

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

September 8, 2006

NOTICE  
OF  
CONTRACT NO. 071B6200394  
between  
THE STATE OF MICHIGAN  
and

|                                                                                                                                                              |     |                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|--------------------------|
| NAME & ADDRESS OF VENDOR                                                                                                                                     |     | TELEPHONE (443) 923-6889 |
| <b>Thomson Prometric, a division of Thomson Learning, Inc.</b><br><b>1000 Lancaster Street</b><br><b>Baltimore, MD 21202</b><br><br>stacy.lawson@thomson.com |     | <b>Stacy Lawson</b>      |
|                                                                                                                                                              |     | VENDOR NUMBER/MAIL CODE  |
|                                                                                                                                                              |     | BUYER/CA (517) 241-1647  |
| Contract Compliance Inspector: Sonya Dungey                                                                                                                  |     | <b>Irene Pena, CPPB</b>  |
| <b>Testing Services – DLEG – Office of Financial and Insurance Services</b>                                                                                  |     |                          |
| CONTRACT PERIOD: From: <b>October 1, 2006</b> To: <b>September 30, 2011</b>                                                                                  |     |                          |
| TERMS                                                                                                                                                        | N/A | SHIPMENT                 |
|                                                                                                                                                              |     | N/A                      |
| F.O.B.                                                                                                                                                       | N/A | SHIPPED FROM             |
|                                                                                                                                                              |     | N/A                      |
| MINIMUM DELIVERY REQUIREMENTS                                                                                                                                |     |                          |
| N/A                                                                                                                                                          |     |                          |

The terms and conditions of this Contract are those of ITB #071I6200265, this Contract Agreement and the vendor's quote dated 7/13/2006. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.

Estimated Contract Value: \$7,963,195.00

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|                                                                                                                                                                                                                                                                                                                               |            | <b>N/A</b>               |
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|                                                                                                                                                                                                                                                                                                                               |            | <b>N/A</b>               |
| MINIMUM DELIVERY REQUIREMENTS                                                                                                                                                                                                                                                                                                 |            |                          |
| <b>N/A</b>                                                                                                                                                                                                                                                                                                                    |            |                          |
| MISCELLANEOUS INFORMATION:                                                                                                                                                                                                                                                                                                    |            |                          |
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| <b>Estimated Contract Value: \$7,963,195.00</b>                                                                                                                                                                                                                                                                               |            |                          |

**THIS IS NOT AN ORDER:** This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 071I6200265. Orders for delivery may be issued directly by the Department of Labor and Economic Growth through the issuance of a Purchase Order Form.

All terms and conditions of the invitation to bid are made a part hereof.

|                                  |  |                                         |  |
|----------------------------------|--|-----------------------------------------|--|
| <b>FOR THE VENDOR:</b>           |  | <b>FOR THE STATE:</b>                   |  |
| <b>Thomson Prometric</b>         |  | Signature                               |  |
| Firm Name                        |  | <b>Sean L. Carlson, Director</b>        |  |
| Authorized Agent Signature       |  | Name/Title                              |  |
| Authorized Agent (Print or Type) |  | <b>Business Services Administration</b> |  |
| Date                             |  | Title                                   |  |
|                                  |  | Date                                    |  |

**Article 1 – Statement of Work (SOW)****1.0 Project Identification****1.001 PROJECT REQUEST**

The State of Michigan, through the Michigan Department of Labor and Economic Growth (DLEG), Office of Financial and Insurance Services (OFIS) with assistance of the Michigan Department of Management and Budget (DMB), has issued this Contract for the Contractor to provide the following:

1. Administrative services, including computerized administration and scoring of insurance and debt management licensing exams
2. Assistance with the physical and electronic acceptance and processing of insurance and debt management license applications and license information updates
3. Assistance in the management of electronic and paper insurance education provider and course registrations
4. Assistance in the management of the electronic insurance continuing education credit hour reporting process.

**1.002 BACKGROUND**

OFIS is responsible for administering examination of applicants for licenses as Michigan resident insurance agents, insurance counselors, insurance adjusters, insurance surplus lines agents and applicants for licenses to engage in the business of debt management. (MCL 500.1204: MCL 500.1214: MCL 500.1224: MCL 500.1234: MCL 500.1905: MCL 451.416). OFIS also receives and processes license applications and license information updates for 16 types of insurance licenses and for licenses to engage in the business of debt management. Resident insurance agents are required to complete a pre-licensing insurance agent program of study that has been registered with OFIS (MCL 500.1204). OFIS is required to register these programs as set forth in (MCL 500.1204a, and Administrative Rules R500.1 – R500.6). Michigan resident insurance agents are also required to complete a minimum number of continuing education course credit hours every 24 months, in order to renew their licenses. OFIS is responsible for approving continuing education courses and providers, as well as administering the process by which education providers report continuing credit education credit hours for update to licensees files. (MCL 500.1204c)

OFIS is contracting with a single Contractor to provide administrative services for insurance and debt management licensing exams, to assist OFIS with the processing of insurance license applications and information updates, and to assist OFIS with the management of insurance education course and provider registration and assist OFIS with the management of continuing education credit hour reporting and tracking.

The Contractor will collect directly from candidates for insurance licensing examinations an appropriate examination fee, as determined by OFIS.

The State will pay the Contractor directly for the services related to the administration of debt management examinations, for the services related to the processing of insurance license application and information updates, for the services related to the management of insurance education course and provider registration, and for the services related to the management of continuing education credit hour reporting and tracking.

**1.1 Scope of Work and Deliverables****1.101 IN SCOPE**

The Contractor will provide the following services for the complete and successful provision of the work and deliverables set forth in Section 1.104 of this Contract:



- Identification of business requirements in partnership with OFIS
- Verification and validation of business requirements
- Customer service function and technical support
- Revenue collection process
- Regulatory reporting system
- Training documentation
- Help Desk and technical support
- The Contractor is responsible for the purchase and maintenance of all equipment for:
  - a. Test creation, registration, scoring, and/or analysis
  - b. Telephone customer assistance
  - c. Transmission of data to OFIS or to the test sites
  - d. Photographic image creation, score reporting, and temporary license creation
- Candidates for the Insurance Life, Accident and Health, Property, and Casualty and Personal Lines licensing must complete an approved pre-licensing education course in the qualifications for which they are testing prior to testing or secure a waiver. Either a completion certificate with original signature from an approved school, a waiver from OFIS with original signature, or a clearance letter from another state indicating that the last date of licensure in that state was not more than one year ago, must be presented for entrance to the exam. Test Center staff must verify provider/course number on the document with the data collected at exam registration time.
- OFIS applications must be handed in or submitted electronically, to the exam site prior to testing, together with required documentation and fees. Fees must be on company checks, money orders, or credit cards. Personal checks and cash are not acceptable.
- Failing candidates may retest immediately. Bidders should define in their proposals how quickly they are able to process the candidate for retesting.
- The Life or the Accident and Health exams may be taken separately or together as one exam.
- The Property or the Casualty exams may be taken separately. If both exams are taken together at one sitting, a single exam fee may only be charged once.
- Application forms and fees are only valid for six months from the date of the first exam.
- The candidate only has six months from the date of the first exam to complete the licensing process (pass the exam and meet all other requirements).
- All names, identification numbers, and addresses of Michigan licensees and/or candidates are the property of OFIS and cannot be sold, published, or distributed by the Contractor.



**Contractor Response:** We have defined a reliable and secure solution to your testing, application processing, and continuing education program needs that is based on the objectives of OFIS, the requirements outlined in the request for proposal (RFP), and our understanding of your needs and the needs of your candidates.

**Thomson Prometric's Solution Guarantees Success**

Thomson Prometric's solution to your program requirements is based on several key components, including secure administrations and timely and accurate reporting systems. We offer the following:

- **Partnership with OFIS** – Experienced implementation team will work with OFIS personnel to ensure identification and verification of program business and operational rules.
- **Continuity of Operations** – Seamless transition to the new contract with no impact on candidates, the insurance industry, or OFIS.
- **Test Development Expertise**—Reliable development and validation of examinations in accordance with the *Standards for Educational and Psychological Testing* as well as *Principles of Validation and Use of Personnel Selection Procedures*.
- **Superior Insurance Exams** – Comprehensive item bank of nationally utilized exam questions for all required Insurance exams
- **Application Processing Systems** – expertise and knowledge on state licensing processes based on similar implementation for many state regulatory programs.
- **Computer-based Testing**—Convenient testing centers in Michigan and adjacent states plus a national network of testing centers in all 50 states, providing a highly secure testing environment.
- **Comprehensive Continuing Education (CE) Services** - a team of CE specialists, customer service specialists and systems professionals who have a proven track record of implementing and maintaining effective CE programs.
- **Candidate Support**—a candidate call center that provides support 13 hours per day, five days a week. In addition, we offer an Interactive Voice Response system and real-time Internet scheduling 24 hours per day, seven days per week.
- **Communication**—timely and regular updating and distribution of Licensing Information Handbooks and related materials.
- **Partnership**—a responsive program management team in place to maintain effective liaison between the OFIS and our licensing services staff.
- **Openness**—communicating with and obtaining final approval from the client of all project elements and methodologies used.
- **Security**—maintenance and defense of exam content security through all phases of development and administration.
- **Data and Reports** —on-demand access to comprehensive candidate data, as well as other statistical and operational reports.

**1.102 OUT OF SCOPE - RESERVED**

**1.103 TECHNICAL ENVIRONMENT**

Information regarding the State's information technology architecture and standards may be found at: <http://www.michigan.gov/dit/0,1607,7-139-34305---,00.html>.

All external facing web sites produced and maintained by and for the State of Michigan for the purpose of conducting official state business over the World Wide Web or Internet must comply with the State of Michigan Look and Standards (<http://www.michigan.gov/somlookandfeelstandards>) as well as complying with Section 508 of the Rehabilitation Act policies and conforming with the World Wide Web Consortium (W3C) Level "A" Priority 1 checkpoints (<http://www.w3.org/TR/WCAG10/full-checklist.html>).

**Contractor Response:** Thomson Prometric has primarily adopted Microsoft technologies. Our network operating system is Windows® NT. Our workstations run Windows® XP. We use varying database engines such as Microsoft® FoxPro, Microsoft® SQL and Oracle® depending on applicability. Our systems are internally developed by software engineers acting under the direction of Thomson Prometric management.

Under this contract we will uphold the security and information technology architecture and standards dictated in the Michigan regulations. We have very specific standards defined for our internal systems and have worked with numerous client to ensure the safety of their data.

**People and Facility**

We have centrally controlled secure access to our buildings. All facilities have controlled access via key/card and all employees are required to display ID badge. Additionally, all employees go through employment and criminal background checks at time of employment. Network security access is restricted to authorized staff. Each staff member has a uniquely assigned account name and password. Policies define password complexity. Passwords must be renewed on a periodic basis.

**Firewall**

External connections to our network are permitted only through our firewall. In addition services that are accessed via the network are hosted in a DMZ that is itself separated from our internal network by a second firewall. We employ a variety of encryption technologies including 128-bit DES encryption of sensitive data and provide secure Internet services via secure SSL web servers.

**Network Security**

Test content, candidate data and test event information are all securely housed within Thomson Prometric's data systems. All information is transmitted electronically between our corporate offices and the client via our encrypted File Transfer Protocol (FTP) site, and between corporate offices and the testing center via a private network. All data communications transmit through our central systems at our corporate offices. There is no direct data communication between the individual test centers and the client.

We encrypt all item banks using the standard DES encryption algorithm. We use a private/public key methodology, creating a 128-bit key for the encryption of data. Result files are communicated using a compressed binary format. All candidate records are stored in the central file server at the Thomson Prometric Data Center, which uses a proprietary encryption algorithm to prevent tampering. Local centers utilize Wide Area Network (WAN) facilities to move all critical data to the central network. Our communications network currently utilizes broadband connections (usually DSL or TI) with modem back up to communicate with the individual test centers.

**Anti-virus System Active Around-the-Clock**

We also deploy enterprise anti-virus systems that include automatic update processes that keep client workstations and servers up-to-date.

**Web Site Technical Compliance**

Thomson Prometric's government services division complies with the requested guidelines for non-visual Web accessibility. We have complied with the web accessibility guidelines for the past three years. As we fully integrate our government services Web site into the prometric.com Web site, we will maintain our compliance with the non-visual accessibility standards. This newly designed and integrated Web site will be introduced in just a few weeks.



Thomson Prometric will include the Michigan insurance program information on our Web site, similar to the way it is done by your current Contractor. Our Web site currently provides candidates throughout the country with the latest information regarding their testing programs. We maintain more than 300 pages of candidate and licensee information for more than 300 clients in a logical and easy-to-find manner. Our system supports more than 1,500 PDF files, which provide immediate information to our candidates. We will also provide a direct link to the state's Web site, if desired, to provide the candidate with ready access to all program information specific to Michigan.

#### 1.104 WORK AND DELIVERABLE

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

##### Develop and Administer Licensing Exams

##### 1. Exam Development

- Participate in the biennial OFIS process for developing valid, reliable and non-discriminatory exams for 16 insurance license types and debt management firms.
- Exams must cover Michigan specific items and these items (with copyrights) shall remain the property of OFIS.
- All exams must have at least two (2) versions in use at anytime.
- Life insurance exam must be able to be administered separately or as part of a combined Life Insurance and Accident & Health exam.
- Property insurance exam must be able to be administered separately or as part of a combined Property and Casualty Insurance exam

##### 2. Required exam procedures

- Procedure for verifying that each candidate for an insurance producer examination has one (1) of the following:
  - a. A valid completion certification from an OFIS approved education provider for a course approved by OFIS
  - b. An official waiver of relevant education requirements issued by OFIS
  - c. A valid clearance letter from another state insurance regulator showing licensure for the same qualification(s) within the preceding 12-month.
- Procedure for verifying that:
  - a. Either a candidate for an insurance producer examination has properly completed a OFIS license application for the line of authority that is the subject of the exam and has paid the application fee electronically or pays the fee at the exam site by business check, money order, cashier check or credit card.
  - b. OR a candidate has failed an examination and is representing her or himself for that examination no more than six months from the date he or she first failed that exam.
- Procedure for scheduling exam candidates to take an exam given within five (5) business days from receipt of a request to take an exam,
- Maintain on Contractors public website general information about exam content, exam application process, rules about candidate conduct at exam, and forms to move candidates through exam. Have ability to extract from website & provide in hard copy when requested.
- Procedure to respond to exam candidate questions via toll-free number and web-chat or e-mail.
- Exam security procedures, including at least one procedure to assure that disruptive candidates are ejected from a test center.
- Participate in developing and maintaining a process to handle all applicant examination complaints with the following tasks:



- a. Develop and distribute a complaint initiation form approved by OFIS
  - b. Draft written replies for the Contractor compliance inspector's signature and forward them to him/her for all (written) complaints within 3 working days of receipt.
- Provide OFIS with daily access to roster of candidates tested by date and exam site.
- 3. Operate examination sites throughout the State
  - Arrange at least four (4) exam sites throughout Michigan with at least 1 site in:
    - 1. Greater Detroit area
    - 2. Greater Grand Rapids area
    - 3. Lansing area
    - 4. Upper Peninsula
  - All sites, except in the Upper Peninsula (UP), must be open for testing at least 5 days a week including Saturday.
  - Each site, except in the UP, must have a minimum capacity of 30 exams per day and 150 exams per week across all 17 license types.
  - All exam sites must have video (with audio) surveillance of candidates.
  - All sites must be adequately staffed with adequately trained test administrators.
  - If an exam site experiences a problem that makes it impossible for candidates to take an exam, Contractor must have a plan for allowing those candidates to test the next working day without paying an additional fee.
  - All exam sites must be proctored, with a ratio of at least one (1) proctor for every ten (10) examination candidates.
  - Must be equipped to produce digital head and shoulder photographs of all exam candidates that can be printed on pass/fail score reports, temporary license, and stored in an applicant/licensees licensing record in O-Base.
  - Conduct Exams
    - a. Examinations must be conducted using software and personal computers
    - b. Examinations must contain the identical background screening questions asked on applications, as well as, questions that collect demographic information about the candidate.
    - c. Examinations must contain a sample test, which tutors on how test questions will appear.
    - d. Examinations must contain a customer satisfaction exit survey.
    - e. The examination must be time limited.
    - f. The examination must allow the candidate to skip questions for later review, and to return to questions to check or change answers.
    - g. Within no more than 30 minutes (immediately) upon examination completion, provide the candidate with a document that includes the candidate's picture & indicates whether the candidate passed or failed the exam and includes a diagnostic score report.
    - h. Update O-Base with examination scores on the same day the examinations are administered.

#### Accept & Process License Applications

1. Assist, facilitate receive and screen license applications at test sites, accept complete applications and return applications that are incomplete, as defined in OFIS business rules.
  - Handle all mail backs within two (2) days of receipt.
  - Update applicant's file in O-Base with e-application fee information on the same day the e-application fee is received.
2. Distribute a temporary instant license at all test sites to all qualifying applicants.
3. Produce and maintain supplies of blank OFIS paper forms related to license applications.
4. Maintain an office in the Lansing area at which the following functions are performed. Enter data from all paper license applications and license update forms received on behalf of OFIS
  - Receive, date stamp and sort all incoming mail directed to the Contractor's Lansing location by OFIS.





- Enter all data on non-resident insurance producer applications into O-Base within five (5) business days of receipt.
  - Enter all data on resident insurance producer applications received at exam centers into O-Base within two (2) business days of receipt of the applications.
  - Enter all notifications of address change and requests for duplicate licenses into O-Base within three (3) business days of receipt.
  - Enter all requests for certifications, clearance letters, licensing histories, letters of non-licensure and Continuing Education transcripts into the service request screen of O-Base and mail out within three (3) business days of receipt of request.
  - Remove checks from incoming applications & license information change filings and arrange in acceptable order for processing. All application fees received at exam centers other than the Contractor's Lansing location must be sent via next day delivery to the Contractor's Lansing location.
5. Maintain paper files of all complete license applications processed at the Contractor's Lansing location.
- Prepare files for shipment to the State's storage and retention depository after two (2) years retention.

