

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

March 5, 2010

CHANGE NOTICE NO. 3
TO
CONTRACT NO. 071B7200227
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR Public Policy Associates, Inc. 119 Pere Marquette Drive, Suite 1C Lansing, MI 48912-1231 paddenjd@publicpolicy.com	TELEPHONE (517) 485-4477 Jeffrey Padden
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-4225 Kevin Dunn
Contract Compliance Inspector: Jeanette Scroggins (517) 335-3541 Jail Monitoring of Juvenile Detainees for Department of Human Services (DHS), Bureau of Juvenile Justice (BJJ)	
CONTRACT PERIOD: From: April 1, 2007 To: March 31, 2013	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	

NATURE OF CHANGE(S):

Effective immediately, the Contractor's rates are reduced by 3%. The attached detailed pricing sheet reflects the new rates as well as the new three-year Contract option extension value (see attachments).

Also effective immediately, this Contract is hereby EXTENDED through March 31, 2013, and INCREASED by \$524,202.00.

All other terms, conditions, and pricing remain unchanged and in full effect.

AUTHORITY/REASON:

Per agency request (PRF dated 12/23/09), OSE approval (#OSE-0367-10), vendor agreement (letter dated 02/02/10), Ad Board approval on 03/02/10, and DMB/Purchasing Operations' approval.

REVISED CURRENT AUTHORIZED SPEND LIMIT: **\$1,063,337.00**

**Jail Monitoring of
Juvenile Detainees for the
Department of Human
Services, Bureau of
Juvenile Justice**

**ITB 071I7200013
Contract No. 071B7200227**

3-Year Proposal Extension to

**Michigan Department of
Management and Budget**

February 2, 2010

**Submitted by
*Public Policy Associates, Incorporated***

Insert Article 1, Attachment A
Pricing for Extension

REGULAR REPORTS: (Does not include Site Visit Reports)

This deliverable includes collection of information, organization and analysis of collected data, and recommendations for improvements. Data collection includes mailing and telephone contact with law enforcement agencies, courts and other Juvenile Justice groups. Also included is notifying agencies of violations in their jurisdiction. Reports are explained further in Article 1, Sections 1.042 and 1.302.

REPORT FREQUENCY:

Monthly: \$315/EACH FOR 3 CATEGORIES, 12 per year.
Categories are JAILS, LOCKUPS, & YOUTH FACILITIES

Quarterly: \$315/EACH FOR 3 CATEGORIES, 4 per year. Categories are JAILS, LOCKUPS, & YOUTH FACILITIES

Bi-Annual: \$1,072/EACH A total of 2 per year, includes the final report.

SITE VISITS/INTERVIEWS:

Interviews: \$495/EACH

Reports: \$228/EACH

Background and Usage:

The existing Monitoring Universe contains 738 facilities. To execute the site visit plan described below would require PPA to complete an average of 200 (all county jails are visited every year) site visits per year; 181 required visits to county jails, secure police departments/state police posts and juvenile facilities leaving 19 additional visits for spot checks at non-secure police departments/state police posts, court holding facilities and prisons. The number of visits could fluctuate each year and is dependent on OJJDP and DOJ policy.

The type of visit/interview is not fixed; one site may require multiple interviews, depending on several factors. Example: If the site has had previous violations, the interview frequency would increase.

The estimated time per site visit is 8 hours and includes preparation as well as the visit itself. Preparation includes copying materials for the site, reviewing previous reports on the site, and verifying current policy procedures. The actual site visit includes travel to the site, interview time, a walk through of the facility, data verification, preparation of a new report, and follow-up on questions not answered at the time of the visit. Each site visit generates a report.

TRAINING AND/OR TECHNICAL ASSISTANCE: Estimated Average Hourly Rate of \$126/HOUR (minus travel)

Estimated usage is 50 hours. Duties include responding to telephone or email inquiries and conducting training sessions as requested and approved by BJJ. Training includes preparation of content and materials as well as conducting the training, which may occur at the agency requesting it, at a State location or by telephone session.

UNIVERSE LIST:

The Universe List is an existing, on-going record of all possible juvenile holding/detaining locations in Michigan. The list is divided into the following categories with the current count for that type:

- 1] County Jails (83)
 - 2] Non-secure police departments & state police posts [lockups] (276)
 - 3] Secure police departments & state police posts [lockups] (255)
 - 4] Juvenile Facilities, both public & private (39)
 - 5] Court holding facilities (81)
 - 6] Other, including airports, parks, universities (42)
- Other categories may need to be added during the tenure of the contract.

Maintenance of the Universe List: \$528/EVERY OTHER MONTH

Frequency: 6 per year, to coincide with conference calls with OJJDP every other month.

MICHIGAN FACILITY COMPLIANCE MONITORING MANUAL:

Maintain Existing Procedures Manual: \$1,615/ONCE PER YEAR – a total of 1 per year. This deliverable includes preparation of the content. The updates must be approved by BJJ, Grant Unit Mgr.

TRAVEL EXPENSE:

The nature of this project requires frequent travel, State wide. All such travel will be coordinated and approved by the Contract Compliance Inspector. Travel expense shall conform to State rates (see link in Article 2 section 2.092). The expenses shall be invoiced monthly, with dates, destinations and other detail sufficient to identify the charges. Time spent in travel is not reimbursable by the State.

**2010 Price Proposal
 (Per Annual Rate)**

Price Proposal			
Deliverable	Annual Quantity	Cost Per	Total
Monthly Reports	12	\$ 315	\$ 3,780
Quarterly Reports	4	\$ 315	\$ 1,260
Bi-Annual Reports	2	\$ 1,072	\$ 2,144
Site Interviews	200	\$ 495	\$99,000
Site Interview Reports	200	\$ 228	\$ 45,600
Universe List Maintenance	6	\$ 528	\$ 3,168
Michigan Facility Compliance Monitoring Manual	1	\$ 1,615	\$ 1,615
Training and Technical Assistance	50	\$ 126	\$ 6,300
Travel		\$ 11,867	\$ 11,867
Total 1-Year Price			\$174,734
Total 3-Year Price			\$524,202

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

July 16, 2007

**CHANGE NOTICE NO. 2
 TO
 CONTRACT NO. 071B7200227
 between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF VENDOR Public Policy Associates, Inc. 119 Pere Marquette Drive, Suite 1C Lansing, MI 48912-1231 <p style="text-align: right;">paddenjd@publicpolicy.com</p>	TELEPHONE (517) 485-4477 Jeffrey Padden
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-4225 Kevin Dunn
Contract Compliance Inspector: Jeanette Scroggins (517) 335-3541 <p style="text-align: center;">Jail Monitoring of Juvenile Detainees for Department of Human Services (DHS), Bureau of Juvenile Justice (BJJ)</p>	
CONTRACT PERIOD: From: April 1, 2007 To: March 31, 2010	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	

NATURE OF CHANGE(S):

Effective immediately, Barb Vitoratos is approved to provide the following subcontracting services to Public Policy:

- Compliance monitoring visits not to exceed three (3) per month and not to exceed 108 visits over the course of the Contract.
- Training and technical assistance not to exceed eight (8) hours per month and not to exceed 288 hours over the course of the Contract.

All other terms, conditions, and pricing remain unchanged and in full effect.

AUTHORITY/REASON:

Per request from vendor, DHS-BJJ approval, and Purchasing Operations' approval.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$539,135.00

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

July 16, 2007

**CHANGE NOTICE NO. 1
 TO
 CONTRACT NO. 071B7200227
 between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF VENDOR Public Policy Associates, Inc. 119 Pere Marquette Drive, Suite 1C Lansing, MI 48912-1231 <p style="text-align: right;">paddenjd@publicpolicy.com</p>	TELEPHONE (517) 485-4477 Jeffrey Padden
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F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	

NATURE OF CHANGE(S):

Effective immediately, Barb Vitoratos is approved as a subcontractor for this Contract to assist Public Policy in developing and submitting the Bureau of Juvenile Justice's (BJJ) 2006 Jail Monitoring Report covering monitoring activity for calendar year 2006. All other terms, conditions, and pricing remain unchanged and in full effect.

AUTHORITY/REASON:

Per request from vendor, DHS-BJJ approval, and Purchasing Operations' approval.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$539,135.00

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

March 22, 2007

**NOTICE
 TO
 CONTRACT NO. 071B7200227
 between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF VENDOR Public Policy Associates, Inc. 119 Pere Marquette Drive, Suite 1C Lansing, MI 48912-1231 <p style="text-align: right;">paddenjd@publicpolicy.com</p>	TELEPHONE (517) 485-4477 Jeffrey Padden
	VENDOR NUMBER/MAIL CODE
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Contract Compliance Inspector: Jeanette Scroggins (517) 335-3541 <p style="text-align: center;">Jail Monitoring of Juvenile Detainees for Department of Human Services (DHS), Bureau of Juvenile Justice (BJJ)</p>	
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TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	

The terms and conditions of this Contract are those of ITB #071I7200013, this Contract Agreement and the vendor's quote dated October 31, 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: \$539,135.00

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

**CONTRACT NO. 071B7200227
 between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF VENDOR Public Policy Associates, Inc. 119 Pere Marquette Drive, Suite 1C Lansing, MI 48912-1231 <p style="text-align: right;">paddenjd@publicpolicy.com</p>	TELEPHONE (517) 485-4477 Jeffrey Padden VENDOR NUMBER/MAIL CODE BUYER/CA (517) 241-4225 Kevin Dunn
Contract Compliance Inspector: Jeanette Scroggins (517) 335-3541 <p style="text-align: center;">Jail Monitoring of Juvenile Detainees for Department of Human Services (DHS), Bureau of Juvenile Justice (BJJ)</p>	
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MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION: <p>The terms and conditions of this Contract are those of ITB #07117200013, this Contract Agreement and the vendor's quote dated October 31, 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.</p> <p>Estimated Contract Value: \$539,135.00</p>	

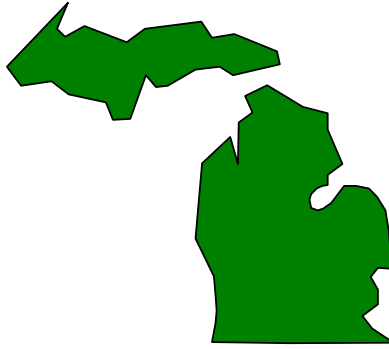
THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 07117200013. Orders for delivery will be issued directly by the Department of Human Services, Bureau of Juvenile Justice, through the issuance of a Purchase Order Form.

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

FOR THE VENDOR: <p style="text-align: center;">Public Policy Associates, Inc.</p> <hr/> <p style="text-align: center;">Firm Name</p> <hr/> <p style="text-align: center;">Authorized Agent Signature</p> <hr/> <p style="text-align: center;">Authorized Agent (Print or Type)</p> <hr/>	FOR THE STATE: <hr/> <p style="text-align: center;">Signature</p> <p style="text-align: center;">Melissa Castro, CPPB, Buyer Manager</p> <hr/> <p style="text-align: center;">Name/Title</p> <p style="text-align: center;">Services Division, Purchasing Operations</p> <hr/> <p style="text-align: center;">Division</p> <hr/>
---	--

Date

Date



**STATE OF MICHIGAN
Department of Management and Budget
Purchasing Operations**

Contract No. 071B7200227
Jail Monitoring of Juvenile Detainees for Department of Human Services,
Bureau of Juvenile Justice

Buyer Name: Kevin Dunn
Telephone Number: 517-241-4225
E-Mail Address: dunnk3@michigan.gov



CONTRACT NO. 071B7200227

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Article 1 – Statement of Work (SOW)

1.0 Project Identification

1.001 Project Request

The purpose of this Contract is for the collection of data on juveniles in detention homes, jails and lock-ups and to provide reports on this gathered data regarding Michigan's compliance with federal rules.

1.002 Background

The State of Michigan currently receives approximately \$2.2 million annually from the federal government under the Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974. This money must be used to meet the four (4) core requirements set forth in the federal statute. The core requirements are:

- 1) Removal of juveniles from adult jails and lock-ups (JRI);
- 2) De-institutionalization of status offenders (DSO) (Status offenders are those which commit offenses which are only illegal due to the offender's age.);
- 3) Separation of juveniles from adult detainees (separation), and
- 4) Address the disproportionate processing or confinement of minorities (DMC).

If Michigan complies with the federal mandates, the annual appropriation can be allocated by the Michigan Juvenile Justice Committee (MJJC) for any type of juvenile programming the state's juvenile justice advisory group committee decides is appropriate. The MJJC is appointed by the Governor and meets quarterly.

If Michigan is not in compliance with these four (4) requirements, then federal funds are reduced by 25% and the remaining funds must all be used to achieve compliance.

A monitoring process relative to compliance with the above JJDP core requirements is mandated by the JJDP. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) provides the guidelines. The State of Michigan, through the Department of Human Services, Juvenile Justice Grant Unit, maintains Michigan's monitoring plan and process.

The plan must provide for the collection of data regarding the locked detention of status offenders and non-offenders in jails, lock-ups, juvenile detention homes, and in locked state and private institutions. The plan must also provide for the monitoring and collection of data regarding separation of juveniles from adults in jails and lock-ups and on the locked placement of juveniles in jails and lock-ups.

A major part of the monitoring process involves local on-site reviews to view facilities at the jail, lock-up, juvenile detention home, and/or state or private institution. Verification of data either on site, or through a review of a sample of data records is also part of the monitoring process.

1.1 Scope of Work and Deliverables

1.101 In Scope

The Contractor is expected to accurately perform the tasks set forth in section 1.104 to the satisfaction of the Michigan Department of Human Services (DHS), Bureau of Juvenile Justice (BJJ) Project Manager.

1.102 Out of Scope - RESERVED

1.103 Environment

Physical Environment: The Contractor is expected to collect data from a variety of locations with varying levels of security requirements. The BJJ Project Manager, who will also authorize any travel to such locations, as well as identify all locations. All travel must be pre-authorized by the BJJ Project Manager and supported by original invoices. Travel expenses will be reimbursed no more frequently than monthly and should be invoiced separately from the contractor's services. There will be no travel outside of Michigan.



Please reference http://michigan.gov/dmb/0,1607,7-150-9141_13132---,00.html for the Michigan Travel Policy. The policy identifies the reimbursable rates for mileage and accommodations.

The State of Michigan will not provide equipment or vehicles for this project. It is expected that the Contractor will provide workspace, supplies and equipment for their staff. The State will not provide computers or telephone equipment or service.

Technological Environment: The Contractor must adhere to all standards as established by the State of Michigan, Department of Information Technology: see <http://michigan.gov/dit> for standards and policies regarding information technology. Reports and written materials must be compatible with the standard State of Michigan applications, Microsoft Office and Excel.

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:

1. Monitor and collect data from all county jails and/or lock-ups. (The State will provide a list of these facilities as they are known to us, the Contractor may need to update that list based on additional information that may be learned).

Contractor Response:

The PPA jail monitoring team will use the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) *Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act of 2002* to develop a sound methodology for monitoring the list of county jails and/or lock-ups provided by the State's Bureau of Juvenile Justice. The site visit methodology will be consistently structured to determine if county jails and/or lock-ups are meeting four core requirements set forth in the 2002 JJDP Act:

- De-institutionalization of status offenders (DSO)
- Removal of juveniles from adult jails and lock-ups (JRI)
- Separation of juveniles from adult detainees (separation)
- Address the disproportionate processing or confinement of minorities (DMC)

Monitoring and data-collection activities will determine the extent to which county jails and/or lock-ups are maintaining and making available records for every juvenile who entered the facilities during the current reporting period. Each site visit will be standardized using the OJJDP Guidance Manual Flowchart to determine if county jails and/or lock-ups are in compliance with these core requirements. The strategy will also provide for the monitoring and collection of data regarding the de-institutionalization of status offenders, removal of juveniles from adult jails and lock-ups, and separation of juveniles from adult detainees.

De-institutionalization of status offenders (DSO)

The JJDP Act requires that adult jails and lockups cannot hold status offenders, nonoffenders, alien juveniles, or civil-type juvenile offenders in a secure manner at any time. The site visit strategy will collect data from selected county jails and/or lock-ups regarding the locked detention of status offenders and nonoffenders. Site visits will be held at selected county jails and/or lock-ups to determine if status offenders, nonoffenders, alien juveniles, or civil-type juvenile offenders are held securely or nonsecurely.

These juveniles should only be detained in nonsecure areas of an adult jail or lockup for processing while awaiting transportation to a nonsecure shelter care facility or a juvenile detention center or while awaiting release to a parent or guardian. If held securely, the PPA jail monitoring team will also determine if juveniles are also sight and sound separated from adult detainees.



The Youth Handgun Safety Act (18 U.S.C. 922(x)) prohibits possession of a handgun by a minor under the age of 18. The Violent Crime Control and Law Enforcement Act of 1994, Subtitle B, Youth Handgun Safety, amended the JJDP Act to provide that juveniles who violate United States Code, Title 18, Section 922(x) or a similar state law can be placed in secure detention or secure correctional facilities without violating the DSO requirement. Because of this exception to the JJDP Act, violations of the Youth Handgun Safety Act or a similar state law can be considered either status offenses punishable by detention or confinement or delinquent offenses. The number of these offenders held securely at selected sites will be reported to the State's Bureau of Juvenile Justice as a part of the site visit report.

Removal of juveniles from adult jails (JRI)

The JJDP Act requires that no juveniles shall be detained or confined in any jail or lock-up for adults. The site visit strategy will collect data from selected county jails and/or lock-ups regarding the detention or confinement of juveniles.

Exceptions to required practices will also be noted and categorized in one of the three exception areas:

- A six-hour hold exception for alleged delinquent offenders
- An exception for alleged delinquent offenders in rural areas
- An exception for juveniles waived or transferred to a criminal court

Separation of juveniles from adult detainees (separation)

The JJDP Act requires that separation must be achieved in all secure areas of the facility. The site visit strategy will collect data from selected county jails and/or lock-ups to determine if accused or adjudicated delinquent offenders, status offenders, and nonoffenders have contact with adult inmates and/or inmate trustees.

For purposes of this project, contact will be defined to include any physical or sustained sight or sound contact. Sight contact will be defined as clear visual contact between adult inmates and juveniles within close proximity to each other. Sound contact will be defined as direct oral communication between adult inmates and juvenile offenders.

Disproportionate processing or confinement of minorities (DMC)

The PPA jail monitoring team will collect the most recent available DMC data for all Michigan counties and Native American Tribes. The data collected will include number of delinquent and status offenders admitted, by sex and race, to juvenile detention facilities, adult jails, and lock-ups.

The data required to determine DMC depend on the structure of each jurisdiction's juvenile justice system and the data resources that the various subsystems maintain. As a rule of thumb, detention data, depending on the administrative structure of the local juvenile justice system, can be obtained from the juvenile courts, the executive entity that provides detention services, or juvenile detention facilities, adult jails, or lock-ups. The team will work with these entities to collect DMC data for cases involved in secure detention.

The PPA jail monitoring team will report the DMC data to the Michigan Department of Human Services, Bureau of Juvenile Justice (DHS/BJJ) Grants Unit in a spreadsheet format that can be manipulated to produce desired data based on all data collected. DMC data will be based on the Relative Rate Index (RRI). The RRI is a way to measure differences in respect to populations in regards to the specific occurrence of an event. In the juvenile justice system, RRI's are useful to investigate the occurrence of DMC.



The RRI is an unbiased estimator, meaning that it allows for fair and accurate comparisons across time and racial groups. In order for a group to be included in the RRI analysis, it must account for at least 1% of the juvenile population within the given county. The baseline of every RRI is the occurrence of this event by a White person. For example, if the RRI of Black or African Americans is 4.5 in regards to juvenile arrests, this means that a juvenile who is Black or African American is 4.5 times or 450% more likely to be arrested than a juvenile who is White.

The RRI is designed as a first step in examining DMC. The RRI is used to point to areas for more intensive examination, and to serve as an ongoing set of “vital signs” or “early warning system” for the management of the juvenile justice system. DMC exists if the RRI is greater than one.

