

STATE OF MICHIGAN  
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET  
 PROCUREMENT  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 530 W. ALLEGAN, LANSING, MI 48913

May 31, 2012

**CHANGE OF CONTRACTOR NAME AND OR TAX IDENTIFICATION NUMBER**

**CONTRACT NO. 071B9200051**  
 hereafter referred as  
**CONTRACT NO. 071B2200235**  
 between  
**THE STATE OF MICHIGAN**  
 and

CURRENT NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
<b>PHBV Partners LLP</b> <b>11044 Research Blvd., Suite C-500</b> <b>Austin, TX 78759</b>	<b>Frank N. Vito</b>	<a href="mailto:frank.vito@phbvpartners.com">frank.vito@phbvpartners.com</a>
	TELEPHONE	NEW CONTRACTOR #, MAIL CODE
	<b>(512) 342-0800</b>	

PREVIOUS NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
<b>Clifton Gunderson LLP</b> <b>9339 Priority Way West Drive</b> <b>Indianapolis, IN 46240</b>	<b>Deb Freeland</b>	<a href="mailto:deb.freeland@cliftoncpa.com">deb.freeland@cliftoncpa.com</a>
	TELEPHONE	PREVIOUS CONTRACTOR #, MAIL CODE
	<b>(317) 574-9100</b>	

DESCRIPTION OF CHANGE NOTICE:
<p>THE CONTRACTOR HAS NOTIFIED THE STATE OF MICHIGAN OF A CHANGE IN ITS BUSINESS NAME AND OR TAX IDENTIFICATION NUMBER. DUE TO THE INTERNAL SYSTEMS RELATED TO THE RELEASE OF CONTRACTOR PAYMENTS, A NEW CONTRACT NUMBER MUST BE ASSIGNED. THE NEW CONTRACT NUMBER IS 071B2200235. EXCEPT FOR THE NEWLY-ASSIGNED NUMBER, THE CONTRACT TERMS AND CONDITIONS REMAIN IN EFFECT.</p> <p>THIS CHANGE IS EFFECTIVE: June 7, 2012</p>
<p><b>\$274,400.00 REMAINING ON CONTRACT #071B9200051 TO BE TRANSFERRED TO CONTRACT #071B2200235.</b></p>

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	<b>DCH</b>	<b>Greg Rivet</b>	<b>(517) 335-5096</b>	<a href="mailto:rivetg@michigan.gov">rivetg@michigan.gov</a>
BUYER:	<b>DTMB</b>	<b>Lance Kingsbury</b>	<b>(517) 241-3768</b>	<a href="mailto:kingsburyl@michigan.gov">kingsburyl@michigan.gov</a>

<b>CONTRACT SUMMARY:</b>			
DESCRIPTION: (Descriptive Contract Title (Not always the same language as provided in MAIN))			
<b>Eligibility Verification Services – Department of Community Health</b>			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
<b>3 Yrs.</b>	<b>October 22, 2008</b>	<b>October 21, 2011</b>	<b>2, 1 Yr. Options</b>
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
<b>N/A</b>			

<b>FOR THE CONTRACTOR:</b>	<b>FOR THE STATE:</b>
<b>PHBV Partners LLP</b>	Signature
Firm Name	<b>Jeff Brownlee, Chief Procurement Officer</b>
Authorized Agent Signature	Name/Title
Authorized Agent (Print or Type)	<b>DTMB Procurement</b>
Date	Enter Name of Agency
	Date

**STATE OF MICHIGAN**  
**DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET** December 22, 2011  
**PROCUREMENT**  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 530 W. ALLEGAN, LANSING, MI 48933

**CHANGE NOTICE NO. 4**  
**TO**  
**CONTRACT NO. 071B9200051**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF CONTRACTOR  <b>Clifton Gunderson LLP</b> <b>9339 Priority Way West Drive</b> <b>Indianapolis, IN 46240</b>  deb.freeland@cliftoncpa.com	TELEPHONE (317) 574-9100 <b>Deb Freeland</b>
	BUYER/CA (517) 241-3768 <b>Lance Kingsbury</b>
	Contract Compliance Inspector: Laura Dotson (517) 241-4686 <b>Eligibility Verification Services – Department of Community Health</b>
CONTRACT PERIOD: From: <b>October 22, 2008</b> To: <b>October 21, 2012</b>	
TERMS <p style="text-align: center;"><b>2% Net 30</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	

**NATURE OF CHANGE(S):**

Effective January 17, 2012, this contract is **INCREASED** by \$274,400.00.

All other terms, conditions, specifications, and pricing remain unchanged.

**AUTHORITY/REASON:**

Per agency request and DTMB/Procurement' approval and the approval of the State Administrative Board on January 17, 2012.

**INCREASE: \$274,400.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE:: \$2,075,015.00**

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

April 6, 2011

**CHANGE NOTICE NO. 3**  
**TO**  
**CONTRACT NO. 071B9200051**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF CONTRACTOR  <b>Clifton Gunderson LLP</b> <b>9339 Priority Way West Drive</b> <b>Indianapolis, IN 46240</b>  <b>deb.freeland@cliftoncpa.com</b>	TELEPHONE (317) 574-9100 <b>Deb Freeland</b>
	BUYER/CA (517) 241-3768 <b>Lance Kingsbury</b>
	Contract Compliance Inspector: Laura Dotson (517) 241-4686 <b>Eligibility Verification Services – Department of Community Health</b>
CONTRACT PERIOD: From: <b>October 22, 2008</b> To: <b>October 21, 2012</b>	
TERMS <b>2% Net 30</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	

**NATURE OF CHANGE(S):**

Effective immediately, this contract is **EXTENDED** one year to **October 21, 2012** and **INCREASED** by **\$620,050.00**. Please note that the buyer has been **CHANGED** to **Lance Kingsbury**.

All other terms, conditions, specifications, and pricing remain unchanged.

**AUTHORITY/REASON:**

Per Contractor request and DTMB/Purchasing Operations' approval and the approval of the State Administrative Board on April 5, 2011.

**INCREASE: \$620,050.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE:: \$1,800,615.00**

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

April 30, 2010

**CHANGE NOTICE NO. 2**  
**TO**  
**CONTRACT NO. 071B9200051**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF CONTRACTOR  <b>Clifton Gunderson LLP</b> <b>9339 Priority Way West Drive</b> <b>Indianapolis, IN 46240</b>  <b>deb.freeland@cliftoncpa.com</b>	TELEPHONE (317) 574-9100 <b>Deb Freeland</b>
	BUYER/CA (517) 241-4225 <b>Kevin Dunn</b>
	Contract Compliance Inspector: Laura Dotson (517) 241-4686 <b>Eligibility Verification Services – Department of Community Health</b>
CONTRACT PERIOD: From: <b>October 22, 2008</b> To: <b>October 21, 2011</b>	
TERMS <b>2% Net 30</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	

**NATURE OF CHANGE(S):**

Effective immediately, the Contractor contact is changed to:

**Deb Freeland (317) 574-9100**  
**deb.freeland@cliftoncpa.com**

All other terms, conditions, specifications, and pricing remain unchanged.

**AUTHORITY/REASON:**

Per Contractor request and DTMB/Purchasing Operations' approval.

**CURRENT AUTHORIZED SPEND LIMIT REMAINS: \$1,180,565.00**

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

February 17, 2010

**CHANGE NOTICE NO. 1**  
**TO**  
**CONTRACT NO. 071B9200051**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF CONTRACTOR  <b>Clifton Gunderson LLP</b> <b>9339 Priority Way West Drive</b> <b>Indianapolis, IN 46240</b>  <p style="text-align: right;">Dane.wheeler@cliftoncpa.com</p>	TELEPHONE (317) 574-9100 <b>Dane Wheeler</b>
	BUYER/CA (517) 241-4225 <b>Kevin Dunn</b>
	Contract Compliance Inspector: Laura Dotson (517) 241-4686 <b>Eligibility Verification Services – Department of Community Health</b>
CONTRACT PERIOD: From: <b>October 22, 2008</b> To: <b>October 21, 2011</b>	
TERMS <p style="text-align: center;"><b>2% Net 30</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	

**NATURE OF CHANGE(S):**

The attached pricing and prompt payment discount of 2% Net 30 are in effect immediately.

All other terms, conditions, specifications, and pricing remain unchanged.

**AUTHORITY/REASON:**

Per Agency/Contractor agreement and DMB/Purchasing Operations' approval.

**CURRENT AUTHORIZED SPEND LIMIT REMAINS:                      \$1,180,565.00**



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

October 29, 2008

NOTICE  
TO  
CONTRACT NO. 071B9200051  
between  
THE STATE OF MICHIGAN  
and

NAME & ADDRESS OF CONTRACTOR  <b>Clifton Gunderson LLP 9339 Priority Way West Drive Indianapolis, IN 46240</b>  <b>Dane.wheeler@cliftoncpa.com</b>	TELEPHONE (317) 574-9100 <b>Dane Wheeler</b>
	BUYER/CA (517) 241-4225 <b>Kevin Dunn</b>
	Contract Compliance Inspector: Laura Dotson (517) 241-4686 <b>Eligibility Verification Services – Department of Community Health</b>
CONTRACT PERIOD: From: <b>October 22, 2008</b> To: <b>October 21, 2011</b>	
TERMS <b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	

The terms and conditions of this Contract are those of RFP #07118200276, this Contract Agreement and the vendor's quote dated 8/21/2008. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.

Current Authorized Spend Limit: \$1,180,565.00



**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. 071B9200051**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF CONTRACTOR  <b>Clifton Gunderson LLP</b> <b>9339 Priority Way West Drive</b> <b>Indianapolis, IN 46240</b>  <div style="text-align: right;">Dane.wheeler@cliftoncpa.com</div>	TELEPHONE (317) 574-9100 <b>Dane Wheeler</b>  BUYER/CA (517) 241-4225 <b>Kevin Dunn</b>
Contract Compliance Inspector: Laura Dotson (517) 241-4686 <b>Eligibility Verification Services – Department of Community Health</b>	
CONTRACT PERIOD: From: <b>October 22, 2008</b> To: <b>October 21, 2011</b>	
TERMS <div style="text-align: center;"><b>N/A</b></div>	SHIPMENT <div style="text-align: center;"><b>N/A</b></div>
F.O.B. <div style="text-align: center;"><b>N/A</b></div>	SHIPPED FROM <div style="text-align: center;"><b>N/A</b></div>
MINIMUM DELIVERY REQUIREMENTS <div style="text-align: center;"><b>N/A</b></div>	
MISCELLANEOUS INFORMATION:  <p>The terms and conditions of this Contract are those of RFP #07118200276, this Contract Agreement and the vendor's quote dated 8/21/2008. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.</p> <p>Current Authorized Spend Limit:    <b>\$1,180,565.00</b></p>	

**THIS IS NOT AN ORDER:** This Contract Agreement is awarded on the basis of our inquiry bearing the RFP #07118200276. Orders for delivery may be issued directly by the Department of Community Health through the issuance of a Purchase Order Form.