#### Management Education Provider and Course Approvals

##### 1. Continuing Education Providers and Courses Only

- Receive continuing education provider and course filings for approval or reapproval made on forms provided by the commissioner (MCL 500.1204c(6)).
- Screen these filings for completeness as defined in OFIS business rules, and return incomplete filings within five (5) business days of receipt.
- If the information in a complete filing is insufficient to determine compliance with the requirements of MCL 500.1204c(5), give written notice to the provider, within 15 days of receipt, of additional information needed to determine compliance.
- Determine compliance with the requirements of MCL 500.1204c(5) and enter that determination into O-Base within 90 days of receipt of the filing, or within 90 days after the receipt of any additional information needed to determine compliance.
- Accept filing fees from continuing education provider and course filings and remit to the State bi-weekly. Issue refund to providers for inappropriate payments as directed by the contract compliance inspector.

##### 2. Pre-Licensing Education Providers and Courses Only

- Receive registration filings for pre-licensing education programs of study, screen these filings for completeness, as defined in OFIS business rules, and return incomplete filings within five (5) business days of receipt.
- Submit complete filings to the agent education advisory council evaluator for review (MCL 500.1204a and R 500.2).
- Once a recommendation is received from the evaluator, enter the recommendation into O-Base.

##### 3. Both Continuing Education and Pre-Licensing Education Providers and Courses

- Maintain alphabetized hard copy files of course and provider filings at the Contractor's St. Paul, MN location and arrange for transfer to State's storage and retention depository after two (2) years.
- Provide access on Contractor's website to the OFIS web-accessible database of approved education providers and courses. Extract data from OFIS database to mail to candidates or licensees without Internet access.
- Operate a toll-free number to respond to education provider questions about filings and course approvals.

Manage Continuing Education Credit Reporting Process

1. Accept reports of continuing education credit hours earned by each licensee through a website from approved CE providers and electronically post the data daily to the OFIS O-Base database.
  - Include a procedure for manually correcting errors in reported hours.
  - Maintain a back up of these records until they are successfully updated in O-Base
2. Receive fees along with credit hour reports and reconcile the fee amounts with the credit hours reported before posting credit hours to O-Base:
  - Submit payment to the State at least bi-weekly
  - Issue refunds to providers for credit overpayments and inappropriate payments or as directed by contract compliance inspector.
3. Develop and maintain a complaint and inquiry process regarding the reporting of CE credits by continuing education providers that includes at least the following elements:
  - A toll-free number to respond to licensing questions and disputes about the reporting of CE credit hours.
  - A complaint resolution process that provides for written replies to written complaints within ten (10) days of receipt of complaint initiation form.
  - An opportunity for unresolved complaints to be appealed to OFIS.
  - A process for resolving problems with the education provider in getting the credit hours transmitted for upload onto O-Base.



**Contractor Response:** Thomson Prometric will work with the OFIS to develop and administer valid and reliable exams that will test the minimum competency and knowledge necessary for entry into the specific insurance professions.

Thomson Prometric's test development staff has developed an implementation strategy that will enable us to field exams quickly and maintain uncompromised standards for both test development and your licensure program's minimal competency requirements. We propose to utilize examination items that have been previously reviewed and approved by groups of subject-matter experts from across the country. Our insurance client base is large and our item banks are substantial enough in size and depth of subject matter coverage to more than adequately develop multiple forms of each Michigan examination. Our internal insurance subject-matter experts (SMEs) will create examination from our items banks that utilize the results of this previous validity work. For the debt management and state portions of the insurance exams, internal SMEs will review state-specific items provided by OFIS. Our test development staff will input those items into the item banking system and prepare them for use on the Michigan exams.

We will update our examinations biennially; develop at least two forms of each exam; ensure that examination questions comply with Michigan laws, rules and regulations; administer and score the examinations; and provide results reporting to OFIS. We will utilize recognized evaluation standards in order to test candidates' minimum competency and knowledge necessary for entry into the specific insurance and debt management professions specified by OFIS. The examinations we provide will test entry-level knowledge, skills and abilities.

Our proposed approach will utilize tailored exams consisting of examination content previously developed by Thomson Prometric, as well as state-specific content currently owned by OFIS, for all 16 categories of insurance and debt management licensing examinations.

Each exam in the table below will be based on current content outlines as established by the OFIS.

| <b>Licensee Category</b>       | <b>Examination Category</b>                                                                                                      |
|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| <b>Producer/Agent</b>          | Life<br>Accident and Health<br>Property<br>Casualty<br>Limited Lines P&C<br>Title<br>Credit Products<br>Personal Lines           |
| <b>Combination Exams</b>       | Life, Accident and Health Producer<br>Property and Casualty Producer                                                             |
| <b>Counselor</b>               | Life Counselor<br>Property and Casualty Counselor                                                                                |
| <b>Surplus Lines</b>           | Surplus Lines                                                                                                                    |
| <b>Adjuster for the Insure</b> | Fire and Other Hazards                                                                                                           |
| <b>Insurance Adjuster</b>      | Fire and Other Hazards, plus Independent Adjuster<br>Fire and Other Hazards, Independent adjuster, plus Worker's<br>Compensation |
| <b>Debt Management</b>         | Debt Management                                                                                                                  |

### **Defining Your Examinations**

The first part of the examination for each insurance-related license type will measure knowledge and skills relevant to general practices and principles of insurance that are common to all licensing jurisdictions. It will consist of approximately 100 questions for single line exams and 150 questions for multiple line exams.

The second part of the examination for each insurance-related license type (including the Michigan laws and regulations examination in its entirety) will measure knowledge and skills relevant to practices, laws, rules and regulations specific to the state of Michigan. It will consist of 40-50 questions. Both combined examinations, Life, Accident & Health and Property & Casualty, will be administered separately or as part of a combined examination.



We utilize a test development and review process that assures OFIS that each question on the exams we develop is relevant to insurance as it is practiced in Michigan. Examination items are appropriate for an entry-level (minimum level of competency) examination and are clearly stated and presented in an acceptable format. Thomson Prometric employs methods of psychometric review (e.g., statistical analysis of performance on each question and the examination as a whole) that provide reasonable assurance of the validity of each test question and each examination.

Thomson Prometric will develop and maintain a sufficient item bank for each examination category. We typically maintain a 5 to 1 ratio of items per content area for major line exams and a 3 to 1 ratio per content area for minor line exams. We will add items approved at the biennial Examination Review Workshops (June 2007) to the bank as needed to maintain reliable, valid and legally defensible exams for Michigan. Our extensive item bank assures OFIS that our questions are not likely to be repeated within a given examination group. We will also update the exams at our biennial Examination Review Workshop (ERW) to ensure each exam reflects any changes to laws and regulations as well as practice in the industry. We will fully customize all categories of insurance and debt management licensing exams, using our content, knowledge and testing expertise, to meet your requirements. The first Michigan ERW is planned for mid 2007.

#### **Item Ownership**

All Michigan-unique items developed specifically for OFIS as part of this contract will be retained and owned by the state of Michigan. Michigan-unique items refer to items developed by Thomson Prometric pursuant to the agreement between the parties utilizing information or materials provided by the state of Michigan or derived from Michigan law, regulation or statute. Thomson Prometric will retain ownership of all other exam items and may use these items for other certification and licensure examinations.

#### **Efficient Test Development Process Limits Time Commitment of OFIS Staff and Produces Superior Examinations**

Thomson Prometric's development of professional licensing and certification exams includes: job analysis; exam plan development; item writing; item review and revision; pre-testing of items; item analysis and revision. Our highly qualified test development team is comprised of master's-level and Ph.D.-level psychometricians trained in state-of-the-art test development practices as well as six in-house item writers with insurance industry credentials and practical experience.

Distinctive features of our program include:

- The examinations we offer are state-of-the-art in regard to psychometric validity and resistance to compromise.
- Thomson Prometric utilizes a three-parameter Item Response Theory (IRT) methodology to develop actual tests for the insurance examination items.
- Each item on your exams will go through a five-step approval process before it is used.
- Thomson Prometric performs the majority of your exam development work, using our content knowledge and testing expertise to write questions and develop test specifications. We welcome OFIS input throughout our test development process and allow you to determine the level of participation in the process.
- OFIS has final approval on which items are eligible for placement on your exams and which items are not.
- Thomson Prometric's involvement in test maintenance is continuous. We review the statistical performance of each test regularly, removing test questions that do not perform well.
- We routinely review state laws to identify necessary changes to the question banks and the test content outlines. Changes will be made without disruption to the exam process.
- Thomson Prometric will advise and assist you in setting passing standards for your examinations.
- Thomson Prometric provides copies of the content outlines to all interested pre-licensing schools, publishers and insurance companies.



- Thomson Prometric will update your examinations on a mutually-agreed upon schedule, typically annually, so that the exams will reflect the most recent legislative changes as well as industry issues in your state.

#### **In-House Subject-Matter Experts Write Items—OFIS and Industry Experts Validate Items—Key Benefit of Thomson Prometric's Program**

We offer OFIS a staff of permanent employees who have practical experience in the field of insurance and whose primary function is writing individual insurance questions and developing exams. Questions are reviewed by other staff members before they are presented at the Exam Review Workshop (ERW). We value input from OFIS staff and the Michigan insurance industry; however, we will not require OFIS staff or industry members (e.g., ERW members) to write any of the questions for Michigan tests unless you so choose. This practice is clearly advantageous to OFIS in that it saves countless hours of time for OFIS staff and committee participants.

Every question we prepare adheres to mutually agreed upon standards to ensure its soundness. These standards identify the objective characteristics we expect of our questions. This system produces high-quality questions that meet our demanding standards and takes advantage of the extensive practice and training provided by our **permanent, in-house question development team**—a process that is clearly advantageous to OFIS.

Thomson Prometric evaluates the text of each new item, consider two key criteria that serve to illustrate our approach.

- Every item should address an important concept, relevant from the point of view of a producer.
- Items should be written in a clear, direct and concise style.

Thomson Prometric item-writing professionals do not copy verbatim from source materials. Instead, we expect each writer to fully comprehend source material, to identify the significant concepts, and to pose clear, direct, concise questions from a viewpoint relevant to the applicant. The skill and dedication applied to this effort by our team of professional insurance examination writers helps assure that our exams will effectively determine whether or not an applicant possesses the knowledge necessary to begin transacting insurance in Michigan.

#### **The Thomson Prometric Item Writing Difference**

The questions written by both the internal and external SMEs were subjected to our standard validation process. We employ so many staff members (**six in-house insurance subject-matter experts**) who have years of item writing experience and who hold licenses or designations in their field. We reiterate that we highly value the input of the Michigan insurance experts that OFIS may select to review and approve items.

#### **Biennial Examination Update Process—Efficiently and Effectively Revalidates Examinations**

##### **Content Outline Development**

We delineate preliminary test content by conducting an analysis (performed by Thomson Prometric staff) of current Michigan laws and regulations, policy forms approved for use in Michigan and industry practice. We will present this content, in the form of test outlines, to OFIS for initial input and review, and then to the Michigan Examination Review Workshop (ERW) committees, who will add, delete and revise content points to reflect insurance as it is practiced in Michigan.

To comply with NAIC and state Producer Model Law requirements, our exam content staff members have developed and introduced substantially new concept outlines for all major and most minor line exams. Periodically, we fully customize our concept outlines for each state needing that type of exam. The updated preliminary outlines would then be validated by OFIS and the ERW.

With assistance from OFIS, we will continue to monitor changes in laws, regulations and policies that occur; recommend the changes to the content outline; and present them to OFIS and the ERW for approval.

**Validating Newly Developed Items Via Examination Review Workshops**

Thomson Prometric will conduct and participate with OFIS in biennial reviews of the examinations developed on behalf of OFIS. During these meetings, we will work directly with OFIS to ensure that our questions properly assess the content delineated by the job analysis process by relying upon OFIS' authorization, while soliciting support from representatives of the industry.

We will ask OFIS to help us identify Michigan professionals to serve as ERW participants. We organize the ERW members according to their expertise into subcommittees. We then use their expert advice to help us design and construct our exams, while leaving OFIS as the final authority.

Each ERW committee typically consists of four to six members. One of these is designated as the recorder. The responses noted on the recorder's computer are taken as the official decisions and comments of the committee for each question.

We take firm precautions to minimize the possibility of workshop member bias or compromises. Regarding the former, we consider the ERW input as advisory to OFIS; OFIS has the authority to override ERW recommendations that it considers improper. Regarding the latter, we recommend care in composing the ERWs to ensure that no one associated with pre-licensing training is included in the group who reviews the exam questions. We exercise extreme caution to ensure that our questions are reviewed and maintained in a secure environment during the entire ERW process. Nothing is copied or allowed out of the ERW meetings.

Workshop members donate their time, but we pay all costs of the meeting. We begin the ERW meetings by presenting the drafts of the content outlines to the workshop members and asking them to identify errors or omissions. Specifically, we ask them as a group to confirm that everything on the outline is relevant for a candidate to know and that it reflects current practices. We also invite them to identify and add any substantive areas excluded from the proposed outline.

**OFIS Approves Each Question Prior to Use**

**No question will be used on a Michigan exam until it is approved for use by OFIS.** All exam questions are reviewed by the ERW committee and by OFIS during the exam workshops. Roughly 90 percent of the time at ERW meetings is spent reviewing exam questions.

There are three essential processes required from this evaluation.

- First, we confirm that the question and its keyed correct response are appropriate for insurance as practiced in Michigan. Second, we ascertain if the question is appropriate for the intended examination.
- Third, we ask for comments and suggestions for improvement. Although we do not ask the ERW members to write any questions, we do value their opinions on how we can improve those that we have written. Please see the screen shots below for samples of this process.

Our exam development program produces the best exams available in insurance license testing today, exams that fairly assess candidate competence and assure that the people who pass them are qualified insurance practitioners.

**2. Required Exam Procedures****Handling Resident Applications at Thomson Prometric****Michigan Test Centers**

Thomson Prometric understands OFIS resident applicants have the option either to submit an e-application via the state's online application system or to present a paper application at the test center at the time of testing. In support of this requirement, Thomson Prometric proposes to implement the following procedure at our Michigan test centers for the processing of resident applications.

1. Upon arrival at the test center, the test center administrator will collect the following from OFIS candidates scheduled to test: (1) proof of submission of an e-application (fee card) or paper application; (2) proof of successful completion of an approved pre-licensing school for Life, Accident and Health, Property and Casualty and Personal Lines candidates or the proper waiver of pre-licensing education as provided by OFIS for the other lines of authority; and (3) licensing fee.





2. If the candidate submits a paper application, the Test Center Administrator will verify that all information required on the application has been provided prior to admitting the candidate to the exam room.
3. The Test Center Administrator will verify that all required information is in the proper fields. If the application is incomplete, the Test Center Administrator will require the candidate to provide missing data. If the candidate cannot provide all required data, he/she will not be allowed to test.
4. The Test Center Administrator will collect all application fees presented at the test centers and submit fees daily to OFIS either via overnight mail or, if OFIS prefers, electronically or via pick-up by OFIS Staff from the Lansing Assessment Center. Payment will always be made to OFIS.
5. Prior to admitting the candidate to the examination room, the Test Center Administrator will also verify that the pre-licensing provider/course number provided on the application form is the same as the number appearing on the candidate's registration. Candidates who do not pass their examination will receive instruction for retesting on their failing score report. Although their failing score report will serve as an admission ticket for their next examination, they must repeat Thomson Prometric procedures governing registering for and scheduling an examination session.
6. Candidates who pass their examination, have submitted the proper license application information and have answered the screening questions properly will be issued a passing score report with a photo, a temporary license document with a photo, and instructions on the next steps in the licensing process.
7. Candidates who pass their examination, but who may not have submitted the proper license application information or who have answered any of the screening questions improperly will receive a passing score report with a photo and instructions on the next steps in the licensing process.
8. At the end of each day, the Test Center Administrator will forward by next day delivery all paper applications and application fees received from OFIS candidates to the Lansing assessment center for data entry into OFIS' licensing system. All activity associated with label creation and filing will be performed by the Lansing processing group.

Thomson Prometric's primary focus at our test centers is maintenance of examination security. For this reason, we will limit actual data entry of application information into OFIS' system to the Lansing assessment center in the interest of maintaining our stringent security protocols at the test center and minimizing the potential for Test Center Administrator distraction. We also believe that concentrating data entry activities at the Lansing center will improve quality and consistency while ensuring the highest possible customer service at the test centers.

**Insufficient Fund Check Policy**

Thomson Prometric aggressively pursues collection of insufficient fund checks through our in-house collection resources. Any collection of insufficient fund checks includes an administrative charge of not less than \$25.00.

**Providing Convenient and Flexible Options for Examination Registration and Scheduling**

Candidate service and exam registration and scheduling functions are among the most sensitive and highly visible aspects of any testing program. The knowledge and professionalism of the representatives who assist your candidates is an important factor in candidates' overall impressions of the program. Thomson Prometric will utilize its highly trained staff, and proprietary systems and equipment to provide easily accessible and responsive registration, scheduling and candidate support services. OFIS candidates will have the option to register through our convenient online system or via a toll-free phone number unique to this program.

Work Force Planning and Work Force Management are the keys to ensuring adequate contact center capacity to meet current and future call volumes. We have a dedicated team of Work Force Management professionals, supported by a state-of-the-art work force management application, supporting both long-term scheduling and daily work force capacity. The work force planning team will collect available OFIS historic registration volume and trend data and enter the data into the work force management system. Based on this data, current registration volume and trend data for all existing programs, and current staffing data the workforce management system will project appropriate staffing needs and schedules.



Work force management will coordinate these requirements with the contact center's human resources recruiters and trainers to ensure appropriate staff are hired and trained in preparation for the increased requirements. The work force management staff will also coordinate the increased capacity requirements with the contact center facilities management, telecommunications, and MIS staffs to ensure all additional infrastructure is in place to support the increased workload. Contact center staff supporting this program will be located in Woodlawn, Maryland. We anticipate that we will train approximately 12 to 14 candidate care staff members to support this program. After implementation, the work force management system will dynamically track OFIS call volumes along with all other call volumes and staffing levels to adjust staff allocations, as appropriate. Over time, the work force management system will continually track OFIS call volumes and trends to adjust long-term staff requirements and schedules.

We have the capability to configure our registration and scheduling system to enable our contact center staff to verify and collect OFIS-approved pre-licensing education course numbers at time of registration. We also have the capability to configure our registration system to flag certain candidate names and/or Social Security numbers for the purposes of preventing exam registration and will do so as directed by OFIS. Individuals who desire to test outside of Michigan may do so in the same manner as candidates testing at a Michigan center.