RRI analyses will be conducted by combining DMC data with 2000 Census data and/or the most recent Census population estimates to calculate RRIs for youth detained in juvenile detention facilities, adult jails, or lock-ups. Census data from 2000 is considered to be accurate, and population estimates are usually within 0.1% of the 2000 Census data for all racial/ethnic groups. RRI analyses will also plug Census and detention populations by race into the RRI spreadsheet provided by OJJDP, which computes the RRI.

Site visit reports

All compliant and noncompliant DSO, JRI, separation, and DMC practices will be identified and noted in site visit reports completed by the PPA jail monitoring team and submitted to the State’s Bureau of Juvenile Justice (BJJ). The site visit reports submitted to the BJJ will include the following sections at a minimum:

- Dates covered by the reporting period.
- Whether the facility held any juveniles in a secure custody status during the reporting period and the age, sex, and race of those juveniles.
- The total number of accused or adjudicated status offenders (including valid court order violators, youth held in accordance with the Interstate Compact on Juveniles, and alien juveniles) and nonoffenders securely detained for any length of time.
- The total number of accused juvenile criminal-type offenders held securely for any length of time for purposes other than identification, investigation, processing, release, transfer to court, or transfer to a juvenile facility following initial custody.
- The total number of accused juvenile criminal-type offenders held securely in excess of 6 hours (including those held in excess of 6 hours pursuant to the rural exception).
- The total number of accused or adjudicated juvenile criminal-type offenders held securely in excess of 6 hours prior to or following a court appearance or for any length of time not related to a court appearance.
- The total number of juveniles not separated from adult criminal offenders, including inmate trustees.
- When a facility is requesting to use the rural exception, the report will also indicate:
 - The total number of juveniles accused of a criminal-type offense who were held in excess of 6 hours but for less than 48 hours.



- The total number of juveniles accused of a criminal-type offense who were held in excess of 48 hours but not for more than an additional 48 hours because of conditions of distance or lack of ground transportation.
- The total number of juveniles accused of a criminal-type offense who were held in excess of 24 hours but not for more than an additional 24 hours after the time such conditions as adverse weather allow for reasonably safe travel.

The PPA jail monitoring team will also work with the BJJ and selected county jails and adult lockups to provide technical assistance that corrects policy and/or practice violations through the development of time-framed corrective action plans that ensure compliance with the JJDP Act.

Compliance monitoring reports will be developed for all sites that are selected for an interview and site visit. If PPA and/or the State determine that the site is in noncompliance, that site will be requested to submit a corrective action plan.

The corrective action plan must discuss the status of and progress made for each of the noncompliant areas and/or planned activities in the prior compliance plan. The compliance plan should also include a time-framed plan for implementation between one and three years. If relevant, the plan should include specific activities for removal of status offenders and nonoffenders from secure detention and correctional facilities, separation of juveniles and incarcerated adults, removal of juveniles from adult jails and lockups, and reducing the disproportionate minority confinement of juveniles.

In addition, the plan should include specific activities in data collection, data-system improvement, assessment, programmatic and systems-improvement strategies, evaluation, and monitoring activities, as appropriate. The plan must also specify the timeline, funding amount, and funding source(s) designated to conduct each of the planned activities.

PPA will work with the BJJ to determine an appropriate time frame for sites to develop and implement an appropriate corrective action plan. PPA will provide follow-up technical assistance as needed as long as funding is made available by the State for such technical assistance.

This proposed methodology will be discussed with the BJJ contract manager during start-up meetings and modified as necessary to comply with the goals, objectives, and needs of the BJJ.

2. Monitor and collect data from all juvenile detention facilities.

Contractor Response:

The PPA jail monitoring team will use the OJJDP's *Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act of 2002* to develop a sound methodology for monitoring the list of juvenile detention facilities provided by the State's BJJ. The site visit methodology will be consistently structured to determine if juvenile detention facilities are meeting three core requirements set forth in the 2002 JJDP Act:

- De-institutionalization of status offenders (DSO)
- Removal of juveniles from adult jails and lock-ups (JRI)



- Separation of juveniles from adult detainees (separation)
- Address the disproportionate processing or confinement of minorities (DMC)

Monitoring and data-collection activities will determine the extent to which juvenile detention facilities are maintaining and making available records for every juvenile who entered the facilities during the current reporting period. Each site visit will be standardized using the OJJDP Guidance Manual Flowchart to determine whether juvenile detention facilities are in compliance with these core requirements. The strategy will also provide for the monitoring and collection of data regarding the de-institutionalization of status offenders, removal of juveniles from adult jails and lock-ups, and separation of juveniles from adult detainees.

The PPA team will work hand in hand with the State to ensure that juvenile detention facilities are compliant with the request to provide data. Our research team has tremendous experience in successfully accessing and collecting data from juvenile detention facilities, jails, and lock-ups.

PPA will recommend that state and local DMC committees be developed to plan and collaborate with researchers on the DMC assessment study before, during, and after it is undertaken. PPA will also recommend that BJJ initially communicate PPA's planned DMC statewide activities and encourage local decision makers to provide the required information.

This collaboration between state and locality is extremely important. These individuals will know what the data are, what problems might exist with the data, and what barriers interested parties may face when attempting to access the data. Further, DMC tends to be an emotional issue, and, with its emphasis on causes, some may view data collection as a mechanism for placing blame or attempting to enact quotas.

Therefore, participation of key personnel at the onset can help alleviate these concerns and facilitate the collection of the data. Thus, there is a need from the start to discuss and identify who the key actors and agencies are and to map a strategy to involve them before any assessment study is conducted.

De-institutionalization of status offenders (DSO)

The JJDP Act states that juvenile detention facilities cannot hold status offenders, nonoffenders, alien juveniles, or civil-type juvenile offenders in a secure manner at any time. The site visit strategy will collect data from selected juvenile detention facilities regarding the locked detention of status offenders and nonoffenders. Site visits will be held at selected juvenile detention facilities to determine if status offenders, nonoffenders, alien juveniles, or civil-type juvenile offenders are held securely or nonsecurely.

These juveniles should only be detained in juvenile detention facilities prior to formal juvenile court action for investigative purposes, for identification purposes, or for the purpose of allowing return to the juvenile's parents or guardian. Detention for a brief period of time under juvenile court authority may also be necessary in order to arrange for appropriate shelter care placement. Exceptions to required practices will also be noted and categorized in one of the three exception areas:



- The Youth Handgun Safety Act (18 U.S.C. 922(x)) prohibits possession of a handgun by a minor under the age of 18. The Violent Crime Control and Law Enforcement Act of 1994, Subtitle B, Youth Handgun Safety amended the JJDP Act to provide that juveniles who violate United States Code, Title 18, Section 922(x) or a similar state law can be placed in secure detention or secure correctional facilities without violating the DSO requirement. Because of this exception to the JJDP Act, violations of the Youth Handgun Safety Act or a similar state law can be considered either status offenses punishable by detention or confinement or delinquent offenses.
- Juveniles held pursuant to the Interstate Compact on Juveniles enacted by the state are excluded from the DSO requirements in total.
- The Valid Court Order (VCO) Exception provides that adjudicated status offenders found to have violated a valid court order may be securely detained in a juvenile detention or correctional facility.

The number of these offenders held securely at selected sites will be reported to the State's BJJ as a part of the site visit report.

Removal of juveniles from adult jails (JRI)

The JJDP Act requires that no juveniles shall be detained or confined in any jail or lockup for adults when the juvenile detention facility is collocated in the same building as an adult jail or lockup or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. The site visit strategy will collect data from selected juvenile detention facilities regarding the detention or confinement of juveniles.

Separation of juveniles from adult detainees (separation)

The JJDP Act requires that separation must be achieved in all secure areas of the facility. The site visit strategy will collect data from selected juvenile detention facilities to determine whether accused or adjudicated delinquent offenders, status offenders, and nonoffenders have contact with adult inmates and/or inmate trustees.

For purposes of this project, contact will be defined to include any physical or sustained sight or sound contact. Sight contact will be defined as clear visual contact between adult inmates and juveniles within close proximity to each other. Sound contact will be defined as direct oral communication between adult inmates and juvenile offenders.

Exceptions to required practices will also be noted and categorized in one of the two exception areas:

- A juvenile who has been transferred or waived or is otherwise under the jurisdiction of a criminal court.
- An adult held for a delinquency proceeding can be held in a juvenile detention center or a juvenile training school.

Disproportionate processing or confinement of minorities (DMC)

The PPA jail monitoring team will collect the most recent available DMC data for all Michigan counties and Native American Tribes. The data collected will include number of delinquent and status offenders admitted, by sex and race, to juvenile detention facilities, adult jails, and lock-ups.



The data required to determine DMC depend on the structure of each jurisdiction's juvenile justice system and the data resources that the various subsystems maintain. As a rule of thumb, detention data, depending on the administrative structure of the local juvenile justice system, can be obtained from the juvenile courts, the executive entity that provides detention services, or juvenile detention facilities, adult jails, or lock-ups. The team will work with these entities to collect DMC data for cases involved in secure detention.

The PPA jail monitoring team will report the DMC data to the DHS/BJJ Grants Unit in a spreadsheet format that can be manipulated to produce desired data based on all data collected. DMC data will be based on the Relative Rate Index (RRI). The RRI is a way to measure differences in respect to populations in regards to the specific occurrence of an event. In the juvenile justice system, RRI's are useful to investigate the occurrence of DMC. The RRI is an unbiased estimator, meaning that it allows for fair and accurate comparisons across time and racial groups. In order for a group to be included in the RRI analysis, it must account for at least 1% of the juvenile population within the given county. The baseline of every RRI is the occurrence of this event by a White person. For example, if the RRI of Black or African Americans is 4.5 in regards to juvenile arrests, this means that a juvenile who is Black or African American is 4.5 times or 450% more likely to be arrested than a juvenile who is White.

The RRI is designed as a first step in examining DMC. The RRI is used to point to areas for more intensive examination and to serve as an ongoing set of "vital signs" or "early warning system" for the management of the juvenile justice system. DMC exists if the RRI is greater than one.

RRI analyses will be conducted by combining DMC data with 2000 Census data and/or the most recent Census population estimates to calculate RRIs for youth detained in juvenile detention facilities, adult jails, or lock-ups. Census data from 2000 is considered to be accurate, and population estimates are usually within 0.1% of the 2000 Census data for all racial/ethnic groups. RRI analyses will also plug Census and detention populations by race into the RRI spreadsheet provided by OJJDP, which computes the RRI.

Site visit reports

All compliant and noncompliant DSO, JRI, separation, and DMC practices will be identified and noted in site visit reports completed by the PPA jail monitoring team and submitted to the State's Bureau of Juvenile Justice (BJJ).

At a minimum, the site visit reports submitted to the BJJ will include the following sections:

- Dates covered by the reporting period.
- The total number, age, race, and sex of nonoffenders held in a secure detention or correctional facility for any length of time.
- The total number of accused status offenders, out-of-state runaways not held pursuant to the Interstate Compact for Juveniles, and federal wards held securely for longer than 24 hours (exclusive of weekends and legal holidays) prior to an initial court appearance and for an additional 24 hours (exclusive of weekends and legal holidays) immediately following an initial court appearance, excluding juveniles held pursuant to the VCO Exclusion provision, the Youth Handgun Safety Act or a similar state law, or the Interstate Compact on Juveniles adopted by the state.



- The total number of adjudicated status offenders and nonoffenders, including out-of-state runaways not held pursuant to the Interstate Compact for Juveniles, and federal wards held securely for any length of time, excluding those held pursuant to the VCO Exception provision or pursuant to the Youth Handgun Safety Act or the Interstate Compact on Juveniles adopted by the state.
- The total number of juveniles not separated from adult criminal offenders.
- The total number of juvenile offenders held pursuant to the Youth Handgun Safety Act.
- The total number of federal wards.

The PPA jail monitoring team will also work with the BJJ and selected juvenile detention facilities to provide technical assistance that corrects policy and/or practice violations through the development of time-framed corrective action plans that ensure compliance with the JJDP Act.

Compliance monitoring reports will be developed for all sites that are selected for an interview and site visit. If PPA and/or the State determine that the site is in noncompliance, that site will be requested to submit a corrective action plan.

The corrective action plan must discuss the status of and progress made for each of the noncompliant areas and/or planned activities in the prior compliance plan. The compliance plan should also include a time-framed plan for implementation between one and three years. If relevant, the plan should include specific activities for removal of status offenders and nonoffenders from secure detention and correctional facilities, separation of juveniles and incarcerated adults, removal of juveniles from adult jails and lockups, and reducing the disproportionate minority confinement of juveniles.

In addition, the plan should include specific activities in data collection, data-system improvement, assessment, programmatic and systems-improvement strategies, evaluation, and monitoring activities, as appropriate. The plan must also specify the timeline, funding amount, and funding source(s) designated to conduct each of the planned activities.

PPA will work with the BJJ to determine an appropriate time frame for sites to develop and implement an appropriate corrective action plan. PPA will provide follow-up technical assistance as needed as long as funding is made available by the State for such technical assistance.

This proposed methodology will be discussed with the BJJ contract manager during start-up meetings and modified as necessary to comply with the goals, objectives, and needs of the BJJ.

3. Monitor and collect data from all state detention facilities.

Contractor Response:

The PPA site monitoring team will use the OJJDP's *Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act of 2002* to develop a sound methodology for monitoring the list of state detention facilities provided by the State's BJJ. The site visit methodology will be consistently structured to determine if state detention facilities are meeting three core requirements set forth in the 2002 JJDP Act:



- De-institutionalization of status offenders (DSO)
- Removal of juveniles from adult jails and lock-ups (JRI)
- Separation of juveniles from adult detainees (separation)
- Address the disproportionate processing or confinement of minorities (DMC)

Monitoring and data-collection activities will determine the extent to which state detention facilities are maintaining and making available records for every juvenile who entered the facilities during the current reporting period. Each site visit will be standardized using the OJJDP Guidance Manual Flowchart to determine whether state detention facilities are in compliance with these core requirements. The strategy will also provide for the monitoring and collection of data regarding the de-institutionalization of status offenders, removal of juveniles from adult jails and lock-ups, and separation of juveniles from adult detainees.

The PPA team will work hand in hand with the State to ensure that juvenile detention facilities are compliant with the request to provide data. Our research team has tremendous experience in successfully accessing and collecting data from juvenile detention facilities, jails, and lock-ups.

PPA will recommend that state and local DMC committees be developed to plan and collaborate with researchers on the DMC assessment study before, during, and after it is undertaken. PPA will also recommend that BJJ initially communicate PPA's planned DMC statewide activities and encourage local decision makers to provide the required information.

This collaboration between state and locality is extremely important. These individuals will know what the data are, what problems might exist with the data, and what barriers interested parties may face when attempting to access the data. Further, DMC tends to be an emotional issue, and, with its emphasis on causes, some may view data collection as a mechanism for placing blame or attempting to enact quotas.

Therefore, participation of key personnel at the onset can help alleviate these concerns and facilitate the collection of the data. Thus, there is a need from the start to discuss and identify who the key actors and agencies are and to map a strategy to involve them before any assessment study is conducted.

De-institutionalization of status offenders (DSO)

The JJDP Act states that state detention facilities cannot hold status offenders, nonoffenders, alien juveniles, or civil-type juvenile offenders in a secure manner at any time. The site visit strategy will collect data from selected state detention facilities regarding the locked detention of status offenders and nonoffenders. Site visits will be held at selected state detention facilities to determine whether status offenders, nonoffenders, alien juveniles, or civil-type juvenile offenders are held securely or nonsecurely.

These juveniles should only be detained in state detention facilities prior to formal juvenile court action for investigative purposes, for identification purposes, or for the purpose of allowing return to the juvenile's parents or guardian may be necessary. Detention for a brief period of time under juvenile court authority may also be necessary in order to arrange for appropriate shelter care placement. Exceptions to required practices will also be noted and categorized in one of the three exception areas:



- The Youth Handgun Safety Act (18 U.S.C. 922(x)) prohibits possession of a handgun by a minor under the age of 18. The Violent Crime Control and Law Enforcement Act of 1994, Subtitle B, Youth Handgun Safety amended the JJDP Act to provide that juveniles who violate United States Code, Title 18, Section 922(x) or a similar state law can be placed in secure detention or secure correctional facilities without violating the DSO requirement. Because of this exception to the JJDP Act, violations of the Youth Handgun Safety Act or a similar state law can be considered either status offenses punishable by detention or confinement or delinquent offenses.
- Juveniles held pursuant to the Interstate Compact on Juveniles enacted by the state are excluded from the DSO requirements in total.
- The VCO Exception provides that adjudicated status offenders found to have violated a valid court order may be securely detained in a juvenile detention or correctional facility.

The number of these offenders held securely at selected sites will be reported to the State's Bureau of Juvenile Justice as a part of the site visit report.

Removal of juveniles from adult jails (JRI)

The JJDP Act requires that no juveniles shall be detained or confined in any jail or lockup for adults when the state detention facility is collocated in the same building as an adult jail or lockup or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. The site visit strategy will collect data from selected state detention facilities regarding the detention or confinement of juveniles.

Separation of juveniles from adult detainees (separation)

The JJDP Act requires that separation must be achieved in all secure areas of the facility. The site visit strategy will collect data from selected state detention facilities to determine if accused or adjudicated delinquent offenders, status offenders, and nonoffenders have contact with adult inmates and/or inmate trustees.

For purposes of this project, contact will be defined to include any physical or sustained sight or sound contact. Sight contact will be defined as clear visual contact between adult inmates and juveniles within close proximity to each other. Sound contact will be defined as direct oral communication between adult inmates and juvenile offenders.

Exceptions to required practices will also be noted and categorized in one of the two exception areas:

- A juvenile who has been transferred or waived or is otherwise under the jurisdiction of a criminal court.
- An adult held for a delinquency proceeding can be held in a juvenile detention center or a juvenile training school.

Disproportionate processing or confinement of minorities (DMC)

The PPA jail monitoring team will collect the most recent available DMC data for all Michigan counties and Native American Tribes. The data collected will include number of delinquent and status offenders admitted, by sex and race, to juvenile detention facilities, adult jails, and lock-ups.



The data required to determine DMC depend on the structure of each jurisdiction's juvenile justice system and the data resources that the various subsystems maintain. As a rule of thumb, detention data, depending on the administrative structure of the local juvenile justice system, can be obtained from the juvenile courts, the executive entity that provides detention services, or juvenile detention facilities, adult jails, or lock-ups. The PPA team will work with these entities to collect DMC data for cases involved in secure detention.

The PPA jail monitoring team will report the DMC data to the DHS/BJJ Grants Unit in a spreadsheet format that can be manipulated to produce desired data based on all data collected. DMC data will be based on the Relative Rate Index (RRI). The RRI is a way to measure differences in respect to populations in regards to the specific occurrence of an event. In the juvenile justice system, RRI's are useful to investigate the occurrence of DMC. The RRI is an unbiased estimator, meaning that it allows for fair and accurate comparisons across time and racial groups. In order for a group to be included in the RRI analysis, it must account for at least 1% of the juvenile population within the given county. The baseline of every RRI is the occurrence of this event by a White person. For example, if the RRI of Black or African Americans is 4.5 in regards to juvenile arrests, this means that a juvenile who is Black or African American is 4.5 times or 450% more likely to be arrested than a juvenile who is White.

The RRI is designed as a first step in examining DMC. The RRI is used to point to areas for more intensive examination and to serve as an ongoing set of "vital signs" or "early warning system" for the management of the juvenile justice system. DMC exists if the RRI is greater than one.

RRI analyses will be conducted by combining DMC data with 2000 Census data and/or the most recent Census population estimates to calculate RRIs for youth detained in juvenile detention facilities, adult jails, or lock-ups. Census data from 2000 is considered to be accurate, and population estimates are usually within 0.1% of the 2000 Census data for all racial/ethnic groups. RRI analyses will also plug Census and detention populations by race into the RRI spreadsheet provided by OJJDP, which computes the RRI.