**FOR THE CONTRACTOR:**

**Clifton Gunderson LLP**  
 \_\_\_\_\_  
 Firm Name

\_\_\_\_\_  
 Authorized Agent Signature

\_\_\_\_\_  
 Authorized Agent (Print or Type)

\_\_\_\_\_  
 Date

**FOR THE STATE:**

\_\_\_\_\_  
 Signature  
**Melissa Castro, CPPB, Buyer Manager**  
 \_\_\_\_\_  
 Name/Title  
**Services Division, Purchasing Operations**  
 \_\_\_\_\_  
 Division

\_\_\_\_\_  
 Date



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

**Contract No. 071B9200051  
Eligibility Verification Services for the Department of Community Health**

Buyer Name: Kevin Dunn  
Telephone Number: 517-241-4225  
E-Mail Address: [dunnk3@michigan.gov](mailto:dunnk3@michigan.gov)



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**ATTACHMENTS:**

- Attachment A – Pricing
- Attachment B – Relevant References and Web Links
- Attachment C – Glossary of Pertinent terms



## DEFINITIONS

“Days” means calendar days unless otherwise specified.

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

“Additional Service” means any Services/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.

“Audit Period” has the meaning given in **Section 2.093**.

“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.

“Blanket Purchase Order” is an alternate term for Contract and is used in the States computer system.

“Business Critical” means any function identified in any Statement of Work as Business Critical.

“Chronic Failure” is defined in any applicable Service Level Agreements.

“Deleted – Not Applicable” means that section is not applicable or included in this Contract. This is used as a placeholder to maintain consistent numbering.

“Deliverable” means physical goods and/or commodities as required or identified by a Statement of Work

“DMB” means the Michigan Department of Management and Budget

“Environmentally preferable products” means a product or service that has a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. Such products or services may include, but are not limited to, those which contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics either disposed of or consumed.

“Excusable Failure” has the meaning given in **Section 2.244**.

“Hazardous material” means any material defined as hazardous under the latest version of federal Emergency Planning and Community Right-to-Know Act of 1986 (including revisions adopted during the term of the Contract).

“Incident” means any interruption in Services.

“ITB” is a generic term used to describe an Invitation to Bid. The ITB serves as the document for transmitting the RFP to potential Bidders

“Key Personnel” means any Personnel designated in **Section 1.031** as Key Personnel.

“New Work” means any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration.

“Ozone-depleting substance” means any substance the Environmental Protection Agency designates in 40 CFR part 82 as: (1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or (2) Class II, including, but not limited to, hydrochlorofluorocarbons.

“Post-Consumer Waste” means any product generated by a business or consumer which has served its intended end use, and which has been separated or diverted from solid waste for the purpose of recycling into a usable commodity or product, and which does not include post-industrial waste.



“Post-Industrial Waste” means industrial by-products which would otherwise go to disposal and wastes generated after completion of a manufacturing process, but does not include internally generated scrap commonly returned to industrial or manufacturing processes.

“Recycling” means the series of activities by which materials that are no longer useful to the generator are collected, sorted, processed, and converted into raw materials and used in the production of new products. This definition excludes the use of these materials as a fuel substitute or for energy production.

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

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

“Services” means any function performed for the benefit of the State.

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

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

“Subcontractor” means a company 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.

“Unauthorized Removal” means the Contractor’s removal of Key Personnel without the prior written consent of the State.

“Waste prevention” means source reduction and reuse, but not recycling.

“Waste reduction”, or “pollution prevention” means the practice of minimizing the generation of waste at the source and, when wastes cannot be prevented, utilizing environmentally sound on-site or off-site reuse and recycling. The term includes equipment or technology modifications, process or procedure modifications, product reformulation or redesign, and raw material substitutions. Waste treatment, control, management, and disposal are not considered pollution prevention, per the definitions under Part 143, Waste Minimization, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended.

“Work in Progress” means a Deliverable that has been partially prepared, but has not been presented to the State for Approval.

“Work Product” refers to any data compilations, reports, and other media, materials, or other objects or works of authorship created or produced by the Contractor as a result of an in furtherance of performing the services required by this Contract.



## **Article 1 – Statement of Work (SOW)**

### **1.010 Project Identification**

#### **1.011 Project Request**

This is a Contract to provide eligibility verification services related to the Payment Error Rate Measurement (PERM) program for the Michigan Medicaid program and for the State Children's Health Insurance Program (SCHIP), as required by the federal Centers for Medicare & Medicaid Services (CMS), the agency that oversees and provides partial funding for both programs.

Federal law and regulations relevant to this Scope of Work are identified in **Attachment B** of this Contract. Web addresses for statistical information and policy manuals are also provided in **Attachment C**. A glossary of pertinent terms appearing in this Contract and relevant to the Scope of Work appears in **Attachment C** of this Contract. This glossary does not include Contract related terms; such terms and definitions appear immediately following the Table of Contents of this Contract.

#### **1.012 Background**

##### **A. Introduction**

Public Law 107-300, The Improper Payments Information Act (IPIA) of 2002, was enacted by Congress on November 26, 2002. The IPIA requires the federal CMS to estimate improper payments (due to overpayments, underpayments and payments made to ineligible persons) in both Medicaid and SCHIP.

To implement the requirements of the IPIA, CMS developed the PERM program, with each state participating on a three year rotational basis. Under PERM, reviews are conducted in three areas for both Medicaid and SCHIP: 1) fee-for-service payments, 2) managed care payments, and 3) program eligibility. CMS has hired three Contractors (a statistical Contractor, a documentation/database Contractor and a review Contractor) to assist in the payment review part of the PERM process. CMS and the national Contractors estimate the amount of improper payments and report these estimates to Congress. If necessary, a report on actions taken by single state agencies to reduce erroneous payments must also be reported to Congress.

On August 31, 2007 CMS issued a final rule with regulations for the Medicaid and SCHIP PERM process to meet the requirements of the IPIA. Michigan's Medicaid and SCHIP programs are subject to review during State (and federal) fiscal year 2009, i.e., during the 12 months from October 1, 2008 through September 30, 2009.

While the national Contractors handle the payment reviews, states are required to review Medicaid and SCHIP program eligibility determinations and report findings to the CMS designated Contractor in the prescribed manner. The eligibility reviews may be conducted by state agency staff or by staff employed by a contracted vendor. To assure the objectivity of the reviews and to avoid any conflict of interest, neither the involved state agency staff nor the external vendor may be responsible for Medicaid and/or SCHIP program policy and operations, including eligibility determinations. However CMS has indicated it is acceptable for the reviews to be conducted or an external Contract overseen by state agency staff within a separate organizational unit of the same agency. This is the case in Michigan. This Contract will be overseen by a different organizational unit within the Michigan Department of Community Health (DCH) than the one responsible for Medicaid and SCHIP eligibility policy.

##### **B. Medicaid**

**Program Overview** – Medicaid is a healthcare coverage program created in 1965 by Title XIX of the Social Security Act. The program provides healthcare benefits, including long-term care coverage, for low-income children, adults and the elderly and disabled. The Medicaid program is jointly funded by the state and federal government. The DCH is the single State agency responsible for administration of the Medicaid program in the State, and most operational responsibilities for the program are delegated to the department's Medical Services Administration (MSA), whose offices are located in Lansing, Michigan. Eligibility determination for Medicaid applicants and ongoing case maintenance is delegated to a different State agency, the Michigan Department of Human Services (DHS), through an interagency agreement, and staff in DHS local offices throughout the State representing each of the State's 83 counties process applications and maintain case files.



Statistical information regarding the Medicaid caseload, including the number of applications received monthly is available on the State's web site. Medicaid eligibility policies and procedures are contained in the *Program Administrative Manual* and *Program Eligibility Manual* also available online. The Contractor will be given access to additional information pertinent to the tasks included in this Statement of Work, e.g., historical policies and procedural guidelines.

The current Medicaid caseload exceeds 1.5 million beneficiaries. Children make up a little more than half of the Medicaid caseload and the elderly and disabled account for about 26 percent of the caseload. Approximately 63 percent of all Medicaid beneficiaries receive their health care through contracted managed care organizations (there are 14 HMOs contracted to serve Medicaid beneficiaries across the State). Seven percent of the caseload receives care on a fee-for-service basis while transitioning to managed care. Another six percent of Medicaid beneficiaries receiving care in institutions or through one of Michigan's home and community-based waiver programs are excluded from managed care enrollment and receive care on a fee-for-service basis. Medicaid beneficiaries with spend-down eligibility (five percent of the caseload) or dually eligible for Medicare (six percent) also receive care on a fee-for-service basis. The remaining 13 percent of the Medicaid population receive care on a fee-for-service basis primarily because they are located in an area of the State where mandatory managed care enrollment is not in place, they have received an exception to managed care enrollment for medical reasons or they are enrolled in one of the two special Medicaid programs explained below.

**Healthy Kids** – Michigan extended Medicaid eligibility with full benefits to pregnant women living in families with income up to 185 percent of the Federal Poverty Level (FPL) several years ago; mandatory income eligibility is capped at 133 percent of the FPL. Similarly, eligibility was extended to children age 1 through 15 living in families with income up to 150 percent of the FPL; mandatory income eligibility is capped at 133 percent for children age 1 through 5 and at 100 percent for older children. The mandatory income eligibility level for infants is 185 percent of the FPL. Information regarding the eligibility determination process is included in the aforementioned manuals. Information regarding the application process appears below, following explanation of the "MIChild" program.

**Family Planning** – Michigan received federal Section 1115 waiver approval from CMS in 2006 for a single-benefit Medicaid family planning program, called *Plan First!* Family planning benefits are available on a fee-for-service basis to uninsured women age 19 through 44 living in families with income up to 185 percent of the FPL. The caseload currently includes approximately 22,000 women. Applications for *Plan First!* coverage are processed and maintained by DHS staff at a centrally located unit in East Lansing. This staff also handles periodic redeterminations. General information regarding the eligibility determination process is included in the aforementioned manuals.

**Breast and Cervical Cancer** – Michigan has extended full Medicaid benefits to uninsured women age 18 through 64 who have been diagnosed with breast and/or cervical cancer through the Breast and Cervical Cancer Prevention and Treatment Program (BCCPTP). The caseload currently includes approximately 900 women. Applications for Medicaid coverage are processed by DCH staff in Lansing and case files are kept at a central site. DCH staff also handle ongoing case maintenance. General information regarding the eligibility determination process is included in the aforementioned manuals.

## C. **SCHIP**

**Program Overview** – SCHIP is a healthcare program created under Title XXI of the Social Security Act, enacted by the Balanced Budget Act of 1997. The program provides coverage for uninsured children under the age of 19 with income up to 200 percent of the FPL.

