF STAFF
Title

Accepted by:

HP Enterprise Services, LLC

Richard A. Tonkovich
Signature

Richard A. Tonkovich
Name

District Manager
Title

Accepted by:

State of Michigan
Department of Technology, Management & Budget

David B. Behen
Signature

David B. Behen
Name

Chief Information Officer
Title

Accepted by:

State of Michigan
Department of Technology, Management & Budget

Phillip M. Jeffery
Signature

Phillip M. Jeffery
Name

Chief Deputy Director
Title

All signatures were obtained on or before August 30, 2013.

Exhibit I

Production/Enhancement Support



Business Application Modernization Project



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1. Introduction

The BAM (Business Application Modernization) program is a business re-engineering program to modernize the Michigan Department of State (MDOS) IT systems by replacing MDOS legacy systems with a state-of-the-art solution. HP's BAM application framework will be customized to meet the business needs of MDOS. The described services are intended to follow the 30 day support period. During this 30 day period, HP will provide support from the program level release team to ensure successful delivery. In parallel, HP will provide a 90 day warranty period as outlined in the Change Notice. Normal Production support will begin following the 90 day warranty period after each release.

Overview:

- HP Project Managers will inform the Production Support Team of any BAM implementations.
- This only covers the production environments (PROD and DR).

2. Production Support- Maintain and Support the Application

HP will provide production support services for the BAM to the Michigan Department of State (MDOS). The services are as follows:

- Maintain and Support the Application by providing:
 - Corrective Maintenance
 - Adaptive Maintenance
 - Perfective Maintenance
 - Application Support
 - User Support
 - Enhancements and Defects
- Manage Ongoing Production Support Activities/Staff
- Perform Production Support Knowledge Transfer
- ***The Production Environment is for branch, internal, and public users The BAM System should have high availability 7x24x365 with 99.99 percent uptime in a year.***
- HP will make best efforts to minimize the impact to any prior approved Adaptive or Perfective maintenance should an actual production problem arise.

2.1.1 Corrective Maintenance

The HP Production Support team will perform the following corrective maintenance tasks for the BAM System:

- Investigate; determine root cause, document, and remedy online functions for application or data issues, environmental problems will be referred to DTMB.
- Investigate, determine root cause, document, and remedy batch jobs
- Investigate, determine impact, document, develop plan of action, and remedy data issues related to system hardware or software failures
- Investigate; determine root cause, document, and remedy security issues as it pertains to the BAM application supporting applications or systems.
- Ensure documentation is correct and current
- Investigate user reported issues to determine root cause, resolve application, peripheral interface/configuration, and interface issues. Determine if application push issues are due to process defined and work with DTMB to resolve. Environmental/Infrastructure issues will be referred to DTMB and HP will assist in determining root cause and resolution.

Responsibilities:

Application errors, defects, issues	HP
Scheduled Jobs which fail.	HP
Data issues which consist of incorrect or invalid corrections identified by the State.	HP

Database issues	HP
System Hardware Issues (servers, VM, network, Load Balancers, Firewalls)	DTMB
Software Failures (OS, Virtual Software, 3 rd party Software)	DTMB
Issue Resolution and Root Cause Documentation; HP will perform application/DBA RCA's. DTMB will perform infrastructure. All RCA's will begin at HP and will be finalized by the appropriate party.	HP, DTMB

2.1.2 Adaptive Maintenance

The HP Production Support team will provide the following adaptive maintenance components that keep the system maintainable as they are required:

- Upgrades to the operating system or Database Management System (DBMS) software
- Software modifications necessary because of expiring Contractor support
- Hardware, database, or application upgrades that do not modify user functionality
- File moves (from one device to another) due to hardware or infrastructure changes
- One time loads or reformats of application data (due to upgrades excluding data migrations); report distribution changes
- Disaster recovery plan activities
- Comply with DTMB Security Standards, PCI, and Real ID requirements.

Responsibilities:

Operating System upgrades	DTMB
Tidal (scheduling software) Upgrades	DTMB
Hardware or Infrastructure Upgrades	DTMB
Database Upgrades	HP
Application Upgrades	HP
File moves	HP
One time loads/reformat of application data excluding data migrations	HP
Report distribution changes	MDOS
Disaster recovery plan activities. HP will propose DR plan and activities; State of Michigan will approve.	HP, DTMB, MDOS

2.1.3 Perfective Maintenance

Perfective maintenance addresses activities to improve the performance of the application, as well as investigate and fix potential problems that have NOT YET occurred. It is the State's intent to perform (i.e., release) perfective maintenance changes on an as needed basis with a minimum two week notice; a monthly patch release or, for major changes requiring a more significant time to develop, test, and implement, the changes should be completed as part of a development release.

Activities that can typically be completed independent of a production release (e.g., data set expansions, data purges) may be completed on a more frequent basis (e.g., daily or weekly).

Perfective maintenance includes but is not limited to the following services:

- Improve the performance, maintainability or other attributes of the BAM System
- Preventive maintenance
- Data table restructuring
- Data purges to reduce/improve data storage based on MDOS parameters
- Run time improvements
- Replace utilities as needed to reduce run time
- Monitor and proactively resolve potential issues

- Data set expansions to avoid space problems.

Responsibilities:

Operating System upgrades	DTMB
Improve the performance, maintainability or other attributes of the BAM Application and Database.	HP
Improve the performance, maintainability or other attributes of BAM hardware and infrastructure.	DTMB
Preventive Maintenance	HP
Data Table Restructuring	HP
Data Purges	HP
Run Time improvements	HP
Potential problem correction	HP
Dataset expansions	HP

2.1.4 Application Support

The HP Production Support team will provide the following Application Support services:

- “Investigation as to why data was not processed” shall receive prompt attention from HP within 30 minutes of notification. Regular, 2-hour minimum interval, status reports are required until issue is resolved.
- All other application support services shall be performed on a daily (and/or as needed) basis
- Monitoring and reporting system performance
- Monitoring and reporting computer resource usage
- Branches will contact the Client Service Center (CSC) for all IT related problems. The branches will continue to have an unadvertised option when calling in issues that will route their call to staff who are more familiar with branch operations. By following this procedure all IT related issues are tracked, even if they finally end-up being resolved by someone within MDOS.
- The DSIC Help Desk will serve as the first point of contact for the public and MDOS procedural issues. If DSIC staff receives a call concerning a technical issue from a branch, DSIC will refer the call to the CSC. The CSC may also receive calls directly from internal users in Audit, Finance, DSA, and CSA Central Administration.
- Develop a Help Desk Guide with help desk processes and scripts to support the new application, data, and workflow.

HP shall perform the following activities in regards to supporting the Help Desk support:

- HP Support: The Production Support Team will provide actions to assist with resolving BAM System issues. This work will commence following the Production Support Releases. BAM Program releases will be supported by the Program Team for the first 30 days after a release before handed off to the Production Support Team.
- Monitoring and reporting storage usage
- Utilizing application monitoring tools notify appropriate HP and/or DTMB support staff of potential or current issues noted.
- Implement a triage process to determine criticality of request with the State’s assistance.
- Perform initial investigation, impact assessment and prioritization (with MDOS & DTMB) on all requests forwarded from the Client Service Center.
- Forward requests that cannot be resolved immediately to the ongoing production support team; if possible, develop and communicate end user workarounds for such requests.
- Track help desk requests through Remedy.