Site visit reports

All compliant and noncompliant DSO, JRI, separation, and DMC practices will be identified and noted in site visit reports completed by the PPA jail monitoring team and submitted to the State's BJJ.

At a minimum, the site visit reports submitted to the BJJ will include the following sections:

- Dates covered by the reporting period.
- The total number of nonoffenders held in a secure detention or correctional facility for any length of time and the age, sex, and race of those nonoffenders.
- The total number of accused status offenders, out-of-state runaways not held pursuant to the Interstate Compact for Juveniles, and federal wards held securely for longer than 24 hours (exclusive of weekends and legal holidays) prior to an initial court appearance and for an additional 24 hours (exclusive of weekends and legal holidays) immediately following an initial court appearance, excluding juveniles held pursuant to the VCO Exclusion provision, pursuant to the Youth Handgun Safety Act or a similar state law, or the Interstate Compact on Juveniles adopted by the state.
 - The age, sex, and race of those accused status offenders and out-of-state runaways.



- The total number of adjudicated status offenders and nonoffenders, including out-of-state runaways not held pursuant to the Interstate Compact for Juveniles, and federal wards held securely for any length of time, excluding those held pursuant to the VCO Exception provision or pursuant to the Youth Handgun Safety Act or the Interstate Compact on Juveniles adopted by the state.
- The total number of juveniles not separated from adult criminal offenders.
- The total number of juvenile offenders held pursuant to the Youth Handgun Safety Act.
- The total number of federal wards.

The PPA jail monitoring team will also work with the BJJ and selected state detention facilities to provide technical assistance that corrects policy and/or practice violations through the development of time-framed corrective action plans that ensure compliance with the JJDP Act.

Compliance monitoring reports will be developed for all sites that are selected for an interview and site visit. If PPA and/or the State determine that the site is in noncompliance, that site will be requested to submit a corrective action plan.

The corrective action plan must discuss the status of and progress made for each of the noncompliant areas and/or planned activities in the prior compliance plan. The compliance plan should also include a time-framed plan for implementation between one and three years. If relevant, the plan should include specific activities for removal of status offenders and non-offenders from secure detention and correctional facilities, separation of juveniles and incarcerated adults, removal of juveniles from adult jails and lockups, and reducing the disproportionate minority confinement of juveniles.

In addition, the plan should include specific activities in data collection, data-system improvement, assessment, programmatic and systems-improvement strategies, evaluation, and monitoring activities, as appropriate. The plan must also specify the timeline, funding amount, and funding source(s) designated to conduct each of the planned activities.

PPA will work with the BJJ to determine an appropriate time frame for sites to develop and implement an appropriate corrective action plan. PPA will provide follow-up technical assistance as needed as long as funding is made available by the State for such technical assistance.

This proposed methodology will be discussed with the BJJ contract manager during start-up meetings and modified as necessary to comply with the goals, objectives, and needs of the BJJ.

4. Monitor and collect data from all private juvenile detention facilities.

Contractor Response:

The PPA jail monitoring team will use the OJJDP's *Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act of 2002* to develop a sound methodology for monitoring the list of private juvenile detention facilities provided by the State's BJJ. The site visit methodology will be consistently structured to determine if private juvenile detention facilities are meeting three core requirements set forth in the 2002 JJDP Act:



- De-institutionalization of status offenders (DSO)
- Removal of juveniles from adult jails and lock-ups (JRI)
- Separation of juveniles from adult detainees (separation)
- Address the disproportionate processing or confinement of minorities (DMC)

Monitoring and data-collection activities will determine the extent to which private juvenile detention facilities are maintaining and making available records for every juvenile who entered the facilities during the current reporting period. Each site visit will be standardized using the OJJDP Guidance Manual Flowchart to determine whether private juvenile detention facilities are in compliance with these core requirements. The strategy will also provide for the monitoring and collection of data regarding the de-institutionalization of status offenders, removal of juveniles from adult jails and lock-ups, and separation of juveniles from adult detainees.

The PPA team will work hand in hand with the State to ensure that juvenile detention facilities are compliant with the request to provide data. Our research team has tremendous experience in successfully accessing and collecting data from juvenile detention facilities, jails, and lock-ups.

PPA will recommend that state and local DMC committees be developed to plan and collaborate with researchers on the DMC assessment study before, during, and after it is undertaken. PPA will also recommend that the BJJ initially communicate PPA's planned DMC statewide activities and encourage local decision makers to provide the required information.

This collaboration between state and locality is extremely important. These individuals will know what the data are, what problems might exist with the data, and what barriers interested parties may face when attempting to access the data. Further, DMC tends to be an emotional issue, and, with its emphasis on causes, some may view data collection as a mechanism for placing blame or attempting to enact quotas.

Therefore, participation of key personnel at the onset can help alleviate these concerns and facilitate the collection of the data. Thus, there is a need from the start to discuss and identify who the key actors and agencies are and to map a strategy to involve them before any assessment study is conducted.

De-institutionalization of status offenders (DSO)

The JJDP Act states that private juvenile detention facilities cannot hold status offenders, nonoffenders, alien juveniles, or civil-type juvenile offenders in a secure manner at any time. The site visit strategy will collect data from selected private juvenile detention facilities regarding the locked detention of status offenders and nonoffenders. Site visits will be held at selected private juvenile detention facilities to determine if status offenders, nonoffenders, alien juveniles, or civil-type juvenile offenders are held securely or nonsecurely.

These juveniles should only be detained in private juvenile detention facilities prior to formal juvenile court action for investigative purposes, for identification purposes, or for the purpose of allowing return to the juvenile's parents or guardian. Detention for a brief period of time under juvenile court authority may also be necessary in order to arrange for appropriate shelter care placement. Exceptions to required practices will also be noted and categorized in one of the three exception areas:



- The Youth Handgun Safety Act (18 U.S.C. 922(x)) prohibits possession of a handgun by a minor under the age of 18. The Violent Crime Control and Law Enforcement Act of 1994, Subtitle B, Youth Handgun Safety amended the JJDP Act to provide that juveniles who violate United States Code, Title 18, Section 922(x) or a similar state law can be placed in secure detention or secure correctional facilities without violating the DSO requirement. Because of this exception to the JJDP Act, violations of the Youth Handgun Safety Act or a similar state law can be considered either status offenses punishable by detention or confinement or delinquent offenses.
- Juveniles held pursuant to the Interstate Compact on Juveniles enacted by the state are excluded from the DSO requirements in total.
- The VCO Exception provides that adjudicated status offenders found to have violated a valid court order may be securely detained in a juvenile detention or correctional facility.

The number of these offenders held securely at selected sites will be reported to the State's BJJ as a part of the site visit report.

Removal of juveniles from adult jails (JRI)

The JJDP Act requires that no juveniles shall be detained or confined in any jail or lockup for adults when the private juvenile detention facility is collocated in the same building as an adult jail or lockup or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. The site visit strategy will collect data from selected private juvenile detention facilities regarding the detention or confinement of juveniles.

Separation of juveniles from adult detainees (separation)

The JJDP Act requires that separation must be achieved in all secure areas of the facility. The site visit strategy will collect data from selected private juvenile detention facilities to determine if accused or adjudicated delinquent offenders, status offenders, and nonoffenders have contact with adult inmates and/or inmate trustees.

For purposes of this project, contact will be defined to include any physical or sustained sight or sound contact. Sight contact will be defined as clear visual contact between adult inmates and juveniles within close proximity to each other. Sound contact will be defined as direct oral communication between adult inmates and juvenile offenders.

Exceptions to required practices will also be noted and categorized in one of the two exception areas:

- A juvenile who has been transferred or waived or is otherwise under the jurisdiction of a criminal court.
- An adult held for a delinquency proceeding can be held in a juvenile detention center or a juvenile training school.

Disproportionate processing or confinement of minorities (DMC)

The PPA jail monitoring team will collect the most recent available DMC data for all Michigan counties and Native American Tribes. The data collected will include number of delinquent and status offenders admitted, by sex and race, to juvenile detention facilities, adult jails, and lock-ups.



The data required to determine DMC depend on the structure of each jurisdiction's juvenile justice system and the data resources that the various subsystems maintain. As a rule of thumb, detention data, depending on the administrative structure of the local juvenile justice system, can be obtained from the juvenile courts, the executive entity that provides detention services, or juvenile detention facilities, adult jails, or lock-ups. The team will work with these entities to collect DMC data for cases involved in secure detention.

The PPA jail monitoring team will report the DMC data to the DHS/BJJ Grants Unit in a spreadsheet format that can be manipulated to produce desired data based on all data collected. DMC data will be based on the Relative Rate Index (RRI). The RRI is a way to measure differences in respect to populations in regards to the specific occurrence of an event. In the juvenile justice system, RRI's are useful to investigate the occurrence DMC. The RRI is an unbiased estimator, meaning that it allows for fair and accurate comparisons across time and racial groups. In order for a group to be included in the RRI analysis, it must account for at least 1% of the juvenile population within the given county. The baseline of every RRI is the occurrence of this event by a White person. For example, if the RRI of Black or African Americans is 4.5 in regards to juvenile arrests, this means that a juvenile who is Black or African American is 4.5 times or 450% more likely to be arrested than a juvenile who is White.

The RRI is designed as a first step in examining DMC. The RRI is used to point to areas for more intensive examination, and to serve as an ongoing set of "vital signs" or "early warning system" for the management of the juvenile justice system. DMC exists if the RRI is greater than one.

RRI analyses will be conducted by combining DMC data with 2000 Census data and/or the most recent Census population estimates to calculate RRIs for youth detained in juvenile detention facilities, adult jails, or lock-ups. Census data from 2000 is considered to be accurate, and population estimates are usually within 0.1% of the 2000 Census data for all racial/ethnic groups. RRI analyses will also plug Census and detention populations by race into the RRI spreadsheet provided by OJJDP, which computes the RRI.

Site visit reports

All compliant and noncompliant DSO, JRI, separation, DMC practices will be identified and noted in site visit reports completed by the PPA jail monitoring team and submitted to the State's BJJ.

At a minimum, the site visit reports submitted to the BJJ will include the following sections:

- Dates covered by the reporting period.
- The total number of nonoffenders held in a secure detention or correctional facility for any length of time and the age, sex, and race of those nonoffenders.
- The total number of accused status offenders, out-of-state runaways not held pursuant to the Interstate Compact for Juveniles, and federal wards held securely for longer than 24 hours (exclusive of weekends and legal holidays) prior to an initial court appearance and for an additional 24 hours (exclusive of weekends and legal holidays) immediately following an initial court appearance, excluding juveniles held pursuant to the VCO Exclusion provision, the Youth Handgun Safety Act or a similar state law, or the Interstate Compact on Juveniles adopted by the state.
 - The age, sex, and race of those accused status offenders and out-of-state runaways.



- The total number of adjudicated status offenders and nonoffenders, including out-of-State runaways not held pursuant to the Interstate Compact for Juveniles, and federal wards held securely for any length of time, excluding those held pursuant to the VCO Exception provision, or the Youth Handgun Safety Act, or the Interstate Compact on Juveniles adopted by the state.
- The total number of juveniles not separated from adult criminal offenders.
- The total number of juvenile offenders held pursuant to the Youth Handgun Safety Act.
- The total number of federal wards.

The PPA jail monitoring team will also work with the BJJ and selected private juvenile detention facilities to provide technical assistance that corrects policy and/or practice violations through the development of time-framed corrective action plans that ensure compliance with the JJDP Act.

Compliance monitoring reports will be developed for all sites that are selected for an interview and site visit. If PPA and/or the State determine that the site is in noncompliance, that site will be requested to submit a corrective action plan. The corrective action plan must discuss the status of and progress made for each of the noncompliant areas and/or planned activities in the prior compliance plan. The compliance plan should also include a time-framed plan for implementation between one and three years. If relevant, the plan should include specific activities for removal of status offenders and nonoffenders from secure detention and correctional facilities, separation of juveniles and incarcerated adults, removal of juveniles from adult jails and lockups, and reducing the disproportionate minority confinement of juveniles.

In addition, the plan should include specific activities in data collection, data-system improvement, assessment, programmatic and systems-improvement strategies, evaluation, and monitoring activities, as appropriate. The plan must also specify the timeline, funding amount, and funding source(s) designated to conduct each of the planned activities.

PPA will work with the BJJ to determine an appropriate time frame for sites to develop and implement an appropriate corrective action plan. PPA will provide follow-up technical assistance as needed as long as funding is made available by the State for such technical assistance.

This proposed methodology will be discussed with the BJJ contract manager during start-up meetings and modified as necessary to comply with the goals, objectives, and needs of the BJJ.

5. Provide 150 hours of technical assistance to personnel of county jails, adult lock-ups, juvenile detention homes, locked state and private institutions relative to the federal mandates and compliance with JJDP "core requirements."

Contractor Response:

The PPA jail monitoring team will also work with the BJJ and selected county jails, adult lockups, juvenile detention homes, and locked state and private institutions to provide 150 hours of technical assistance that corrects policy and/or practice violations through the development of time-framed corrective action plans that ensure compliance with the JJDP Act. The PPA jail monitoring team will work with the BJJ contract manager to determine the technical assistance needs by site and how best to deliver the services to ensure compliance.



PPA has substantial and valuable professional experience in providing technical and strategic-planning assistance to state and local agencies. PPA currently provides technical and strategic planning assistance to several stakeholder groups, agencies, and institutions due to our leadership in statewide initiatives with the Michigan Department of Corrections (MDOC), the Michigan Department of Labor and Economic Growth, and Michigan Works! Technical assistance will be delivered in an effective manner that is helpful to each site.

6. Develop and maintain a project web-site which will be property of the State of Michigan at the conclusion of the project.

Contractor Response:

The PPA jail monitoring team will develop and maintain a project Web site that posts and publishes monitoring information as requested by the BJJ contract manager. PPA has substantial and valuable professional experience in developing Web sites for statewide initiatives. PPA currently hosts a statewide Web site for the MDOC's Michigan Prisoner ReEntry Initiative (MPRI) and the Michigan Department of Labor and Economic Growth's Career Education Consumer Report.

The PPA jail monitoring team will work with the BJJ contract manager to ensure that the Web site contains the proper information and is in a format to be easily transferred to the State of Michigan at the conclusion of the project.

7. Compile a procedures manual relative to facilities monitoring.

Contractor Response:

The PPA jail monitoring team will use the OJJDP's *Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act of 2002* to develop a procedures manual relative to facilities monitoring. This manual provides specific guidance for conducting site visits to county jails, adult lockups, juvenile detention homes, and locked state and private institutions for the purpose of monitoring and collecting of data regarding the de-institutionalization of status offenders, removal of juveniles from adult jails and lock-ups, and separation of juveniles from adult detainees.

PPA will work hand in hand with the BJJ Grants Unit to determine the elements that are to be included in the procedures manual. At a minimum, the following elements will be included:

- Data collection
 - Facility identification and classification
- Juvenile detention facilities
- County jails
- Municipal lockups and holding facilities
 - Data collection timetable
 - Data verification and site inspections
 - Submission of reports
- Violation reporting procedures

The PPA jail monitoring team will work with the BJJ contract manager to ensure that the procedures manual contains the required information for facilities monitoring.

8. Update and maintain the "universe" list of facilities around the state and keep the Reporting Exemption requests and reports current.



Contractor Response:

The universe list is an existing, ongoing record of all possible juvenile holding/detaining locations in Michigan. The list is divided into the following categories with the current count for that type:

- County jails (83)
- Police departments and state police posts (lockups) (535)
- Juvenile facilities, both public and private (144)
- Other, including airports, parks, universities (42)

The PPA jail monitoring team will update and maintain the universe list of facilities around the state and keep the reporting exemption requests and reports current. PPA will work with the BJJ contract manager to determine an acceptable reporting format and time period for the listing of facilities. The information will be formatted in a manner that allows for electronic and hard copy publishing.

9. Provide support services to Michigan Committee on Juvenile Justice and its jail removal sub-committee members in the form of data collection, data verification, analysis and various reports.

Contractor Response:

As required, the PPA jail monitoring team will attend meetings scheduled by the Michigan Committee on Juvenile Justice to present site visit findings and respond to any data and analysis questions that may arise during the course of the project. PPA will work with the BJJ contract manager and the chair of the Michigan Committee on Juvenile Justice Jail Removal Subcommittee to determine the support services that are needed. PPA will also work with the BJJ contract manager and Juvenile Justice Jail Removal Subcommittee to determine an appropriate format and time period for sharing information and findings.

10. Contractor representatives will attend related meetings, conferences, etc. as requested by Juvenile Justice Grant Unit (JJGU) personnel relative to this project.

Contractor Response:

As requested by the JJGU, the PPA jail monitoring team will attend all related meetings, conferences, and other gatherings as deemed necessary. PPA is conveniently located in downtown Lansing in close proximity to the JJGU.

11. Contractor will also work with DHS/JJGU to prepare federal reports as mandated by OJJDP.

Contractor Response:

As requested by the JJGU, the PPA jail monitoring team will help to prepare federal reports as mandated by the OJJDP.

1.2 Roles and Responsibilities

1.201 Contractor Staff, Roles, and Responsibilities

The Contractor must identify staff who will be involved, identify by name individuals that are to be designated as Key Personnel (if necessary), and describe in detail their roles and responsibilities. The Contractor will identify where staff will be physically located during Contract performance. The Contractor will identify any part-time personnel. Descriptions of roles should be functional and not just by title.

Contractor has provided an employee chart detailing each person's function in regard to this project. An organization chart, including Key Personnel is included as Article 1, Attachment B.

**Contractor Response:**

An expert team of experienced researchers has been assembled to conduct this assessment. The lead organization for this research is Public Policy Associates, Incorporated (PPA), a national public policy research, development, and evaluation firm based in Lansing, Michigan. PPA will partner with faculty from Michigan State University (MSU) and independent contractor, Jim Hines.

PPA serves clients in the public and private sectors at the national, state, and local levels by conducting research and analysis that supports informed, strategic decision making. The PPA staff is comprised of professionals with extensive experience and credentials in the areas of juvenile justice policy, corrections policy, workforce and education policy, quantitative and qualitative research methods, complex data analysis, and strategic consultation.

Jeffrey D. Padden, President And Founder of PPA, began working in corrections policy in 1975 when he was elected to the Michigan House of Representatives. He chaired the House Committee on Corrections for eight years and served on the Judiciary Committee, chairing the Subcommittee on Sentencing Guidelines. Mr. Padden will serve as the project administrator for the project.

The PPA offices are equipped with state-of-the-art computers, printers, and up-to-date statistical software that will enable the evaluation team to complete necessary data entry, data analysis, and other program tasks. The research team is located in Lansing, Michigan, in close proximity to DHS/BJJ headquarters. Lansing is centrally situated in Michigan for timely travel throughout the state.

A key advantage of this team for this analysis is its close relationship with DMC research and previous investigators of DMC for the State of Michigan. Members of the team have played significant roles in the study of DMC in Michigan and other states and currently work with the previous DMC investigators for the State of Michigan on other research projects. Having intimate knowledge of the structure and functions of DMC will ensure that methods developed to complete this project are aligned with current best practice in the field. This means that the methodology being proposed by the PPA jail monitoring team is based on current practice promulgated by the OJJDP.

Among PPA's team of researchers is **Paul Elam, M.S.**, who has been involved in managing projects and evaluating justice programs for more than nine years. Mr. Elam is currently working with the Michigan Department of Corrections, the Michigan Council on Crime and Delinquency, the National Institute of Corrections, and the Center for Effective Public Policy as the project manager for the Michigan Prisoner ReEntry Initiative. As project manager, he is working with these partners to connect recently released prisoners with the resources necessary for a successful reintegration into the local communities to which they are returning. He is also working with Ingham County and the City of Lansing to develop comprehensive strategies for the prevention of juvenile delinquency. Mr. Elam has wide experience and competency in project management, research and analysis, site interviews and focus groups, survey design, and program and policy development. Mr. Elam holds a master of science in criminal justice and urban studies from Michigan State University and is a doctoral candidate in family and child ecology with minors in research design and analysis. Mr. Elam will serve as the project manager for this project.