**Healthy Kids Expansion** – Michigan operates a Medicaid expansion program. It is part of the Medicaid Healthy Kids program referenced above, however the SCHIP-funded portion of this program is for children age 16 through 18 living in families with income between 100 and 150 percent of the FPL. Though funded by SCHIP, beneficiaries eligible through this category of coverage receive full Medicaid benefits and are included in the caseload statistics mentioned above. Unless otherwise exempted, they receive care through the Medicaid-contracted HMOs.

**MIChild** – Michigan also operates a stand-alone program, known as MIChild, for uninsured children not meeting criteria for Medicaid benefits and living in families with income up to 200 percent of the FPL. The current MIChild caseload is approximately 29,000 children, with each child enrolled in one of five capitated health plans.



A joint application, in both paper and electronic form, is available for enrollment in either the Healthy Kids program or MICHild (for pregnant women as well as children). Applications are submitted to the State's Administrative Contractor for MICHild. After an initial review, applications meeting Healthy Kids criteria are passed to co-located DHS staff for processing and then to the geographically appropriate DHS local office for ongoing case maintenance. Applications for MICHild coverage are processed by the State's Administrative Contractor for MICHild's staff and retained on-site. The State's Administrative Contractor for MICHild's staff is also responsible for ongoing case maintenance and collection of monthly premium amounts for MICHild beneficiaries. General information regarding eligibility guidelines for MICHild is included in the aforementioned manuals. More detailed guidelines and administrative processes are not available online but will be provided to the Contractor by DCH staff.

**MOMS** – The Maternity Outpatient Medical Services (MOMS) program is also funded through SCHIP. Women who are pregnant with family income up to 185 percent of the FPL (determined through a screening process) or who are covered by the Medicaid Emergency Services Only program may apply for outpatient pregnancy-related and inpatient delivery-related services. The coverage period for the first group is 45 days, until Medicaid eligibility can be determined. There are approximately 3,000 women enrolled in the MOMS program. Applications may be made at DHS local offices and at local health departments via an online process and at federally qualified health centers. Applications are processed by DCH staff in Lansing and case files are also maintained at this site. Eligibility information is maintained on an Oracle database and is also contained in DCH's data warehouse. General information regarding eligibility guidelines for MOMS is included in the aforementioned manuals. More detailed guidelines and administrative processes are not available online but will be provided to the Contractor by DCH staff.

**Childless Adults** – One other program is funded through SCHIP – the Adult Medical Program also called the Adult Benefits Waiver. This program of limited ambulatory benefits is available for childless adults, age 18 through 64, with income up to 35 percent of the FPL. There are approximately 76,000 adults enrolled in this program (as of mid-March), with the majority receiving care through one of 27 County Health Plans. Eligibility is determined prospectively and applications are accepted and processed by DHS staff in local offices during announced open enrollment periods. The State's eligibility policies and procedures are contained in the aforementioned manuals.

#### **D. Eligibility Systems**

The DHS uses an online eligibility system to calculate eligibility and to maintain beneficiary data for those groups for which its staff have responsibility. The online system is called Customer Information Management System (CIMS). The DCH maintains a separate eligibility system for MOMS cases and the State's Administrative Contractor for MICHild has another system for MICHild cases. Although DCH determines eligibility and maintains cases for women eligible for Medicaid through the BCCPTP, eligibility information appears in CIMS. The Contractor will be provided with more detailed information regarding the functionality of these systems.

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

#### **1.021 In Scope**

The in scope tasks associated with this procurement can be summarized broadly as follows:

1. PERM Eligibility Reviews for Medicaid and SCHIP
2. PERM-Like Reviews for SCHIP
3. Quality Assurance Monitoring

#### **1.022 Work and Deliverable**

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

#### **A. General Requirements**

The Contractor will be responsible for ensuring that all aspects of the eligibility reviews mandated under PERM are completed in accordance with CMS specifications and timelines. Should CMS, or its national Contractors, modify specifications or timelines during the course of this Contract, the Contractor will be responsible for timely modification as appropriate for continued compliance. The Contractor will be responsible for monitoring the CMS web site for any such changes.





Any identified changes in specifications are to be immediately reported to the DCH Project Manager. The required annual sample sizes will deviate slightly from those specified by CMS. For Medicaid a total of 504 active cases and 504 negative cases will be reviewed. For SCHIP a total of 504 active cases and 204 negative cases will be reviewed. (A definition of applicable terms, such as “case,” “active” and “negative,” is included in the aforementioned CMS guidance available on the CMS web site.) Accordingly, the Contractor will be required to conduct 1,716 PERM eligibility case reviews. Additional reviews will be required as well and are addressed below.

**B. PERM Eligibility Reviews for Medicaid and SCHIP**

1. The Contractor must develop a database that effectively tracks and reports the status of the PERM project at the case level. The database must be in a format and use software approved by DCH and compatible with DCH's computer systems.
2. The Contractor must prepare a work plan, with process and timelines, for conducting each step of the PERM eligibility review process. The final work plan, consistent with the proposed project plan, but with additional detail, must be submitted to the DCH Project Manager for review and approval within 10 business days following Contract award and prior to implementation.
3. The Contractor must obtain monthly case samples. Medicaid active and negative, as well as SCHIP active and negative case samples, as defined in the approved sampling plan, must be drawn for each month during the PERM review year, i.e., October 2008 through September 2009.
4. The Contractor must review each month's samples for accuracy to ensure they were drawn correctly and advise the DCH Project Manager of the results of those reviews, working with him/her to resolve any problems.
5. The Contractor must provide a copy of the list of sample cases, with the source (e.g., DHS local office, DCH organizational unit, the State's Administrative Contractor for MICHild) of the requested record identified and in a format mutually developed, to the DCH Project Manager monthly, five business days prior to requesting copies of the cases to be sampled. It will be the DCH Project Manager's responsibility to determine if any of the cases in the sample are under investigation for fraud and need to be excluded from the review.
6. The Contractor must prepare the monthly sample information in the format required by CMS, and provide the downloaded file electronically to the DCH Project Manager at least five business days prior to the date it is due to CMS. It will be DCH's responsibility to submit the monthly reports to CMS.
7. The Contractor must notify the DHS local offices, the State's Administrative Contractor for MICHild and/or DCH each month as to which cases have been sampled from their caseload and advise them that copies of the records are to be mailed to a designated location. The process for notification of these offices as well as the timelines and process for response will be developed by the Contractor and subject to approval by the DCH Project Manager.
8. The Contractor must complete the review process on all sampled cases, obtaining documentation and verifications as required. The manner in which beneficiaries are contacted will be mutually determined between the Contractor and the DCH Project Manager, and the Contractor will contact the beneficiaries.
9. The Contractor must implement a process by which a secondary review is conducted on all cases where errors are identified to verify that, in fact, an error in eligibility did occur. This secondary review must occur prior to submission of the review results to DCH.
10. The Contractor must develop a secure process to store all project data electronically and be able to share information with DCH in electronic form, both during the project and as a permanent record when the project is completed. The Contractor will work with the DCH Project Manager and with appropriate information technology staff, which DCH will identify, in complying with this responsibility to ensure that the data are in a format compatible with DCH's computer systems.
11. The Contractor must develop a secure process to store all hard copy project data, e.g., case files, documentation and verifications, until it is turned over to the DCH Project Manager following completion of the review.



12. The Contractor must develop appropriate policies and processes to ensure that confidentiality of beneficiary information is maintained. The Contractor must assure that all Contractor staff are trained in and adhere to such policies and processes, including all federal and state requirements related to privacy of data. The Contractor must develop a statement to be signed by each member of the Contractor's staff acknowledging and assuring compliance with all specified policies; the statement must be submitted for approval to the DCH Project Manager prior to use. The Contractor must ensure that no beneficiary-specific information is disclosed to any party outside those officially involved in the performance of the tasks critical to this project.
13. In each instance where an eligibility error is believed to have occurred, the Contractor must report the potential error finding electronically to the DCH Project Manager as soon as possible after the finding is made so it can be reviewed by appropriate State staff. To allow for sufficient DCH review time, all reports must be submitted to the DCH Project Manager at least 10 business days prior to the day in which the month's review results are due to CMS. Any disputes regarding a potential error finding will be resolved by the DCH Project Manager, whose decision will be final and binding.
14. The Contractor must develop a process collaboratively with the DCH Project Manager to identify cases for which claims (payment) information is required from the Michigan Medicaid Management Information System (MMIS) and the timeframe for generation and review of the data in consideration of CMS report requirements. The claims information will be extracted from the MMIS, through the data warehouse, by DCH staff and provided to the Contractor.
15. The Contractor must develop recommendations to address any errors identified during the reviews, using the CMS-mandated format for the Corrective Action Plan.
16. The Contractor must develop appropriate systems and controls to assure compliance with all reporting requirements specified in this Contract.

**C. PERM-Like Reviews for SCHIP**

1. The majority of the Contractor's work associated with the mandated PERM eligibility review process for fiscal year 2009 is expected to be completed with the first 18 months of this Contract (according to guidance provided by CMS). The term of this Contract will run for three years. Accordingly, additional tasks will be required during months 19 through 36 of this Contract, and during the period of any extension. The Contractor will conduct 160 PERM-Like eligibility case reviews for SCHIP each month (80 active and 80 negative) during months 19 through 30 of the Contract. Specific tasks and responsibilities of the Contractor are identified in items two through 17 immediately below.
2. The Contractor must utilize the database developed for PERM reviews, or a separate but uniform system, to track and report the status of the SCHIP reviews at the case level. The database must be in a format and use software approved by DCH and compatible with its computer systems.
3. The Contractor must prepare a sampling plan to generate a total of 160 SCHIP cases (80 active and 80 negative) for review each month during months 19 through 30 of this Contract. The sampling plan must meet CMS' statistical requirements for PERM and be submitted to DCH for review and approval at least 20 business days prior to implementation. The Contractor must prepare a work plan, with process and timelines, for conducting each step of the PERM-like eligibility review process. The work plan must be submitted to DCH for review and approval prior to implementation.
4. The Contractor must review each month's samples for accuracy to ensure they were drawn correctly and advise the DCH Project Manager of the results of those reviews, working with him/her to resolve any problems.
5. The Contractor must provide a copy of the list of sample cases, with the source (e.g., DHS local office, DCH organizational unit, the State's Administrative Contractor for MIChild) of the requested record identified and in a format mutually developed, to the DCH Project Manager monthly, five business days prior to requesting copies of the cases to be sampled. The DCH Project Manager will determine if any of the cases in the sample are under investigation for fraud and need to be excluded from the review.