**Thomson Prometric will offer Michigan candidates access to our corporate-owned state-of-the-art candidate call center designed to assist candidates with prompt, friendly and informed service performed by trained and certified call center professionals. In addition, we will provide an online registration and scheduling system that will allow Michigan candidates real-time access 24 hours a day, 7 days a week, as well as an option to register for examinations via our toll-free fax number.**

#### **Registration and Scheduling**

Thomson Prometric is committed to providing prompt, efficient services to candidates using our toll-free telephone number to register for and/or schedule an exam. We utilize a computerized call-tracking system to monitor rates at which incoming registration calls are answered as a quality assurance measurement tool and to help us forecast and manage peak calling volume periods. Candidates wishing to contact our call center may do so from 8:00 a.m. to 9:00 p.m. (Eastern time), Monday through Friday.

Each Customer Service Representative can quickly schedule and confirm appointments with candidates for any of our testing centers while the candidate is on the telephone. Our customized scheduling software ensures that all candidate information is properly collected, that candidates are scheduled for the appropriate examination, and that candidates are not over-booked within the testing centers.

We will schedule testing candidates based on their preferred time and location—meaning candidates are able to schedule their examinations “at will.” They may select a time that occurs as soon as next day or far in advance.

Based on our capacity analysis and plans to augment our Michigan testing network, we will meet and/or exceed the five-day registration lead-time. To ensure your candidates can test within 5 days of request, we carefully and continuously monitor test center capacity and maintain seating capacity sufficient to allow your candidates to test within 5 days to receipt of a request. In planning our capacity outlook for this new contract, we have projected the anticipated candidate testing volumes based on your estimates and our expected testing network capacity. This information provides the basis our seat capacity needs. As the contract is executed, seating metrics are closely monitored and adjusted based on expected volumes and projected site utilizations rates. Capacity will be monitored and adjusted accordingly to ensure we comfortably meet your metric to provide candidates with a testing appointment within 5 days from the date of their registration. Other features of our call center are described below.

- When staff is unavailable, our message system directs candidates to Thomson Prometric's Web site, where they can obtain information 24 hours a day.
- Our call center is monitored in real-time, allowing adjustments to be made as needed to meet demand. In addition, we have stringent performance standards that are reviewed daily, weekly and monthly.
- If a candidate calls and requests written information, that request will be processed and a response or information will be mailed promptly.
- The Contact Center is equipped with telecommunications devices for the hearing-impaired (TDD). A group of specially trained representatives focuses on scheduling and providing services for candidates with a need for client-approved special testing conditions resulting from disabilities or impairments





In addition, an Interactive Voice Response System allows candidates to reschedule, cancel and confirm their appointment seven days a week 24 hours a day. Our Interactive Voice Response system is a user-friendly, automated, toll-free service that prompts the candidates through their transaction.

#### **Online Scheduling**

The most convenient and efficient means of scheduling examinations is through our online scheduling system. Via our Web site, candidates are able to schedule, reschedule, cancel and confirm their appointments at their convenience 24 hours a day 7 days a week. **Our online scheduling system allows candidates to select their preferred testing date and location, receive immediate on-screen confirmation and a follow-up e-mail confirming their appointment details.**

In addition, to make the scheduling process as seamless as possible for your candidates, we will provide a banner to display on your home page, linking your candidates directly to the registration site. Test program details will also be displayed on our scheduling and registration Web site to further support licensure candidates. The ease of use and 24-hour access of our real-time Web scheduling make this the most preferred scheduling option for most candidates.

#### **Multiple Options for Confirming, Rescheduling and Canceling Appointments**

Regardless of how candidates initially schedule their appointments, all candidates have multiple options to schedule, confirm, re-schedule, and cancel examinations, as well as obtain test center directions – via the Internet, local testing center, interactive voice response and through the contact center.

#### **Rescheduling Policy**

If circumstances arise that prevent a candidate from arriving for a scheduled test appointment, he/she may cancel or reschedule prior to the two business-day window preceding the test appointment. Our cancellation and rescheduling policy stipulates:

- Cancellation/change of scheduled test appointments must be made no later than two business days before the test appointment.
- Leaving a message on a recorder or a voice mail on a test center voice mail is not sufficient to confirm cancellation/change.
- The full test fee will be charged for missed appointment times or for candidates failing to reschedule or cancel appointments in accordance with the stated policy.

#### **Program Information Continuously Available via Our Web Site**

To provide readily accessible information to all candidates and any other interested parties 24 hours a day, 7 days a week, our Web site contains general information regarding OFIS program and exam content, details of how to submit licensure applications, rules about candidate conduct at exam, and contains required forms and information on applying for the examination and license application process.

Via our Web site, candidates have the opportunity to e-mail us with questions concerning the licensure process and to download information regarding license classifications, applicable laws, rules and policies. Candidates will have access to comprehensive information, such as application forms and procedure outlines, and any other information deemed necessary by the OFIS. Our Web site will also feature a link to the OFIS's Web site to provide further details and guidance.

#### **Candidate Assistance Also Available via Phone and E-mail**

We will also provide a dedicated phone number to the Michigan insurance program where applicants may speak with our courteous customer service representatives who are trained on the specifics of your program. In addition, candidates may obtain information by stopping by our local offices and talking with persons trained to answer questions and provide assistance regarding the licensing program. All staff communicating with candidates (whether it be via e-mail, phone, or in person) will make knowledgeable determinations regarding proper license classifications and requirements that are compliant with all applicable laws, rules and policies.

**Security During All Phases of Exam Development and Administration**

All of our test centers have well-designed and well-executed physical, operational, and information system security protocols designed to protect the integrity of your exams and provide a fair and uniform testing experience for all candidates. Each Thomson Prometric test center is designed with physical safeguards and the latest technology to prohibit fraud and cheating, and is staffed by certified, professional and experienced proctors.

Security, through all stages of development, maintenance and distribution, is essential to maintaining the integrity and validity of exams. Thomson Prometric will aggressively protect examinations and pursue and prosecute perpetrators. No other security system or testing company goes further to ensure the integrity of your examinations.

We control for lying, memorization, cheating and stealing with the most comprehensive and thorough test development and administration security measures available. We integrate the most crucial components of protecting professional examinations—people, technology, policies and procedures, and space design and construction.

Thomson Prometric not only addresses security issues at the test site, we maintain our entire testing program through the system according to the highest levels of security and integrity. We use multiple levels of physical and software security. All phases of the examination process from the initial item writing workshop to the actual administration of exams are handled in accordance to strict security and quality control (accuracy) procedures. These procedures protect the integrity of test items, exams and other pertinent data.

**Handling Candidate Misconduct and Security Violations**

In the event that any candidate misconduct or unusual circumstances are observed, the Test Center Administrator will promptly submit a Center Problem Report to our data center to be reviewed by the Security Department.

The following behaviors are considered to be candidate misconduct:

- Giving or receiving assistance of any kind;
- Using a prohibited aid;
- Attempting to take the examination for someone else;
- Failing to follow examination regulations or instructions from the Test Center Administrator;
- Causing a disturbance of any kind;
- Removing or attempting to remove questions and/or responses (in any format) or notes from the examination room;
- Attempting to remove note boards from the examination room; Tampering with the operation of the computer or attempting to use it for any function other than taking the examination; and
- Talking the in examining area.

If misconduct by an examinee is witnessed during surveillance activity, the Test Center Administrator enters the examination room and advises the candidate that his/her examination is being terminated on the suspicion of dishonesty/security breach. The Test Center Administrator immediately dismisses the examinee and files a Center Problem Report. The Test Center Administrator retains any of the materials related to the events (confiscated notes, etc.), because we require them as part of our investigation of the incident. Our Security Department reviews site reports daily and contacts the test center immediately to begin the investigation.

Our Test Center Administrators are trained to avoid appearing confrontational or judgmental. If they feel that an attempt to remove an examinee would create a disturbance to other examinees or result in a potentially threatening situation, they may permit the examinee to complete the examination, but retain the score report at the end. If the examinee becomes threatening, the Test Center Administrator is instructed to call building security or the police and allow them to escort the examinee from the test center.

**Handling Applicant Examination Complaints**

Thomson Prometric has a well-established appeals process that is led by Nikki Shepherd-Eatchel, Vice President of test development. We will provide the services described in the paragraphs below to facilitate the resolution of any issues or concerns that candidates may raise concerning the examination process.



To help facilitate a fair review and investigation of each candidate examination complaint, we request that candidates address their complaint or concern in writing. We will develop and distribute a complaint initiation form, which will be approved by OFIS upon contract award.

Upon receipt of any completed form, we will forward copies of the complaint and our responses to the compliance inspector for signature within three days of receipt. If the situation cannot be resolved or thoroughly investigated within three days, we will acknowledge the request and communicate a timeframe for resolution of the matter to the candidate. We will forward all complaints that we cannot resolve satisfactorily with the candidate to OFIS.

#### **Appeal Committee**

We attempt to resolve candidate issues and questions concerning the examination process before they become problems by directly responding to each candidate inquiry. Thomson Prometric understands the need for multiple methods of communication to effectively communicate with candidates, and we offer information and support to candidates through the Candidate Information Bulletin, Web site, and Candidate Support Specialists available to respond to candidate questions and concerns. Test Center Administrators are also trained and provided resources to assist candidates and resolve concerns that may arise during test administration.

However, if candidates desire a written response from Thomson Prometric regarding a comment or concern about the scoring of their exam, a particular exam question or anything related to the content of the exam, they are instructed to send their concerns in writing via the complaint initiation form to the Appeal Committee. This committee, instituted as part of our continuing effort to improve candidate service and protect candidate rights to due process, consists of several management-level personnel who work with subject-matter experts and measurement staff to investigate every complaint. Upon receiving a formal grievance, this committee meets to discuss and direct specific resolution regarding candidate issues and cases on topics ranging from ADA accommodation to test results. Candidates are sent notification in writing as to the outcome of the Appeal Committee meeting. Thomson Prometric will forward a copy of the original candidate appeal letter and Thomson Prometric's response to OFIS.

#### **Providing the OFIS with a Daily Roster of Candidates**

Thomson Prometric provides literally thousands of program monitoring reports, both electronic and hardcopy, to our clients on a daily basis. In response to OFIS requirements for daily access to roster of candidates tested by date and exam site, we provide daily FTP data transfers to the OFIS that will include a roster of candidates tested by date and exam site. Thomson Prometric offers an extensive and well distributed test center network in the state of Michigan as well as broad national coverage that clearly exceeds OFIS's requirements. Our coverage in the state of Michigan includes seven testing centers. Our national coverage extends this number to nearly 300 centers in all 50 states. Our Michigan centers include the following locations:

- Ann Arbor
- Detroit/Livonia
- Detroit/Troy
- Grand Rapids
- Lansing
- Sault St. Marie
- Marquette (new)
- Plus nine testing centers within commuting distance in surrounding states

With six established test centers in the state of Michigan and a new center in Marquette to serve candidates in the Upper Peninsula, Thomson Prometric offers OFIS and your candidates' exceptionally broad coverage throughout the state. This, combined with a very flexible operating schedule, offers your candidates significant testing opportunities in terms of convenient permanent locations and available appointments to test.

Thomson Prometric understands that OFIS requires its testing Contractor to provide application screening support and fee collection at its Michigan test centers, as well as additional processing through a Lansing assessment center. We have prior experience providing similar services for our Ohio insurance client and currently operate a processing center in Groveport, Ohio, for the provision of application processing and licensing at this facility.



Below we have outlined our proposed approach to accomplish this task for OFIS.

**Handling License Applications and Requests for Documents at the Michigan Testing Centers**

Thomson Prometric will review license applications for all first time test takers at the testing center. We will provide specialized training for our TCAs so they understand the program rules.

Upon arrival at the test center, the TCA will collect the candidates licensure materials and review the documents for completeness and will ensure they proper forms are included as well as the proper fees are received. Any applications that do not meet OFIS standards will be returned to the candidate, as defined by OFIS business rules.

At the end of each testing day, the TCA will mail all application materials and fees to the Lansing processing center for further processing and retention. All e-applications files will be updated in the O-Base system on the same day they are received.

**Temporary Licenses Issued At Test Center**

Upon successful completion of the examinations, background questions and submission of the proper forms/fees, Michigan candidates will be issued a temporary license printed on official OFIS paper. In order to complete this transaction, we will maintain appropriate inventories of OFIS paper forms at the test centers.

**Handling License Applications and Requests for Documents at the Lansing Processing Office**

For candidates who are submitting either non-resident or reinstatement applications and who are not required to take an examination for licensure, Thomson Prometric will require that they: (1) submit an e-application via OFIS' online system and submit the required fee to our Lansing assessment center or (2) forward a completed paper application and required fee to our Lansing assessment center for processing by our licensing staff.

Once received at the Lansing assessment center, our staff will:

- date stamp all applications as they arrive at the center;
- remove checks from all incoming documents and arrange in acceptable order for pick up by or shipment to OFIS; letters, forms, etc., will be stamped "paid" and readied for processing; this includes all application fees received at exam centers other than the Contractor's Lansing location which were sent via next day delivery.
- screen all applications for proper completion;
- return applications to the candidate when data is erroneous or missing with a cover letter detailing what information is missing or incomplete and instructions on resubmitting the application within two days of receipt;
- electronically capture all data from all applications in O-Base, allowing us to keep track of all applications, as well as to answer any candidate questions, should the candidate call;
- perform final validity checks on data captured;
- provide OFIS with a download of this data;
- create labels for all paper files resulting from said applications;
- place all contents into manila folders; and
- alphabetize and store the file folders at our Lansing Assessment Center.

This process will enforce the business rules set forth by the OFIS, which include the following:

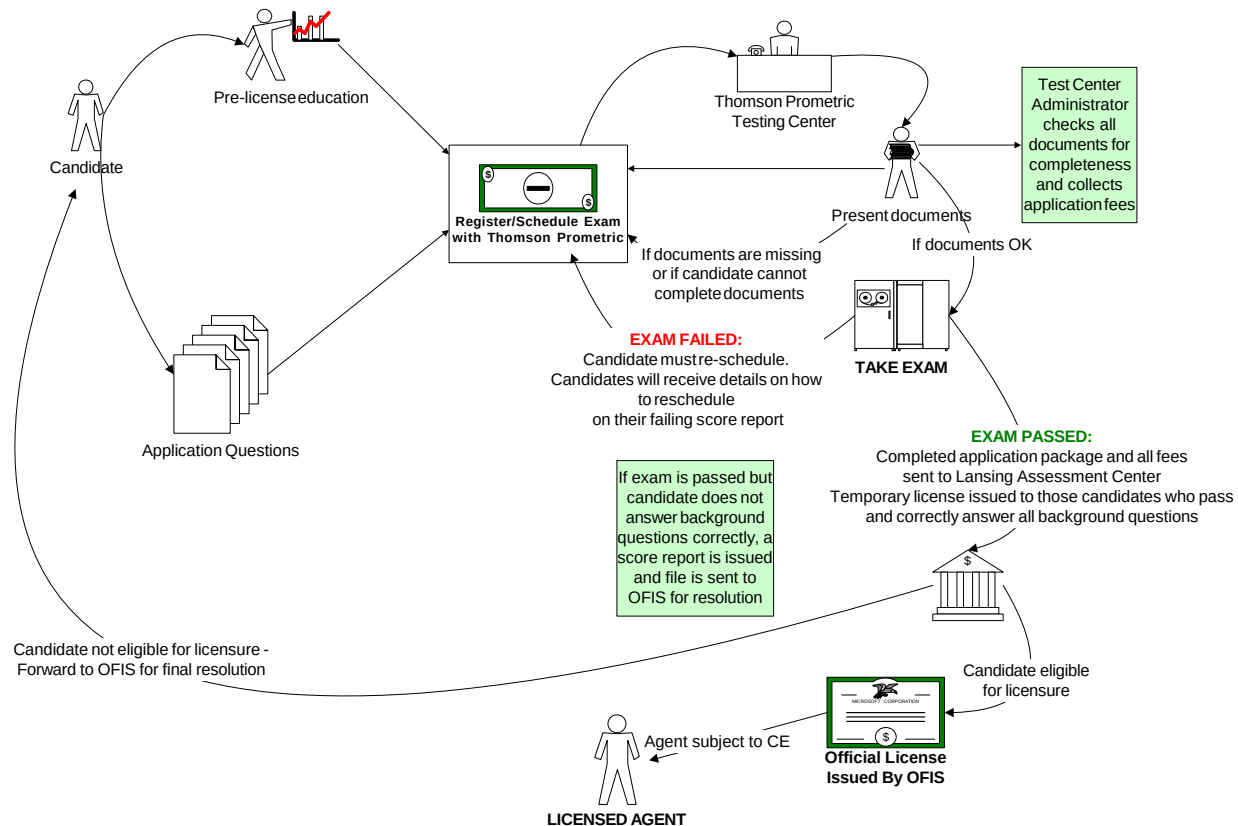
- Enter all data on non-resident insurance producer applications into O-Base within 5 business days of receipt.
- Enter all data on resident insurance producer applications received at exam centers into O-Base within two (2) business days of receipt of the applications.
- Enter all notifications of address change and requests for duplicate licenses into O-Base within 3 business days of receipt.



Enter all requests for certifications, clearance letters, licensing histories, letters of non-licensure and Continuing Education transcripts into the service request screen of O-Base and mail out within three (3) business days of receipt of request. Our staff will forward application files that require exception processing to OFIS. We understand that these files will be returned to the assessment center for filing and storage once an application approval/disapproval decision has been made by OFIS.

Thomson Prometric will maintain paper files of all complete license applications processed at the Lansing Processing office and will ship files to Michigan's storage and retention depository after two years retention.

The chart below depicts our proposed process for conducting application processing.



All requests for Letters of Certification, Letters of Clearance, licensing histories, Letters of non-licensure and Continuing Education transcripts will be entered into the service request screen of O-Base within three business days of receipt. These requests will be processed and mailed within three business days of receipt of these requests. We will work closely with OFIS as a partner to define the business rules for this process.

The types of requests that will be processed at the Lansing Processing center as provided by OFIS include the following:

- FIS 0263 **Address Change Form** (1223-02) Must include fee card
- FIS 0200 **Agency Affiliation** (1223-06) \_\_\_\_\_
- FIS-PUB 0220 **Application for Individual Resident License** (1223-07) Must include fee card
- FIS 0221 **Application for Individual License for Non-producers** (1223-37) Must include fee card
- FIS 0202 **Application for Business Entity License** (1223-05) \_\_\_\_\_
- FIS 0201 **dba Registration Form** (1223-15) \_\_\_\_\_
- FIS 0261 **Document Request Form** (1223-13) \_\_\_\_\_
- FIS 0223 **Fee Processing Card** (1223-03) \_\_\_\_\_
- FIS 0262 **Name Change Form** (1223-14) \_\_\_\_\_
- **Publication Order Form** (1223-99) \_\_\_\_\_



Thomson Prometric is aware that there are additional requirements as outlined in previous proposals that must be performed at the Lansing Processing center. Thomson Prometric Account management staff will work closely with OFIS to develop the proper business rules for processing.