C. Edward Banks, Ph.D., is the evaluation coordinator for the Michigan Prisoner ReEntry Initiative (MPRI), evaluator for MDOC's Youthful Offender Program, and a senior research associate at PPA. As the MPRI evaluation coordinator, Dr. Banks is responsible for overseeing the work of the MPRI evaluation team and developing a plan for ongoing evaluation of the MPRI. Prior to joining PPA, Dr. Banks was involved in a number of research projects, including the Justice Department's Project Safe Neighborhoods program and project leader for Michigan's Title V, Building Restorative Communities, and Comprehensive Strategy juvenile justice initiatives, where he worked with 30 Michigan communities to help them plan, develop, implement,



and evaluate their juvenile justice strategies and programs. Dr. Banks also spent seven years as the Detroit/Wayne County site coordinator for the National Institute of Justice's Arrestee Drug Abuse Monitoring program, where he supervised and coordinated the data-collection and research activities at eight Wayne County law enforcement agencies. Dr. Banks served as Michigan's research coordinator for the Center for Substance Abuse Prevention's prevention-needs assessment studies. In this position, he managed a statewide school survey assessing substance abuse prevention needs using social indicators and evaluating the adequacy of the substance abuse prevention service system in meeting the needs of high-risk population subgroups. Dr. Banks will serve as a senior research associate for this project and will assist with data collection and analysis.

Virginia Beard, Ph.D., is a research associate at PPA. Prior to joining PPA, Dr. Beard worked as a graduate assistant at Michigan State University for the Center for the Advanced Study of International Development, the Department of Political Science, and the James Madison College. Dr. Beard earned her bachelor's degree in political science at Calvin College. She earned her master's degree in public policy and administration and her doctorate in political science at Michigan State University. Dr. Beard will serve as a research associate and provide data analysis and research support for the project.

Anne Chester is a research assistant for PPA and provides support services for the company's various projects. Ms. Chester is a recent graduate of the University of Michigan. She received a bachelor of arts in both German and political science. Ms. Chester will serve as the project assistant for the project and provide Web site, technical, clerical, and project assistance for the project.

Virginia M. Orabone is the director of business management for PPA. She is responsible for all financial and administrative operations, including accounting, human resources, contract administration, and purchasing. Ms. Orabone supervises the administrative staff and manages the day-to-day operations of PPA. In addition, her responsibilities include assisting PPA's two business group managers in the oversight of project timelines and the development and administration of projects and budgets. Ms. Orabone will serve as the business manager for this project.

Stephanie M. Price is a senior editor for PPA. She is responsible for proofreading and editing as well as the overall quality of reports, proposals, letters, and other documents. Ms. Price drafts letters and other documents and contributes to the development of project correspondence. Ms. Price will serve as a senior editor and provide editorial assistance for the project.

To be successful, any contractor selected to carry out the DHS/BJJ jail monitoring will need to have not only sophisticated evaluation and juvenile justice capability and experience, but also deep expertise in policy and practice. They will also need to understand how the results of evaluation research can be used to inform and shape policy. The members of the PPA jail monitoring team have exceptional credentials in each of these areas, as demonstrated below.

- Mr. Padden served as chair of the House Committee on Corrections in the Michigan Legislature from 1977 through 1984, a period of great innovation in corrections policy.
- PPA has conducted national research and policy development in workforce and education over the past decade.
- PPA has carried out several successful complex, large-scale, multisite, multiyear process and outcome evaluations.
- PPA has been deeply involved in the development and implementation of the Michigan Prisoner ReEntry Initiative (MPRI), including being the recipient of a grant to design and oversee the evaluation of the Initiative.
- PPA has a very diverse research team with broad experiences needed to complete this project successfully.



- Mr. Elam is the project manager for the MPRI and is involved in working with the MDOC to develop a statewide strategy for institutionalization and sustainability.

Another key element to successful execution of a complex, multisite evaluation is clear and frequent communication between the research team and the client. Based on the Invitation to Bid (ITB), PPA and its partners understand that the BJJ and the Governor's Committee on Juvenile Justice are key funders of this project.

We propose that the BJJ project manager assemble a small client team comprised of representatives from BJJ and the Governor's Committee on Juvenile Justice. The PPA jail monitoring team would meet with the BJJ client team on an agreed-upon basis so that project information can flow easily and project decisions can be made in a clear, coordinated fashion. This interaction between the BJJ client team and the PPA evaluation team would vary in frequency and intensity according to the particular work being carried out at the time.

At the outset, we expect the interaction to be more frequent and intense, as the evaluation design and work plans will be crystalized, reviewed, and approved during that phase.

As shown in the organization chart (See Article 1, Attachment B) the project will be administered by Jeffrey D. Padden, President of PPA. He will have overall responsibility for the project, including delivery of all work on time, financial oversight, and client relations. In addition, he will be the leader for **Task 1 – launch and administration**. During the project launch meeting, key members of the PPA team will request to meet with the BJJ project manager (and other state representatives familiar with the project if necessary) to gather more information about the project in an effort to finalize the work plan. Based on our experience in working on state contracts, the initial work plan may need to be modified based on new information that is shared during project launch meetings.

If needed, the PPA team will modify the work plan to comply with the State's request and Mr. Elam will be responsible for submitting it (as well as all deliverables) to the BJJ contract manager for approval.

The work plan will identify work to be completed, timeline for completion, PPA staff assigned to complete the work, and proposed methodology to complete the work.

The project manager is Paul Elam. Mr. Elam will manage all eight tasks and ensure that team members complete their subtasks on time and with the highest level of quality. He will lead the completion of **Task 3 – provide 150 hours of technical assistance, Task 7 – provide support to the Michigan Committee on Juvenile Justice, and Task 8 – reports and meetings** and support the completion of the remaining tasks. This will provide a consistent, coordinated approach to the entire evaluation process.

Dr. C. Edward Banks is a senior research associate. Dr. Banks will lead the completion of **Task 2 – monitor and collect data and Task 5 – compile a procedures manual**. He will also support the completion of several remaining tasks.

Dr. Virginia Beard is a research associate. Dr. Beard will lead the completion of **Task 4 – develop and maintain project Web site** and will support the completion of monitoring and data collection.

Ms. Anne Chester is a reserach assistant. Ms. Chester will lead the completion of **Task 6 – update and maintain list of facilities**.

Virginia Orabone and Stephanie Price will provide project support.

The key staff members will be Mr. Jeffrey D. Padden, Mr. Paul Elam, and Dr. C. Edward Banks. These members will comprise the project leadership team and will meet with the DHS/BJJ client team to ensure that each step in our work is carefully and accurately aligned with the needs and expectations of the BJJ.



1.202 State Staff, Roles, and Responsibilities

The BJJ Grants Contract Compliance Inspector (CCI) will be the main contact person for the project staff. The CCI will collect reports and request data as needed. The CCI will also contact visited agencies to assist in the project when necessary.

1.203 Other Roles and Responsibilities

The Federal Grants for Juvenile Justice in the State of Michigan are contingent on the MJJC approval. Project staff may need to attend committee meetings and provide information to the committee on occasion. The committee meets quarterly.

1.3 Project Plan

1.301 Project Plan Management

The Contractor is expected to provide a prepared plan for this project. This plan should include what resources and personnel are going to be utilized for each deliverable. Timeframes for implementation and report procedures are also expected to be provided in the project plan.

Contractor Response:

This section provides a brief summary of the approach the PPA team proposes for this evaluation (see Article 1, Attachment E for a more detailed project plan). The team is prepared to produce all deliverables on the timeline required by the ITB and by the DHS/BJJ client team. For purposes of project management, we have grouped the activities included in that approach into eight tasks. These include:

Task 1: Project launch and administration. In this first task, the trajectory for the evaluation will be set. The DHS, BJJ client team and the PPA site monitoring team will meet for the first time and will review the goals and work plan of the evaluation to ensure that the parties understand the work in the same way. Another element of this meeting will be discussion and finalization of the format for the periodic progress reports by the PPA site monitoring team to the DHS/BJJ client team. These reports will keep the BJJ client team apprised of the results of the PPA evaluation team's efforts.

Task 2: Monitor and collect data. Conduct 200 site visits to selected county jails, adult lockups, juvenile detention homes, and locked state and private institutions.

Task 3: Provide 150 hours of technical assistance. Work with the BJJ and selected county jails, adult lockups, juvenile detention homes, and locked state and private institutions to provide 150 hours of technical assistance that corrects policy and/or practice violations.

Task 4: Develop and maintain project Web site. Develop and maintain a project Web site that posts and publishes relevant jail monitoring information.

Task 5: Compile a procedures manual. Develop a procedures manual that provides specific guidance for conducting site visits to county jails, adult lockups, juvenile detention homes, and locked state and private institutions for the purpose of monitoring and collecting of data regarding the de-institutionalization of status offenders, removal of juveniles from adult jails and lock-ups, and separation of juveniles from adult detainees.

Task 6: Update and maintain list of facilities. Update and maintain the universe list of facilities around the state and keep the reporting exemption requests and reports current.

Task 7: Provide support to the MCJJ. Attend meetings scheduled by the MCJJ to present site visit findings and respond to any data and analysis questions that may arise during the course of the project.

Task 8: Reports and meetings. Attend all required jail monitoring meetings, conferences, and other gatherings and help to prepare federal reports as mandated by OJJDP.



All the requirements of the ITB are addressed in these eight tasks, as detailed in Article 1, Attachment E. Although general timelines are shown in that plan, the exact timeline for the various tasks will not be known until the PPA jail monitoring team meets with the DHS/BJJ client team to review and finalize the work plan. At this meeting, the timeline will be clarified and elaborated to fully meet the needs of the DHS/BJJ client team.

1.302 Reports

Reports may be completed and submitted electronically if an electronic tracking system is in place.

SITE VISIT REPORTS:

Each site visit will generate a report, totaling about 200 site reports per year. The report will include findings and outcomes of observation of facility and interview data. BJJ will provide report and interview formats, which typically include preparing a facility diagram, obtaining a copy of the agency's policies and procedures plus the interview and observation data.

MONTHLY REPORTS:

Monthly reports will be spreadsheet-based and more informal. They will track incoming data as well as trends and possible problems or issues. Three separate areas will be tracked: Jails, Lockups and Youth Facilities, resulting in three (3) monthly reports or 36 per contract period.

QUARTERLY REPORTS:

Quarterly reports will be prepared for three separate areas: Jails, Lockups and Youth Facilities. The reports shall contain data from all site visits, any training and/or technical assistance provided, and results of the OJJDP quarterly conference call, and all relevant contract activity. BJJ will provide direction on content and format. Quarterly reports should be submitted beginning at the end of the third month after the contract begins.

BI-ANNUAL REPORTS:

Bi-annual reports will be generated by the Contractor, providing all data requested. The twice yearly report should include information on all facilities visited. Data should be cumulative in nature and contain any and all issues that could be perceived as non-compliant with the core-requirements.

Any clarification requested by BJJ should be provided within 30 days of the request by BJJ.

All special reports requested by the BJJ Grants Unit Manager will be expected within 30 days of request.

All progress on the contract deliverables is to be stated on monthly reports to be submitted to the PM/CCI, including the estimated time remaining before completion of the deliverable. Data and record keeping reports are to be submitted as part of the monthly report to facilitate BJJ's monitoring of Contractor progress.

Contractor Response:

The key staff members—Mr. Jeffrey D. Padden, Mr. Paul Elam, and Dr. Ed Banks—will meet as needed with the BJJ client team and/or provide site visit, monthly, quarterly, and biannual reports as requested by this ITB. The reporting format, content, and time periods will comply with the requirements of the ITB.

The PPA jail monitoring team will work with the BJJ project manager to determine the format of the report and identify whether additional tasks should be included in the report. All requests for clarification will be completed within 30 days.

All deliverables (reports) will be completed and submitted in a timely and expeditious manner. Monthly activity reports will be submitted with billing invoices. The narrative will include detail of services performed.

All final reports will summarize the results of all the data-collection activities and will be compiled into an interim report that will be submitted in draft form to the BJJ client team and revised based on the client team's comments. The final report will comply with all requests described in this ITB.

The PPA evaluation team will be open to modifying this proposed reporting protocol with the BJJ client team during the project launch meeting.



1.4 Project Management

1.401 Issue Management

There are two (2) known issues that could endanger this project. These issues are lack of access to the jails or lockup facilities and difficulty verifying the data provided.

Contractor is expected to identify and discuss any issues foreseen as endangering this project. Issues are things that endanger the project and must be identified, reported and escalated as needed to maintain the progress and success of the project.

Below is a description of how the Contractor will manage the State-identified issues as well as any other issues identified by the Contractor.

Contractor Response:

Jeffrey Padden, Project Administrator, will be responsible for the overall administration and oversight of the contract. As the PPA project manager, Mr. Paul Elam will provide day-to-day leadership of the evaluation, tracking all tasks, timelines, and resources. Task leaders will report progress to Mr. Elam on a weekly basis. A timeline showing evaluation progress will be included in the periodic reports provided to the BJJ client team, which will ensure that the work proceeds according to the mutually agreed-upon plan and that any deviations from the plan become apparent very quickly.

As issues occur, they will be dealt with by the relevant task leader. If the issue is not resolved at that level, it will be escalated to the project manager and then to the project administrator. Our experience is that issues can be identified and resolved very quickly, so long as the research team and the client team maintain constant, open communication. The scheduled meetings and site visit reports will document issues as they arise and their resolutions. Issues that arise during the course of the contract that may impede the successful completion of a task will be reported immediately by the PPA project manager to the BJJ project manager via e-mail and telephone.

The PPA jail monitoring team is very aware of the challenges associated with conducting facility site visits and obtaining credible data and information. The proposed methodology assumes these challenges are present and incorporates strategies to improve current data-collection processes. If issues arise that were not foreseen by the proposed plan, the protocol described above will be utilized.

1.402 Risk Management

Risks are things able to be assumed or anticipated in a project. The Contractor should identify and explain any risks to this project's completion, as well as prioritizing the identified risks. Below is a description of the Contractor's plans for management and mitigation of these risks.

Contractor Response:

An evaluation of this type carries with it a number of predictable risks and potential difficulties. The PPA site visit team has attempted to anticipate as many of these as possible and to plan for addressing them. In this section, we list several of these risks and difficulties. It is important to note, however, that the most vexing difficulties are often those that cannot be anticipated. The team has a history of meeting such challenges squarely and effectively, as can be documented by speaking with previous clients.

Task leaders will identify and deal with risks when they arise. The PPA project manager and project administrator will assist when needed. With guidance from the BJJ project manager, the PPA project manager will assign levels of risk priority based on the probability of occurrence and impact to the project. Once risks have been assessed, those risks that have been assessed as being unacceptable, or possibly unacceptable, to the PPA project manager will require development of a risk-mitigation strategy.



The project manager will work with the project administrator to develop additional efforts that must be taken by the evaluation team to lower the likelihood of the risk occurring and/or to minimize the impact on the project if the risk did occur. Risk can never be totally eliminated, but risk can be managed and mitigated to lessen the likelihood and or impact of the risk on the program.

PPA's risk-management strategy will include:

- Roles and responsibilities for developing, implementing, and monitoring the strategy
- Timelines
- Conditions present in order for risk level to be acceptable
- Resources required to carry out the planned actions

1.403 Change Management

If a proposed contract change is approved by the Contract Compliance Inspector, the Contract Compliance Inspector will submit a request for change to the Department of Management and Budget, Purchasing Operations Buyer, who will make recommendations to the Director of Purchasing Operations regarding ultimate approval/disapproval of change request. 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. **Vendors who provide products or services prior to the issuance of a Contract Change Notice by the DMB Office of Purchasing Operations, risk non-payment for the out-of-scope/pricing products and/or services.**

Contractor Response:

The PPA team prides itself on its flexibility. We understand that conditions in the real world change, and that it is an important aspect of applied research to adapt as such changes occur. When the project changes—whether due to unforeseen funding contractions or expansions, revisions to the assessment instrument, or other surprises—we will respond quickly and thoroughly to analyze the effect of the change on the evaluation. We will then collaborate with the BJJ client team to revise the evaluation as necessary to continue to capture the maximum possible value for policy makers, program managers, and staff.

All changes that result from such a process will be documented in the periodic reports to the BJJ client team or included in a change memo. Changes that require additional resources will not be undertaken or billed without the advance written approval of the State.

1.5 Acceptance

1.501 Criteria

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

The Project Manager (PM)/CCI will be responsible for verifying that the work:

- was performed in the time period referenced,
- meets the deliverable criteria, and
- was performed according to the contract specifications.

Once the PM/CCI approves the deliverables the PM/CCI will forward all approved invoices for additional review and payment in DHS Purchasing via the DHS approval path. Approvals are tiered by signature authority congruent with the dollar amount of the invoice.

All project deliverables should be completed each fiscal year of the contract period.

Any discoveries of non-compliance with federal core requirements should be reported within two (2) days of discovery.

**1.502 Final Acceptance**

Acceptance and approval of an invoice constitutes acceptance of the services provided. Approval of invoices will be contingent on submission of appropriate reports and analysis in a timely manner.

At the conclusion of the contract, all reports, statistical information and invoices must be submitted. Final acceptance of completed deliverables will be made by the Project Manager/CCI and indicated by payment in full.

Final approval and payment will be made upon completion of project by the DHS BJJ Grants Unit.

1.6 Compensation and Payment**1.601 Compensation and Payment**

Contractor shall describe the total cost of each deliverable (including costs of travel and/or meals). Invoices submitted should state which deliverables have been completed and the time period covered by the invoice. The State of Michigan will monitor progress of project through invoices and reports submitted. Payment will be authorized upon BJJGU approval of the invoice.

The DHS BJJ PM/CCI is the primary point of contact. The PM/CCI will receive all invoices from the Contractor to review and approve or reject for the Contractor's correction or clarification. All invoices shall reflect actual work completed. Travel time will not be reimbursed.

Every fiscal year the Contractor and the DHS Project Manager will meet to agree upon the contract activities for the upcoming year. A yearly purchase order will be issued to encumber funds for the contract activities.

1.7 Additional Terms and Conditions Specific to this SOW**1.701 Annual Work & Payment Plan**

While a contract may cover multiple years, DHS must encumber funds for each of the State's fiscal periods. The State's fiscal year runs from 10/1 through 9/30.

The DHS BJJ Grant Unit office is responsible for preparing an annual work plan (the DHS Statement of Work) and obtaining budgetary and managerial approvals for each fiscal period. This work plan is developed and presented to the contract vendor annually for review and signature. This activity should be accomplished in time for processing before the start of the fiscal year on October 1. The DHS Statement of Work will detail the activities within the scope of the contract that DHS expects to receive during that State fiscal year. Items to be addressed are what areas and counties will be priorities, what the current contact information will be for the locations to be monitored, and other details to enable the Contractor to successfully perform the duties of the contract. The duties and activities will not substantially change from year to year, but some basic information may change. Also subject to change will be the sequence of the geographic territories to be monitored. The meeting is also an opportunity to review Federal policy and any changes that the Feds may have made. The pricing, as established by the contract, will apply to these expected activities. DHS and the Contractor will work together to reach agreement on the schedule for each fiscal period to ensure that both parties understand and agree on what work will be expected and reimbursed in each fiscal year.

1.702 Lobbying

The undersigned certifies, to the best of his or her knowledge and belief that;

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee or a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.



- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure form to report lobbying," in accordance with its instructions.
- 3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

1.703 Suspension/Debarment

The Contractor agrees to ensure that all Contractors and/or sub-contractors are neither excluded nor disqualified under the suspension and debarment rules found at 7 CFR Part 3017.300 by doing any of the following:

- a) Checking the Excluded Parties List System (EPLS) at www.epls.gov;
- b) Collecting a certification that the entity is neither excluded nor disqualified. Since a Federal certification form is no longer available, the grantee or sub-grantee electing this method must devise its own form;
- c) Including a clause to this effect in the sub-grant agreement; and in any procurement contract expected to equal or exceed \$25,000.