6. The Contractor must notify the DHS local offices, the State's Administrative Contractor for MICHild and/or DCH each month as to which cases have been sampled from their caseload and advise them that copies of the records are to be mailed to a designated location. The process for notification will be developed by the Contractor and subject to approval by the DCH Project Manager.
7. The Contractor must prepare the monthly sample information in the same format as required by CMS for PERM reviews, and provide the downloaded file electronically to the DCH Project Manager following the same timeframe as would be the case for a PERM review.
8. The Contractor must complete the review process on all sampled cases, obtaining documentation and verifications as required. The manner in which beneficiaries are contacted will be mutually determined between the Contractor and the DCH Project Manager, and the Contractor will contact the beneficiaries.
9. The Contractor must implement a process by which a secondary review is conducted on all cases where errors are identified to verify that, in fact, an error in eligibility did occur. This secondary review must occur prior to submission of the review results to the Department.
10. The Contractor must develop a secure process to store all project data electronically and be able to share information with DCH in electronic form, both during the project and as a permanent record when the project is completed. This process will be the same as used for PERM data.
11. The Contractor must develop a secure process to store all hard copy project data, e.g., case files, documentation and verifications, until it is turned over to the DCH Project Manager following completion of the review.
12. The Contractor must develop appropriate policies and processes to ensure that confidentiality of beneficiary information is maintained. The same policies and processes developed for the PERM reviews will be required. The Contractor must ensure that no beneficiary-specific information is disclosed to any party outside those officially involved in the performance of the tasks critical to this project.
13. In each instance where an eligibility error is believed to have occurred, the Contractor must report the potential error finding electronically to the DCH Project Manager as soon as possible after the finding is made so it can be reviewed by appropriate State staff. Any disputes regarding a potential error finding will be resolved by the DCH Project Manager, whose decision will be final and binding.
14. The Contractor must develop a process collaboratively with the DCH Project Manager to identify cases for which claims (payment) information is required from the Michigan Medicaid Management Information System (MMIS) or other sources. The claims information will be extracted from those sources by Department staff and provided to the Contractor if the DCH Project Manager determines it appropriate.
15. The Contractor must develop recommendations to address any errors identified during the reviews, using the same Corrective Action Plan format as followed for PERM reviews.
16. The Contractor must develop appropriate systems and controls to assure compliance with all reporting requirements specified in this Contract.
17. It is recognized that the PERM-like review process for SCHIP identified in this section requires a number of months for completion. If DCH determines that the Contract will not be renewed beyond its initial three year term, samples will not be drawn after month 30 to permit time for completion of the review process. If the Contract is renewed, monthly samples will continue to be drawn through at least the first six months of the renewal period. The Contractor should anticipate a total of 1,920 reviews (160 reviews per month for 12 months).

**D. Database Creation**

1. The database referenced above, at a minimum, must track the following elements independently for the Medicaid and SCHIP PERM eligibility reviews, as well as the additional PERM-like SCHIP reviews, and be capable of providing mutually agreed upon reports:
  - a. Beneficiary or applicant's full name.
  - b. Beneficiary or applicant's identification number.
  - c. Data fields required to ensure that the review of the eligibility determination was appropriate and accurate. This will include, but is not limited to, category of eligibility, citizenship and identity documentation, income and resource verifications.
  - d. Sample month and review months for the case.
  - e. Source of case, i.e., specifics DHS local office, DCH organizational unit or the State's Administrative Contractor for MICHild.
  - f. Date, time, method and content of all beneficiary or applicant notices sent.
  - g. Date, time, method and content of all beneficiary contacts.
  - h. Cases where fraud is under investigation or that the Contractor potentially identified as fraudulent during the review process.
  - i. Description of eligibility actions determined to have been completed incorrectly, with an indication of whether the error due to agency action or beneficiary action.
  - j. Claims payment information related to any identified error.
2. For both the Medicaid and SCHIP PERM eligibility reviews, as well as the additional PERM-like SCHIP reviews, the database must have the capability to report the following independently by type of review:
  - a. Number of cases reviewed in a designated timeframe.
  - b. An aging report identifying the timeframe for the eligibility review.
  - c. An aging report identifying the timeframe for the related payment review.
  - d. Cases that exceeded the review timeframes required by CMS.
  - e. All reports required by CMS, as discussed in sections 1.020 and 1.042 of this Contract.
  - f. A monthly report for DCH describing agency error rate, beneficiary error rate and eligibility category error rate.
  - g. Results of quality assurance efforts.
  - h. Standardized and ad hoc reports, as determined necessary by DCH.
3. The final specifications and reporting capabilities of the database must be approved by DCH in writing prior to implementation. The Contractor must also develop an operational manual for the database that is approved by DCH.
4. Due to the aggressive implementation of the PERM eligibility reviews, it is understood that the database may not be completed at the start of this Contract. The Contractor will be responsible for accurately and effectively maintaining all data until it can be entered into the PERM database and must have the database completed and operational, with all outstanding data entered into the database, no later than 20 business days following Contract award.
5. A copy of the database, including reports, developed for this project and all operational manuals for the database will become the property of DCH upon termination of the Contract.

**E. Quality Assurance Monitoring**

1. The Contractor must develop a quality assurance system to ensure the accuracy and quality of the both the PERM and PERM-like SCHIP eligibility reviews as well as data entry into the required database(s).
2. The Contractor must conduct a quality review of 10 percent of all PERM eligibility case reviews, dividing such reviews into four categories:
  - a. Medicaid active case reviews
  - b. SCHIP active case reviews
  - c. Medicaid negative case reviews
  - d. SCHIP negative case reviews

Upon completion of the PERM eligibility case reviews, the 10 percent review will be applied equally to the PERM-like SCHIP active and negative case reviews.



3. The Contractor must develop and implement procedures for the quality reviews. The procedures will require DCH approval prior to implementation. The procedures must ensure that quality reviews are performed by different staff than those who performed the initial case reviews. If required for approval, the Contractor must modify its procedures within five business days thereafter. The procedures will not be considered final until the Contractor receives written approval from DCH.

#### F. Other Deliverables

1. The Contractor must deliver the following files related to PERM reviews electronically to the DCH Project Manager in a mutually agreeable format and in the timeframes specified:
  - a. Monthly files of sample information for programs under review in the format required by CMS. These files must be submitted to the DCH Project Manager at least three days prior to the date due to CMS. The files must include both Michigan-assigned beneficiary identifiers and any encrypted version of the identifiers required for submission to CMS.
2. The Contractor must deliver the following files related to PERM-like reviews of the SCHIP program electronically to the DCH Project Manager in a mutually agreeable format and in the timeframes specified:
  - a. Monthly files of sample information under review in the same format as required by CMS for PERM reviews. These files must be submitted to the DCH Project Manager on the same time schedule as would be the case for a PERM review.
3. In general, the Contractor's management information system must meet the following requirements:
  - a. All files prepared by the Contractor must be in record formats compatible with DCH's computer systems. File layout documentation will be provided to the Contractor by DCH as necessary to assure this compatibility.
  - b. The Contractor will be provided access to selected program applications used in the Medicaid and SCHIP eligibility determination processes as necessary to perform PERM-related tasks.
  - c. The Contractor must provide computer equipment for its staff that is compatible with the State's program applications used in the Medicaid and SCHIP eligibility determination process. The Contractor will be provided the equipment hardware and software specifications. The State will configure the equipment provided by the Contractor for this purpose.

### **1.030 Roles and Responsibilities**

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

##### **A. Key Personnel**

The following individuals have been identified as Clifton Gunderson's Key Personnel for this Contract.

###### Project Manager

Dane Wheeler, Partner

- Responsible for project oversight.
- Responsible for attending project meetings.
- Responsible for directing the activities of the engagement team.
- Available to DCH on a daily basis.

###### Project Sub-Manager and Senior Manager

Emily Hess, Senior Manager

- Responsible for the day-to-day management of the engagement team.
- Responsible for attending project meetings.
- Available to DCH on a daily basis.



Project Sub-Manager  
Ronald Franke, Partner

- Responsible for overseeing the sampling process for each project to ensure the universe of eligibility cases has been extracted correctly and that the sample selected is valid.

Business Analyst / Manager  
Bruce Bacher, Database Manager

- Day-to-day responsibility for overseeing the sampling process and developing/maintaining the databases required for the project.

Implementation Manager  
JoAnn Mann-Beattie, Manager

- Responsible for attending project meetings.
- Responsible for directing the activities of the engagement team.
- Available to DCH on a daily basis.
- Responsible for training staff.

Implementation Manager  
DeAnne Bachtold, Manager

- Responsible for training staff.
- Responsible for providing the first level of management review.

Technical Advisor  
Hugh Webster, Senior Health Care Manager

- Responsible for providing valuable insight and added value to the overall project based on previous direct relevant experiences.

Technical Advisor  
David Mosley, Principal

- Responsible for providing valuable insight and added value to the overall project based on previous direct relevant experiences.

## **B. Subcontractors**

The following company has been identified as Clifton Gunderson's subcontractor for this Contract.

Navigant Consulting, Inc.  
161 N. Clark Street, Suite 1700  
Chicago, IL 60601  
Phone: 312-583-5700  
Fax: 312-583-2603

The responsibilities of the subcontractor are as follows:

- Navigant Consulting will perform the Quality Assurance function for this Contract.
- Responsible for reviewing the initial sample selection prior to submission to the MDCH Project Manager.
- Responsible for reviewing a sub-sample (10%) of claims to ensure the eligibility findings are appropriate.

Navigant Consulting Key Personnel:

Quality Assurance  
Jeffrey Moor, Navigant Consulting

- Responsible for providing assurances of that quality samples have been selected and the findings that are generated are appropriate and accurate.

Quality Assurance  
Kristin Martyn, Navigant Consulting

- Responsible for providing assurances of that quality samples have been selected and the findings that are generated are appropriate and accurate.

**C. Staff Training**

The Contractor must conduct regular training programs for new case reviewers/auditors and other staff. The Contractor's staff must successfully complete the training program prior to assuming their duties. The Contractor must conduct regular staff refresher training to address program, process, and policy changes. The Contractor must permit the State (DCH and/or DMB) access to records relating to such training and, if requested, permit State staff to attend (monitor) training programs.

**D. Contractor's Failure to Comply**

Should the Contractor at any time: 1) refuse or neglect to supply adequate and competent supervision; 2) refuse or fail to provide sufficient and properly skilled personnel, equipment, or materials of the proper quality or quantity; 3) fail to provide the services in accordance with the timeframes, schedule or dates set forth in the Contract; or 4) fail in the performance of any term or condition contained in the Contract, the State (DCH and/or DMB) may in addition to any other contractual, legal or equitable remedies proceed to take any one or more of the following actions after five business days written notice to the Contractor:

- Withhold any monies then or next due to the Contractor;
- Obtain the services or their equivalent from a third party, pay the third party for same, and withhold the amount so paid to third party from any money then or thereafter due to the Contractor; or
- Withhold monies in the amount of any damage caused by any deficiency or delay in the services.

**E. Physical Location of Contractor**

The Contractor must identify where its staff will be physically located for the duration of this Contract (city at a minimum and street address if known). The State will not make space available in its facilities for Contractor's staff. The State would prefer that the staff performing case reviews and contacting beneficiaries for verifications be physically located in Michigan.