**Procedures for Non-resident applications, reinstatement applications, requests for documents at the Lansing Processing Center.**

- Thomson Prometric understands that the staff at the Lansing Processing Center will be responsible for processing applications at the Lansing center. A paper license application will be received, date stamped, and reviewed for completeness including fee card and any required attached documents that may be required in accordance with the OFIS business rules. An example may be documentation required for a "yes" response to a screening question. If an application is incomplete and/or the fee is incorrect or missing, then the application is returned to the applicant along with a return letter detailing correction that is needed and return instructions.
- If an application is complete, a folder is created for that application and the data is entered into the OFIS database.
- Fee Cards for Electronic License Application will also be processed at the Processing Center. The fee information will be entered into the applicant's completed record in the OFIS database.
- All fees and checks from all incoming documents will be removed and arranged in accordance with OFIS business rules for pick up or submission. All documents will be stamped as "Paid" and readied for processing.

Thomson Prometric understands that the staff at the Lansing Processing Center will be responsible for performing oversight activities at the Center. Thomson Prometric understands that a connection into the OFIS database will be installed at the Lansing Processing Center. Thomson Prometric will be responsible for providing staff for:

1. license application processing;
2. correcting of data in the OFIS database;
3. loading of data to the OFIS database;
4. returning forms when data is missing or erroneously submitted in accordance with OFIS business rules;
5. preparing fees for OFIS dispersal;
6. transcribing input to the OFIS database in regards to Letters of Clearance, Letters of Certification, duplicate license requests, and history requests; sorting and maintaining data folders for licensees in accordance with OFIS business rules.

Thomson Prometric understands that the Lansing Processing Center will be responsible for receipt of mail for OFIS. The staff will receive, date stamp and sort all incoming mail. Thomson Prometric staff will be handling address changes and requests documents (including applications, certificates, certifications, duplicate licenses, licensing histories, CE transcripts, and other requests). Orders will be filled for requests by mail, telephone or email. Some of the forms that will be processed are:

- FIS 0263 Address Change Form (1223-02) Must include fee card
- FIS 0200 Agency Affiliation (1223-06)
- FIS-PUB 0220 Application for Individual Resident License (1223-07) Must include fee card
- FIS 0221 Application for Individual License for Non-producers (1223-37) Must include fee card
- FIS 0202 Application for Business Entity License (1223-05)
- FIS 0201 dba Registration Form (1223-15)
- FIS 0261 Document Request Form (1223-13)





- FIS 0223 Fee Processing Card (1223-03)
- FIS 0262 Name Change Form (1223-14)
- Publication Order Form (1223-99)

#### **Records Retention**

Thomson Prometric will meet OFIS' requirement to store completed license applications in our Lansing processing center for two years. From the moment a candidate applies, information about the candidate is captured throughout the individual's licensure history file. This means Thomson Prometric has records for every licensee and all materials submitted by the candidate in one location, making up the candidate file.

As required, we will prepare files for shipment to the State's storage and retention depository two years after the candidate's license was issued.

#### **Continuing Education Provider and Course Approvals**

As the nation's leading provider of insurance CE services, we are very familiar with the range of continuing education requirements that producers must fulfill to maintain licensure.

Thomson Prometric has extensive experience performing evaluations of pre-licensing and continuing education providers and courses and can fully meet this requirement. Our CE evaluators/auditors utilize very well-defined procedures to evaluate course applications to ensure we provide decisions promptly and efficiently. **On average, our staff has conducted complete course reviews within 14 days from the date that an application was received.**

Thomson Prometric understands that criteria used to determine course and provider evaluations will be developed by OFIS with input from the Commissioner's Education Advisory Council and the testing Contractor. We acknowledge that OFIS reserves the right to audit evaluations and repeal decisions made by the Contractor regarding providers, courses, and credit hour determinations.

All CE course review applications will be received at our Lansing processing center. This ensures all applications are initially accepted and reviewed for completeness with 5 days of receipt. The technical review will be completed in cooperation with our well-established CE services unit located in our St. Paul operational facility. We propose to utilize our existing CE services unit to provide services associated with new provider and course applications, course appeals and fee collection from our St. Paul facility.

All applications and approval documents will be returned to the Lansing office for retention and entry into the O-Base system. This solution provides numerous operating efficiencies that would enhance OFIS' continuing education program. Benefits include: (1) utilizing experienced staff familiar with CE requirements; (2) flexibility to cover peak workloads; (3) streamlined communication with and proximity to management support; and (4) in-house technical support for CE systems is close at hand

We will review all course and provider applications according to the procedures outlined below.

#### **1. Continuing Education Providers and Courses Only**

- Receive continuing education provider and course filings for approval or reapproval made on forms provided by the commissioner (MCL 500.1204c(6).
- Screen these filings for completeness as defined in OFIS business rules, and return incomplete filings within five (5) business days of receipt.
- If the information in a complete filing is insufficient to determine compliance with the requirements of MCL 500.1204c(5), give written notice to the provider, within 15 days of receipt, of additional information needed to determine compliance.
- Determine compliance with the requirements of MCL 500.1204c(5) and enter that determination into O-Base within 90 days of receipt of the filing, or within 90 days after the receipt of any additional information needed to determine compliance.





- Accept filing fees from continuing education provider and course filings and remit to the State bi-weekly. Issue refund to providers for inappropriate payments as directed by the contract compliance inspector.

## 2. Pre-Licensing Education Providers and Courses Only

- Receive registration filings for pre-licensing education programs of study, screen these filings for completeness, as defined in OFIS business rules, and return incomplete filings within five (5) business days of receipt.
- Submit complete filings to the agent education advisory council evaluator for review (MCL 500.1204a and R 500.2).
- Once a recommendation is received from the evaluator, enter the recommendation into O-Base.

## 3. Both Continuing Education and Pre-Licensing Education Providers and Courses

- Maintain alphabetized hard copy files of course and provider filings at the Contractor's Lansing location and arrange for transfer to State's storage and retention depository after two (2) years.
- Provide access on Contractor's website to the OFIS web-accessible database of approved education providers and courses. Extract data from OFIS database to mail to candidates or licensees without Internet access.
- Operate a toll-free number to respond to education provider questions about filings and course approvals.

### **Course Approval Procedures**

Course providers will submit their courses to Thomson Prometric for approval on forms similar to the Course Approval Application Form that was provided. Thomson Prometric's automated recordkeeping system will track approvals and registrations, generate provider and course correspondence, create activity reports, cross-check for provider and course compliance, track complaints regarding approved courses and report this information to the OFIS.

### **Classroom Courses — Assignment of Credit Hours**

Course providers submit course approval packages directly to Thomson Prometric. To evaluate courses for approval, the provider must submit an application form, provide an annotated course outline listing the topics to be covered in the course, and include a somewhat detailed description of what will be taught in the course. The outline must also indicate the amount of time that will be allocated to each topic. A course timeline, also required, is compared to the outline and the time allocated on the application form to ensure that all claimed times are consistent. A completed application also contains the provider's tuition and fee refund policy.

If published materials (other than provider-published) are required for the course, we require a bibliography; if we do not already have a copy of the published materials, we may require the provider to supply us with one. If self-published materials are used, we may require one copy of all materials. We evaluate the course materials for accuracy; one of our primary goals is to ensure that incorrect information is not presented to students. We sample portions of the materials and evaluate them in-depth. We will disapprove courses that use material that we have found to contain significant or numerous errors.

Typically, one credit is 50 minutes of instruction with no more than 10 minutes for a break.

### **Self-Study Courses**

Actual course materials are submitted to Thomson Prometric from self-study course providers. The approval process begins with review of the application and analyzing the tables of contents of core materials for the course. A relevance percentage is computed, based upon the percent of the content of the entire course that is acceptable as continuing education.

Each chapter or section will be evaluated initially for acceptable CE content, and secondly for adherence to Michigan guidelines. The number of pages of acceptable material will then be determined by excluding those segments that are not acceptable and by further excluding pages containing tables of contents, glossaries, pictures or other materials that a student would not normally read.

**Self-Study Courses—Assignment of Credit Hours**

The evaluation process continues with determination of the relative complexity of the course materials. A sampling of the acceptable material is analyzed by considering the number of words per page. The resulting analysis of difficulty will be related to baseline data on reading rates that Thomson Prometric developed by reading samples of self-study materials from a variety of providers. The results are then converted to an expected number of minutes per page that a student would spend on the material and multiplied by the number of acceptable pages and divided by 50 credit hour minutes to produce the number of credit hours to be approved. Fractional credit hours will not be awarded.

Thomson Prometric employs a proprietary methodology based on word count and complexity to determine credit, but we can also use the state's methodology or modify our own in order to meet the state's needs. Only self-study courses with an examination for credit on course material approved by OFIS and administered by an impartial, disinterested, third-party monitor will be recommended for approval. Actual course materials are required from the course provider, as well as sample examinations comparable to those that will be used.

Our in-house CE services unit offers OFIS extensive experience collecting and processing course/provider application materials and fees, screening applications for completeness and performing quality checks on data captured. We currently provide these services for 11 of our CE regulatory clients. Once an application has been processed, our CE Evaluators/Auditors will review the course materials for approval or disapproval. A copy of our course approval and disapproval letters is included in Appendix G.

We will then transmit required data to OFIS via a secure electronic transmission, create labels for all paper files resulting from said applications, place all contents into manila folders and arrange in alphabetical order.

We will forward all completed files to our Lansing Assessment Center for storage. Files will be maintained at this facility for two years. On an annual basis, our Lansing Assessment Center staff will remove and prepare files for shipment to the state's storage and retention depository.

Our approach to defending our services begins with prevention by actively protecting individuals' rights to due process, privacy and fair assessment, and continues with a defined and published appeal process to afford individuals an opportunity to challenge results and present complaints. Finally, we notify denied applicants with a written explanation outlining the reasons for denial and their right to appeal.

While we believe our evaluations will meet OFIS criteria, we are prepared to develop procedures acceptable to OFIS to correct evaluations that do not comply with OFIS approved criteria. These procedures shall include the steps we will take to correct the problem. Accordingly, we will develop and provide written procedures for quality control and the steps we will take to conduct internal audits of courses we evaluate. We will conduct quarterly quality control reviews of our evaluation process and provide quarterly reports to OFIS outlining what providers and courses were audited, our findings, the plan of correction where improprieties occurred, and the date the matter was corrected. We agree to correct any improprieties within 10 working days.

Below, we have described our established procedure for addressing provider grievances.

**Provider Grievance Procedures**

Most complaints come in the form of a question and are handled easily in the first telephone call by CE Compliance Specialists. Supervisory and management staff is available at all times to provide the next level of customer support, and they can usually meet any remaining customer needs. Course reviewers and auditors are also available to customers during regular business hours. Our goal is to handle any complaint in the first telephone call. We try very hard to provide the caller with an alternative or a response as soon as possible. Of course, some complaints are referred to program or senior management, and even here, we try to take care of the customer's concern in a single communication.

Our grievance procedure includes working with the provider or licensee to resolve the grievance. If a resolution cannot be mutually arrived at between Thomson Prometric and the aggrieved party, then Thomson Prometric will assist them in referring the grievance to OFIS for final disposition. Our standard procedures clearly specify that Thomson Prometric will first attempt to resolve grievances and appeals, but the ultimate recourse will be with the governing state agency. Thomson Prometric will also submit a monthly report containing copies of all written complaints received and our replies.



Occasionally, a provider may dispute the findings of an evaluation/audit. If a disagreement arises, Thomson Prometric recommends the following procedures be followed in the sequence listed below.

1. Providers should call Thomson Prometric and discuss the disagreement with a CE evaluator/auditor who will discuss the findings with the provider and try to resolve the issue over the phone.
2. If the dispute cannot be resolved by phone, providers should write their reason(s) for disagreement and reconsideration of the decision. When Thomson Prometric receives the provider's written appeal, our CE evaluation group will review it.
3. If providers disagree with Thomson Prometric's responses to their written grievance, they should then address their appeal, in writing, to the state. They should state the reason for disagreeing with the Thomson Prometric Prometric response and forward copies of any correspondence with Thomson Prometric. Thomson Prometric will discuss with the state our findings and understanding of the disagreement. Their grievance will be reviewed and responded to in a timely manner.
4. Thomson Prometric will notify providers who are disapproved, as well as the reasons for disapproval, in writing. Those providers dissatisfied with the result or the process may submit additional or clarifying information that may change the result, or they may file a grievance.

#### **Continuing Education Credit Reporting**

Thomson Prometric offers a proven process for accepting electronic transfers of credit hours and/or course completions from PE and CE providers for each licensee/candidate completing a course. We have provided credit reporting services for several of our CE clients through our highly successful **CE Online** Web site since 2000 and are pleased to offer this service to OFIS. With **CE Online**, approved CE providers will have access to a system that enables them to efficiently post reports of continuing education hours earned by licensees, as well as any applicable fees. Our trained CE staff provides OFIS the peace of mind that all transactions are completed accurately and actively monitors system activity **on a daily basis**. Our staff will review credit hour and fee posting activity; once credit hour postings have been verified and all fees reconciled with the credit hours reported, we will submit a daily report to OFIS in an agreed-upon format compatible with your current data systems using a secure electronic transmission (typically FTP).

In the event a provider enters credit hour data incorrectly, he/she simply needs to contact us via either e-mail or our toll-free number and inform us of the error. We will make all necessary corrections and submit an amended report to OFIS that reflects the required change(s). As required, we will provide payment to OFIS on a bi-weekly basis. We will also issue refunds to providers for overpayment of credit hour fees subsequent to verification by our staff that an excess payment has been made. We offer a highly-secure system where all data is backed-up on a regular basis. We can assure OFIS that all records pertaining to this program will be maintained until successfully updated in your database.

If a provider has a question or complaint concerning our processes, we offer a well-established grievance procedure that is available to all providers for the submission of a formal complaint. We typically include instructions concerning this process in the provider information packets/FAQs we develop for our CE clients.

#### **Applicant Grievance Procedures**

Thomson Prometric offers an established appeal methodology to handle all questions or inquiries regarding CE credits and related issues. Our approach to defending our services consists of 1) prevention by actively protecting individuals' rights to due process, privacy and fair assessment; and 2) providing a defined and published appeal process to afford individuals an opportunity to challenge results and present complaints. We notify denied applicants with a written explanation outlining the reasons for denial and their right to appeal. Below, we have described our established applicant grievance procedures that we propose to implement for this program. As required by OFIS, we will also develop an OFIS-approved complaint initiation form to facilitate the complaint and grievance process. We will also provide written responses addressing a licensee's/provider's grievance within 10 days of receipt of a written complaint. Most complaints come in the form of a question and are easily handled in the first telephone call. Our CE Evaluators/Auditors offer significant expertise and knowledge of the insurance industry, have years of service experience and are familiar with state CE programs. Therefore, when applicants present a complaint or question, our CE Evaluators/Auditors are often able to bring problems to a proper and timely resolution. If a situation necessitates, supervisory and management staff are available to provide the next level of customer support; and typically are able to resolve the applicant complaint.



Grievances from applicants are typically against providers or the administrator. Thomson Prometric endeavors to resolve grievances at the Evaluator/Auditor level, and in some cases with assistance from management level staff. However, when a mutually agreed upon resolution cannot be achieved, the ultimate recourse is with the governing state agency. Whenever we refer applicants to the client for final disposition, we offer appropriate and reasonable assistance to the applicant and the client, including providing supplemental information regarding the filed grievance to the client.

Thomson Prometric recommends the following procedures in the sequence listed below.

- Applicants should call Thomson Prometric and discuss the disagreement with a CE evaluator/auditor who will discuss the findings with the applicant and try to resolve the issue over the phone.
- If the dispute cannot be resolved by phone, applicants should submit a description of his/her problem, how he/she attempted to resolve it, and the desired resolution, in writing. When Thomson Prometric receives the applicant's written appeal, our CE evaluation group will review it. A written response will be prepared within 10 business days.
- If applicants disagree with Thomson Prometric's responses to their written grievance, they should then address their appeal, in writing, to OFIS. They should state the reason for disagreeing with the Thomson Prometric response and forward copies of any correspondence with Thomson Prometric. Thomson Prometric will discuss with OFIS our findings and understanding of the disagreement. Their grievance will be reviewed and responded to in a timely manner.

#### **CE Customer Service and Support Staff**

We will provide a high degree of availability to your licensees and providers by continuing to staff our Service Center from 8 a.m. to 6 p.m. Eastern Time, Monday through Friday, to respond to inquiries. In addition to providing a dedicated toll-free phone number for the Michigan Continuing Education program, we will promptly respond to inquiries made by toll-free phone, toll-free fax, e-mail and regular mail. All callers will have the opportunity to speak with a company representative.

Our call center staff uses well established performance standards developed to properly meet client expectations for service excellence. Thomson Prometric does not hold our staff to specific quotas regarding number of candidates served per minute or per hour—our specialists are evaluated solely on the excellence of the service they provide.

Our customer service personnel who answer the phones and provide information to your constituents are thoroughly trained and tested to answer many of the typical questions from your providers and licensees regarding their CE requirements. Our phone staff is monitored on a regular basis by supervisory personnel who listen and evaluate each of the representatives' customer service techniques. We evaluate our staff on the basis of accuracy, service and courtesy. Data entry is evaluated through our quality checking process, which monitors staff accuracy and detects trends that may need corrective action. We take great care and pride in delivering a quality call center service.

Please see Appendix I for a copy of our 2006 CE Customer Satisfaction Survey and samples of our standard reports.