1.704 Drug Free Workplace (DFW) Rule

The Contractor agrees to make (A) make a good faith effort, on a continuing basis to maintain a DFW (including taking specific actions described at 7 CFR Part 3021.200 through 3021.230); and (B) identify all workplace locations where work under the Federal award will be performed. Since Federal entities will no longer collect a paper certificate, this may include the following:

- a) Notifying all sub-grantees and Contractors of the Drug Free Workplace rules;
- b) Making conforming changes to internal procedures, directives, training materials, etc.;
- c) Incorporating the new rules into sub-contractor monitoring practices.



Article 1, Attachment A

Pricing

*******Only the items identified below may be invoiced to DHS*******

WEB SITE:

Create Web Site: \$5,000.00 / ONE TIME Charge

BJJ must approve content & layout. BJJ will test the site and give final approval before payment of this deliverable.

Update & Maintain Web Site: \$2,550.00 / QUARTER (A total of 12 per contract)

OR

Update & Maintain Web Site: \$5,100.00 / EVERY SIX MONTHS (A total of 6 per contract)

REGULAR REPORTS: (Does not include Site Visit Reports)

This deliverable includes collection of information, organization and analysis of collected data, and recommendations for improvements. Data collection includes mailing and telephone contact with law enforcement agencies, courts and other Juvenile Justice groups. Also included is notifying agencies of violations in their jurisdiction. Reports are explained further in Article 1, Sections 1.042 and 1.302.

REPORT FREQUENCY:

Monthly: \$325.00 / EACH FOR 3 CATEGORIES (A total of 36 per contract) Categories are JAILS, LOCKUPS, & YOUTH FACILITIES

Quarterly: \$325.00 / EACH FOR 3 CATEGORIES (A total of 36 per contract) period. Categories are JAILS, LOCKUPS, & YOUTH FACILITIES

Bi-Annual: \$1,105.00 / EACH (A total of 6 per contract, includes the final report)

SITE VISITS/INTERVIEWS:

Interviews: \$510.00 / EACH

Reports: \$235.00 / EACH

Background and Usage:

The 83 county jails are visited once every year. Approximately 93 lockup sites, police departments & state police posts are visited every 2 to 3 years. The 19 juvenile facilities are visited every 2 years. The estimated number of visits per year is 200, based on historical data. The number of visits could fluctuate each year and is dependent on OJJDP and DOJ policy.

The type of visit/interview is not fixed; one site may require multiple interviews, depending on several factors. Example: If the site has had previous violations, the interview frequency would increase.

The estimated time per site visit is 8 hours and includes preparation as well as the visit itself. Preparation includes copying materials for the site, reviewing previous reports on the site, and verifying current policy procedures. The actual site visit includes travel to the site, interview time, a walk through of the facility, data verification, preparation of a new report, and follow-up on questions not answered at the time of the visit. Each site visit generates a report.

TRAINING AND/OR TECHNICAL ASSISTANCE: \$130.00 / HOUR

Estimated usage is 150 hours. Duties include responding to telephone or email inquiries and conducting training sessions as requested and approved by BJJ. Training includes preparation of content and materials as well as conducting the training, which may occur at the agency requesting it, at a State location or by telephone session.

**MEETING/CONFERENCE ATTENDANCE:**

Conference Daily Rate: \$1,040.00 / DAY

Do not include travel expenses; see "Travel" below. There is one OJJDP conference each year.

Meeting Rate: \$130.00 / OCCURANCE (PER HOUR)

A meeting is defined as an event scheduled by BJJ & attended by the Contractor for one hour or longer.

UNIVERSE LIST:

The Universe List is an existing, on-going record of all possible juvenile holding/detaining locations in Michigan. The list is divided into the following categories with the current count for that type:

- 1] County Jails (83)
 - 2] Police departments & state police posts [lockups] (535)
 - 3] Juvenile Facilities, both public & private (144)
 - 4] Other, including airports, parks, universities (42)
- Other categories may need to be added during the tenure of the contract.

Maintenance: \$545.00 / EVERY OTHER MONTH

Frequency: 18 per contract period, to coincide with conference calls with OJJDP every other month

PROCEDURES MANUAL:

Maintain Existing Procedures Manual: \$1,665.00 / ONCE PER YEAR – a total of 3 per contract period. This deliverable includes preparation of the content. The updates must be approved by BJJ, Grant Unit Mgr.

HOURLY RATE:

To be quoted for each classification of worker so that any changes to Federal policy can be implemented in a timely manner. The number of hours needed for each task will be determined by BJJ and the Contractor. DHS BJJ will determine the importance and priority of any changes for this category.

Project Administrator, \$212
 Project Manager, \$138
 Business Manager, \$138
 Senior Research Associate, \$106
 Research Associate, \$90
 Senior Editor, \$69
 Administrative Support, \$64
 Project Assistant, \$64

TRAVEL EXPENSE: This will not be a billable deliverable

The nature of this project requires frequent travel, State wide. All such travel will be coordinated and approved by the Contract Compliance Inspector. Travel expense shall conform to State rates (see link in Article 2 section 2.092). The expenses shall be invoiced monthly and on a separate line from other deliverables, with dates, destinations and other detail sufficient to identify the charges. Time spent in travel is not reimbursable by the State.

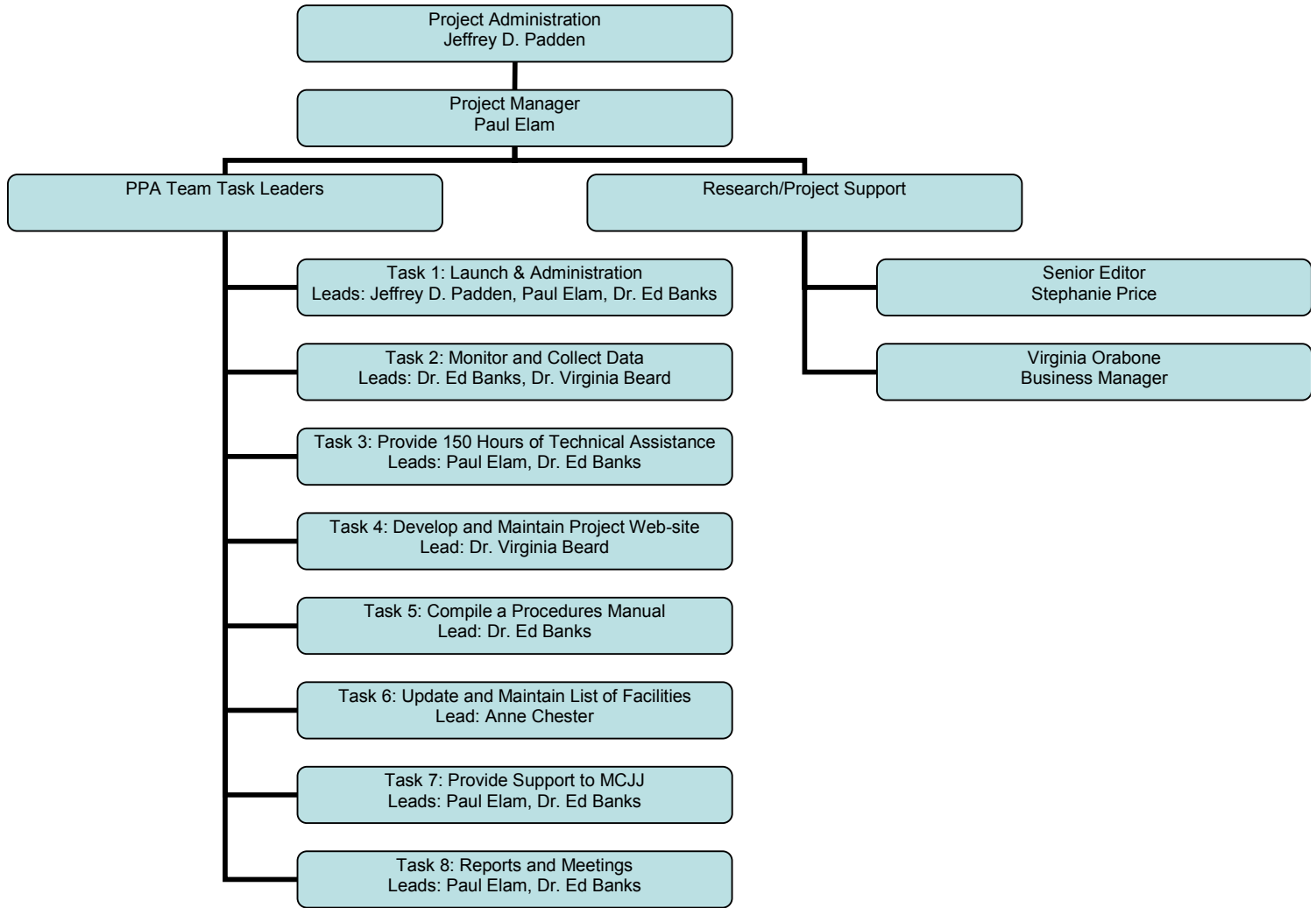


Price Proposal

Price Proposal			
Deliverable	Quantity	Cost	Total
Website	1	\$ 5,000	\$ 5,000
Website Maintenance	12	\$ 2,550	\$ 30,600
Monthly Reports	36	\$ 325	\$ 11,700
Quarterly Reports	12	\$ 325	\$ 3,900
Bi-Annual Reports	6	\$ 1,105	\$ 6,630
Site Interviews [§]	600	\$ 510	\$306,000
Site Interview Reports [§]	600	\$ 235	\$141,000
Universe List Maintenance	18	\$ 545	\$ 9,810
Procedures Manual	3	\$ 1,665	\$ 4,995
Training and Technical Assistance	150	\$ 130	\$ 19,500
Total Price*			\$539,135
*Total Price does not include meetings and conferences.			



Article 1, Attachment B
Organizational Chart, including Key Personnel





Article 1, Attachment C

Labor Rates

Project Administrator	\$212
Project Manager	\$138
Business Manager	\$138
Senior Research Associate	\$106
Research Associate	\$ 90
Senior Editor	\$ 69
Administrative Support	\$ 64
Project Assistant	\$ 64



Article 1, Attachment D – RESERVED
Deliverables



Article 1, Attachment E
Project Plan

The PPA jail monitoring team is prepared to produce all deliverables included in the timeline as required by the ITB. Although general timelines are shown below, the exact timeline for the various tasks will not be known until the PPA jail monitoring team meets with the BJJ client team and/or project manager to review and finalize the work plan. At this meeting, the timeline will be clarified and elaborated to fully meet the needs of BJJ. See the attached project plan.



**Article 1, Attachment E
Project Plan**

**DHS, BJJ Jail Monitoring for Juvenile Detainees
March - August, 2007**

	Apr-07				May-07				Jun-07				Jul-07				Aug-07				Sep-07			
	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4
Project Meetings				◆																				
Project Deliverables				■				■				■				■				■				■
Task 1: Project launch and administration																								
Task 2: Monitor and collect data																								
Task 3: Provide 150 hours of TA																								
Task 4: Develop and maintain project Web site																								
Task 5: Compile a procedures manual																								
Task 6: Update and maintain list of facilities																								
Task 7: Provide support to MCJJ																								
Task 8: Prepare reports and attend meetings																								

- ◆ Project launch meeting (others as necessary)
- Monthly, quarterly, bi-annual reports (monthly reports will include site visit reports conducted during that period)



**Article 1, Attachment E
Project Plan**

**DHS, BJJ Jail Monitoring for Juvenile Detainees
September - February, 2008**

	Oct-07				Nov-07				Dec-07				Jan-07				Feb-08				Mar-08			
	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4
Project Meetings																								
Project Deliverables				■				■				■				■				■				■
Task 1: Project launch and administration																								
Task 2: Monitor and Collect Data																								
Task 3: Provide 150 Hours of TA																								
Task 4: Develop and Maintain Project Web-site																								
Task 5: Compile a Procedures Manual																								
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Task 7: Provide Support to MCJJ																								
Task 8: Prepare Reports and Attend Meetings																								

- ◆ Project launch meeting (others as necessary)
- Monthly, quarterly, bi-annual reports (monthly reports will include site visit reports conducted during that period)



**Article 1, Attachment E
Project Plan**

**DHS, BJJ Jail Monitoring for Juvenile Detainees
March - August, 2008**

	Apr-08				May-08				Jun-08				Jul-08				Aug-08				Sep-08			
	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4
Project Meetings																								
Project Deliverables				■				■				■				■				■				■
Task 1: Project launch and administration																								
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- ◆ Project launch meeting (others as necessary)
- Monthly, quarterly, bi-annual reports (monthly reports will include site visit reports conducted during that period)



**Article 1, Attachment E
Project Plan**

**DHS, BJJ Jail Monitoring for Juvenile Detainees
September - February, 2009**

	Oct-08				Nov-08				Dec-08				Jan-08				Feb-09				Mar-09			
	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4
Project Meetings																								
Project Deliverables				■				■				■				■				■				■
Task 1: Project launch and administration																								
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- ◆ Project launch meeting (others as necessary)
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**Article 1, Attachment E
Project Plan**

**DHS, BJJ Jail Monitoring for Juvenile Detainees
March - August, 2009**

	Apr-09				May-09				Jun-09				Jul-09				Aug-09				Sep-09			
	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4
Project Meetings																								
Project Deliverables				■				■				■				■				■				■
Task 1: Project launch and administration																								
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- ◆ Project launch meeting (others as necessary)
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**Article 1, Attachment E
Project Plan**

**DHS, BJJ Jail Monitoring for Juvenile Detainees
September - February, 2010**

	Oct-09				Nov-09				Dec-09				Jan-09				Feb-10				Mar-10			
	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4
Project Meetings																								
Project Deliverables				■				■				■				■				■				■
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- ◆ Project launch meeting (others as necessary)
- Monthly, quarterly, bi-annual reports (monthly reports will include site visit reports conducted during that period)



Article 2 – General Terms and Conditions

2.010 Contract Structure and Administration

2.011 Definitions

Capitalized terms used in this Contract (including its Exhibits) shall have the meanings given below, unless the context requires otherwise:

- (a) “Days” means calendar days unless otherwise specified.
- (b) “24x7x365” means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).
- (c) “Additional Service” means any Services/Deliverables within the scope of the Contract, but not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration. “Additional Service” does not include New Work.
- (d) “Amendment Labor Rates” means a schedule of fully-loaded hourly labor rates.
- (e) “Audit Period” has the meaning given in **Section 2.111**.
- (f) “Business Day,” whether capitalized or not, shall mean any day other than a Saturday, Sunday or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am EST through 5:00pm EST unless otherwise stated.
- (g) “Incident” means any interruption in Services.
- (h) “Business Critical” means any function identified in any Statement of Work as Business Critical.
- (i) “Deliverable” means physical goods and/or commodities as required or identified by a Statement of Work
- (j) “Key Personnel” means any Personnel designated in **Article 1, Section 1.201 and/or Attachment B**, as Key Personnel.
- (k) “New Work” means any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration. “New Work” does not include Additional Service.
- (l) “Services” means any function performed for the benefit of the State.
- (m) “State Location” means any physical location where the State performs work. State Location may include state-owned, leased, or rented space.
- (n) “Subcontractor” means a company Contractor delegates performance of a portion of the Services to, but does not include independent contractors engaged by Contractor solely in a staff augmentation role.
- (o) “Work in Process” means a Deliverable that has been partially prepared, but has not been presented to the State for Approval.

2.012 Attachments and Exhibits

All Attachments and/or Exhibits attached to any, and all Statement(s) of Work, attached to, or referencing this Contract, are incorporated in their entirety into, and form part of, this Contract.

2.013 Statements of Work

- (a) The parties agree that the Services/Deliverables to be rendered by Contractor pursuant to this Contract (and any future amendments of it) will be defined and described in detail in Statements of Work or Purchase Orders (PO) executed under this Contract. Contractor shall not be obliged or authorized to commence any work to implement a Statement of Work until authorized via a PO issued against this Contract, or an amendment to this Contract (see 2.106). Contractor shall perform in accordance with this Contract, including the Statements of Work/Purchase Orders executed under it.
- (b) Unless otherwise agreed by the parties, each Statement of Work (as defined in Article 1) will include, or incorporate by reference to the appropriate Contract Article 1 Attachment containing, the following information:
 - a description of the Services to be performed by Contractor under the Statement of Work;
 - a project schedule (including the commencement and completion dates for all tasks, subtasks (for all projects of sufficient duration and complexity to warrant sub task breakdown), and Deliverables;



- a list of the Deliverables to be provided, if any, including any particular specifications and acceptance criteria for such Deliverables, and the dates on which the Deliverables are scheduled to be completed and delivered to the State;
- all Deliverable price schedules and other charges associated with the Statement of Work, the overall fixed price for such Statement of Work and any other appropriate pricing and payment terms;
- a specification of Contractor's and the State's respective performance responsibilities with respect to the performance or completion of all tasks, subtasks and Deliverables;
- a listing of any Key Personnel of Contractor and/or its Subcontractors for that Statement of Work and any future Statements of Work;
- any other information or provisions the parties agree to include.

(c) Reserved.

(d) The initial Statements of Work, as of the Effective Date, are attached to this Contract.

2.014 Issuing Office

This Contract is issued by the Department of Management and Budget, Purchasing Operations ("PO") and Department of Human Services (collectively, including all other relevant State of Michigan departments and agencies, the "State"). PO is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. **PO is the only State office authorized to change, modify, amend, alter or clarify the prices, specifications, terms and conditions of this Contract.** The Contractor Administrator within Purchasing Operations for this Contract is:

Kevin Dunn
Purchasing Operations
Department of Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
Dunnk3@michigan.gov
517-241-4225

2.015 Contract Compliance Inspector

Upon receipt at Purchasing Operations of the properly executed Contract, it is anticipated that the Director of DMB Purchasing Operations, in consultation with the Department of Human Services will direct that the person named below, or any other person so designated, be authorized to monitor and coordinate the activities for the Contract on a day-to-day basis during its term. However, monitoring of this Contract implies **no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of such Contract as that authority is retained by the Office of Purchasing Operations.**

The Contract Compliance Inspector for this Contract is:

Jeanette Scroggins
Department of Human Services
235 South Grand Avenue
PO Box 30037
Lansing, MI 48999
Phone: 517.335.3541
Email: scrogginsj@michigan.gov

**2.016 Project Manager**

The following individual will oversee the project:

Andrew Thalhammer
Department of Human Services
At the same address as above
Phone: 517.335.4256
Email: thalhammera@michigan.gov

2.020 Contract Objectives/Scope/Background**2.021 Background - RESERVED****2.022 Purpose - RESERVED****2.023 Objectives and Scope - RESERVED****2.024 Interpretation - RESERVED****2.025 Form, Function and Utility**

If the Contract is for use of more than one (1) State agency and if the Deliverable/Service does not meet the form, function, and utility required by that State agency, that agency may, subject to State purchasing policies, procure the Deliverable/Service from another source.

2.030 Legal Effect and Term**2.031 Legal Effect**

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

2.032 Contract Term

This Contract is for a period of three (3) years commencing on April 1, 2007 and ending March 31, 2010. All outstanding Purchase Orders shall also expire upon the termination (cancellation for any of the reasons listed in 2.210) of the Contract, unless otherwise extended pursuant to the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

2.033 Renewal(s)

This Contract may be renewed in writing by mutual agreement of the parties not less than 30 days before its expiration. The Contract may be renewed for up to three (3) additional one (1) year periods. Successful completion of negotiations surrounding the terms of the extension, will be a pre-requisite for the exercise of any option year.