**F. Other Roles and Responsibilities**

Staff in DHS local offices, at the State's Administrative Contractor for MICHild, and in areas of DCH where eligibility determinations are made and where cases are maintained will be responsible for photocopying pertinent portions of any case files included in monthly samples, upon receipt of a request for same from the Contractor and within the timeframe mutually agreed upon between DCH and the Contractor. Failure by one of these entities to respond to a Contractor's request within the timeframe will be reported to the DCH Project Manager who will promptly follow-up to obtain the documents. The Department of Information Technology (DIT) will configure the Contractor's computer equipment for access, as necessary, to the State's program applications used in the Medicaid and SCHIP eligibility determination process.

**1.040 Project Plan****1.041 Project Plan Management**

The Contractor will carry out this project under the direction and control of DCH. Although there will be continuous liaison with the Contractor's team, the DCH Project Manager will meet weekly for the first two months of the Contract with the Contractor's Project Manager and key personnel, and then on a monthly basis thereafter for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise. Interim meetings may be called by either party to address problems or issues requiring immediate attention.

The Contractor's Project Manager will submit brief written monthly summaries of progress to the DCH Project Manager, which outline the work accomplished during the reporting period; work to be accomplished during the subsequent reporting period; problems, real or anticipated, which should be brought to the attention of the DCH Project Manager; and any significant deviation from previously agreed-upon work statements. These monthly reports are in addition to any reports required in sections 1.020 and 1.042 of this Contract.

Within 10 business days of Contract award, the Contractor's Project Manager will submit a work plan to the DCH Project Manager for final approval. This work plan must be in agreement with the implementation plan included in the Contractor's RFP response and accepted by the State for the Contract, and must include the following:



1. The Contractor's project organization structure, including Subcontractors, if any.
2. The Contractor's staffing table with names and titles of personnel assigned to the project. This must be in agreement with staffing identified in the accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval by the Department.
3. The project breakdown showing sub-projects, activities and tasks, timelines for deliverables and reports, and resources required and allocated to each.
4. The time-phased plan in the form of a graphic display, showing each event, task and decision point in the work plan.

### **Project Management**

The DCH will provide a Project Manager who will be the primary point of contact between the Contractor and personnel in DCH as well as in DHS, the State's Administrative Contractor for MICHild and the DIT.

The DCH Project Manager will ensure that the Contractor's key personnel receive any training necessary relative to Michigan's Medicaid and SCHIP eligibility determination policies and processes as well as data system function and compatibility.

The DCH Project Manager will facilitate access to personnel, records and systems needed by the Contractor. He/she will mediate issues between the Contractor and DHS, the State's Administrative Contractor for MICHild or other areas of DCH relative to timely provision of case file documentation.

The DCH Project Manager will determine if any cases included in the monthly sample are under investigation for fraud and will also assure that claims payment information is provided to the Contractor on a timely basis for the PERM reviews. He/she will assure timely response to any error findings.

The DCH Project Manager will perform, or oversee the performance by State staff of, a periodic quality assurance review of a selected number of cases once the Contractor has completed its review. This review is separate and distinct from the quality reviews required of the Contractor. Findings from this review will be addressed with the Contractor, which is expected to take any necessary corrective action with its staff.

The DCH Project Manager will also be the point of contact between the Department and CMS and will be responsible for submitting all required reports.

Upon completion of case reviews, the DCH Project Manager will assure appropriate and secure storage of electronic and hard copy documentation.

### **Sampling Plan**

The DCH will prepare the required Medicaid and SCHIP sampling plan for submission to CMS' national Contractor prior to the required due date of August 1, 2008. The approved sampling plan will be given to the Contractor for use in the PERM Eligibility Reviews and as a template for use in the PERM-Like Eligibility Reviews for SCHIP.

### **Issue Management**

The Contractor will maintain an issue management log for the project. The issue log must be available electronically to the DCH Project Manager at all times, updated weekly and have at least the following elements:

1. Description of issue
2. Issue identification date
3. Responsibility for resolving issue
4. Priority for issue resolution (to be mutually agreed upon by DCH and the Contractor)
5. Resolution date
6. Resolution description

### **Risk Management**

The Contractor will be required to finalize the risk management plan for the project and submit it to the DCH Project Manager for approval within 20 business days after the effective date of the Contract. Once both parties have agreed to the format of the plan, it will become the standard to follow for the duration of the Contract.





### 1.042 Reports

The following reports will be required from the Contractor:

1. The specific reports listed below;
2. Monthly summaries of progress and problems as identified in section 1.041 of this Contract;
3. An issue management log as identified in section 1.041 of this Contract; and
4. Ad hoc reports as mutually agreed upon.

The Contractor must deliver the following reports related to PERM reviews electronically to the Project Manager in a mutually agreeable format and in the timeframes specified:

- a. A cumulative monthly status report on all cases sampled. This status report must be submitted to the DCH Project Manager no later than the tenth day of each month (or the first business day thereafter) beginning in December 2008. The report should list each case and indicate at a minimum: 1) completion status; 2) if pending, the expected completion date; and 3) barriers to review completions.
- b. A monthly report on quality assurance reviews beginning in December 2008. The report must be broken down by the categories specified in section 1.021 of this Contract and describe the number and nature of the errors in both summarized and case specific data.
- c. Report on all case review findings for each sample month. This report must be submitted to the DCH Project Manager no later than 120 days following the end of the sample month, in the format required by CMS. Note that all case reviews for the sample month should be completed at this point; exceptions must be discussed with the DCH Project Manager. The DCH Project Manager will submit the final monthly report to CMS to comply with the CMS deadline no later than 150 days following the end of the sample month.
- d. Detailed monthly report on all case findings separated by agency error (both by specific agency and by type of error), beneficiary error (by type of error) and eligibility category error (by type).
- e. Detailed monthly report on claims data for each sample month's cases. This report must be submitted to the DCH Project Manager no later than 180 days following the end of the sample month, in the format required by CMS. The DCH Project Manager will submit the report to CMS. In addition, the cumulative case error rate and payment error rate must be provided to the Department with the required monthly CMS report.
- f. Summary report on all case review findings, plus the case payment error rate as defined and in the format required by CMS, for both programs. The report and error rate for both programs must be submitted to the DCH Project Manager by May 30, 2010. The DCH Project Manager will review the report, discuss and resolve any findings or issues with the Contractor as appropriate and submit the report to CMS by July 1, 2010.
- g. Detailed Corrective Action Plan for both active and negative case reviews containing recommendations based on identified eligibility or payment errors in both programs, in the format required by CMS. This plan must be submitted to the DCH Project Manager at least 30 days prior to the date when it must be submitted to CMS.

Deliver the following reports related to PERM-like reviews of the SCHIP program electronically to the DCH Project Manager in a mutually agreeable format and in the timeframes specified:

- a. A cumulative monthly status report on all cases sampled. This status report must be submitted to the DCH Project Manager no later than the tenth day of each month (or the first business day thereafter) beginning in second month following initiation of these reviews. The report should list each case and indicate at a minimum: 1) completion status; 2) if pending, the expected completion date; and 3) barriers to review completions.
- b. A monthly report on quality assurance reviews beginning in December 2008. The report must be broken down by the categories specified in section 1.021 of this Contract and describe the number and nature of the errors in both summarized and case specific data.
- c. Report on all case review findings for each sample month. This report must be submitted to the DCH Project Manager no later than 120 days following the end of the sample month, in the same format required by CMS for PERM reviews. Note that all case reviews for the sample month should be completed at this point; exceptions must be discussed with the DCH Project Manager.
- d. Detailed monthly report on claims data for each sample month's cases. This report must be submitted to the DCH Project Manager no later than 180 days following the end of the sample month, in the same format required by CMS for PERM reviews. In addition, a cumulative case error rate and payment error rate need to be provided with the required monthly report.

**1.050 Acceptance****1.051 Criteria**

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

The DCH Project Manager will be responsible for verifying that the work:

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

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

**1.052 Final Acceptance – Deleted/Not Applicable****1.060 Proposal Pricing****1.061 Proposal Pricing**

For authorized Services and Price List, see Attachment A.

Contractor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for the expense at the State's current travel reimbursement rates. See [www.michigan.gov/dmb](http://www.michigan.gov/dmb) for current rates.

Invoices for services rendered under this Contract must be submitted monthly.

**1.062 Price Term**

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

**1.063 Tax Excluded from Price**

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

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

**1.064 Holdback – Deleted / Not Applicable****1.070 Additional Requirements – Deleted / Not Applicable**



## Article 2, Terms and Conditions

### 2.000 Contract Structure and Term

#### **2.001 Contract Term**

This Contract is for a period of three years beginning October 22, 2008 through October 21, 2011. All outstanding Purchase Orders shall also expire upon the termination (cancellation for any of the reasons listed in 2.150) 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.

#### **2.002 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 two additional one year periods. Successful completion of negotiations surrounding the terms of the extension, will be a pre-requisite for the exercise of any option year.

#### **2.003 Legal Effect**

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

Except as otherwise agreed in writing by the parties, the State assumes no liability for costs incurred by Contractor or payment under 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.

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

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

#### **2.005 Ordering**

The State will issue a written Purchase Order, Blanket Purchase Order, Direct Voucher or Procurement Card Order, which must be approved by the Contract Administrator or the Contract Administrator's designee, to order any Services/Deliverables under this Contract. All orders are subject to the terms and conditions of this Contract. No additional terms and conditions contained on either a Purchase Order or Blanket Purchase Order apply unless they are also specifically contained in that Purchase Order's or Blanket Purchase Order's accompanying Statement of Work.

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

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

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

#### **2.007 Headings**

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

#### **2.008 Form, Function, & Utility – Deleted / Not Applicable**

**2.009 Reformation and Severability**

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

**2.010 Consents and Approvals**

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

**2.011 No Waiver of Default**

If a party fails to insist upon strict adherence to any term of the Contract then the party has not waived the right to later insist upon strict adherence to that term, or any other term, of the Contract.

**2.012 Survival**

Any provisions of the Contract that impose continuing obligations on the parties, including without limitation the parties' respective warranty, indemnity and confidentiality obligations, survive the expiration or termination of the Contract for any reason. Specific references to survival in the Contract are solely for identification purposes and not meant to limit or prevent the survival of any other section.

**2.020 Contract Administration****2.021 Issuing Office**

This Contract is issued by the DMB, Purchasing Operations and the DCH. Purchasing Operations is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. Purchasing Operations **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, Buyer Specialist  
Purchasing Operations  
Department of Management and Budget  
Mason Bldg, 2nd Floor  
PO Box 30026  
Lansing, MI 48909  
dunnk3@michigan.gov  
(517) 241-4225

**2.022 Contract Compliance Inspector (CCI)**

Upon receipt at Purchasing Operations of the properly executed Contract, it is anticipated that the Director of DMB Purchasing Operations, in consultation with the Michigan Department of Community Health, 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 Purchasing Operations.** The Contract Compliance Inspector for this Contract is:

Laura Dotson  
Department of Community Health  
Mason Bldg, 2nd Floor  
PO Box 30026  
Lansing, MI 48909  
DotsonL1Wmichigan.gov  
(517) 241-4686

**2.023 Project Manager**

The following individual will oversee the project:

Dan Ridge, Eligibility Quality Assurance, Section Manager  
Michigan Department of Community Health  
400 South Pine Street  
DanRidge@michigan.gov  
(517) 241-7556

**2.024 Change Requests**

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

If the Contractor does not so notify the State, the Contractor has no right to claim thereafter that it is entitled to additional compensation for performing that service or providing that deliverable.