## 1.2 Roles and Responsibilities

### 1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES

The State and Contractor agree that the following personnel are Key Personnel for purposes of this Contract:

**Contractor Response:**

A large team of experienced individuals – working together – are necessary to make sure that the services we provide meet or exceed your expectations. For purposes of this contract, we have identified the following individuals as Key Personnel:

- Chris Wagenbach, Vice President, Client Services
- Susan Le Feber, Account Manager
- Phil Peterson, Director, Continuing Education Services
- Ward Weller, Director, Insurance Licensing Services

### 1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES

The DLEG-OFIS has appointed and assigned its Insurance Licensing and Investigations Director, Ms. Sonya Dungey, as it's Agency Contract Compliance Inspector. The Contractor will work directly with and report to the Insurance Licensing and Investigations, Conduct Review and Securities Section of DLEG-OFIS. The appointed Program Staff will oversee the contract and specific assignment direction, and work with the Contractor to establish and approve objectives and timelines. The Contractor may be directed by the Director to work on a more regular basis with additional agency/program staff to complete contract deliverables.

Name: Sonya W. Dungey

Title: Contract Compliance Inspector

Responsibilities: Overall responsibility for the services rendered under this contract.

### 1.203 OTHER ROLES AND RESPONSIBILITIES - RESERVED

## 1.3 Project Plan

### 1.301 PROJECT PLAN MANAGEMENT

Within ten (10) working days of the award of the Contract, the Contractor will submit a finalized work plan to the OFIS Contract Compliance Inspector for final approval. The work plan must include the following:

1. The Contractor's organizational structure of the project.
2. The Contractor's staffing table with names and title of personnel assigned to the project / phase of project. (This must agree with the staffing as described in key personnel).
3. The project breakdown, showing sub-projects, phases, activities or tasks, and Contractor-resources required and allocated to each.
4. OFIS approval for each phase.
5. The time-phased plan/target completion date(s), or calendar showing each event, task, and decision point in your work plan.

**Contractor Response:** Thomson Prometric will submit a finalized work plan to the OFIS project director for final approval within ten working days of contract award. The paragraphs below describe our implementation strategy.

**Client Services Team Delivers Program-Managed Solution**

A dedicated implementation team led by your account manager and business development manager will apply a proven program management approach to each new program implementation and to the ongoing management of each program. This approach produces highly desired results by focusing multi-departmental attention to every program.



The implementation team is fully supported internally by Thomson Prometric's Implementation Center of Excellence. These highly experienced and skilled staff members work to complete the technical and procedural steps needed to successfully launch, continuously operate, and enhance your program. This team ensures all aspects of the program are well planned and executed. Our staff is experienced in identifying the scope of the project and allocation of resources needed to meet the deadlines and requirements. Each task necessary to implement your program successfully is outlined with interdependencies and timelines assigned, and every step is closely monitored by the entire team.

Drawing on our established organizational resources and proven implementation methodology, Thomson Prometric is capable of and commits to the successful and timely launch of the OFIS testing program.

Our implementation plan, subject to finalization by the OFIS project director, is defined as having five stages: planning, blueprint, preparation, launch, and analysis.

#### **Stage 1—Planning**

During the final stages of contract negotiations, Thomson Prometric begins the implementation planning process. We explicitly define “what” is to be accomplished in the initial phase of the implementation process in order to fully outline and define the scope of work. During this stage, the implementation team must fully understand and ensure that OFIS’ needs are clearly documented. Our team uncovers OFIS’ business needs and confirms them with OFIS. With a clear understanding of your needs, the implementation team is better prepared to make decisions and recommendations throughout the project.

Stage 1 goal: Agreement between OFIS and Thomson Prometric on deliverables, high-level milestones and success criteria.

#### **Stage 2—Blueprint**

Within days of a contract signing and Stage 1 completion, Stage 2 begins with the further defining of “how” the implementation will be accomplished. A project team is confirmed, and each member reviews and understands the business goals, requirements and scope of the implementation. The implementation team conducts an internal kick-off meeting with the project team and requests a formal kick-off meeting with OFIS representatives as well.

Stage 2 goal: Commitment for the contractual promises and scope from all internal and external parties.

#### **Stage 3—Preparation**

During the preparation stage, the project team completes all necessary set-up for the implementation. As systems are being readied for delivery of the program, the implementation team documents all potential risks to the program and works to mitigate them and plan contingencies. The implementation team also keeps a record of all issues, assigning ownership and due dates for resolution, and notifies all relevant departments of their roles.

In addition, this stage includes the planning of quality assurance tests, which will mimic the actual deployment of the program.

Stage 3 goal—Understanding of program details, along with full identification of the risks and a plan for mitigating them.

#### **Stage 4—Launch**

The launch stage represents the date the program actually goes “live” and is ready to deliver exams to real candidates. After the initial implementation is successfully completed, the account manager continually monitors your program to ensure quality service is provided to OFIS and your candidates.

Stage 4 goal: Successful transition from implementation to client services maintenance functions, as well as delivery readiness.

#### **Stage 5—Analysis**

The implementation team, along with key internal stakeholders, conducts an analysis of the entire implementation project, assessing the outcome of the project against the initial scope, timeline, deliverables and success criteria. The assessment document notes such findings as risk mitigations that were successful and are replicable, timelines





that may have been expedited and potential improvements to the implementation process.

Stage 5 goal: Full assessment of program implementation success, as well as further understanding of program risks for account manager's use in the ongoing operation of the program.

#### **Management Plan and Timeline**

The implementation plan provided below represents a high-level schedule of the major tasks we view as critical to the successful accomplishment of OFIS objectives as specified in this RFP. The schedule is developed based on an award date of September 15, 2006 and a contract start date of October 1, 2006. Our honest, thoughtful attempts to reduce individual task durations and the sequencing of events in order to meet OFIS' requested 2-week timeline would create high levels of risk for Thomson Prometric, OFIS, candidates, and other Michigan insurance industry constituents. Therefore, the timeline presented below takes into account the required participation of OFIS personnel, the likely limited availability of personnel in the year end holiday season, and the inherent challenges of transitioning a complex program from one Contractor to another. This plan will serve as the basis for initial plan development and business rule discussions with OFIS and will be finalized and submitted to OFIS within ten (10) days of contract signing

| TASK                                                                  | DURATION       |
|-----------------------------------------------------------------------|----------------|
| <b>AWARDED BY Michigan Insurance</b>                                  | <b>1 day</b>   |
| <b>PROGRAM LAUNCH</b>                                                 | <b>34 days</b> |
| <b>STAGE 1: DEFINE</b>                                                | <b>3 days</b>  |
| Define Scope Based on Proposal and Statement of Work                  | 1 day          |
| Identify Workstreams and Workstream Owners                            | 1 day          |
| Hold Internal Project Kick-Off Meeting                                | 1 day          |
| <b>STAGE 2: PLAN</b>                                                  | <b>4 days</b>  |
| Create Formal Scope Document                                          | 1 day          |
| Create Detailed Project Work Breakdown Structure                      | 1 day          |
| Create Risk Mitigation and Contingency Plan                           | 1 day          |
| Hold Customer Kick-Off Meeting                                        | 1 day          |
| <b>STAGE 3: EXECUTE</b>                                               | <b>86 days</b> |
| <b>Scheduling System Set-Up</b>                                       | <b>30 days</b> |
| Set-Up all required systems for candidate scheduling and registration | 30 days        |
| <b>Forms</b>                                                          | <b>15 days</b> |
| Create Forms, MI Ins Review, Posting to Web site                      | 15 days        |
| <b>Testing Centers/Processing Center</b>                              | <b>86 days</b> |
| <b>Testing Center/Processing Center Build Out</b>                     | <b>86 days</b> |
| Lansing Processing Center Site                                        | 86 days        |
| Secure site                                                           | 60 days        |
| Build-out Site                                                        | 25 days        |
| Install communications                                                | 25 days        |
| Install Test Center Equipment                                         | 5 days         |
| Hire and Train MI Ins Dedicated Staff                                 | 44 days        |
| <b>Build out new Detroit Lab (15 additional seats)</b>                | <b>85 days</b> |
| Secure site                                                           | 60 days        |
| Build out site                                                        | 25 days        |
| Install and test communications                                       | 25 days        |

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|                                                                                                                      |                |
|----------------------------------------------------------------------------------------------------------------------|----------------|
| Install Test Center equipment                                                                                        | 5 days         |
| Hire and Train Staff                                                                                                 | 44 days        |
| <b>Expand Existing Grand Rapids Lab (5 seats)</b>                                                                    | <b>44 days</b> |
| Build out site                                                                                                       | 25 days        |
| Install and test communications                                                                                      | 25 days        |
| Install Test Center equipment                                                                                        | 5 days         |
| Hire and Train Staff                                                                                                 | 44 days        |
| <b>Build out new Marquette Lab</b>                                                                                   | <b>85 days</b> |
| Secure site                                                                                                          | 60 days        |
| Build out site                                                                                                       | 25 days        |
| Install and test communications                                                                                      | 25 days        |
| Install Test Center equipment                                                                                        | 5 days         |
| Hire and Train Staff                                                                                                 | 44 days        |
| <b>Continuing Education</b>                                                                                          | <b>7 days</b>  |
| Meet with OFIS to clarify requirements                                                                               | 1 day          |
| Drafts of all program documents are sent to OFIS                                                                     | 3 days         |
| OFIS approves all documents                                                                                          | 1 day          |
| Promissor and OFIS provide data descriptions and sample file for all CE files to be transferred                      | 2 days         |
| Thomson Prometric establishes Michigan CE web page with program information                                          | 3 days         |
| Thomson Prometric releases notice to CE providers with new forms informing them of the transition                    | 3 days         |
| Promissor stops CE processing. Sends all work on hand to Thomson Prometric                                           | 1 day          |
| CE data files are transmitted from Promissor to Thomson Prometric                                                    | 1 day          |
| Thomson Prometric begins providing toll free phone service and processing rosters, course and provider applications. | 1 day          |
| <b>Test Development</b>                                                                                              | <b>86 days</b> |
| <b>IBT Practice Exams</b>                                                                                            | <b>1 day</b>   |
| Deploy current insurance practice exams via Internet-based delivery platform                                         | 1 day          |
| <b>MI INS (National and State Items)</b>                                                                             | <b>86 days</b> |
| Get OFIS Items                                                                                                       | 1 days         |
| Enter items into IntelliTest                                                                                         | 1 days         |
| Create Test Specification                                                                                            | 13 days        |
| Signed Test Spec Received                                                                                            | 7 days         |
| Launch CIB                                                                                                           | 20 day         |
| Create Exam Content                                                                                                  | 30 day         |
| Exam to Production                                                                                                   | 1 day          |
| Create New Exams                                                                                                     | 18 days        |
| To Test Quality                                                                                                      | 1 day          |
| Test                                                                                                                 | 8 days         |
| Deploy                                                                                                               | 8 days         |
|                                                                                                                      |                |
| <b>STAGE 4: LAUNCH</b>                                                                                               | <b>46 days</b> |
| MI Ins Candidates are Able to Schedule for Their Exams                                                               | 1 day          |
| MI Insurance Exams are Live for Delivery to Candidates                                                               | 1 day          |
|                                                                                                                      |                |
| <b>STAGE 5: POST IMPLEMENTATION ANALYSIS</b>                                                                         | <b>11 days</b> |
| <b>Implementation Debrief</b>                                                                                        | <b>10 days</b> |
| Conduct Internal Project Debrief                                                                                     | 5 days         |
| Conduct Project Debrief with Client                                                                                  | 5 days         |

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|  |                         |              |  |
|--|-------------------------|--------------|--|
|  | <b>Debrief Analysis</b> | <b>1 day</b> |  |
|  | Report on Findings      | 1 day        |  |

**1.302 REPORTS**

Although there will be continuous liaison with the Contractor team, the OFIS Contract Compliance Inspector will meet semi-annually at a minimum with the Contractor's project manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise.

Further, the Contractor will submit the following electronic reports (preferably accessible through a web based program):

- Monthly Status Report: Contractor will submit a brief monthly written summary of progress which outlines the work accomplished during the reporting period; work to be accomplished during the upcoming reporting period; any problems, real or anticipated, which should be brought to the attention of the OFIS project director; and, notification of any significant deviation from previously agreed-upon work plans.
- Annually, the Contractor will submit a fiscal year planning report, which outlines how our program was implemented, how updates and/or changes were implemented; work to be accomplished during the upcoming fiscal year, and how the turn-around time for implementing our changes/processes.
- Management Reports:
  - a. Summary of application progress
- Management Reports -- Exam Administration
  - a. Contractor must have the capacity to provide monthly, quarterly and annual management reports that include at least the following:
    1. Number of candidates by test site.
    2. Number of candidates by exam type
    3. Number of candidates by exam type at each exam center
    4. Results of customer satisfaction exit survey
    5. Candidate performance summary by exam type
    6. Candidate performance summary by pre-licensing education school
- Management Reports – CE Credit Reporting Process
  - a. Late reporting education providers
- Education fee collection and credit hour summary
  - a. Education Provider/Course Complaints
  - b. Education Provider and Course application statistics
  - c. Education provider/course application fees
  - d. Education provider renewal fees

**Contractor Response: Thomson Prometric will provide OFIS with the reports specified above at the required intervals.** Our staff will also hold, at minimum, semi-annual meetings with OFIS in order to evaluate the examination process and identify opportunities for improvement.

Thomson Prometric provides periodic statistical reports that characterize candidate performance. In addition to these reports, our systems allow us to transmit data daily regarding Michigan candidates, including number of tests given, pass/fail rates, number of re-tests and any other examination statistics or information mutually agreed upon by the OFIS and Thomson Prometric.

Thomson Prometric utilizes a variety of data gathering protocols to track and compile the types of reports OFIS requires. Accordingly, we have the capability to modify our data collection systems and create new queries for the collection of the data as required. For this reason, we are confident that OFIS will be pleased with the variety and frequency of reports we offer. Upon contract award, we will be happy to work with OFIS to reach a mutually-agreeable format in which to provide the performance metrics described above.

**1.4 Project Management****1.401 ISSUE MANAGEMENT**

An issue is an identified event that if not addressed may affect schedule, scope, quality or budget.

The Contractor shall maintain an issue log for issues relating to the provision of services under this Contract. The issue management log must be communicated to the State's Project Manager on an agreed upon schedule, with email notifications and updates. The issue log must be updated and must contain the following minimum elements:

- Description of issue
- Issue identification date
- Responsibility for resolving issue.
- Priority for issue resolution (to be mutually agreed upon by the State and the Contractor)
- Resources assigned responsibility for resolution
- Resolution date
- Resolution description

**Contractor Response:** Thomson Prometric is prepared to handle any type of issue, crisis or emergency. Throughout any situation, your account manager will be your single point of contact, providing status reports and plans for the return to normal operations.

In all emergency situations, the Help Desk is notified immediately. The Help Desk is trained in emergency procedures, as documented in the Policy, Practice and Procedure Manual. Help Desk personnel provide step-by-step guidance to the test center staff to ensure each situation is handled consistently and effectively. Our first priority is to ensure the safety of testing candidates and test center staff. In the case of a security breach, local authorities are notified, who work cooperatively with our staff to handle the situation. Structured escalation procedures are followed to ensure full executive level attention is paid to the situation.

**Corporate Commitment to Continuous Operations**

In addition to providing continuous service throughout our testing network, Thomson Prometric has also provided for disaster recovery and business continuity at the corporate headquarters level.

We have an established corporate level Business Continuity Plan to address the loss of extended access rights to the premises or catastrophic disasters (i.e. building destroyed, extended power loss) for our corporate Headquarters, Data Center and Candidate Services Contact Center locations. These plans include the restoration of processing capabilities at a remote site for critical systems as well as long term plans to restore the facilities if necessary. Thomson Prometric operates within common business practices relating to disaster recovery, providing the highest levels of uninterrupted service to our clients.

**Problem Escalation Procedures Ensure Speedy Resolution**

When a problem is encountered at a test center that cannot be handled by the local Test Center Administrator, it is escalated to the Level 1 Global Help Desk (GHD) for the appropriate region. If necessary, the Level 1 GHD will then escalate the problem to the Level 2 GHD for additional support. For those issues that have broad impact, which cannot be addressed by the Global Help Desk support system, the problems are escalated to the Global Command Center.

**Global Command Center (GCC)**

The Global Command Center performs two service support related functions. These are Analysis and Resolution (A&R) of problems with our Business Services and Unscheduled service outages.

**Problem Management** Problem management deals with those issues involving our core business functions (to include; Test Delivery, Scheduling and Registration, Results Processing, and Results Delivery) that are not client or site specific in nature and have a broad impact upon the business. These are issues that require significant research, development, and testing before they can be resolved. These issues are managed throughout the problem resolution process by the GCC.

Typically, issues are escalated from the GHD to the GCC, but when clients identify issues with the exams or services offered by Thomson Prometric they should contact their account manager. The account manager may also escalate problems directly to the GCC for Analysis and Resolution.



Based on the priority of the problem, the following notifications process will be used:

**Critical Problems**

Notification will be provided once the problem is known to the GCC and status updates will be provided to appropriate departments not less than twice per day.

**High Priority Problems**

Notification will be sent to appropriate departments upon receipt and status updates will be made upon significant activity, but not less than once per week.

**Low and Medium Priority Problems**

Notification will be sent to appropriate departments upon receipt and in accordance with scheduled activity once a problem resolution plan has been developed. Updates will be provided not less than once per month until such time as a plan is developed.

**1.402 RISK MANAGEMENT**

A risk is an unknown circumstance or event that, if it occurs, may have a positive or negative impact on the Contract. Risk management generally involves (1) identification of the risk, (2) assigning a level of priority based on the probability of occurrence and impact to the project, (3) definition of mitigation strategies, and (4) monitoring of risk and mitigation strategy.

The Contractor will create a risk management plan. A risk management plan format will be submitted to the State for approval within 20 business days after the effective date of the contract resulting from this RFP. Once both parties have agreed to the format of the plan, it shall become the standard to follow for the duration of the contract. The plan must be monitored and updated bi-weekly, or as agreed upon. The risk management plan will be developed in accordance with the State's PMM methodology and the PMBOK (Project Management Institute).

**Contractor Response:** For risks associated with staffing issues, Thomson Prometric has standard processes and procedures in place to minimize the impact of any personnel loss – at the home office or within our testing center network. For example, employees in our Contact Center are trained on a number of clients and industries to facilitate a smooth transition when temporary or permanent staff replacements become necessary. These cross-trained Customer Service Representatives can easily fill in to handle unexpected call volumes without affecting our level of service. On the project management side, Thomson Prometric has a large staff of highly-qualified personnel. If it becomes necessary to replace a key person – such as the account manager – Thomson Prometric would work with the state to ensure that a suitable replacement is made expeditiously.