2.040 Contractor Personnel**2.041 Contractor Personnel**

(a) Personnel Qualifications. All persons assigned by Contractor to the performance of Services under this Contract shall be employees of Contractor or its majority-owned (directly or indirectly, at any tier) subsidiaries (or a State-approved Subcontractor) and shall be fully qualified to perform the work assigned to them. Contractor shall include a similar provision in any subcontract entered into with a Subcontractor.



For the purposes of this Contract, independent Contractors engaged by Contractor solely in a staff augmentation role shall be treated by the State as if they were employees of Contractor for this Contract only; however, the State understands that the relationship between Contractor and Subcontractor is an independent Contractor relationship.

- (b) Key Personnel
- (i) In discharging its obligations under this Contract, Contractor shall provide the named Key Personnel on the terms indicated. **Attachment B** provides an organization chart showing the roles of certain Key Personnel, if any.
 - (ii) Key Personnel shall be dedicated as defined in **Attachment B** to the Project for its duration in the applicable Statement of Work with respect to other individuals designated as Key Personnel for that Statement of Work.
 - (iii) The State will have the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, will introduce the individual to the appropriate State representatives, and will provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. Additionally, the State's request shall be based on legitimate, good-faith reasons. Proposed alternative for the individual denied, shall be fully qualified for the position.
 - (iv) Contractor shall not remove any Key Personnel from their assigned roles or the Contract without the prior written consent of the State. If the Contractor does remove Key Personnel without the prior written consent of the State, it shall be considered an unauthorized removal ("Unauthorized Removal"). It shall not be considered an Unauthorized Removal if Key Personnel must be replaced for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation or for cause termination of the Key Personnel's employment. It shall not be considered an Unauthorized Removal if Key Personnel must be replaced because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides 30 days of shadowing unless parties agree to a different time period. The Contractor with the State shall review any Key Personnel replacements, and appropriate transition planning will be established. Any Unauthorized Removal may be considered by the State to be a material breach of the Contract, in respect of which the State may elect to exercise its rights under **Section 2.210**.
 - (v) It is acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of the Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 2.210**, the State may assess liquidated damages against Contractor as specified below.

For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the liquidated damages amount shall be \$25,000.00 per individual provided Contractor identifies a replacement approved by the State pursuant to **Section 2.041** and assigns the replacement to the Project to shadow the Key Personnel s/he is replacing for a period of at least 30 days prior to such Key Personnel's removal.

If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30 days, in addition to the \$25,000.00 liquidated damages for an Unauthorized Removal, Contractor shall pay the amount of \$833.33 per day for each day of the 30 day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$25,000.00 maximum per individual. The total liquidated damages that may be assessed per Unauthorized Removal and failure to provide 30 days of shadowing shall not exceed \$50,000.00 per individual.



- (c) Re-assignment of non-Key Personnel. Prior to re-deploying to other projects, at the completion of their assigned tasks on the Project, teams of its non-Key Personnel who are performing Services on-site at State facilities or who are otherwise dedicated primarily to the Project, Contractor will give the State at least ten (10) Business Days notice of the proposed re-deployment to give the State an opportunity to object to the re-deployment if the State reasonably believes such team's Contract responsibilities are not likely to be completed and approved by the State prior to the proposed date of re-deployment.
- (d) Re-assignment of Personnel at the State's Request. The State reserves the right to require the removal from the Project of Contractor personnel found, in the judgment of the State, to be unacceptable. The State's request shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good-faith reasons. Replacement personnel for the removed person shall be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed personnel, the State agrees to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with removed personnel results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Service will not be counted in **Section 2.076** for a time as agreed to by the parties.
- (e) Staffing Levels.
 - (i) All staff requirements not specified in the applicable Statement of Work or State-approved project plan as State personnel will be supplied by Contractor. This includes secretarial, clerical and Contract administration support staff necessary for Contractor to perform its obligations hereunder.
 - (ii) Contractor shall provide sufficient personnel resources for the completion of Contract tasks indicated in Contractor's project plan approved by the State. If the level of personnel resources is insufficient to complete any Contractor Contract tasks in accordance with the Contract time schedule as demonstrated by Contractor's failure to meet mutually agreed to time schedules, Contractor shall promptly add additional qualified personnel resources to the performance of the affected tasks, at no additional charge to the State, in an amount sufficient to complete performance of Contractor's tasks in accordance with the Contract time schedule.
- (f) Personnel Turnover. The Parties agree that it is in their best interests to keep the turnover rate of employees of Contractor and its Subcontractors who are performing the Services to a reasonable minimum. Accordingly, if the State determines that the turnover rate of such employees is excessive and so notifies Contractor, Contractor will meet with the State to discuss the reasons for the turnover rate and otherwise use commercially reasonable efforts to minimize such turnover rate. If requested to do so by the State, Contractor will submit to the State its proposals for reducing the turnover rate to an acceptable level. In any event, notwithstanding the turnover of personnel, Contractor remains obligated to perform the Services without degradation and in accordance with the State-approved Contract schedule.
- (g) Location. All staff assigned by Contractor to work on the Contract will perform their duties either primarily at Contractor's offices and facilities or at State facilities. Without limiting the generality of the foregoing, Key Personnel will, at a minimum, spend at least the amount of time on-site at State facilities as indicated in the applicable Statement of Work. Subject to availability, selected Contractor personnel may be assigned office space to be shared with State personnel.

2.042 Contractor Identification

Contractor employees shall be clearly identifiable while on State property by wearing a State-issued badge, as required. Contractor employees are required to clearly identify themselves and the company they work for whenever making contact with State personnel by telephone or other means.

**2.043 Cooperation with Third Parties**

Contractor agrees to cause its personnel and the personnel of any Subcontractors to cooperate with the State and its agents and other Contractors including the State's Quality Assurance personnel, and, as reasonably requested by the State, to provide to the State's agents and other Contractors with reasonable access to Contractor's Project personnel, systems and facilities to the extent they relate to activities specifically associated with this Contract and will not interfere or jeopardize the safety or operation of the systems or facilities and provided Contractor receives reasonable prior written notice of such request. The State acknowledges that Contractor's time schedule for the Contract is very specific and agrees not to unnecessarily or unreasonably interfere with, delay or otherwise impeded Contractor's performance under this Contract with such requests for access.

2.044 Subcontracting by Contractor

- (a) Contractor shall have full responsibility for the successful performance and completion of all of the Services and Deliverables. The State will consider Contractor to be the sole point of contact with regard to all contractual matters under this Contract, including payment of any and all charges for Services and Deliverables.
- (b) Contractor shall not delegate any duties under this Contract to a Subcontractor unless the Department of Management and Budget, Office of Purchasing Operations has given written consent to such delegation. The State shall have the right of prior written approval of all Subcontractors and to require Contractor to replace any Subcontractors found, in the reasonable judgment of the State, to be unacceptable. The State's request shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good-faith reasons. Replacement Subcontractor(s) for the removed Subcontractor shall be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed Subcontractor, the State will agree to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with a removed Subcontractor results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.076** for a time agreed upon by the parties.
- (c) In any subcontracts entered into by Contractor for the performance of the Services, Contractor shall require the Subcontractor, to the extent of the Services to be performed by the Subcontractor, to be bound to Contractor by the terms of this Contract and to assume toward Contractor all of the obligations and responsibilities that Contractor, by this Contract, assumes toward the State. The State reserves the right to receive copies of and review all subcontracts, although Contractor may delete or mask any proprietary information, including pricing, contained in such contracts before providing them to the State. The management of any Subcontractor will be the responsibility of Contractor, and Contractor shall remain responsible for the performance of its Subcontractors to the same extent as if Contractor had not subcontracted such performance. Contractor shall make all payments to Subcontractors or suppliers of Contractor. Except as otherwise agreed in writing by the State and Contractor, the State will not be obligated to direct payments for the Services other than to Contractor. The State's written approval of any Subcontractor engaged by Contractor to perform any obligation under this Contract shall not relieve Contractor of any obligations or performance required under this Contract. Attached as **Exhibit E** is a list of the Subcontractors, if any, approved by the State as of the execution of this Contract, together with a copy of the applicable subcontract.
- (d) Except where specifically approved in writing by the State on a case-by-case basis, Contractor shall flow down the obligations in **Sections 2.040, 2.110, 2.150, 2.160, 2.171(c), 2.172(b), 2.180, 2.260, 2.276, 2.297** in all of its agreements with any Subcontractors.
- (e) 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.

2.045 Contractor Responsibility for Personnel

Contractor shall be responsible for all acts and omissions of its employees, as well as the acts and omissions of any other personnel furnished by Contractor to perform the Services.



2.050 State Standards

2.051 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://www.michigan.gov/dit>.

2.052 PM Methodology Standards - RESERVED

2.053 Adherence to Portal Technology Tools

The State has adopted the following tools for 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

Unless otherwise stated, Contractor must use the Portal Technology Tools to implement web content management and deployment efforts. 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 DIT, Enterprise Application Services Office, e-Michigan Web Development team.

Contractors that are compelled to use alternate tools must have received an exception from DIT, Enterprise Application Services Office, e-Michigan Web Development team, before this Contract is effective.

2.054 Acceptable Use Policy

To the extent that Contractor has access to the State computer system, Contractor must comply with the State's Acceptable Use Policy, see <http://www.michigan.gov/dit/service/0,1607,7-179-25781-73760--,00.html>. All Contractor employees must be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State system. The State reserves the right to terminate Contractor's access to the State system if a violation occurs.

2.060 Deliverables

2.061 Ordering

Any Services/Deliverables to be furnished under this Contract shall be ordered by issuance of written Purchase Orders/Blanket Purchase Order by the State after approval by the Contract Administrator or his/her designee. All orders are subject to the terms and conditions of this Contract. In the event of conflict between an order and this Contract, the Contract shall take precedence as stated in **Section 2.293**. In no event shall any additional terms and conditions contained on a Purchase Order/Blanket Purchase Order be applicable, unless specifically contained in that Purchase Order/Blanket Purchase Order's accompanying Statement of Work.

2.062 Software - RESERVED

2.063 Hardware - RESERVED

2.064 Equipment to be New and Prohibited Products - RESERVED

2.070 Performance

2.071 Performance, In General

The State engages Contractor to execute the Contract and perform the Services/provide the Deliverables, and Contractor undertakes to execute and complete the Contract in its entirety in accordance with the terms and conditions of this Contract and with the participation of State representatives as specified in this Contract.

**2.072 Time of Performance**

- (a) Contractor shall use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables in accordance with the time schedules contained in the Statements of Work and other Exhibits governing the work, and with professional quality.
- (b) Without limiting the generality of **Section 2.072(a)**, Contractor shall notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and, in such event, shall inform the State of the projected actual delivery date.
- (c) If Contractor believes that a delay in performance by the State has caused or will cause Contractor to be unable to perform its obligations in accordance with specified Contract time periods, Contractor shall notify the State in a timely manner and shall use commercially reasonable efforts to perform its obligations in accordance with such Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent such delay is caused by the State.

2.073 Liquidated Damages -RESERVED**2.074 Bankruptcy**

If Contractor shall file for protection under the bankruptcy laws, or if an involuntary petition shall be filed against Contractor and not removed within 30 days, or if the Contractor becomes insolvent, be adjudicated bankrupt, or if it should make a general assignment for the benefit of creditors, or if a receiver shall be appointed due to its insolvency, and Contractor and/or its affiliates are unable to provide reasonable assurances that Contractor and/or its affiliates can deliver the services provided herein, the State may, without prejudice to any other right or remedy, terminate this Contract, in whole or in part, and, at its option, may take possession of the "Work in Process" and finish such Works in Process by whatever appropriate method the State may deem expedient. Contractor will fix appropriate notices or labels on the Work in Process to indicate ownership by the State. To the extent reasonably possible, materials and Work in Process shall be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.

To secure the State's progress payments before the delivery of any services or materials required for the execution of Contractor's obligations hereunder, and any work which Contractor may subcontract in the support of the performance of its obligations hereunder, title shall vest in the State to the extent the State has made progress payments hereunder.

2.075 Time is of the Essence - RESERVED**2.076 Service Level Agreements (SLAs) - RESERVED**2.080 Delivery and Acceptance of Deliverables**2.081 Delivery Responsibilities**

Unless otherwise specified by the State within an individual order, the following shall be applicable to all orders issued under this Contract.

- (a) Shipment responsibilities - Services performed/Deliverables provided under this Contract shall be delivered "F.O.B. Destination, within Government Premises." The Contractor shall have complete responsibility for providing all Services/Deliverables to all site(s) unless otherwise stated. Actual delivery dates will be specified on the individual purchase order.
- (b) Delivery locations - Services will be performed/Deliverables will be provided at every State of Michigan location within Michigan unless otherwise stated in the SOW. Specific locations will be provided by the State or upon issuance of individual purchase orders.



- (c) Damage Disputes - At the time of delivery to State Locations, the State shall examine all packages. The quantity of packages delivered shall be recorded and any obvious visible or suspected damage shall be noted at time of delivery using the shipper's delivery document(s) and appropriate procedures to record such.

Where there is no obvious or suspected damage, all deliveries to a State Location must be opened by the State and the contents inspected for possible internal damage not visible externally within 14 days of receipt. Any damage must be reported to the Contractor within five (5) days of inspection. If this inspection does not occur and damages not reported within 30 days of receipt, the cure for such damaged deliveries shall transfer to the delivery signing party.

2.082 Delivery of Deliverables

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

2.083 Testing

- (a) Prior to delivering any of the above-mentioned Statement of Work Physical Deliverables or Services to the State, Contractor will first perform all required quality assurance activities to verify that the Physical Deliverable or Service is complete and in conformance with its specifications listed in the applicable Statement of Work or Purchase Order. Before delivering a Physical Deliverable or Service to the State, Contractor shall certify to the State that (1) it has performed such quality assurance activities, (2) it has performed any applicable testing, (3) it has corrected all material deficiencies discovered during such quality assurance activities and testing, (4) the Deliverable or Service is in a suitable state of readiness for the State's review and approval, and (5) the Deliverable/Service has all Critical Security patches/updates applied.
- (b) If a Deliverable includes installation at a State Location, then Contractor shall (1) perform any applicable testing, (2) correct all material deficiencies discovered during such quality assurance activities and testing, and (3) inform the State that the Deliverable is in a suitable state of readiness for the State's review and approval. To the extent that testing occurs at State Locations, the State shall be entitled to observe or otherwise participate in testing.

2.084 Approval of Deliverables, In General

- (a) All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, in accordance with the following procedures. Formal approval by the State requires that the Deliverable be confirmed in writing by the State to meet its specifications, which will include the successful completion of Testing as applicable in **Section 2.083**, to be led by the State with the support and assistance of Contractor. The parties acknowledge that the approval process set forth herein will be facilitated by ongoing consultation between the parties, visibility of interim and intermediate Deliverables and collaboration on key decisions.
- (b) The State's obligation to comply with any State Review Period is conditioned on the timely delivery of Deliverables/Services being reviewed.
- (c) Prior to commencement of its review or testing of a Deliverable/Service, the State may inspect the Deliverable/Service to confirm that all components of the Deliverable/Service have been delivered without material deficiencies. If the State determines that the Deliverable/Service has material deficiencies, the State may refuse delivery of the Deliverable/Service without performing any further inspection or testing of the Deliverable/Service. Otherwise, the review period will be deemed to have started on the day the State receives the Deliverable or the Service begins, and the State and Contractor agree that the Deliverable/Service is ready for use and, where applicable, certification by Contractor in accordance with **Section 2.083(a)**.



- (d) The State will approve in writing a Deliverable/Service upon confirming that it conforms to and, performs in accordance with, its specifications without material deficiency. The State may, but shall not be required to, conditionally approve in writing a Deliverable/Service that contains material deficiencies if the State elects to permit Contractor to rectify them post-approval. In any case, Contractor will be responsible for working diligently to correct within a reasonable time at Contractor's expense all deficiencies in the Deliverable/Service that remain outstanding at the time of State approval.
- (e) If, after three (3) opportunities (the original and two (2) repeat efforts), Contractor is unable to correct all deficiencies preventing Final Acceptance of a Deliverable/Service, the State may: (i) demand that Contractor cure the failure and give Contractor additional time to cure the failure at the sole expense of Contractor; or (ii) keep the Contract in force and do, either itself or through other parties, whatever Contractor has failed to do, in which event Contractor shall bear any excess expenditure incurred by the State in so doing beyond the Contract price for such Deliverable/Service and will pay the State an additional sum equal to ten percent (10%) of such excess expenditure to cover the State's general expenses provided the State can furnish proof of such general expenses; or (iii) terminate the particular Statement of Work for default, either in whole or in part by notice to Contractor provided Contractor is unable to cure such breach. Notwithstanding the foregoing, the State shall not use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.
- (f) The State, at any time and in its reasonable discretion, may halt the testing or approval process if such process reveals deficiencies in or problems with a Deliverable/Service in a sufficient quantity or of a sufficient severity as to make the continuation of such process unproductive or unworkable. In such case, the State may stop using the Service or return the applicable Deliverable to Contractor for correction and re-delivery prior to resuming the testing or approval process.

2.085 Process For Approval of Written Deliverables

The State Review Period for Written Deliverables will be the number of days set forth in the applicable Statement of Work following delivery of the final version of the Deliverable (failing which the State Review Period, by default, shall be five (5) Business Days for Written Deliverables of 100 pages or less and ten (10) Business Days for Written Deliverables of more than 100 pages). The duration of the State Review Periods will be doubled if the State has not had an opportunity to review an interim draft of the Written Deliverable prior to its submission to the State. The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Deliverable (or at the State's election, subsequent to approval of the Deliverable). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within 30 Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Deliverable from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Deliverable to confirm that the identified deficiencies have been corrected.

2.086 Process for Approval of Services

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



2.087 Process for Approval of Physical Deliverables

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

2.088 Final Acceptance

Unless otherwise stated in the Statement of Work or Purchase Order, "Final Acceptance" of each Deliverable shall occur when each Deliverable/Service has been approved by the State following the State Review Periods identified in **Sections 2.080-2.087**. Payment will be made for Deliverables installed and accepted. Upon acceptance of a Service, the State will pay for all Services provided during the State Review Period that conformed to the acceptance criteria.

2.090 Financial

2.091 Pricing

(a) Fixed Prices for Services/Deliverables

Each Statement of Work/PO issued under this Contract shall specify (or indicate by reference to the appropriate Contract Exhibit) the firm, fixed prices for all Services/Deliverables, and the associated payment milestones and payment amounts. To the extent the parties agree that certain specific Services will be provided on a time and materials basis, such Services shall be provided at the Amendment Labor Rates (**Article 1, Attachment C**). The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

(b) Adjustments for Reductions in Scope of Services/Deliverables

If the scope of the Services/Deliverables under any Statement of Work issued under this Contract is subsequently reduced by the State, the parties shall negotiate an equitable reduction in Contractor's charges under such Statement of Work commensurate with the reduction in scope, using the rates in **Article 1, Attachment C**, unless specifically identified in an applicable Statement of Work.

(c) Services/Deliverables Covered

For all Services/Deliverables to be provided by Contractor (and its Subcontractors, if any) under this Contract, the State shall not be obligated to pay any amounts in addition to the charges specified in this Contract.

(d) Labor Rates

All time and material charges will be at the rates specified in **Article 1, Attachment C**.

2.092 Invoicing and Payment Procedures and Terms

(a) Invoicing and Payment – In General

(i) Each Statement of Work issued under this Contract shall list (or indicate by reference to the appropriate Contract Exhibit) the prices for all Services/Deliverables, equipment and commodities to be provided, and the associated payment milestones and payment amounts.