**Change Requests:**

- (a) By giving Contractor written notice within a reasonable time, the State must be entitled to accept a Contractor proposal for Change, to reject it, or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice must be prepared and issued under this Contract, describing the Change and its effects on the Services and any affected components of this Contract (a "Contract Change Notice").
- (b) No proposed Change must be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Management and Budget, Purchasing Operations.
- (c) If the State requests or directs the Contractor to perform any activities that Contractor believes constitute a Change, the Contractor must notify the State that it believes the requested activities are a Change before beginning to work on the requested activities. If the Contractor fails to notify the State before beginning to work on the requested activities, then the Contractor waives any right to assert any claim for additional compensation or time for performing the requested activities. If the Contractor commences performing work outside the scope of this Contract and then ceases performing that work, the Contractor must, at the request of the State, retract any out-of-scope work that would adversely affect the Contract.

**2.025 Notices**

Any notice given to a party under the Contract must be deemed effective, if addressed to the 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 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:  
State of Michigan  
Purchasing Operations  
Attention: Kevin Dunn  
PO Box 30026  
530 West Allegan  
Lansing, Michigan 48909

Clifton Gunderson LLP  
Attention: Dane Wheeler  
9339 Priority Way West Drive  
Indianapolis, IN 46240

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

**2.026 Binding Commitments**

Representatives of Contractor must have the authority to make binding commitments on Contractor's behalf within the bounds set forth in this Contract. Contractor may change the representatives from time to time upon written notice.

**2.027 Relationship of the Parties**

The relationship between the State and Contractor is that of client and independent Contractor. No agent, employee, or servant of Contractor or any of its Subcontractors must be or must 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.

**2.028 Covenant of Good Faith**

Each party must 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.

**2.029 Assignments**

(a) Neither party may assign the Contract, or assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign the Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign the Contract to an affiliate so long as the affiliate is adequately capitalized and can provide adequate assurances that the affiliate can perform the Contract. The State may withhold consent from proposed assignments, subcontracts, or novations when the transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

(b) Contractor may not, without the prior written approval of the State, assign its right to receive payments due under the Contract. If the State permits an assignment, the Contractor is not relieved of its responsibility to perform any of its contractual duties, and the requirement under the Contract that all payments must be made to one entity continues.

(c) If the Contractor intends to assign the Contract or any of the Contractor's rights or duties under the Contract, the Contractor must notify the State in writing at least 90 days before the assignment. The Contractor also must provide the State with adequate information about the assignee within a reasonable amount of time before the assignment for the State to determine whether to approve the assignment.

**2.030 General Provisions****2.031 Media Releases**

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

**2.032 Contract Distribution**

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

**2.033 Permits**

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

**2.034 Website Incorporation**

The State is not bound by any content on the Contractor's website, even if the Contractor's documentation specifically referenced that content and attempts to incorporate it into any other communication, unless the State has actual knowledge of the content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representative of the State.

**2.035 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 rights 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 competitive advantage on the RFP.

**2.036 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").

**2.037 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 man-made disaster.

**2.040 Financial Provisions****2.041 Fixed Prices for Services/Deliverables**

Each Statement of Work or Purchase Order 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. The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

**2.042 Adjustments for Reductions in Scope of Services/Deliverables**

If the scope of the Services/Deliverables under any Statement of Work issued under 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.

**2.043 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.

**2.044 Invoicing and Payment – In General**

(a) 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.

(b) 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. 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 1.064**.

(c) Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within 45 days after receipt, provided the State determines that the invoice was properly rendered.

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



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

The Government may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

#### **2.045 Pro-ration**

To the extent there are any Services that are to be paid for on a monthly basis, the cost of such Services shall be pro-rated for any partial month.

#### **2.046 Antitrust Assignment**

The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

#### **2.047 Final Payment**

The making of final payment by the State to Contractor does not constitute a waiver by either party of any rights or other claims as to the other party's continuing obligations under the Contract, nor will it constitute a waiver of any claims by one party against the other arising from unsettled claims or failure by a party to comply with 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.

#### **2.048 Electronic Payment Requirement**

Electronic transfer of funds is required for payments on State Contracts. Contractors are required to register with the State electronically at <http://www.cpexpress.state.mi.us>. As stated in Public Act 431 of 1984, all Contracts that the State enters into for the purchase of goods and services shall provide that payment will be made by electronic fund transfer (EFT).

### **2.050 Taxes**

#### **2.051 Employment Taxes**

Contractors are expected to collect and pay all applicable federal, state, and local employment taxes, including the taxes.

#### **2.052 Sales and Use Taxes - Deleted / Not Applicable**

### **2.060 Contract Management**

#### **2.061 Contractor Personnel Qualifications**

All persons assigned by Contractor to the performance of Services under this Contract must be employees of Contractor or its majority-owned (directly or indirectly, at any tier) subsidiaries (or a State-approved Subcontractor) and must be fully qualified to perform the work assigned to them. Contractor must include a similar provision in any subcontract entered into with a Subcontractor. For the purposes of this Contract, independent Contractors engaged by Contractor solely in a staff augmentation role must be treated by the State as if they were employees of Contractor for this Contract only; however, the State understands that the relationship between Contractor and Subcontractor is an independent Contractor relationship.

#### **2.062 Contractor Key Personnel**

(a) The Contractor must provide the Contract Compliance Inspector with the names of the Key Personnel.

(b) Key Personnel must be dedicated as defined in the Statement of Work to the Project for its duration in the applicable Statement of Work with respect to other individuals designated as Key Personnel for that Statement of Work.





(c) The State 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.

(d) Contractor must not remove any Key Personnel from their assigned roles or the Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("Unauthorized Removal"). Unauthorized Removals does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel's employment. Unauthorized Removals does not include replacing Key Personnel because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides 30 days of shadowing unless parties agree to a different time period. The Contractor with the State must review any Key Personnel replacements, and appropriate transition planning 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 termination and cancellation rights.

(e) The Contractor must notify the Contract Compliance Inspector and the Contract Administrator at least 10 business days before redeploying non-Key Personnel, who are dedicated to primarily to the Project, to other projects. If the State does not object to the redeployment by its scheduled date, the Contractor may then redeploy the non-Key Personnel.

### **2.063 Re-assignment of Personnel at the State's Request**

The State reserves the right to require the removal from the Project of Contractor personnel found, in the judgment of the State, to be unacceptable. The State's request must be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request must be based on legitimate, good-faith reasons. Replacement personnel for the removed person must be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed personnel, the State agrees to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any incident with removed personnel results in delay not reasonably anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Service will not be counted for a time as agreed to by the parties.

### **2.064 Contractor Personnel Location – Deleted / Not Applicable**

### **2.065 Contractor Identification**

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

### **2.066 Cooperation with Third Parties**

Contractor 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. As reasonably requested by the State in writing, the Contractor will provide to the State's agents and other Contractors reasonable access to Contractor's Project personnel, systems and facilities to the extent the access relates to activities specifically associated with this Contract and will not interfere or jeopardize the safety or operation of the systems or facilities. 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 the requests for access.

### **2.067 Contractor Return of State Equipment/Resources**

The Contractor must return to the State any State-furnished equipment, facilities and other resources when no longer required for the Contract in the same condition as when provided by the State, reasonable wear and tear excepted.

**2.068 Contract Management Responsibilities**

The Contractor will be required to assume responsibility for all contractual activities, whether or not that Contractor performs them. Further, the State will consider the Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Contract. If any part of the work is to be subcontracted, the Contract must include a list of Subcontractors, including firm name and address, contact person and a complete description of work to be subcontracted. The State reserves the right to approve Subcontractors and to require the Contractor to replace Subcontractors found to be unacceptable. The Contractor is totally responsible for adherence by the Subcontractor to all provisions of the Contract. Any change in Subcontractors must be approved by the State, in writing, prior to such change.

**2.070 Subcontracting by Contractor****2.071 Contractor Full Responsibility**

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.

**2.072 State Consent to Delegation**

Contractor shall not delegate any duties under this Contract to a Subcontractor unless the Department of Management and Budget, 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 SLA for the affected Work will not be counted for a time agreed upon by the parties.

**2.073 Subcontractor Bound to Contract**

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.

**2.074 Flow Down**

Except where specifically approved in writing by the State on a case-by-case basis, Contractor shall flow down the obligations in **Sections 2.031, 2.060, 2.100, 2.110, 2.120, 2.130, 2.200** in all of its agreements with any Subcontractors.

**2.075 Competitive Selection**

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.

**2.080 State Responsibilities****2.081 Equipment**

The State will provide only the equipment and resources identified in the Statements of Work and other Contract Exhibits.



## **2.082 Facilities – Deleted / Not Applicable**

### **2.090 Security**

#### **2.091 Background Checks**

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

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/dit>. 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.

#### **2.092 Security Breach Notification**

If the Contractor breaches this Section, the Contractor must (i) promptly cure any deficiencies and (ii) comply with any applicable federal and state laws and regulations pertaining to unauthorized disclosures. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor must report to the State in writing any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by the Contract within 10 days of becoming aware of the use or disclosure or the shorter time period as is reasonable under the circumstances.

## **2.093 PCI Data Security Requirements - Deleted / Not Applicable**

### **2.100 Confidentiality**

#### **2.101 Confidentiality**

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

#### **2.102 Protection and Destruction 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 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) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the Subcontractor's scope of responsibility, and (C) Contractor obligates the Subcontractor in a written Contract to maintain the State's Confidential Information in confidence.



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

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

### **2.103 Exclusions**

Notwithstanding the foregoing, the provisions of **Section 2.100** will not apply to any particular information which the State or Contractor can demonstrate (i) was, at the time of disclosure to it, in the public domain; (ii) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure to it without an obligation of confidentiality; (iv) was received after disclosure to it from a third party who had a lawful right to disclose the information to it without any obligation to restrict its further disclosure; or (v) was independently developed by the receiving party without reference to Confidential Information of the furnishing party. Further, the provisions of **Section 2.100** will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose the Confidential Information, provided that the receiving party (i) promptly provides the furnishing party with notice of the legal request, and (ii) assists the furnishing party in resisting or limiting the scope of the disclosure as reasonably requested by the furnishing party.