For facility and test administration risks, Thomson Prometric can assure the state that every effort will be made to eliminate the risk of loss of an examination site. In an emergency, there are processes and procedures in place to quickly restore operations.

Risk management is a continual process at Thomson Prometric as we strive to improve our overall service to our clients. Thomson Prometric's account manager will periodically review known/anticipated risks with the state.

**1.403 CHANGE MANAGEMENT**

Change management is defined as the process to communicate, assess, monitor, and control all changes to system resources and processes. The State also employs change management in its administration of the Contract.

The following provides a detailed process to follow if a change to this Statement of Work (SOW) is required.





- a. A Project Change Request (PCR) will be the vehicle for communicating change. The PCR must describe the change; the rationale for the change and the effect the change will have on the project.
- b. The designated Project Manager of the requesting party will review the proposed change and determine whether to submit the request to the other party.
- c. The Contractor's Project Manager and the State will review the proposed change and approve it for further investigation or reject it. Contractor will specify any charges for such investigation. If the investigation is authorized, the State and the Contractor will sign the PCR, which will constitute approval for the investigation charges. (The timing of signature by the State Project Manager will be the accordance with the State's Administrative Board or other applicable approval process). Contractor will invoice the State for any such charges. The investigation will determine the effect that the implementation of the PCR will have on price, schedule and other terms and conditions of the Agreement.
- d. A written Change Authorization and/or Project Change Request (PCR) must be signed by both parties to authorize implementation of the investigated changes.
- e. Change Authorizations and/or Project Changes Request (PCR) will be processed through the state's Purchasing Operations Office.
- f. If the DMB Purchasing Operations Director agrees with the proposed modification, and all required approvals are obtained (including State Administrative Board), the Purchasing Operations Buyer will issue an addendum to the Contract, via a Contract Change Notice.

Contractors who provide products or services prior to the issuance of the Contract Change Notice by the DMB Purchasing Operations, risk non-payment for the out-of-scope/pricing products and/or services.

**Contractor Response:** Change management is an essential element of any project, and Thomson Prometric has found this to be particularly true for state-based testing programs with similar complexity to that required via this Contract. The two primary triggers for change management are modifications to the project scope and timeline. Successful change management begins with thorough requirements gathering involving all of the relevant stakeholders and the identification of individual workstreams and their respective owners. Thomson Prometric intends to conduct regularly- scheduled meetings to document requirements and then manage the project accordingly. Once the scope of work has been established, any modifications will be evaluated and their impact on the previously agreed-upon timeline communicated. This rigorous change control process ensures that all relevant parties are made aware, in writing, of the modification and its scheduling impact. To further facilitate communications, Thomson Prometric utilizes a "scorecard" model that quickly provides the status of all milestones and information on any changes since the last report.

## 1.5 Acceptance

### 1.501 CRITERIA

The following deliverables provided under this statement of work are the criteria for acceptance. The Contractor must provide the deliverables on the dates agreed to in the approved project plan, or any authorized amendment of the project plan:

- Requirements analysis
- Implementation Plan
- Adequate staffing and facilities
- Uploading of data
- Training and Documentation
- Testing and Implementation

The Contractor will provide a Deliverable Signoff form to the State's Project Manager.

The State's Project Manager will verify the completeness of the deliverables based on the contract requirements and associated approved documents.



**Contractor Response:** Thomson Prometric does not anticipate the need to develop new programs to implement required services.

**Program Changes:** In the event program changes are required for implementation, Thomson Prometric commits to implementing these changes within 60 business days.

**Process Changes:**

In the event process changes are required for implementation, Thomson Prometric commits to implementing these changes within 10 business days.

Thomson Prometric understands and agrees to the service requirements outlined and detailed in this Contract.

We will work with the OFIS to ensure the proper delivery of services and to ensure that the spirit of our proposed solution is upheld. We hereby affirm that we will provide the services outlined in Paragraph 1.501.

### 1.502 FINAL ACCEPTANCE

Final acceptance is when the project plan is complete and implemented according to the requirements. Any intermediate acceptance of sub-deliverables does not complete the requirement of Final Acceptance. Final acceptance of deliverable is by OFIS. The State's Project Managers will verify the completeness based on the contract requirements, service request(s) and associated approved documents.

All business requirements listed in the Statement of Work will be met.  
All deliverables listed in the Statement of Work will be delivered.

**Contractor Response:** Thomson Prometric agrees that the following will constitute Final Acceptance by the State of our performance:

- Annual fiscal planning report submitted 30 business days prior to the end of the fiscal year.
- Monthly business reports submitted within 10 business days at the end of each month.
- All program changes implemented within 60 business days; and
- All process changes implemented within 10 business days.
- The State's Contract Compliance Inspector will notify Thomson Prometric of approval of a report within 15 business days of receipt.

As we have outlined, we anticipate the tasks and timeline provided earlier in this proposal to be performed upon contract award. These tasks are reflective of the scope of work outlined in the Contract and indicate our understanding of our role in your licensure program. We will work with OFIS to monitor and evaluate the performance of these tasks throughout the term of the contract.

Upon contract award, we will meet with OFIS to finalize the details of our planned timeline and, as required, address project milestones, deliverables and expected service levels throughout performance of the contract.

## 1.6 Compensation and Payment

A. PAYMENT METHOD and PRICE TERMS  
Contractor AGREES that -

1. CONTRACT AGREEMENT IS a FIXED, not to exceed, maximum amount.
2. Payment will be issued as a RATE PER UNIT OF SERVICE.



3. The unit rate(s) quoted and established in this Agreement shall remain fixed for the entire period of the Agreement (through September 30, 2011), except as follows:
  - a. Rates/prices are subject to change at the end of each 365-day option-to-extend-period.
  - b. Such changes shall be based on changes in actual costs incurred for delivery of services.
  - c. Documentation of such changes must be provided with the request for price change in order to substantiate any requested change.
  - d. Purchasing Operations reserves the right to consider various pertinent information sources to evaluate price increase requests (such as the CPI and PPI, US City Average, as published by the US Department of Labor, Bureau of Labor Statistics).
  - e. Purchasing Operations also reserves the right to consider other information related to special economic and/or industry circumstances, when evaluating a price change request.
  - f. Purchasing Operations reserves the right to deny a Contractor's request for a rate-change, and have the original, quoted rates remain in effect for the life of the Agreement.
  - g. Changes may be either increases or decreases, and may be requested by either party.
  - h. Approved changes shall be firm for the remainder of the contract period unless further revised at the end of the next 365-day period.
  - i. Requests for price changes shall be RECEIVED IN WRITING AT LEAST 60 DAYS PRIOR TO THEIR EFFECTIVE DATE and are subject to written acceptance and approval by the State before becoming effective.
  - j. In the event new prices are not acceptable, the CONTRACT may be cancelled.
  - k. The continued payment of any charges due after September 30th of any fiscal year will be subject to the availability of an appropriation for this purpose.
4. The Contractor shall maintain a record system that documents the total number of units of service as defined in this Agreement and delivered during the term of this Agreement. These records shall also document the specific units billed to the State under this Agreement.
5. A monthly "Statement of Expenditures," which shall accurately represent the units of service delivered, the reimbursement rate by type of service, and the total amount being claimed, must be submitted to the State, within thirty (30) days from the end of the monthly billing period.
6. ***For the month of September, billings shall be submitted as reasonably directed by the Departmental Contract Compliance Inspector or the State's Contract Administrator to meet fiscal year end closing deadlines.***
7. If the billing is not received as set forth above, no payment shall be made by the State for that billing period unless an exception is specifically authorized by the Department director or his/her delegated representative.
8. In no event, shall the State make payment to the Contractor for billings submitted more than 90 days after the end of a billing period.

#### B. PRICING

The contract cost shall be the sum of the pricing for each of the four major service categories (a, b, c, and d below), regardless of whether payment is received by the Contractor directly from the testing candidate or is paid to the Contractor by the State of Michigan.

- a. Examination administration

Pricing for this function shall be in accordance with MCL 500.240(4).

Cost per examination collected from the exam candidate: **\$40.00**

Estimated total cost: (estimated number of exams times the cost per exam) **candidates @ \$40.00/exam = \$1,169,040.00**



Debt Management Examination Administration  
Cost per examination billed to the State: **\$40.00**

b. Licensing Administration

Pricing for this function shall be a monthly fixed cost that will be billed to the State.

Cost per month: **N/A – included in Cost per Examination**

Annual cost: **\$0**

c. Approving Education Providers and Courses

Pricing for this function shall be either

Cost per unit of service provided **\$40.00**

(Shown as estimated units of service provided times cost per unit)

OR

Fixed cost per month billed to the State for providing the service: **N/A**

Annual cost: **N/A**

d. Continuing Education Credit Reporting Process

Pricing for this function shall be either Cost per credit hour processed

(shown as estimated credit hours processed times cost per unit) **574,180 candidates @ \$.55/credit = \$315,799.00**

OR

Fixed cost per month billed to the State for providing the service:

Annual cost: **N/A**

Total maximum cost of this contract:

a. Insurance Examination Administration – Estimated annual cost: **\$1,169,040.00**

b. Debt Management Examination Administration – Estimated Annual Cost: **\$13,560.00**

c. Licensing Administration – Annual cost: **\$0.00**

d. Approving Education Providers and Courses -- Annual cost: **\$94,240.00**

e. Continuing Education Credit Reporting Process – Annual cost: **\$315,799.00**

Total maximum annual cost of contract: **\$1,592,639.00**

## 1.7 Additional Terms and Conditions Specific to this SOW - Reserved



## Article 2 – General Terms and Conditions

### 2.0 Introduction

#### 2.001 GENERAL PURPOSE

The Contract is for **test administration services** for the State of Michigan. Orders will be issued directly to the Contractor by various State Agencies on the Purchase Order Contract Release Form. Bids are due and will be publicly identified at the time noted on the Request for Proposal (RFP) Form.

#### 2.002 ISSUING OFFICE AND CONTRACT ADMINISTRATOR

The Contract is issued by Purchasing Operations, State of Michigan, Department of Management and Budget, hereinafter known as Purchasing Operations, for the Department of Labor & Economic Growth's (DLEG's) Office of Financial and Insurance Services, hereinafter known as OFIS. Where actions are a combination of those of Purchasing Operations and the State agencies, the authority will be known as the State.

Purchasing Operations is the sole point of contact in the State with regard to all procurement and contractual matters relating to the commodities and/or services described herein. Purchasing Operations is the only office authorized to negotiate, change, modify, amend, alter, clarify, etc., the specifications, terms, and conditions of the Contract. Purchasing Operations will remain the SOLE POINT OF CONTACT throughout the procurement process.

**Contractor proceeds at its own risk if it takes negotiation, changes, modification, alterations, amendments, clarification, etc., of the specifications, terms, or conditions of the contract from any individual or office other than Purchasing Operations and the listed contract administrator**

All communications covering this procurement must be addressed to contract administrator indicated below:

Department of Management and Budget  
Purchasing Operations  
ATTN: **Irene Pena**, CPPB  
Buyer Specialist  
530 West Allegan Street, 2<sup>nd</sup> Floor  
Lansing, Michigan 48933  
-or-  
P.O. Box 30026  
Lansing, Michigan 48909  
(517)  
Email: Penai1@michigan.gov

#### 2.003 NOTICE

Any notice given to a party under this Contract must be written and shall be deemed effective, if addressed to such party as addressed below 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 (3rd) 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.

#### 2.004 CONTRACT TERM

The term of this Contract will be for five (5) years and will commence with the issuance of a Contract. This will be approximately October 1, 2006 through September 30, 2011.

**Option.** The State reserves the right to exercise five (5) one-year options, at the sole option of the State. Contractor performance, quality of products, price, cost savings, and the Contractor's ability to deliver on time are some of the criteria that will be used as a basis for any decision by Purchasing Operations to exercise an option year.



Written notice will be provided to the Contractor within 120 days, provided that the State gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension. If the Government exercises this option, the extended contract shall be considered to include this option clause.

## **2.005 GOVERNING LAW**

The Contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan. By signing this agreement, Contractor consents to personal jurisdiction in the state of Michigan. Any dispute arising herein shall be resolved in the State of Michigan.

## **2.006 APPLICABLE STATUTES**

The following statutes, rules, and laws are applicable to the performance of this contract; some statutes are reflected in the clauses of this contract. This list is NOT exhaustive.

MI Uniform Commercial Code (MIUCC) MCL 440. (All sections unless otherwise altered by agreement)  
MI OSHA MCL §§ 408.1001 – 408.1094  
Freedom of Information Act (FOIA) MCL §§ 15.231, et seq.  
Natural Resources and Environmental Protection Act MCL §§ 324.101, et seq.  
MI Consumer Protection Act MCL §§ 445.901 – 445.922  
Laws relating to wages, payments of wages, and fringe benefits on state projects MCL §§ 408.551 – 408.558, 408.471 – 408.490, 1965 PA 390.  
Department of Civil Service Rules and regulations  
Elliot Larsen Civil Rights Act MCL §§ 37.2201, et seq.  
Persons with disabilities Civil Rights Act MCL §§ 37.1101, et seq.  
MCL §§ 423.321, et seq.  
MCL § 18.1264 (law regarding debarment)  
Davis-Bacon Act (DBA) 40 USCU §§ 276(a), et seq.  
Contract Work Hours and Safety Standards Act (CWHSSA) 40 USCS § 327, et seq.  
Business Opportunity Act for Persons with Disabilities MCL §§ 450.791 – 450.795  
Rules and regulations of the Environmental Protection Agency  
Internal Revenue Code  
Rules and regulations of the Equal Employment Opportunity Commission (EEOC)  
The Civil Rights Act of 1964, USCS Chapter 42  
Title VII, 42 USCS §§ 2000e et seq.  
The Americans with Disabilities Act (ADA), 42 USCS §§ 12101 et seq.  
The Age Discrimination in Employment Act of 1967 (ADEA), 29 USCS §§ 621, 623 et seq.  
The Old Workers Benefit and Protection Act of 1990 (OWBPA), 29 USCS §§ 626, et seq.  
The Family Medical Leave Act of 1993 (FMLA), 29 USC §§ 651 et seq.  
The Fair Labor Standards Act (FLSA), 29 USC §§ 201 et seq.  
Pollution Prevention Act of 1990 (PPA) 42 U.S.C. §13106  
Sherman Act, 15 U.S.C.S. § 1 et seq.  
Robinson-Patman Act, 15 U.S.C.S. § 13 et. seq.  
Clayton Act, 15 U.S.C.S. § 14 et seq.

## **2.007 RELATIONSHIP OF THE PARTIES**

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its subContractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subContractors during the performance of this Contract.



**2.008 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 this Contract.

**2.009 MERGER**

This document constitutes the complete, final, and exclusive agreement between the parties. All other prior writings and negotiations are ineffective.

**2.010 SEVERABILITY**

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

**2.011 SURVIVORSHIP**

Any provisions of the Contract that impose continuing obligations on the parties including, but not limited to the Contractor's indemnity and other obligations shall survive the expiration or cancellation of the Contract for any reason.

**2.012 NO WAIVER OF DEFAULT**

The failure of a party to insist upon strict adherence to any term of the Contract shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term or any other term of the Contract.

**2.013 PURCHASE ORDERS**

Orders for delivery of commodities and/or services may be issued directly by the State Departments through the issuance of a Purchase Order Form referencing this Contract (Blanket Purchase Order) agreement and the terms and conditions contained herein. Contractor is asked to reference the Purchase Order Number on all invoices for payment.

Purchasing Operations has given the State Departments approval to make payments for commodities and services purchased from this contract through Direct Voucher. For this reason, the Contractor will be asked to reference the Blanket Purchase Order/Contract number rather than a Purchase Order Number when invoicing for payment.

**2.1 Contractor/Contractor Obligations****2.101 ACCOUNTING RECORDS**

The Contractor and all subContractors shall maintain all pertinent financial and accounting records and evidence pertaining to the Contract in accordance with generally accepted principles of accounting and other procedures specified by the State of Michigan. Financial and accounting records shall be made available, upon request, to the State of Michigan, its designees, or the Michigan Auditor General at any time during the Contract period and any extension thereof, and for three years from expiration date and final payment on the Contract or extension thereof.

**2.102 NOTIFICATION OF OWNERSHIP**

The Contractor shall make the following notifications in writing:

1. When the Contractor becomes aware that a change in its ownership or officers has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify Purchasing Operations within 30 days.



2. The Contractor shall also notify the Purchasing Operations 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.

The Contractor shall:

1. Maintain current, accurate, and complete inventory records of assets and their costs;
2. Provide Purchasing Operations or designated representative ready access to the records upon request;
3. Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership or officer changes; and
4. Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership or officer change.

### 2.103 SOFTWARE COMPLIANCE

The Contractor warrants that all software for which the Contractor either sells or licenses to the State of Michigan and used by the State prior to, during or after the calendar year 2000, includes or shall include, at no added cost to the State, design and performance so the State shall not experience software abnormality and/or the generation of incorrect results from the software, due to date oriented processing, in the operation of the business of the State of Michigan.

The software design, to insure year 2000 compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately show four (4) digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.

### 2.104 IT STANDARDS

1. EXISTING TECHNOLOGY STANDARDS. The Contractor will adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at <http://michigan.gov/dit>.
2. PM METHODOLOGY STANDARDS. The State has adopted a standard documented Project Management Methodology (PMM) for use on all Information Technology (IT) based projects. This policy is referenced in the document titled "Project Management Methodology" – DMB Administrative Guide Procedure 1380.02 issued June 2000. Contractors may obtain a copy of this procedure, as well as the State of Michigan Project Management Methodology, from the Department of Information Technology's website at <http://www.michigan.gov/projectmanagement>.

The Contractor shall use the State's PPM to manage State of Michigan Information Technology (IT) based projects. The Requesting agency will provide the applicable documentation and internal agency processes for the methodology. If the Contractor requires training on the methodology, those costs shall be the responsibility of the Contractor, unless otherwise stated.



3. ADHERENCE TO PORTAL TECHNOLOGY TOOLS. The State of Michigan, Department of Information Technology, has adopted the following tools as its Portal Technology development efforts:
- Vignette Content Management and personalization Tool
  - Inktomi Search Engine
  - E-Pay Payment Processing Module
  - Websphere Commerce Suite for e-Store applications

**Contractors must use the Portal Technology Tools to implement web content management and deployment efforts for agencies. Tools used for web-based application development must work in conjunction with Vignette and Inktomi. The interaction with Vignette and Inktomi must be coordinated with the Department of Information Technology, Enterprise Application Services Office, e-Michigan Web Development team.**

Under special circumstances Contractors that are compelled to use alternate tools must submit an exception request to the Department of Information Technology, Enterprise Application Services Office, e-Michigan Web Development team, for evaluation and approval of each alternate tool prior to proposal evaluation by the State.