- (ii) Each Contractor invoice will show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. The charges for Services billed on a time and materials basis shall be determined based on the actual number of hours of Services performed, at the applicable Labor Rates specified in **Article 1, Attachment C**. Invoices for Services performed on a time and materials basis will show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 2.094**.
 - (iii) Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within 45 days after receipt, provided the State determines that the invoice was properly rendered.
- (b) Taxes (See Section 2.305 and Article 3, Section 3.022-3.024 for additional)
- The State is exempt from Federal Excise Tax, State and Local Sales Taxes, and Use Tax with respect to the sale to and use by it of tangible personal property. Such taxes shall not be included in Contract prices as long as the State maintains such exemptions. Copies of all tax exemption certificates shall be supplied to Contractor, if requested.
- (c) Out-of-Pocket Expenses
- Contractor acknowledges that the out-of-pocket expenses that Contractor expects to incur in performing the Services/ providing the Deliverables (such as, but not limited to, travel and lodging, document reproduction and shipping, and long distance telephone) are included in Contractor's fixed price for each Statement of Work. Accordingly, Contractor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for such an expense at the State's current travel reimbursement rates. See http://www.mi.gov/dmb/0,1607,7-150-9141_13132---,00.html for current rates.
- (d) Pro-ration
- To the extent there are any Services that are to be paid for on a monthly basis, the cost of such Services shall be pro-rated for any partial month.
- (e) Antitrust Assignment
- The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.
- (f) Final Payment
- The making of final payment by the State to Contractor does not constitute a waiver by either party of any rights or other claims as to the other party's continuing obligations under the Contract, nor will it constitute a waiver of any claims by one party against the other arising from unsettled claims or failure by a party to comply with this Contract, including claims for Services and Deliverables not reasonably known until after acceptance to be defective or substandard. Contractor's acceptance of final payment by the State under this Contract shall constitute a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still unsettled.

2.093 State Funding Obligation

The State's obligation under this Contract is payable only and solely from funds appropriated for the purpose of this Contract. Contractor acknowledges and agrees that all funds for payments after the end of the current fiscal year are subject to the availability of a legislative appropriation for the purpose of this Contract. Events of non-appropriation are addressed further in **Section 2.210** of this Contract.

**2.094 Holdback - RESERVERD****2.095 Electronic Payment Availability**

Public Act 533 of 2004 requires that payments under this contract be processed by electronic funds transfer (EFT). Contractor is required to register to receive payments by EFT at the Contract & Payment Express website (www.cpexpress.state.mi.us).

2.100 Contract Management**2.101 Contract Management Responsibility**

- (a) Contractor shall have overall responsibility for managing and successfully performing and completing the Services/Deliverables, subject to the overall direction and supervision of the State and with the participation and support of the State as specified in this Contract. Contractor's duties will include monitoring and reporting the State's performance of its participation and support responsibilities (as well as Contractor's own responsibilities) and providing timely notice to the State in Contractor's reasonable opinion if the State's failure to perform its responsibilities in accordance with **Article 1, Attachment E** (Project Plan) is likely to delay the timely achievement of any Contract tasks.
- (b) The Services/Deliverables will be provided by the Contractor either directly or through its affiliates, subsidiaries, subcontractors or resellers. Regardless of the entity providing the Service/Deliverable, the Contractor will act as a single point of contact coordinating these entities to meet the State's need for Services/Deliverables. Nothing in this Contract, however, shall be construed to authorize or require any party to violate any applicable law or regulation in its performance of this Contract.

2.102 Problem and Contract Management Procedures

Problem Management and Contract Management procedures will be governed by the Contract and the applicable Statements of Work.

2.103 Reports and Meetings

- (a) Reports.

Within 30 days after the Effective Date, the parties shall determine an appropriate set of periodic reports to be issued by Contractor to the State. Such reports may include:

- (i) separately address Contractor's performance in each area of the Services;
- (ii) for each area of the Services, assess the degree to which Contractor has attained or failed to attain the pertinent objectives in that area, including on-time completion and delivery of Deliverables;
- (iii) explain the reasons for any failure to achieve on-time completion and delivery of Deliverables and include a plan for corrective action where appropriate;
- (iv) describe any circumstances that Contractor anticipates will impair or prevent on-time completion and delivery of Deliverables in upcoming reporting periods;
- (v) include plans for corrective action or risk mitigation where appropriate and describe the status of ongoing problem resolution efforts;
- (vi) provide reports setting forth a comparison of actual hours spent by Contractor (including its augmented personnel and Subcontractors) in performing the Project versus hours budgeted by Contractor.
- (vii) set forth a record of the material personnel changes that pertain to the Services and describe planned changes during the upcoming month that may affect the Services.



- (viii) include such documentation and other information may be mutually agreed to verify compliance with, and meeting the objectives of, this Contract.
- (ix) set forth an updated schedule that provides information on the status of upcoming Deliverables, expected dates of delivery (or redelivery) of such Deliverables and estimates on timing for completion of the Project.

(b) Meetings.

Within 30 days after the Effective Date, the parties shall determine an appropriate set of meetings to be held between representatives of the State and Contractor. Contractor shall prepare and circulate an agenda sufficiently in advance of each such meeting to give participants an opportunity to prepare for the meeting. Contractor shall incorporate into such agenda items that the State desires to discuss. At the State's request, Contractor shall prepare and circulate minutes promptly after a meeting.

2.104 System Changes

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

2.105 Reserved

2.106 Change Requests

The State reserves the right to request from time to time, any changes to the requirements and specifications of the Contract and the work to be performed by the Contractor under the Contract. During the course of ordinary business, it may become necessary for the State to discontinue certain business practices or create Additional Services/Deliverables. At a minimum, to the extent applicable, the State would like the Contractor to provide a detailed outline of all work to be done, including tasks necessary to accomplish the services/deliverables, timeframes, listing of key personnel assigned, estimated hours for each individual per task, and a complete and detailed cost justification.

If the State requests or directs the Contractor to perform any Services/Deliverables that are outside the scope of the Contractor's responsibilities under the Contract ("New Work"), the Contractor must notify the State promptly, and before commencing performance of the requested activities, that it believes the requested activities are New Work. If the Contractor fails to notify the State before commencing performance of the requested activities, any such activities performed before notice is given by the Contractor shall be conclusively considered to be in-scope Services/Deliverables, not New Work.

If the State requests or directs the Contractor to perform any services or provide deliverables that are consistent with and similar to the Services/Deliverables being provided by the Contractor under the Contract, but which the Contractor reasonably and in good faith believes are not included within the Statements of Work, then before performing such services or providing such deliverables, the Contractor shall notify the State in writing that it considers the services or deliverables to be an Additional Service/Deliverable for which the Contractor should receive additional compensation. If the Contractor does not so notify the State, the Contractor shall have no right to claim thereafter that it is entitled to additional compensation for performing that service or providing that deliverable. If the Contractor does so notify the State, then such a service or deliverable shall be governed by the Change Request procedure in this Section. In the event prices or service levels are not acceptable to the State, the Additional Services or New Work shall be subject to competitive bidding based upon the specifications.

(a) Change Requests



(i) State Requests

If the State should require Contractor to perform New Work, Additional Services or make changes to the Services that would affect the Contract completion schedule or the amount of compensation due Contractor (a "Change"), the State shall submit a written request for Contractor to furnish a proposal for carrying out the requested Change (a "Change Request").

(ii) Contractor Recommendations

Contractor shall be entitled to propose a Change to the State, on its own initiative, should it be of the opinion that this would benefit the Contract.

(iii) Upon receipt of a Change Request or on its own initiative, Contractor shall examine the implications of the requested Change on the technical specifications, Contract schedule and price of the Deliverables and Services and shall submit to the State without undue delay a written proposal for carrying out the Change. Contractor's proposal will include any associated changes in the technical specifications, Contract schedule and price and method of pricing of the Services. If the Change is to be performed on a time and materials basis, the Amendment Labor Rates shall apply to the provision of such Services. If Contractor provides a written proposal and should Contractor be of the opinion that a requested Change is not to be recommended, it shall communicate its opinion to the State but shall nevertheless carry out the Change as specified in the written proposal if the State directs it to do so.

(iv) By giving Contractor written notice within a reasonable time, the State shall be entitled to accept a Contractor proposal for Change, to reject it or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice shall be prepared and issued under this Contract, describing the Change and its effects on the Services and any affected components of this Contract (a "Contract Change Notice").

(v) No proposed Change shall be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Management and Budget, Office of Purchasing Operations.

(vi) If the State requests or directs Contractor to perform any activities that Contractor believes constitute a Change, Contractor must notify the State that it believes the requested activities are a Change prior to commencing the performance of the requested activities. If Contractor fails to so notify the State prior to commencing performance of the requested activities, such activities shall be considered to be performed gratuitously by Contractor, and Contractor shall not have any right thereafter to assert any claim for additional compensation or time for the performance of such activities. If Contractor commences performance of gratuitous services outside the scope of this Contract and subsequently elects to stop performing such out-of-scope services, Contractor must, at the request of the State, back out or reverse any changes resulting from such performance that would adversely affect the Contract.

2.107 Management Tools

Contractor will use an automated tool for planning, monitoring and tracking the Contract's progress. In addition, Contractor shall use automated project management tools as reasonably necessary to perform the Services, which tools shall include the capability to produce through the end of the Contract: (i) staffing tables with names of personnel assigned to Contract tasks, (ii) project plans showing tasks, subtasks, Deliverables and the resources required and allocated to each (including detailed plans for all Services to be performed within the next 60 days, updated semi-monthly) and (iii) graphs showing critical events, dependencies and decision points during the course of the Contract. Any tool(s) used by Contractor for such purposes must produce information of a type and in a manner and format that will support reporting in compliance with the State's standard to the extent such information is described with reasonable detail in the Statements of Work and to the extent the related work is of sufficient project complexity and duration to warrant such reporting.

2.110 Records and Inspections**2.111 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.

2.112 Errors

- (a) 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 45 days of the last quarterly statement that the balance appeared on or termination of the contract, whichever is earlier.
- (b) In addition to other available remedies, the difference between the payment received and the correct payment amount is greater than ten percent (10%), then the Contractor shall pay all of the reasonable costs of the audit.

2.120 State Responsibilities**2.121 State Performance Obligations**

- (a) **Equipment and Other Resources.** To facilitate Contractor's performance of the Services/Deliverables, the State shall provide to Contractor such equipment and resources as identified in the Statements of Work or other Contract Exhibits as items to be provided by the State.
- (b) **Facilities.** The State shall designate space as long as it is available and as provided in the Statement of Work, to house Contractor's personnel whom the parties agree will perform the Services/Deliverables at State facilities (collectively, the "State Facilities"). Contractor shall have reasonable access to, and unless agreed otherwise by the parties in writing shall observe and comply with all rules and regulations relating to, each of the State Facilities (including hours of operation) used by Contractor in the course of providing the Services. Contractor agrees that it will not, without the prior written consent of the State, use any State Facilities or access any State information systems provided for Contractor's use, or to which Contractor otherwise gains access in the course of performing the Services, for any purpose other than providing the Services to the State.
- (c) **Return.** Contractor shall be responsible for returning to the State any State-furnished equipment, facilities and other resources when no longer required for the Contract in the same condition as when provided by the State, reasonable wear and tear excepted.
- (d) Except as otherwise provided in **Section 2.220**, the State's failure to perform its responsibilities as set forth in this Contract shall not be deemed to be grounds for termination by Contractor. However, Contractor will not be liable for any default or delay in the performance of its obligations under this Contract to the extent such default or delay is caused by nonperformance of the State's obligations under this Contract, provided Contractor provides the State with reasonable written notice of such nonperformance and Contractor uses commercially reasonable efforts to perform notwithstanding the State's failure to perform. In addition, if the State's nonperformance of its responsibilities under this Contract materially increases the time required for Contractor's performance or Contractor's cost of performance, Contractor shall be entitled to seek an equitable extension via the Change Request process described in **Section 2.106**.

2.130 Security**2.131 Background Checks**

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

All Contractor personnel will also be expected to comply with the State's security and acceptable use policies for State IT equipment and resources. See <http://www.michigan.gov/ditservice/0,1607,7-179-25781-73760--,00.html>. Furthermore, Contractor personnel will be expected to agree to the State's security and acceptable use policies before the Contractor personnel will be accepted as a resource to perform work for the State. It is expected the Contractor will present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff will be expected to comply with all Physical Security procedures in place within the facilities where they are working.

2.140 Reserved2.150 Confidentiality**2.151 Freedom of Information**

All information in any proposal submitted to the State by Contractor and this Contract is subject to the provisions of the Michigan Freedom of Information Act, 1976 Public Act No. 442, as amended, MCL 15.231, et seq (the "FOIA").

2.152 Confidentiality

Contractor and the State each acknowledge that the other possesses and will continue to possess confidential information that has been developed or received by it. As used in this Section, "Confidential Information" of Contractor shall mean all non-public proprietary information of Contractor (other than Confidential Information of the State as defined below) which is marked confidential, restricted, proprietary or with a similar designation. "Confidential Information" of the State shall mean any information which is retained in confidence by the State (or otherwise required to be held in confidence by the State pursuant to applicable federal, state and local laws and regulations) or which, in the case of tangible materials provided to Contractor by the State pursuant to its performance under this Contract, is marked as confidential, proprietary or with a similar designation by the State. In the case of information of either Contractor or the State "Confidential Information" shall exclude any information (including this Contract) that is publicly available pursuant to the Michigan FOIA.

2.153 Protection of Confidential Information

The State and Contractor will each use at least the same degree of care to prevent disclosing to third parties the Confidential Information of the other as it employs to avoid unauthorized disclosure, publication or dissemination of its own confidential information of like character, but in no event less than reasonable care. Neither Contractor nor the State will (i) make any use of the Confidential Information of the other except as contemplated by this Contract, (ii) acquire any right in or assert any lien against the Confidential Information of the other, or (iii) if requested to do so, refuse for any reason to promptly return the other party's Confidential Information to the other party. Each party will limit disclosure of the other party's Confidential Information to employees and Subcontractors who must have access in order to fulfill the purposes of this Contract. Disclosure to, and use by, a Subcontractor is permissible where (A) use of a Subcontractor is authorized under this Contract, (B) such disclosure is necessary or otherwise naturally occurs in connection with work that is within such Subcontractor's scope of responsibility, and (C) Contractor obligates the Subcontractor in a written Contract to maintain the State's Confidential Information in confidence.



At the State's request, any employee of Contractor and of any Subcontractor having access or continued access to the State's Confidential Information may be required to execute an acknowledgment that the employee has been advised of Contractor's and the Subcontractor's obligations under this Section and of the employee's obligation to Contractor or Subcontractor, as the case may be, to protect such Confidential Information from unauthorized use or disclosure.

2.154 Exclusions

Notwithstanding the foregoing, the provisions of this Section will not apply to any particular information which the State or Contractor can demonstrate (i) was, at the time of disclosure to it, in the public domain; (ii) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure to it without an obligation of confidentiality; (iv) was received after disclosure to it from a third party who had a lawful right to disclose such information to it without any obligation to restrict its further disclosure; or (v) was independently developed by the receiving party without reference to Confidential Information of the furnishing party. Further, the provisions of this Section will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose such Confidential Information, provided that the receiving party (i) promptly provides the furnishing party with notice of the legal request, and (ii) assists the furnishing party in resisting or limiting the scope of such disclosure as reasonably requested by the furnishing party.

2.155 No Implied Rights

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

2.156 Remedies

Each party acknowledges that, if it breaches (or attempts or threatens to breach) its obligations under this Section, the other party may be irreparably harmed. Accordingly, if a court of competent jurisdiction should find that a party has breached (or attempted or threatened to breach) any such obligations, the non-breaching party shall be entitled to seek an injunction preventing such breach (or attempted or threatened breach).

2.157 Security Breach Notification

In the event of a breach of this Section, Contractor shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor shall report to the State in writing any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by the Contract within ten (10) days of becoming aware of such use or disclosure or such shorter time period as is reasonable under the circumstances.

2.158 Survival

The parties' respective obligations under this Section shall survive the termination or expiration of this Contract for any reason.

2.159 Destruction of Confidential Information

Promptly upon termination or cancellation of the Contract for any reason, Contractor shall certify to the State that Contractor has destroyed all State Confidential Information.

2.160 Proprietary Rights

2.161 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 **Exhibit J**, 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.

2.161b Cross-License – RESERVED

2.161c License - RESERVED

2.162 Source Code Escrow – RESERVED

2.163 Rights in Data - RESERVED

2.164 Ownership of Materials

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

2.165 Standard Software

If applicable and necessary, all Standard Software used in performing the Services shall be provided to the State under a separate license agreement between the State and the owner (or authorized licensor) of such software. Standard Software to be licensed to the State is listed in **Exhibit J**.

2.166 Pre-existing Materials for Custom Software Deliverables

Neither Contractor nor any of its Subcontractors shall incorporate any preexisting materials (including Standard Software) into Custom Software Deliverables or use any pre-existing materials to produce Custom Software Deliverables if such pre-existing materials will be needed by the State in order to use the Custom Software Deliverables unless (i) such pre-existing materials and their owners are identified to the State in writing and (ii) such pre-existing materials are either readily commercially available products for which Contractor or its Subcontractor, as the case may be, has obtained a license (in form and substance approved by the State) in the name of the State, or are materials that Contractor or its Subcontractor, as the case may be, has the right to license to the State and has licensed to the State on terms and conditions approved by the State prior to using such pre-existing materials to perform the Services.

2.167 General Skills

Notwithstanding anything to the contrary in this Section, each party, its Subcontractors and their personnel shall be free to use and employ its and their general skills, know-how and expertise, and to use, disclose and employ any generalized ideas, concepts, know-how, methods, techniques or skills gained or learned during the course of performing the Services, so long as it or they acquire and apply the foregoing without disclosure of any confidential or proprietary information of the other party.

2.170 Warranties And Representations

2.171 Warranties and Representations

The Contractor represents and warrants:

- (a) It is capable in all respects of fulfilling and shall fulfill all of its obligations under this Contract. The performance of all obligations under this Contract shall be provided in a timely, professional, and workman-like manner and shall meet the performance and operational standards required under this Contract.



- (b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.
- (c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under this Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under this Contract, nor their use by the State, will infringe the patent, copyright, trade secret, or other proprietary rights of any third party.
- (d) If, under 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 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.
- (e) The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.
- (f) It is qualified and registered to transact business in all locations where required.
- (g) Neither the Contractor nor any Affiliates, nor any employee of either, has, 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.
- (h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or shall accept anything of value based on an understanding that the actions of the Contractor or Affiliates or employee on behalf of the State would be influenced. Contractor shall not attempt to influence any State employee by the direct or indirect offer of anything of value.
- (i) Neither Contractor nor any Affiliates, nor any employee of either has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Contractor or such Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.
- (j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other bidder; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.
- (k) 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 change in the business, properties, financial condition, or results of operations of Contractor.
- (l) 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.



- (m) It is not in material default or breach of any other contract or agreement that it may have with the State or any of its departments, commissions, boards, or agencies. Contractor further represents and warrants that it has not been a party to any contract with the State or any of its departments that was terminated by the State or such department within the previous five (5) years for the reason that Contractor failed to perform or otherwise breached an obligation of such contract.

2.172 Software Warranties - RESERVED

2.174 Physical Media Warranty - RESERVED

2.175a Disclaimer

THE FOREGOING EXPRESS WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES AND EACH PARTY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

2.176 Consequences For Breach

In addition to any remedies available in law, if the Contractor breaches any of the warranties contained in this section, such breach may be considered as a default in the performance of a material obligation of this Contract.

2.180 Insurance

2.181 Liability Insurance

- (a) Liability 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 coverages provided relative to this Contract/Purchase Order are 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 have an A.M. Best rating of A or better, 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. All policies of insurance required in this Contract shall be issued by companies that have been approved to do business in the State.

See http://www.mi.gov/cis/0,1607,7-154-10555_22535---,00.html.

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 the Contract is signed by both parties 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 coverages afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without 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(S) 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(S) 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 the applicable coverage is provided by a self-insurer, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Contractor must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

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

The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company. This provision 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 fifty thousand dollars (\$50,000.00).
- 6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars (\$10,000,000.00), 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 Office of 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 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.