### **2.104 No Implied Rights**

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

### **2.105 Respective Obligations**

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

## **2.110 Records and Inspections**

### **2.111 Inspection of Work Performed**

The State's authorized representatives must at all reasonable times and with 10 days prior written request, have the right to enter Contractor's premises, or any other places, where the Services are being performed, and must have access, upon reasonable request, to interim drafts of Deliverables or work-in-progress. Upon 10 Days prior written notice and at all reasonable times, the State's representatives must be allowed to inspect, monitor, or otherwise evaluate the work being performed and to the extent that the access will not reasonably interfere or jeopardize the safety or operation of the systems or facilities. Contractor must provide all reasonable facilities and assistance for the State's representatives.

### **2.112 Examination of Records**

For seven years after the Contractor provides any work under this Contract (the "Audit Period"), the State may examine and copy any of Contractor's books, records, documents and papers pertinent to establishing Contractor's compliance with the Contract and with applicable laws and rules. The State must notify the Contractor 20 days before examining the Contractor's books and records. The State does not have the right to review any information deemed confidential by the Contractor to the extent access would require the confidential information to become publicly available. This provision also applies to the books, records, accounts, documents and papers, in print or electronic form, of any parent, affiliated or subsidiary organization of Contractor, or any Subcontractor of Contractor performing services in connection with the Contract.

### **2.113 Retention of Records**

Contractor must maintain at least until the end of the Audit Period all pertinent financial and accounting records (including time sheets and payroll records, and information pertaining to the Contract and to the Services, equipment, and commodities provided under the Contract) pertaining to the Contract according to generally accepted accounting principles and other procedures specified in this Section. Financial and accounting records must be made available, upon request, to the State at any time during the Audit Period. If an audit, litigation, or other action involving Contractor's records is initiated before the end of the Audit Period, the records must be retained until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later.

**2.114 Audit Resolution**

If necessary, the Contractor and the State will meet to review each audit report promptly after issuance. The Contractor will respond to each audit report in writing within 30 days from receipt of the report, unless a shorter response time is specified in the report. The Contractor and the State must develop, agree upon and monitor an action plan to promptly address and resolve any deficiencies, concerns, and/or recommendations in the audit report.

**2.115 Errors**

(a) If the audit demonstrates any errors in the documents provided to the State, then the amount in error must 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 invoices. If a balance remains after four invoices, then the remaining amount will be due as a payment or refund within 45 days of the last quarterly invoice 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 10%, then the Contractor must pay all of the reasonable costs of the audit.

**2.120 Warranties****2.121 Warranties and Representations**

The Contractor represents and warrants:

(a) It is capable in all respects of fulfilling and must fulfill all of its obligations under this Contract. The performance of all obligations under this Contract must be provided in a timely, professional, and workman-like manner and must 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 the items in this Contract, Contractor must assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.

(e) The Contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into 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, must have, or must acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.

(h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or must 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 must 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 the 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 the financial statements, reports, other information. Since the respective dates or periods covered by the 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 for the 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 the 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 the department within the previous five years for the reason that Contractor failed to perform or otherwise breached an obligation of the Contract.

(n) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after Contract award, the Contractor is required to report those changes immediately to the Department of Management and Budget, Purchasing Operations.

**2.122 Warranty of Merchantability – Deleted / Not Applicable**

**2.123 Warranty of Fitness for a Particular Purpose – Deleted / Not Applicable**

**2.124 Warranty of Title – Deleted / Not Applicable**

**2.125 Equipment Warranty – Deleted / Not Applicable**

**2.126 Equipment to be New – Deleted / Not Applicable**

**2.127 Prohibited Products – Deleted / Not Applicable**

**2.128 Consequences For Breach**

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

**2.130 Insurance**

**2.131 Liability Insurance**

The Contractor must provide proof of the minimum levels of insurance coverage as indicated below. The insurance must 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 the 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 under this Contract.



All insurance coverage's 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 must 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 must have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if the ratings are no longer available, with a comparable rating from a recognized insurance rating agency. All policies of insurance required in this Contract must be issued by companies that have been approved to do business in the State.

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

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

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

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

3. Workers' compensation coverage must be provided according to 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 must 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 must 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 the office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to its replacement value, where the office space and its contents are under the care, custody and control of Contractor. The policy must 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 must be endorsed on the policy as a loss payee as its interests appear.

### **2.132 Subcontractor Insurance Coverage**

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor must 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) must 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.

### **2.133 Certificates of Insurance and Other Requirements**

Contractor must furnish to DMB-Purchasing Operations, certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "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) must 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 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. Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must provide evidence that the State 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.

The Contractor must maintain all required insurance coverage throughout the term of the Contract and any extensions and, in the case of claims-made Commercial General Liability policies, must secure tail coverage for at least three years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and must not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor is responsible for all deductibles with regard to the insurance. If the 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, then the State may, after the State has given the Contractor at least 30 days written notice, pay the premium or procure similar insurance coverage from another company or companies. The State may deduct any part of the cost from any payment due the Contractor, or the Contractor must pay that cost upon demand by the State.

### **2.140 Indemnification**

#### **2.141 General Indemnification**

To the extent permitted by law, the Contractor must indemnify, defend and hold harmless the State from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm or corporation that may be injured or damaged by the Contractor in the performance of 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.



**2.142 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.

**2.143 Employee Indemnification**

In any claims against the State of Michigan, its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the Contractor or any of its Subcontractors, the indemnification obligation under the Contract must not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Contractor or any of its Subcontractors under worker's disability compensation acts, disability benefit acts or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in provisions, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

**2.144 Patent/Copyright Infringement Indemnification**

To the extent permitted by law, the Contractor must indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that the action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its Subcontractors, or the operation of the equipment, software, commodity or service, or the use or reproduction of any documentation provided with the equipment, software, commodity or service infringes any United States patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States.

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

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

**2.145 Continuation of Indemnification Obligations**

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

**2.146 Indemnification Procedures**

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

(a) After the State receives notice of the action or proceeding involving a claim for which it will seek indemnification, the State must promptly notify Contractor of the claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to notify the Contractor relieves the Contractor of its indemnification obligations except to the extent that the Contractor can prove damages attributable to the failure. Within 10 days following receipt of written notice from the State relating to any claim, the Contractor must notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and before the State receiving Contractor's Notice of Election, the State is entitled to defend against the claim, at the Contractor's expense, and the Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during that period.



(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State is entitled to participate in the defense of the claim and to employ counsel at its own expense to assist in the handling of the claim and to monitor and advise the State about the status and progress of the defense; (ii) the Contractor must, at the request of the State, demonstrate to the reasonable satisfaction of the State, the Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) the Contractor must periodically advise the State about the status and progress of the defense and must obtain the prior written approval of the State before entering into any settlement of the claim or ceasing to defend against the claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State has the right, at its own expense, to control the defense of that portion of the claim involving the principles of Michigan governmental or public law. But the State may retain control of the defense and settlement of a claim by notifying the Contractor in writing within 10 days after the State's receipt of Contractor's information requested by the State under clause (ii) of this paragraph if the State determines that the Contractor has failed to demonstrate to the reasonable satisfaction of the State the Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State under this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

(c) If Contractor does not deliver a Notice of Election relating to any claim of which it is notified by the State as provided above, the State may defend the claim in the manner as it may deem appropriate, at the cost and expense of Contractor. If it is determined that the claim was one against which Contractor was required to indemnify the State, upon request of the State, Contractor must promptly reimburse the State for all the reasonable costs and expenses.

## **2.150 Termination/Cancellation**

### **2.151 Notice and Right to Cure**

If the Contractor breaches the Contract, and the State in its sole discretion determines that the breach is curable, then the State will provide the Contractor with written notice of the breach and a time period (not less than 30 days) to cure the Breach. The notice of breach and opportunity to cure is inapplicable for successive or repeated breaches or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage, or destruction of any real or tangible personal property.

### **2.152 Termination for Cause**

(a) The State may terminate this Contract, for cause, by notifying the Contractor in writing, if the Contractor (i) breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA), or (ii) fails to cure a breach within the time period specified in the written notice of breach provided by the State

(b) If this Contract is terminated for cause, the Contractor must pay 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 are not consequential, indirect or incidental damages, and cannot be excluded by any other terms otherwise included in this Contract, provided the costs are not in excess of 50% more than the prices for the Service/Deliverables provided under this Contract.

(c) If 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 must 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 must cease on the effective date of the termination.

(d) If the State terminates this Contract for cause under this Section, and it is determined, for any reason, that Contractor was not in breach of Contract under the provisions of this section, that termination for cause must be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties must be limited to that otherwise provided in this Contract for a termination for convenience.

**2.153 Termination for Convenience**

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

**2.154 Termination for Non-Appropriation**

(a) Contractor acknowledges that, if 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 must 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 must give Contractor at least 30 days advance written notice of termination for non-appropriation or unavailability (or the time as is available if the State receives notice of the final decision less than 30 days before the funding cutoff).

(b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise unavailable, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in the manner and for the periods of time as the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of the reduction.

(c) If the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor under this Section, the State must pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available. This Section will not preclude Contractor from reducing or stopping Services/Deliverables 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.

**2.155 Termination for 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 related to a State, public or private Contract or subcontract.

**2.156 Termination for Approvals Rescinded**

The State may terminate this Contract if any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services under Constitution 1963, Article 11, § 5, and Civil Service Rule 7-1. In that case, the State will pay the Contractor for only the work completed to that point under the Contract. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in the written notice.

**2.157 Rights and Obligations upon Termination**

(a) If the State terminates this Contract for any reason, the Contractor must (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from 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) transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of the Contract and which are resulting from the Contract (which must be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of the items included compensation to Contractor for the provision of warranty services in respect of the materials),



and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.

(b) If the State terminates this Contract before its expiration for its own convenience, the State must pay Contractor for all charges due for Services provided before the date of termination and, if applicable, as a separate item of payment under 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 under this Contract, at the option of the State, becomes the State's property, and Contractor is entitled to receive equitable fair compensation for the Deliverables. Regardless of the basis for the termination, the State is not obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.

(c) Upon a good faith termination, the State may assume, at its option, any subcontracts and agreements for services and deliverables provided under 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.

### **2.158 Reservation of Rights**

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

## **2.160 Termination by Contractor**

### **2.161 Termination by Contractor**

If the State breaches the Contract, and the Contractor in its sole discretion determines that the breach is curable, then the Contractor will provide the State with written notice of the breach and a time period (not less than 30 days) to cure the breach. The Notice of Breach and opportunity to cure is inapplicable for successive and repeated breaches.

The Contractor may terminate this Contract if the State (i) materially breaches its obligation to pay the Contractor undisputed amounts due and owing under this Contract, (ii) breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for the Contractor to perform the Services, or (iii) does not cure the breach within the time period specified in a written notice of breach. But the Contractor must discharge its obligations under **Section 2.190** before it terminates the Contract.

## **2.170 Transition Responsibilities**

### **2.171 Contractor Transition Responsibilities**

If the State terminates this Contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. If this Contract expires or terminates, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed 180 days. These efforts must include, but are not limited to, those listed in **Sections 2.171, 2.172, 2.173, 2.174, and 2.175**.