If the solution is to be hosted on the michigan.gov hosted environment, then the application may need to be compliant with Websphere, or need to be evaluated for compatibility with Websphere.

#### **2.105 PERFORMANCE AND RELIABILITY EVALUATION (PARE) - RESERVED**

#### **2.106 PREVAILING WAGE - RESERVED**

#### **2.107 PAYROLL AND BASIC RECORDS**

Payrolls and basic records relating to the performance of this contract shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act),



daily and weekly number of hours worked, deductions made, and actual wages paid. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

The Contractor shall submit a copy of all payrolls to the Contract Administrator upon request. The payrolls submitted shall set out accurately and completely all of the information required to be maintained as indicated above.

The Prime Contractor is responsible for the submission of copies of payrolls by all subContractors upon request from the Contract Administrator

The Contractor or subContractor shall permit the Contract Administrator or representatives of the Contract Administrator or the State of Michigan to interview employees during working hours on the job.

If the Contractor or subContractor fails to submit required records or to make them available, the Contract Administrator may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment.

## **2.108 COMPETITION IN SUB-CONTRACTING**

The Contractor shall select subContractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

## **2.109 CALL CENTER DISCLOSURE**

Contractor and/or all subContractors involved in the performance of this contract providing call or contact center services to the State of Michigan must disclose the location of its call or contact center services to inbound callers. Failure to disclose this information shall be a material breach of this agreement.

## **2.2 Contract Performance**

### **2.201 TIME IS OF THE ESSENCE**

Contractor/Contractor is on notice that time is of the essence in the performance of this contract. Late performance will be considered a material breach of this contract, giving the State a right to invoke all remedies available to it under this contract.

### **2.202 CONTRACT PAYMENT SCHEDULE**

All invoices should reflect actual work done. Specific details of invoices and payments will be agreed upon between the Contract Administrator the Contract Compliance Inspector and the Contractor after the proposed Contract Agreement has been signed and accepted by both the Contractor and the Director of Purchasing Operations, Department of Management & Budget. This activity will occur only upon the specific written direction from Purchasing Operations.

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

### **2.203 POSSIBLE PROGRESS PAYMENTS - RESERVED**

### **2.204 POSSIBLE PERFORMANCE-BASED PAYMENTS - RESERVED**

**2.205 ELECTRONIC PAYMENT AVAILABILITY**

Electronic transfer of funds is available to State Contractors. Contractor is required register with the State of Michigan Office of Financial Management so the State can make payments related to this Contract electronically at [www.cpexpress.state.mi.us](http://www.cpexpress.state.mi.us).

**2.206 PERFORMANCE OF WORK BY CONTRACTOR - RESERVED****2.3 Contract Rights and Obligations****2.301 INCURRING COSTS**

The State of Michigan is not liable for any cost incurred by the Contractor prior to signing of the Contract. The State fiscal year is October 1st through September 30th. The Contractor(s) should realize that payments in any given fiscal year are contingent upon enactment of legislative appropriations. Total liability of the State is limited to terms and conditions of the Contract.

**2.302 CONTRACTOR RESPONSIBILITIES**

The Contractor will be required to assume responsibility for all contractual activities, whether or not that Contractor performs them. Further, the State will consider 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.

**2.303 ASSIGNMENT AND DELEGATION**

The Contractor shall not have the right to assign this Contract, to assign its rights under this contract, 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 State. Any purported assignment in violation of this Section shall be null and void. Further, the Contractor may not assign the right to receive money due under the Contract without the prior written consent of the Director of Purchasing Operations.

The Contractor shall not delegate any duties or obligations under the Contract to a subContractor other than a subContractor named and approved in the bid unless the Director of Purchasing Operations has given written consent to the delegation.

**Bidder must obtain the approval of the Director of Purchasing Operations before using a place of performance that is different from the address that bidder provided in the bid.**

**2.304 TAXES**

Sales Tax: For purchases made directly by the State of Michigan, the State is exempt from State and Local Sales Tax. Prices shall not include such taxes. Exemption Certificates for State Sales Tax will be furnished upon request.

Federal Excise Tax: The State of Michigan may be exempt from Federal Excise Tax, or such taxes may be reimbursable, if articles purchased under this Contract are used for the State's exclusive use. Certificates exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent to the Contractor upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices shall not include the Federal Excise Tax.

The State's Tax Exempt Certification is available for Contractor viewing upon request to the Contract Administrator.

**2.305 INDEMNIFICATION**General Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents, from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

1. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from (1) the product provided or (2) performance of the work, duties, responsibilities, actions or omissions of the Contractor or any of its subContractors under this Contract.
2. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from a breach by the Contractor of any representation or warranty made by the Contractor in the Contract;
3. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or related to occurrences that the Contractor is required to insure against as provided for in this Contract;
4. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the Contractor, by any of its subContractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused solely by the negligence or reckless or intentional wrongful conduct of the State;
5. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents which results from an act or omission of the Contractor or any of its subContractors in its or their capacity as an employer of a person.

Patent/Copyright Infringement Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its employees and agents from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements 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 such 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 such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States or foreign patent, copyright, trade secret or other proprietary right of any person or entity, which right is enforceable under the laws of the United States. In addition, should the equipment, software, commodity, or service, or the operation thereof, become or in the Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Contractor, (ii) replace or modify the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such 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.



Code Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from any claim, loss, or expense arising from Contractor's breach of the No Surreptitious Code Warranty.

Indemnification Obligation Not Limited

In any and all claims against the State of Michigan, or any of its agents or employees, by any employee of the Contractor or any of its subContractors, the indemnification obligation under the Contract shall 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 benefits acts, or other employee benefits acts. This indemnification clause is intended to be comprehensive. Any overlap in sub clauses, 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 sub clause.

Continuation of Indemnification Obligation

The duty to indemnify will continue in full force and affect notwithstanding the expiration or early termination of the Contract with respect to any claims based on facts or conditions, which occurred prior to termination.

Indemnification Procedures

The procedures set forth below shall apply to all indemnity obligations under this Contract.

- (a) After receipt by the State of notice of the action or proceeding involving a claim in respect of which it will seek indemnification, the State shall promptly notify Contractor of such 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 so notify Contractor shall relieve Contractor of its indemnification obligations except to the extent that Contractor can demonstrate damages attributable to such failure. Within ten (10) days following receipt of written notice from the State relating to any claim, Contractor shall 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 prior to the State receiving Contractor's Notice of Election, the State shall be entitled to defend against the claim, at Contractor's expense, and Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during such period.
- (b) If Contractor delivers a Notice of Election relating to any claim: (i) the State shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim and to monitor and advise the State about the status and progress of the Defense; (ii) Contractor shall, at the request of the State, demonstrate to the reasonable satisfaction of the State, Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) Contractor shall periodically advise the State about the status and progress of the defense and shall obtain the prior written approval of the State before entering into any settlement of such claim or ceasing to defend against such claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State shall have the right, at its own expense, to control the defense of that portion of such claim involving the principles of Michigan governmental or public law. Notwithstanding the foregoing, the State may retain control of the defense and settlement of a claim by written notice to Contractor given within ten (10) days after the State's receipt of Contractor's information requested by the State pursuant to clause (ii) of this paragraph if the State determines that Contractor has failed to demonstrate to the reasonable satisfaction of the State Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State of Michigan, or any of its subdivisions pursuant to this Section, must be coordinated with the Department of Attorney General.





In the event the insurer's attorney represents the State pursuant to 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 shall have the right to defend the claim in such 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 shall promptly reimburse the State for all such reasonable costs and expenses.

#### **2.306 LIMITATION OF LIABILITY**

Except as set forth herein, neither the Contractor nor the State shall be liable to the other party for indirect or consequential damages, even if such party has been advised of the possibility of such damages. Such limitation as to indirect or consequential damages shall not apply to claims for infringement of United States patent, copyright, trademarks 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; to Contractor's indemnification obligations (2.305); or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

The State's liability for damages to the Contractor shall be limited to the value of the Contract.

#### **2.307 CONTRACT DISTRIBUTION**

Purchasing Operations shall retain the sole right of Contract distribution to all State agencies and local units of government unless other arrangements are authorized by Purchasing Operations.

#### **2.308 FORM, FUNCTION, AND UTILITY**

If the Contract is for use of more than one State agency and if the good or service provided under this Contract do not meet the form, function, and utility required by a State agency, that agency may, subject to State purchasing policies, procure the good or service from another source.

#### **2.309 ASSIGNMENT OF ANTITRUST CAUSE OF ACTION**

For and in consideration of the opportunity to submit a quotation and other good and valuable consideration, the bidder hereby assigns, sells and transfers to the State of Michigan all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of payment and which relate solely to the particular goods, commodities, or services purchased or procured by this State pursuant to this transaction.

#### **2.310 RESERVED**

#### **2.311 TRANSITION ASSISTANCE**

If this Contract is not renewed at the end of this term, or is canceled prior to its expiration, for any reason, the Contractor must provide for up to six (6) months after the expiration or cancellation of this Contract, all reasonable transition assistance requested by the State, to allow for the expired or canceled portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract, (notwithstanding this expiration or cancellation) except for those Contract terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for Contract performance.



## 2.312 WORK PRODUCT

Work Products shall be considered works made by the Contractor for hire by the State and shall belong exclusively to the State and its designees, unless specifically provided otherwise by mutual agreement of the Contractor and the State. If by operation of law any of the Work Product, including all related intellectual property rights, is not owned in its entirety by the State automatically upon creation thereof, the Contractor agrees to assign, and hereby assigns to the State and its designees the ownership of such Work Product, including all related intellectual property rights. The Contractor agrees to provide, at no additional charge, any assistance and to execute any action reasonably required for the State to perfect its intellectual property rights with respect to the aforementioned Work Product.

Notwithstanding any provision of this Contract to the contrary, any preexisting work or materials including, but not limited to, any routines, libraries, tools, methodologies, processes or technologies (collectively, the "Development Tools") created, adapted or used by the Contractor in its business generally, including any and all associated intellectual property rights, shall be and remain the sole property of the Contractor, and the State shall have no interest in or claim to such preexisting work, materials or Development Tools, except as necessary to exercise its rights in the Work Product. Such rights belonging to the State shall include, but not be limited to, the right to use, execute, reproduce, display, perform and distribute copies of and prepare derivative works based upon the Work Product, and the right to authorize others to do any of the foregoing, irrespective of the existence therein of preexisting work, materials and Development Tools, except as specifically limited herein.

The Contractor and its subContractors shall be free to use and employ their general skills, knowledge and expertise, and to use, disclose, and employ any generalized ideas, concepts, knowledge, methods, techniques or skills gained or learned during the course of performing the services under this Contract, so long as the Contractor or its subContractors acquire and apply such information without disclosure of any confidential or proprietary information of the State, and without any unauthorized use or disclosure of any Work Product resulting from this Contract.

## 2.313 PROPRIETARY RIGHTS

### A. Software Ownership

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

All Deliverables shall be owned by the State and shall be considered works made for hire by the Contractor for the State. The State shall own all United States and international copyrights, trademarks, patents or other proprietary rights in the Deliverables.

**Vesting of Rights.** With the sole exception of any preexisting licensed works identified in Appendix [X], the Contractor shall assign, 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 such Deliverable, by operation of law, may not be considered work made for hire by the Contractor for the State. From time to time upon State's request, the Contractor and/or its personnel shall confirm such assignment by execution and delivery of the assignments, confirmations of assignment, or other written instruments as the State may request. The State shall have the right to obtain and hold in its own name all copyright, trademark, and patent registrations and other evidence of rights that may be available for Deliverables.

## 2.314 WEBSITE INCORPORATION

State expressly states that it will not be 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 such content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representation of the State.



## 2.4 Contract Review and Evaluation

### 2.401 CONTRACT COMPLIANCE INSPECTOR

Upon receipt at Purchasing Operations of the properly executed Contract Agreement(s), the person named below will be allowed to oversee the Contract performance on a day-to-day basis during the term of the Contract. However, overseeing the Contract implies **no authority to negotiate, change, modify, clarify, amend, or otherwise alter the terms, conditions, and specifications of such Contract(s). That authority is retained by Purchasing Operations.** The Contract Compliance Inspector for this project is:

**Ms. Sonya W. Dungey**, Director  
Insurance Licensing & Investigations – Conduct Review & Securities Division  
Office of Financial and Insurance Services  
Department of Labor and Economic Growth  
3<sup>rd</sup> Floor, Ottawa Building  
611 W. Ottawa Street  
Lansing, MI 48933  
-or-  
P.O. Box 30220  
Lansing, MI 48909-7720  
(517) 335-2751  
[swdunge@michigan.gov](mailto:swdunge@michigan.gov)

### 2.402 PERFORMANCE REVIEWS

Purchasing Operations in conjunction with **OFIS** may review with the Contractor their performance under the Contract. Performance reviews shall be conducted quarterly, semi-annually or annually depending on Contractor's past performance with the State. Performance reviews shall include, but not limited to, quality of products/services being delivered and provided, timeliness of delivery, percentage of completion of orders, the amount of back orders, status of such orders, accuracy of billings, customer service, completion and submission of required paperwork, the number of substitutions and the reasons for substitutions, and other requirements of the Contract.

Upon a finding of poor performance, which has been documented by Purchasing Operations, the Contractor shall be given an opportunity to respond and take corrective action. If corrective action is not taken in a reasonable amount of time as determined by Purchasing Operations, the Contract may be canceled for default. Delivery by the Contractor of unsafe and/or adulterated or off-condition products to any State agency is considered a material breach of Contract subject to the cancellation provisions contained herein.

### 2.403 AUDIT OF CONTRACT COMPLIANCE/ RECORDS AND INSPECTIONS

The Contractor agrees that the State may, upon 24-hour notice, perform an audit at Contractor's location(s) to determine if the Contractor is complying with the requirements of the Contract. The Contractor agrees to cooperate with the State during the audit and produce all records and documentation that verifies compliance with the Contract requirements.

- (a) Inspection of Work Performed. The State's authorized representatives shall at all reasonable times and with ten (10) days prior written request, have the right to enter Contractor's premises, or any other places, where the Services are being performed, and shall have access, upon reasonable request, to interim drafts of Deliverables or work-in-progress. Upon ten (10) days prior written notice and during business hours, the State's representatives shall be allowed to inspect, monitor, or otherwise evaluate the work being performed and to the extent that such access will not interfere or jeopardize the safety or operation of the systems or facilities. Contractor must provide all reasonable facilities and assistance for the State's representatives, so long as no security, labor relations policies and propriety information policies are violated.



- (b) **Examination of Records.** No more than once per year, Contractor agrees that the State, including its duly authorized representatives, until the expiration of seven (7) years following the creation of the material (collectively, the "Audit Period"), shall, upon twenty (20) days prior written notice, have access to and the right to examine and copy any of Contractor's books, records, documents and papers pertinent to establishing Contractor's compliance with the terms and conditions of the Contract and with applicable laws and rules, including the State's procurement rules, regulations and procedures, and actual performance of the Contract for the purpose of conducting an audit, examination, excerpt and/or transcription but the State shall not have access to any information deemed confidential to Contractor to the extent such access would require such confidential information to become publicly available. This provision also applies to the books, records, accounts, documents and papers, in print or electronic form, of any parent, affiliated or subsidiary organization of Contractor, or any SubContractor of Contractor performing services in connection with the Contract.
- (c) **Retention of Records.** Contractor shall maintain at least until the end of the Audit Period all pertinent financial and accounting records (including time sheets and payroll records, and information pertaining to the Contract and to the Services, equipment, and commodities provided under the Contract) pertaining to the Contract in accordance with generally accepted accounting principles and other procedures specified in this Section. Financial and accounting records shall be made available, upon request, to the State at any time during the Audit Period. If an audit, litigation, or other action involving Contractor's records is initiated before the end of the Audit Period, the records must be retained 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.
- (d) **Audit Resolution.** If necessary, the Contractor and the State shall meet to review each audit report promptly after issuance. The Contractor will respond to each audit report in writing within thirty (30) days from receipt of such report, unless a shorter response time is specified in such report. The Contractor and the State shall develop and agree upon an action plan to promptly address and resolve any deficiencies, concerns, and/or recommendations in such audit report.
1. **Errors.** If the audit demonstrates any errors in the statements provided to the State, then the amount in error shall be reflected as a credit or debit on the next invoice and in subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried for more than four (4) quarterly statements. If a balance remains after four (4) quarterly statements, then the remaining amount will be due as a payment or refund within forty-five (45) days of the last quarterly statement that the balance appeared on or termination of the contract, whichever is earlier.
  2. In addition to other available remedies, the difference between the payment received and the correct payment amount is greater than ten (10%), then the Contractor shall pay all of the reasonable costs of the audit.

## **2.5 Quality and Warranties**

### **2.501 PROHIBITED PRODUCTS - RESERVED**

### **2.502 RESERVED**

### **2.503 RESERVED**

### **2.504 GENERAL WARRANTIES (goods) - RESERVED**

### **2.505 CONTRACTOR WARRANTIES**

The Contractor shall represent and warranty, including, without limitation, the following:

1. The Contractor will perform all services in accordance with high professional standards in the industry;
2. The Contractor will use adequate numbers of qualified individuals with suitable training, education, experience and skill to perform the services;



3. The Contractor will use its best efforts to use efficiently any resources or services necessary to provide the services that are separately chargeable to the State;
4. The Contractor will use its best efforts to perform the services in the most cost effective manner consistent with the required level of quality and performance;
5. The Contractor will perform the services in a manner that does not infringe the proprietary rights of any third party;
6. The Contractor will perform the services in a manner that complies with all applicable laws and regulations;
7. The Contractor has duly authorized the execution, delivery and performance of the Contract;
8. The Contractor is capable in all respects of fulfilling and shall fulfill all of its obligations under this contract.
9. The contract appendices, attachments, and exhibits identify all equipment and software services necessary for the deliverable(s) to perform and operate in compliance with the contract's requirements.
10. The Contractor is the lawful owner or licensee of any Deliverable licensed or sold to the state by Contractor or developed by Contractor under this contract, and Contractor has all of the rights necessary to convey to the state the ownership rights or license use, as applicable, of any and all Deliverables.
11. If, under this 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 such items as set forth in this Contract, Contractor shall assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.
12. The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter this contract, on behalf of Contractor.
13. The Contractor is qualified and registered to transact business in all locations where required.
14. Neither the Contractor nor any Affiliates, nor any employee of either, has, shall have, or shall 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 this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor shall notify the State within two (2) days of any such interest that may be incompatible with the interests of the State.
15. All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by such financial statements, reports, other information. Since the respective dates or periods covered by such financial statements, reports, or other information, there have been no material adverse changes in the business, properties, financial condition, or results of operations of Contractor. All written information furnished to the State by or behalf of Contractor in connection with this Contract, including its bid, is true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make such information not misleading.