2.190 Indemnification**2.191 Indemnification**

(a) General Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm or corporation that may be injured or damaged by the Contractor in the performance of this Contract and that are attributable to the negligence or tortious acts of the Contractor or any of its subcontractors, or by anyone else for whose acts any of them may be liable.

(b) 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.

(c) Employee Indemnification

In any and all claims against the State of Michigan, its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the Contractor or any of its subcontractors, the indemnification obligation under the Contract 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 benefit acts or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in provisions, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

(d) Patent/Copyright Infringement Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that 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 patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States.

In addition, should the equipment, software, commodity, or service, or its operation, become or in the State's or Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor 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 to the State's satisfaction the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if 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.

Notwithstanding the foregoing, the Contractor shall have no obligation to indemnify or defend the State for, or to pay any costs, damages or attorneys' fees related to, any claim based upon (i) equipment developed based on written specifications of the State; or (ii) use of the equipment in a configuration other than implemented or approved in writing by the Contractor, including, but not limited to, any modification of the equipment by the State; or (iii) the combination, operation, or use of the equipment with equipment or software not supplied by the Contractor under this Contract.

**2.192 Continuation of Indemnification Obligations**

The Contractor's duty to indemnify pursuant to this Section continues in full force and effect, notwithstanding the expiration or early cancellation of the Contract, with respect to any claims based on facts or conditions that occurred prior to expiration or cancellation.

2.193 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 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.



2.200 Limits of Liability and Excusable Failure

2.201 Limits of Liability

The Contractor's liability for damages to the State shall be limited to two (2) times the value of the Contract or \$2,000,000 which ever is higher. The foregoing limitation of liability 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; 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.

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

2.202 Excusable Failure

Neither party will be liable for any default, damage or delay in the performance of its obligations under the Contract to the extent such default, damage or delay is caused by government regulations or requirements (executive, legislative, judicial, military or otherwise), power failure, electrical surges or current fluctuations, lightning, earthquake, war, water or other forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, or acts or omissions of common carriers, fire; riots, civil disorders; strikes or other labor disputes, embargoes; injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of 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 commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay and provided further that such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.

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

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



2.203 Disaster Recovery

Contractor and the State recognize that the State provides essential services in times of natural or man-made disasters. Therefore, except as so mandated by Federal disaster response requirements, Contractor personnel dedicated to providing Services/Deliverables under this Contract will provide the State with priority service for repair and work around in the event of a natural or manmade disaster.

2.210 Termination/Cancellation by the State

The State may terminate 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:

2.211 Termination for Cause

- (a) In the event that Contractor breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA as defined in **Section 2.076**), 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 (such time period not to be less than 30 days), 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 termination to Contractor, terminate this Contract in whole or in part, for cause, as of the date specified in the notice of termination.
- (b) In the event that this Contract is terminated for cause, in addition to any legal remedies otherwise available to the State by law or equity, Contractor shall be responsible for all costs incurred by the State in terminating this Contract, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the Services/Deliverables required by this Contract from other sources. Re-procurement costs shall not be considered by the parties to be consequential, indirect or incidental damages, and shall not be excluded by any other terms otherwise included in this Contract, provided such costs are not in excess of 50% more than the prices for such Service/Deliverables provided under this Contract.
- (c) In the event the State chooses to partially terminate this Contract for cause, charges payable under this Contract will be equitably adjusted to reflect those Services/Deliverables that are terminated and the State shall pay for all Services/Deliverables for which Final Acceptance has been granted provided up to the termination date. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.
- (d) In the event this Contract is terminated for cause pursuant to this Section, and it is determined, for any reason, that Contractor was not in breach of contract pursuant to the provisions of this section, that termination for cause shall be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in this Contract for a termination for convenience.

2.212 Termination for Convenience

The State may terminate this Contract for its convenience, in whole or part, if the State determines that such a termination is in the State's best interest. Reasons for such termination shall be left to the sole discretion of the State and may include, but not necessarily be limited to (a) the State no longer needs the Services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Services no longer practical or feasible, (c) unacceptable prices for Additional Services or New Work requested by the State, or (d) falsification or misrepresentation, by inclusion or non-inclusion, of information material to a response to any RFP issued by the State. The State may terminate this Contract for its convenience, in whole or in part, by giving Contractor written notice at least 30 days prior to the date of termination. If the State chooses to terminate this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.

**2.213 Non-Appropriation**

- (a) 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 Contract. If funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available, the State shall have the right to terminate this Contract and all affected Statements of Work, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The State shall give Contractor at least 30 days advance written notice of termination for non-appropriation or unavailability (or such time as is available if the State receives notice of the final decision less than 30 days before the funding cutoff).
- (b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise made available, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in such manner and for such periods of time as the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of such reduction.
- (c) In the event the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor pursuant to this Section, the State shall pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available. For the avoidance of doubt, this Section will not preclude Contractor from reducing or stopping Services/Deliverables and/or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed or Deliverables finally accepted before the effective date of termination.

2.214 Criminal Conviction

The State may terminate this Contract immediately and without further liability or penalty in the event Contractor, an officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense incident to the application for, or performance of, a State, public or private Contract or subcontract; convicted of a criminal offense, including 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 Contractor's business integrity.

2.215 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, § 5, and Civil Service Rule 7-1. 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.

2.216 Rights and Obligations Upon Termination

- (a) If this Contract is terminated by the State for any reason, Contractor shall (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from this Contract that may be in Contractor's possession, (c) return all materials and property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) in the event that the Contractor maintains title in Deliverables that is intended to be transferred to the State at the termination of the Contract, Contractor will transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of the Contract and which are resulting from the Contract (which shall be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of such items included compensation to Contractor for the provision of warranty services in respect of such materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.



- (b) In the event the State terminates this Contract prior to its expiration for its own convenience, the State shall pay Contractor for all charges due for Services provided prior to the date of termination and, if applicable, as a separate item of payment pursuant to this Contract, for Work In Process, on a percentage of completion basis at the level of completion determined by the State. All completed or partially completed Deliverables prepared by Contractor pursuant to this Contract shall, at the option of the State, become the State's property, and Contractor shall be entitled to receive equitable fair compensation for such Deliverables. Regardless of the basis for the termination, the State shall not be obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.
- (c) Upon a good faith termination, the State shall have the right to assume, at its option, any and all subcontracts and agreements for services and deliverables provided under this Contract, and may further pursue completion of the Services/Deliverables under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

2.217 Reservation of Rights

Any termination of this Contract or any Statement of Work issued under it by a party shall be with full reservation of, and without prejudice to, any rights or remedies otherwise available to such party with respect to any claims arising prior to or as a result of such termination.

2.218 Contractor Transition Responsibilities

In the event this contract is terminated, for convenience or cause, dissolved, voided, rescinded, nullified, expires or is otherwise rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. In the event of termination or the expiration of this Contract, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed 90 days. These efforts shall include, but are not limited to, the following:

- (a) Personnel - The Contractor shall work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties, to effect an orderly transition. The Contractor shall allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by this Contract. In addition, during or following the transition period, in the event the State requires the Services of the Contractor's subcontractors or vendors, as necessary to meet its needs, Contractor agrees to reasonably, and with good-faith, work with the State to use the Services of Contractor's subcontractors or vendors. Contractor will notify all of Contractor's subcontractors of procedures to be followed during transition.
- (b) Information - The Contractor agrees to provide reasonable detailed specifications for all Services/Deliverables needed by the State, or specified third party, to properly provide the Services/Deliverables required under this Contract. The Contractor will provide the State with asset management data generated from the inception of this Contract through the date on which this Contractor is terminated in a comma-delineated format unless otherwise requested by the State. The Contractor will deliver to the State any remaining owed reports and documentation still in Contractor's possession subject to appropriate payment by the State.
- (c) Software. - The Contractor shall reasonably assist the State in the acquisition of any Contractor software required to perform the Services/use the Deliverables under this Contract. This shall include any documentation being used by the Contractor to perform the Services under this Contract. If the State transfers any software licenses to the Contractor, those licenses shall, upon expiration of the Contract, transfer back to the State at their current revision level. Upon notification by the State, Contractor may be required to freeze all non-critical changes to Deliverables/Services.
- (d) Payment - If the transition results from a termination for any reason, reimbursement shall be governed by the termination provisions of this Contract. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after contract expiration that result from transition operations) at the rates specified by **Exhibit D**. The Contractor will prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

**2.219 State Transition Responsibilities**

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

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

2.220 Termination by Contractor**2.221 Termination by Contractor**

If the State materially breaches its obligation to pay Contractor undisputed amounts due and owing under this Contract in accordance with **Section 2.090**, or if the State breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for Contractor to perform the Services, and if the State does not cure the breach within the time period specified in a written notice of breach provided to the State by Contractor (such time period not to be less than 30 days), then Contractor may terminate this Contract, in whole or in part based on Statement of Work for cause, as of the date specified in the notice of termination; provided, however, that Contractor must discharge its obligations under **Section 2.250** before any such termination.

2.230 Stop Work**2.231 Stop Work Orders**

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by the Contract for a period of up to 90 calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate that it is issued under this **Section 2.230**. Upon receipt of the stop work order, 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) terminate the work covered by the stop work order as provided in **Section 2.210**.

2.232 Cancellation or Expiration of Stop Work Order

If a stop work order issued under this **Section 2.230** is canceled or the period of the stop work order or any extension thereof expires, Contractor shall resume work. The parties shall agree upon 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 Contractor's costs properly allocable to, the performance of any part of the Contract; and (b) Contractor asserts its right to an equitable adjustment within 30 calendar days after the end of the period of work stoppage; provided that, if the State decides the facts justify the action, the State may receive and act upon a Contractor proposal submitted at any time before final payment under the Contract. Any adjustment will conform to the requirements of **Section 2.106**.

2.233 Allowance of Contractor Costs

If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, such termination shall be deemed to be a termination for convenience under **Section 2.212**, and the State shall allow reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State shall not be liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.230**.

2.240 Reserved2.250 Dispute Resolution

**2.251 In General**

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

2.252 Informal Dispute Resolution

- (a) All operational disputes between the parties shall be resolved under the Contract Management procedures developed pursuant to **Section 2.100**. If the parties are unable to resolve any disputes after compliance with such processes, the parties shall meet with the Director of Purchasing Operations, DMB, or designee, for the purpose of attempting to resolve such dispute without the need for formal legal proceedings, as follows:
- (i) The representatives of Contractor and the State shall meet as often as the parties reasonably deem necessary in order to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.
 - (ii) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract will be honored in order that each of the parties may be fully advised of the other's position.
 - (iii) The specific format for the discussions will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.
 - (iv) Following the completion of this process within 60 calendar days, the Director of Purchasing Operations, DMB, or designee, shall issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute shall be considered the State's final action and the exhaustion of administrative remedies.
- (b) This **Section 2.250** will not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or pursuant to **Section 2.253**.
- (c) The State will not mediate disputes between the Contractor and any other entity, except state agencies, concerning responsibility for performance of work pursuant to the Contract.

2.253 Injunctive Relief

The only circumstance in which disputes between the State and Contractor will not be subject to the provisions of **Section 2.252** is where a party makes a good faith determination that a breach of the terms of the Contract by the other party is such that the damages to such party resulting from the breach will be so immediate, so large or severe and so incapable of adequate redress after the fact that a temporary restraining order or other immediate injunctive relief is the only adequate remedy.

2.254 Continued Performance

Each party agrees to continue performing its obligations under the Contract while a dispute is being resolved except to the extent the issue in dispute precludes performance (dispute over payment shall not be deemed to preclude performance) and without limiting either party's right to terminate the Contract as provided in **Section 2.210** and **2.220**, as the case may be.



2.260 Federal and State Contract Requirements

2.261 Nondiscrimination

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

2.262 Unfair Labor Practices

Pursuant to 1980 PA 278, MCL 423.231, *et seq.*, the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A Contractor of the State, in relation to the Contract, shall not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of Contractor appears in the register.

2.263 Workplace Safety and Discriminatory Harassment

In performing Services for the State, the Contractor shall comply with the Department of Civil Services Rule 2-20 regarding Workplace Safety and Rule 1-8.3 regarding Discriminatory Harassment. In addition, the Contractor shall comply with Civil Service regulations and any applicable agency rules provided to the Contractor. For Civil Service Rules, see <http://www.mi.gov/mdcs/0,1607,7-147-6877---,00.html>.

2.270 Litigation

2.271 Disclosure of Litigation

- (a) Disclosure. Contractor must disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each Subcontractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Contractor (and each Subcontractor) must notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions thereto, to which Contractor (or, to the extent Contractor is aware, any Subcontractor hereunder) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Contractor or any Subcontractor hereunder; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor hereunder by a governmental or public entity arising out of their business dealings with governmental or public entities. Any such litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") must be disclosed in a written statement to the Contract Administrator within 30 days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated as such. Information provided to the State from Contractor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section.
- (b) Assurances. In the event that any such Proceeding disclosed to the State pursuant to this Section, or of which the State otherwise becomes aware, during the term of this Contract would cause a reasonable party to be concerned about:
 - (i) the ability of Contractor (or a Subcontractor hereunder) to continue to perform this Contract in accordance with its terms and conditions, or



- (ii) whether Contractor (or a Subcontractor hereunder) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in such Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then Contractor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that:
 - (A) Contractor and/or its Subcontractors hereunder will be able to continue to perform this Contract and any Statements of Work in accordance with its terms and conditions, and
 - (B) Contractor and/or its Subcontractors hereunder have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in such Proceeding.
- (c) Contractor shall make the following notifications in writing:
 - (i) Within 30 days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor shall notify the Office of Purchasing Operations.
 - (ii) Contractor shall also notify the Office of 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.
 - (iii) Contractor shall also notify Purchasing Operations within 30 days whenever changes to company affiliations occur.

2.272 Governing Law

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

2.273 Compliance with Laws

Contractor shall comply with all applicable state, federal, and local laws and ordinances ("Applicable Laws") in providing the Services/Deliverables.

2.274 Jurisdiction

Any dispute arising from the Contract shall be resolved in the State of Michigan. With respect to any claim between the parties, Contractor consents to venue in Ingham County, Michigan, and irrevocably waives any objections it may have to such jurisdiction on the grounds of lack of personal jurisdiction of such court or the laying of venue of such court or on the basis of forum non convenienc or otherwise. Contractor agrees to appoint agents in the State of Michigan to receive service of process.

2.280 Environmental Provision

2.281 Environmental Provision - RESERVED

2.290 General

2.291 Amendments

The Contract may not be modified, amended, extended, or augmented, except by a writing executed by the parties.

**2.292 Assignment**

- (a) Neither party shall have the right to assign the Contract, or to assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign the Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign the Contract to an affiliate so long as such affiliate is adequately capitalized and can provide adequate assurances that such affiliate can perform the Contract. Any purported assignment in violation of this Section shall be null and void. It is the policy of the State of Michigan to withhold consent from proposed assignments, subcontracts, or novations when such transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.
- (b) Contractor may not, without the prior written approval of the State, assign its right to receive payments due under the Contract. In the event of any such permitted assignment, Contractor shall not be relieved of its responsibility to perform any duty imposed upon it herein, and the requirement under the Contract that all payments shall be made to one entity shall continue.

2.293 Entire Contract; Order of Precedence

- (a) The Contract, including any Statements of Work and Exhibits, to the extent not contrary to the Contract, each of which is incorporated for all purposes, constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior agreements, whether written or oral, with respect to such subject matter and as additional terms and conditions on the purchase order shall apply as limited by **Section 2.061**.
- (b) In the event of any inconsistency between the terms of the Contract and a Statement of Work, the terms of the Statement of Work will take precedence (as to that Statement of Work only); provided, however, that a Statement of Work may not modify or amend the terms of **Sections 2.110 through 2.220** of the Contract, which may be modified or amended only by a formal Contract amendment.

2.294 Headings

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

2.295 Relationship of the Parties (Independent Contractor Relationship)

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

2.296 Notices

- (a) Any notice given to a party under the Contract 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.

State of Michigan
Purchasing Operations
Attention: Kevin Dunn
PO Box 30026
530 West Allegan
Lansing, Michigan 48909



with a copy to:

State of Michigan - Department of Human Services
Attention: Diane K. Allen, Purchasing
235 S. Grand Ave., S# 1205
Grand Tower Building
Lansing, Michigan 48933

Either party may change its address where notices are to be sent by giving notice in accordance with this Section.

(b) Binding Commitments

Representatives of Contractor identified in **Exhibit I** shall have the authority to make binding commitments on Contractor's behalf within the bounds set forth in such table. Contractor may change such representatives from time to time upon written notice.

2.297 Media Releases and Contract Distribution

(a) Media Releases

Neither Contractor nor the State will make any news releases, public announcements or public disclosures, nor will they have any conversations with representatives of the news media, pertaining to the Contract, the Services or the Contract without the prior written approval of the other party, and then only in accordance with explicit written instructions provided by that party. In addition, neither Contractor nor the State will use the name, trademarks or other proprietary identifying symbol of the other party or its affiliates without such party's prior written consent. Prior written consent of the Contractor must be obtained from authorized representatives.

(b) 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.

2.298 Reformation and 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.

2.299 Consents and Approvals

Except as expressly provided otherwise in the Contract, if either party requires the consent or approval of the other party for the taking of any action under the Contract, such consent or approval shall be in writing and shall not be unreasonably withheld or delayed.

2.300 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.

2.301 Survival

Any provisions of the Contract that impose continuing obligations on the parties including the parties' respective warranty, indemnity and confidentiality obligations, shall survive the expiration or termination of the Contract for any reason. Specific references to survival in the Contract are solely for identification purposes and not meant to limit or prevent the survival of any other section.

**2.302 Covenant of Good Faith**

Each party agrees that, in its dealings with the other party or in connection with the Contract, it shall act reasonably and in good faith. Unless stated otherwise in the Contract, the parties will not unreasonably delay, condition or withhold the giving of any consent, decision or approval that is either requested or reasonably required of them in order for the other party to perform its responsibilities under the Contract.

2.303 Permits

Contractor shall obtain and pay any associated costs for all required governmental permits, licenses and approvals for the delivery, installation and performance of the Services. The State shall pay for all costs and expenses incurred in obtaining and maintaining any necessary easements or right of way.

2.304 Web-site 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.

2.305 Taxes

Vendors are expected to collect and pay all applicable federal, state, and local employment taxes, including the taxes defined in Section 3.022 for all persons involved in the resulting Contract.

The State may refuse to award a contract to any Vendor who has failed to pay any applicable State taxes. The State may refuse to accept Vendor's bid, if Vendor has any outstanding debt with the State. Prior to any award, the State will verify whether Vendor has any outstanding debt with the State.

2.306 Prevailing Wage - RESERVED**2.307 Call Center Disclosure**

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

2.308 Future Bidding Preclusion

Contractor acknowledges that, to the extent this Contract involves the creation, research, investigation or generation of a future RFP, it may be precluded from bidding on the subsequent RFP. The State reserves the right to disqualify any bidder if the State determines that the bidder has used its position (whether as an incumbent Contractor, or as a Contractor hired to assist with the RFP development, or as a Vendor offering free assistance) to gain a leading edge on the competitive RFP.



2.310 *Reserved*

2.320 *Extended Purchasing*

2.321 MiDEAL - RESERVED

2.322 State Employee Purchases - RESERVED

2.330 *Federal Grant Requirements*

2.331 Federal Grant Requirements

The following links contain certifications and terms which may be required for some purchases paid via Federal funds. They are included here to be utilized as required.

Lobbying Certifications are usually for agreements over \$100,000. The debarment certification is required for all agreements. The last link is where you can go and search for debarred or suspended contractors.

http://straylight.law.cornell.edu/uscode/html/uscode31/usc_sec_31_00001352----000-.html

http://www.archives.gov/federal_register/codification/executive_order/12549.html

http://www.archives.gov/federal_register/executive_orders/pdf/12869.pdf

<http://www.epls.gov/epls/servlet/EPLSSearchMain/1>