**2.506 CONTRACTOR STAFF**

The State reserves the right to approve the Contractor's assignment of Key Personnel to this project and to recommend reassignment of personnel deemed unsatisfactory by the State.

The Contractor shall not remove or reassign, without the State's prior written approval any of the Key Personnel until such time as the Key Personnel have completed all of their planned and assigned responsibilities in connection with performance of the Contractor's obligations under this Contract. The Contractor agrees that the continuity of Key Personnel is critical and agrees to the continuity of Key Personnel. Removal of Key Personnel without the written consent of the State may be considered by the State to be a material breach of this Contract. The prohibition against removal or reassignment shall not apply where Key Personnel must be replaced for reasons beyond the reasonable control of the Contractor including but not limited to illness, disability, resignation or termination of the Key Personnel's employment.

**2.507 SOFTWARE WARRANTIES****(a) Performance Warranty**

The Contractor represents and warrants that Deliverables, after Final Acceptance, will perform and operate in compliance with the requirements and other standards of performance contained in this Contract (including all descriptions, specifications and drawings made a part of the Contract) for a period of 90 days. In the event of a breach of this warranty, Contractor will promptly correct the affected Deliverable(s) at no charge to the State.

**(b) No Surreptitious Code Warranty**

The Contractor represents and warrants that no copy of licensed Software provided to the State contains or will contain in any Self-Help Code or any Unauthorized Code as defined below. This warranty is referred to in this Contract as the "No Surreptitious Code Warranty."

As used in this Contract, "Self-Help Code" means any back door, time bomb, drop dead device, or other software routine designed to disable a computer program automatically with the passage of time or under the positive control of a person other than the licensee of the software. Self-Help Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access via modem) for purposes of maintenance or technical support.

As used in this Contract, "Unauthorized Code" means any virus, Trojan horse, spyware, worm or other Software routines or components designed to permit unauthorized access to disable, erase, or otherwise harm software, equipment, or data; or to perform any other such actions. The term Unauthorized Code does not include Self-Help Code.

In addition, Contractor will use up-to-date commercial virus detection software to detect and remove any viruses from any software prior to delivering it to the State.

**(c) Calendar Warranty**

The Contractor represents and warrants that all software for which the Contractor either sells or licenses to the State of Michigan and used by the State prior to, during or after the calendar year 2000, includes or shall include, at no added cost to the State, design and performance so the State shall not experience software abnormality and/or the generation of incorrect results from the software, due to date oriented processing, in the operation of the business of the State of Michigan.





The software design, to insure calendar year rollover compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately show 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.

(d) Third-party Software Warranty

The Contractor represents and warrants that it will disclose the use or incorporation of any third-party software into the Deliverables. At the time of Delivery, the Contractor shall provide in writing the name and use of any Third-party Software, including information regarding the Contractor's authorization to include and utilize such software. The notice shall include a copy of any ownership agreement or license that authorizes the Contractor to use the Third-party Software.

**2.508 EQUIPMENT WARRANTY - RESERVED**

**2.509 PHYSICAL MEDIA WARRANTY - RESERVED**

**2.6 Breach of Contract**

**2.601 BREACH DEFINED**

Failure to comply with articles, sections, or subsections of this agreement, or making any false statement in this agreement will be considered a material breach of this agreement giving the state authority to invoke any and all remedies available to it under this agreement.

In addition to any remedies available in law and by the terms of this contract, if the Contractor breaches Sections 2.508, 2.509, or 2.510, such a breach may be considered as a default in the performance of a material obligation of this contract.

**2.602 NOTICE AND THE RIGHT TO CURE**

In the event of a curable breach by the Contractor, the State shall provide the Contractor written notice of the breach and a time period to cure said breach described in the notice. This section requiring notice and an opportunity to cure shall not be applicable in the event of successive or repeated breaches of the same nature 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.

**2.603 EXCUSABLE FAILURE**

1. Neither party shall be liable for any default or delay in the performance of its obligations under the Contract if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in any country; the failure of the other party to perform its material responsibilities under the Contract (either itself or through another Contractor); 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 such party; provided the non-performing party and its subContractors are without fault in causing such default or delay, and such 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.





In such event, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its best efforts to recommence performance or observance whenever and to whatever extent possible without delay provided such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.

2. If any of the above enumerated circumstances substantially prevent, hinder, or delay performance of the services necessary for the performance of the State's functions for more than 14 consecutive 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 from an alternate source, and the State shall not be liable for payments for the unperformed services under the Contract for so long as the delay in performance shall continue; (b) the State may cancel any portions of the Contract so affected and the charges payable hereunder shall be equitably adjusted to reflect those services canceled; or (c) the Contract will be canceled without liability of the State to the Contractor as of the date specified by the State in a written notice of cancellation to the Contractor. 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 as a result of the excusable failure condition. Defaults or delays in performance by the Contractor which are caused by acts or omissions of its subContractors will not relieve the Contractor of its obligations under the Contract except to the extent that a subContractor is itself subject to any excusable failure condition described above and the 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.

## 2.7 Remedies

### 2.701 CANCELLATION

The State may cancel this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents, and employees for any of the following reasons:

1. Material Breach by the Contractor. In the event that the Contractor breaches any of its material duties or obligations under the Contract, which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State, or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of cancellation to the Contractor, cancel this Contract in whole or in part, for cause, as of the date specified in the notice of cancellation.

In the event that this Contract is cancelled for cause, in addition to any legal remedies otherwise available to the State by law or equity, the Contractor shall be responsible for all costs incurred by the State in canceling the Contract, including but not limited to, State administrative costs, attorneys fees and court costs, and any additional costs the State may incur to procure the services required by this Contract from other sources. All excess re-procurement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and shall not be excluded by any other terms otherwise included in the Contract.

In the event the State chooses to partially cancel this Contract for cause charges payable under this Contract will be equitably adjusted to reflect those services that are cancelled.

In the event this Contract is cancelled for cause pursuant to this section, and it is therefore determined, for any reason, that the Contractor was not in breach of contract pursuant to the provisions of this section, that cancellation for cause shall be deemed to have been a cancellation for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in the Contract for a cancellation for convenience.



2. Cancellation For Convenience By the State. The State may cancel this Contract for its convenience, in whole or part, if the State determines that such a cancellation is in the State's best interest. Reasons for such cancellation shall be left to the sole discretion of the State and may include, but not 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 Contract services no longer practical or feasible, and (c) unacceptable prices for additional services requested by the State. The State may cancel the Contract for its convenience, in whole or in part, by giving the Contractor written notice 180 days prior to the date of cancellation. If the State chooses to cancel this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those services that are cancelled.
3. Non-Appropriation. In the event that funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available. The Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this project. If funds are not appropriated or otherwise made available, the State shall have the right to cancel this Contract at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of cancellation to the Contractor. The State shall give the Contractor written notice of such non-appropriation or unavailability within 30 days after it receives notice of such non-appropriation or unavailability.
4. Criminal Conviction. In the event the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or subcontract; or convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects upon the Contractor's business integrity.
5. Approvals Rescinded. The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, section 5, and Civil Service Rule 7. 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 such written notice.

## 2.702 RIGHTS UPON CANCELLATION

Termination Assistance. If this Contract (or any Statement of Work issued under it) is terminated for any reason prior to completion, Contractor agrees to provide for up to six (6) months after the termination all reasonable termination assistance requested by the State to facilitate the orderly transfer of such Services to the State or its designees in a manner designed to minimize interruption and adverse effect. Such termination assistance will be deemed by the parties to be governed by the terms and conditions of this Contract (notwithstanding its termination) other than any terms or conditions that do not reasonably apply to such termination assistance. Such termination assistance shall be at no additional charge to the State if the termination is for Contractor's Default pursuant to Section 2.602; otherwise the State shall compensate Contractor for such termination assistance on a time and materials basis in accordance with the Amendment Labor Rates identified within this Contract agreement.

## 2.703 LIQUIDATED DAMAGES

- A. The State and the Contractor hereby agree to the specific standards set forth in this Contract. It is agreed between the Contractor and the State that the actual damages to the State as a result of Contractor's failure to provide promised services would be difficult or impossible to determine with accuracy. The State and the Contractor 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, the Contractor shall pay the State the indicated amount as liquidated damages, and not as a penalty. Amounts due the State as liquidated damages, if not paid by the Contractor within fifteen (15) days of notification of assessment, may be deducted by the State from any money payable to the Contractor pursuant to this Contract.



The State will notify the Contractor in writing of any claim for liquidated damages pursuant to this paragraph on or before the date the State deducts such sums from money payable to the Contractor. No delay by the State in assessing or collecting liquidated damages shall be construed as a waiver of such rights.

- B. The Contractor shall not be liable for liquidated damages when, in the opinion of the State, incidents or delays result directly from causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God, fires, floods, epidemics, and labor unrest; but in every case the delays must be beyond the control and without the fault or negligence of the Contractor.
- C. Liquidated damages will be assessed as follows:

An amount equal to 3% of the annual contract payment in the event the Contractor testing system is down more than 24 consecutive hours.

An amount equal to 6% of the annual contract payment in the event that Contractor's Michigan test centers are closed more than two (2) consecutive business days.

In addition, the Contractor shall pay to the OFIS, as hereby fixed and agreed, liquidated damages in the amount equal to 3% of the monthly contract payment for data entry errors greater than 3% of the total monthly licensee applications processed.

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#### **2.704 STOP WORK**

1. The State may, at any time, by written stop work order to the Contractor, require that the Contractor stop all, or any part, of the work called for by this Contract for a period of up to 90 days after the stop work order is delivered to the Contractor, and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate that it is issued under this section. Upon receipt of the stop work order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of 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 shall either:
  - a) Cancel the stop work order; or
  - b) Cancel the work covered by the stop work order as provided in the cancellation section of this Contract.
2. If a stop work order issued under this section is canceled or the period of the stop work order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the contract price, or both, and the Contract shall be modified, in writing, accordingly, if:
  - a) The stop work order results in an increase in the time required for, or in the Contractor's costs properly allocable to the performance of any part of this Contract; and
  - b) The Contractor asserts its right to an equitable adjustment within 30 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 proposal submitted at any time before final payment under this Contract.
3. If the stop work order is not canceled and the work covered by the stop work order is canceled for reasons other than material breach, the State shall allow reasonable costs resulting from the stop work order in arriving at the cancellation settlement.
4. If a stop work order is not canceled and the work covered by the stop work order is canceled for material breach, the State shall not allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop work order.



An appropriate equitable adjustment may be made in any related contract of the Contractor that provides for adjustment and is affected by any stop work order under this section. The State shall not be liable to the Contractor for loss of profits because of a stop work order issued under this section.

## **2.705 SUSPENSION OF WORK**

The Contract Administrator may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contract Administrator determines appropriate for the convenience of the Government.

If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contract Administrator in the administration of this contract, or (2) by the Contract Administrator's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

A claim under this clause shall not be allowed:

- (1) For any costs incurred more than 20 days before the Contractor shall have notified the Contract Administrator in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and
- (2) Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

## **2.8 Changes, Modifications, and Amendments**

### **2.801 APPROVALS**

The Contract may not be modified, amended, extended, or augmented except by a writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party.

### **2.802 TIME EXTENTIONS**

Time extensions for contract changes will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of performance as described in the statement of work. The change order granting the time extension may provide that the contract completion date will be extended only for those specific elements related to the changed work and that the remaining contract completion dates for all other portions of the work will not be altered. The change order also may provide an equitable readjustment of liquidated damages under the new completion schedule.

### **2.803 MODIFICATION**

Purchasing Operations reserves the right to modify this contract at any time during the contract term. Such modification may include changing the locations to be serviced, additional locations to be serviced, method or manner of performance of the work, number of days service is to be performed, addition or deletion of tasks to be performed, addition or deletion of items, and/or any other modifications deemed necessary. Any changes in pricing proposed by the Contractor resulting from the proposed changes are subject to acceptance by the State. Changes may be increases or decreases. **IN THE EVENT PRICES ARE NOT ACCEPTABLE TO THE STATE, THE CONTRACT SHALL BE SUBJECT TO COMPETITIVE BIDDING BASED UPON THE NEW SPECIFICATION.**

**The State reserves the right to add an item(s) that is not described on the item listing and is available from the Contract Contractor.** The item(s) may be included on the Contract, only if prior written approval has been granted by Purchasing Operations.

**2.804 AUDIT AND RECORDS UPON MODIFICATION**

DEFINITION: records includes books, documents, accounting procedures and practices, and other data, regardless of whether such items are in written form, electronic form, or in any other form

Contractor shall be required to submit cost or pricing data with the pricing of any modification of this contract to the Contract Administrator in Purchasing Operations. Data may include accounting records, payroll records, employee time sheets, and other information the state deems necessary to perform a fair evaluation of the modification proposal. Contract Administrator or authorized representative of the state shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to:

1. The proposal for modification;
2. The discussions conducted on the proposal, including those related to negotiation;
3. Pricing of the modification; or
4. Performance of the modification.

Contractor shall make available at its office at all reasonable times the materials described in the paragraphs above.

If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for three (3) years after any resulting final termination settlement.

**2.805 CHANGES**

- (a) The Contract Administrator may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes:
  - (1) In the specifications (including drawings and designs);
  - (2) In the method or manner of performance of the work;
  - (3) In the Government-furnished facilities, equipment, materials, services, or site; or
  - (4) Directing acceleration in the performance of the work.
- (a) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contract Administrator that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contract Administrator written notice stating:
  - (1) The date, circumstances, and source of the order; and
  - (2) That the Contractor regards the order as a change order.
- (b) Except as provided in this clause, no order, statement, or conduct of the Contract Administrator shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

**2.806 LIABILITY INSURANCE****A. Insurance**

The Contractor is required to provide proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage shall be to protect the State from claims which may arise out of or result from the Contractor's performance of services under the terms of this Contract, whether such services are performed by the Contractor, or by any subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

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

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

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

The insurers selected by Contractor shall be acceptable to the State, and those with an A.M. Best rating of A or better deemed automatically acceptable, or as otherwise approved in writing by the State, or if such ratings are no longer available, with a comparable rating from a recognized insurance rating agency. Companies that have been approved to do business in the State shall issue all policies of insurance required in this Contract.

See [www.michigan.gov/cis](http://www.michigan.gov/cis)

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

Before both parties sign the Contract or before the purchase order is issued by the State, the Contractor must furnish to the Director of Purchasing Operations, certificate(s) of insurance verifying insurance coverage ("Certificates"). The Certificate must be on the standard "accord" form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) shall contain a provision indicating that coverage afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without THIRTY (30) days prior written notice, except for ten (10) days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected and be mailed to: Director, Purchasing Operations, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909. Failure to provide evidence of coverage, may, at the State's sole option, result in this Contract's termination.

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

1. Commercial General Liability with the following minimum coverage:

|             |                                                                  |
|-------------|------------------------------------------------------------------|
| \$2,000,000 | General Aggregate Limit other than Products/Completed Operations |
| \$2,000,000 | Products/Completed Operations Aggregate Limit                    |
| \$1,000,000 | Personal & Advertising Injury Limit                              |
| \$1,000,000 | Each Occurrence Limit                                            |
| \$ 500,000  | Fire Damage Limit (any one fire)                                 |





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

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

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

3. Workers' compensation coverage must be provided in accordance with applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If a self-insurer provides the applicable coverage, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Contractor must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

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

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

4. Employers liability insurance with the following minimum limits:

|           |                          |
|-----------|--------------------------|
| \$100,000 | each accident            |
| \$100,000 | each employee by disease |
| \$500,000 | aggregate disease        |

5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor or its Subcontractors, acting alone or in collusion with others, in a minimum amount of one million dollars (\$1,000,000.00) with a maximum deductible of five hundred thousand dollars (\$500,000.00).
6. Umbrella or Excess Liability Insurance in a minimum amount equal to not less than the maximum total amount of the contract, which shall apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.
7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: three million dollars (\$3,000,000.00) each occurrence and three million dollars (\$3,000,000.00) annual aggregate.
8. Fire and Personal Property Insurance covering against any loss or damage to the office space used by Contractor for any reason under this Contract, and the equipment, software and other contents of such office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to the replacement value thereof, where such office space and its contents are under the care, custody and control of Contractor. Such policy shall cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State shall be endorsed on the policy as a loss payee as its interests appear.

**B. Subcontractors**

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor shall require all of its Subcontractors under this Contract to purchase and maintain the insurance coverage as described in this Section for the Contractor in connection with the performance of work by those Subcontractors. Alternatively, Contractor may include any Subcontractors under Contractor's insurance on the coverage required in this Section. Subcontractor(s) shall fully comply with the insurance coverage required in this Section. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

**C. Certificates of Insurance and Other Requirements**

Contractor shall furnish to the Purchasing Operations certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor shall provide evidence that the State and its agents, officers and employees are listed as additional insureds, but only to the extent of liabilities assumed by Contractor as set forth in Indemnification Section of this Contract, under each commercial general liability and commercial automobile liability policy. 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 Attorney General of the State of Michigan.

Contractor shall maintain all required insurance coverage throughout the term of the Contract and any extensions thereto and, in the case of claims-made Commercial General Liability policies, shall secure tail coverage for at least three (3) years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and shall not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor shall be responsible for all deductibles with regard to such insurance. If Contractor fails to pay any premium for required insurance as specified in this Contract, or if any insurer cancels or significantly reduces any required insurance as specified in this Contract without the State's written consent, at the State's election (but without any obligation to do so) after the State has given Contractor at least 30 days written notice, the State may pay such premium or procure similar insurance coverage from another company or companies; and at the State's election, the State may deduct the entire cost (or part thereof) from any payment due Contractor, or Contractor shall pay the entire cost (or any part thereof) upon demand by the State.