### **2.172 Contractor Personnel Transition**

The Contractor must work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties, to effect an orderly transition. The Contractor must allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by 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.

**2.173 Contractor Information Transition**

The Contractor agrees to provide reasonable detailed specifications for all Services/Deliverables needed by the State, or specified third party, to properly provide the Services/Deliverables required under 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.

**2.174 Contractor Software Transition**

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

**2.175 Transition Payments**

If the transition results from a termination for any reason, reimbursement must be governed by the termination provisions of 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 agreed upon by the State. The Contractor will prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

**2.176 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.

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

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by the Contract for a period of up to 90 calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order must be identified as a stop work order and must indicate that it is issued under this **Section 2.150**. Upon receipt of the stop work order, Contractor must immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State must either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.150**.

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

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

**2.183 Allowance of Contractor Costs**

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



## **2.190 Dispute Resolution**

### **2.191 In General**

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

### **2.192 Informal Dispute Resolution**

(a) All disputes between the parties must be resolved under the Contract Management procedures in this Contract. If the parties are unable to resolve any disputes after compliance with the processes, the parties must meet with the Director of Purchasing Operations, DMB, or designee, for the purpose of attempting to resolve the dispute without the need for formal legal proceedings, as follows:

- (i) The representatives of Contractor and the State must meet as often as the parties reasonably deem necessary to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives must discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.
- (ii) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract 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, must issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State's final action and the exhaustion of administrative remedies.

(b) This Section 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 under **Section 2.193**.

(c) The State will not mediate disputes between the Contractor and any other entity, except state agencies, concerning responsibility for performance of work under the Contract.

### **2.193 Injunctive Relief**

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

### **2.194 Continued Performance**

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



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

### **2.201 Nondiscrimination**

In the performance of the Contract, Contractor 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 under 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.

### **2.202 Unfair Labor Practices**

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

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

In performing Services for the State, the Contractor must 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 must 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>.

## **2.210 Governing Law**

### **2.211 Governing Law**

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

### **2.212 Compliance with Laws**

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

### **2.213 Jurisdiction**

Any dispute arising from the Contract must be resolved in the State of Michigan. 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 the jurisdiction on the grounds of lack of personal jurisdiction of the court or the laying of venue of the court or on the basis of forum non conveniens or otherwise. Contractor agrees to appoint agents in the State of Michigan to receive service of process.

## **2.220 Limitation of Liability**

### **2.221 Limitation of Liability**

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

**2.230 Disclosure Responsibilities****2.231 Disclosure of Litigation**

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

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

- (i) the ability of Contractor (or a Subcontractor) to continue to perform this Contract according to its terms and conditions, or
- (ii) whether Contractor (or a Subcontractor) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in the Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then the Contractor must provide the State all reasonable assurances requested by the State to demonstrate that:
  - (a) Contractor and its Subcontractors will be able to continue to perform this Contract and any Statements of Work according to its terms and conditions, and
  - (b) Contractor and its Subcontractors have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in the Proceeding.

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

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

**2.232 Call Center Disclosure – Deleted / Not Applicable****2.233 Bankruptcy**

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 the Works in Process by whatever appropriate method the State may deem expedient if:

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

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





## **2.240 Performance**

### **2.241 Time of Performance**

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

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

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

### **2.242 Service Level Agreements (SLAs) – Deleted / Not Applicable**

### **2.243 Liquidated Damages – Deleted / Not Applicable**

### **2.244 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 the 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 a party; provided the non-performing party and its Subcontractors are without fault in causing the default or delay, and the default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans.

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

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

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



## 2.250 Approval of Deliverables

### **2.251 Delivery Responsibilities – Deleted / Not Applicable**

### **2.252 Delivery of Deliverables**

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

### **2.253 Testing – Deleted / Not Applicable**

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

(a) All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, according to the following procedures. Formal approval by the State requires the State to confirm in writing that the Deliverable meets its specifications. Formal approval may include the successful completion of Testing as applicable in **Section 2.253**, to be led by the State with the support and assistance of Contractor. The approval process will be facilitated by ongoing consultation between the parties, inspection of interim and intermediate Deliverables and collaboration on key decisions.

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

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

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

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

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

**2.255 Process For Approval of Written Deliverables**

The State Review Period for Written Deliverables will be the number of days set forth in the applicable Statement of Work following delivery of the final version of the Deliverable (and if the Statement of Work does not state the State Review Period, it is by default five Business Days for Written Deliverables of 100 pages or less and 10 Business Days for Written Deliverables of more than 100 pages). The duration of the State Review Periods will be doubled if the State has not had an opportunity to review an interim draft of the Written Deliverable before its submission to the State. The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected before approval of the Deliverable (or at the State's election, after approval of the Deliverable). If the State notifies the Contractor about deficiencies, the Contractor 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.

**2.256 Process for Approval of Services**

The State Review Period for approval of Services is governed by the applicable Statement of Work (and if the Statement of Work does not state the State Review Period, it is by default 30 Business Days for Services). The State agrees to notify the Contractor in writing by the end of the State Review Period either stating that the Service is approved in the form delivered by the Contractor or describing any deficiencies that must be corrected before approval of the Services (or at the State's election, after approval of the Service). If the State delivers to the Contractor a notice of deficiencies, the Contractor 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. The 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.

**2.257 Process for Approval of Physical Deliverables – Deleted / Not Applicable****2.258 Final Acceptance**

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

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

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

**2.262 Vesting of Rights**

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

**2.263 Rights in Data**

(a) The State is the owner of all data made available by the State to the Contractor or its agents, Subcontractors or representatives under the Contract. The Contractor will not use the State's data for any purpose other than providing the Services, nor will any part of the State's data be disclosed, sold, assigned, leased or otherwise disposed of to the general public or to specific third parties or commercially exploited by or on behalf of the Contractor. No employees of the Contractor, other than those on a strictly need-to-know basis, have access to the State's data. Contractor will not possess or assert any lien or other right against the State's data. Without limiting the generality of this Section, the Contractor must only use personally identifiable information as strictly necessary to provide the Services and must disclose the information only to its employees who have a strict need-to-know the information. The Contractor must comply at all times with all laws and regulations applicable to the personally identifiable information.

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

**2.264 Ownership of Materials**

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

**2.270 State Standards****2.271 Existing Technology Standards**

The Contractor 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>.

**2.272 Acceptable Use Policy**

To the extent that Contractor has access to the State computer system, Contractor must comply with the State's Acceptable Use Policy, see <http://www.michigan.gov/ditservice>. All Contractor employees must be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State system. The State reserves the right to terminate Contractor's access to the State system if a violation occurs.

**2.273 Systems Changes**

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

**2.280 Extended Purchasing – Deleted / Not Applicable**



## 2.290 Environmental Provision

### **2.291 Environmental Provision**

Energy Efficiency Purchasing Policy – The State seeks wherever possible to purchase energy efficient products. This includes giving preference to U.S. Environmental Protection Agency (EPA) certified 'Energy Star' products for any category of products for which EPA has established Energy Star certification. For other purchases, the State may include energy efficiency as one of the priority factors to consider when choosing among comparable products.

Environmental Purchasing Policy – The State of Michigan is committed to encouraging the use of products and services that impact the environment less than competing products. The State is accomplishing this by including environmental considerations in purchasing decisions, while remaining fiscally responsible, to promote practices that improve worker health, conserve natural resources, and prevent pollution. Environmental components that are to be considered include: recycled content and recyclability; energy efficiency; and the presence of undesirable materials in the products, especially those toxic chemicals which are persistent and bioaccumulative. The Contractor should be able to supply products containing recycled and environmentally preferable materials that meet performance requirements and is encouraged to offer such products throughout the duration of this Contract. Information on any relevant third party certification (such as Green Seal, Energy Star, etc.) should also be provided.

#### Hazardous Materials:

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

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

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

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the Contractor must resume Work as directed in writing by the State. Any determination by the Michigan Department of Community Health or the Michigan Department of Environmental Quality that the Hazardous Material has either been removed or rendered harmless is binding upon the State and Contractor for the purposes of resuming the Work. If any incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.212** for a time as mutually agreed by the parties.

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



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

**Refrigeration and Air Conditioning:**

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

**Environmental Performance:**

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



**Attachment A  
Pricing**

**CONTRACT PERIOD – YEAR ONE**

<b>Required Task</b>	<b>Hourly Rate (\$)</b>	<b>Estimated Total Hours (#)</b>	<b>Estimated Total Cost (\$)</b>
1. Prepare Monthly Sample	\$114.00	440	\$50,160
2. Review Sample Cases	\$95.00	2750	\$261,250
3. Conduct Ex Parte Reviews	\$114.00	825	\$94,050
4. Prepare Monthly Findings	\$114.00	240	\$27,360
5. Build Database	\$133.00	40	\$5,320
6. Quality Assurance	\$144.40	300	\$43,320
7. Equipment Costs			\$0.00
8. General Admin. Costs			\$33,630
<b>TOTAL</b>			<b>\$515,090</b>

**CONTRACT PERIOD – YEAR TWO**

<b>Required Task</b>	<b>Hourly Rate (\$)</b>	<b>Estimated Total Hours (#)</b>	<b>Estimated Total Cost (\$)</b>
1. Prepare Monthly Sample	\$117.80	280	\$32,984
2. Review Sample Cases	\$98.80	1750	\$172,900
3. Conduct Ex Parte Reviews	\$117.80	525	\$61,845
4. Prepare Monthly Findings	\$117.80	195	\$22,971
5. Build Database	\$136.80	40	\$5,472
6. Quality Assurance	\$148.20	185	\$27,417
7. Equipment Costs			\$0
8. General Admin. Costs			\$34,200
<b>TOTAL</b>			<b>\$357,789</b>



**CONTRACT PERIOD – YEAR THREE**

Required Task	Hourly Rate (\$)	Estimated Total Hours (#)	Estimated Total Cost (\$)
1. Prepare Monthly Sample	\$121.60	240	\$29,184
2. Review Sample Cases	\$102.60	1500	\$153,900
3. Conduct Ex Parte Reviews	\$121.60	450	\$54,720
4. Prepare Monthly Findings	\$121.60	120	\$14,592
5. Build Database	\$140.60	0	\$0
6. Quality Assurance	\$152.00	135	\$20,520
7. Equipment Costs			\$0
8. General Admin. Costs			\$34,770
<b>TOTAL</b>			<b>\$307,686</b>

**ESTIMATED CONTRACT VALUE FOR THREE YEARS**

Contract Period	Estimated Total Cost
Estimated Total Cost – Contract Year One	\$515,090
Estimated Total Cost – Contract Year Two	\$357,789
Estimated Total Cost – Contract Year Three	\$307,686
<b>ESTIMATED CONTRACT VALUE FOR THREE YEARS</b>	<b>\$1,180,565</b>





**Attachment B**  
**Relevant References and Web Links**

Public Law 107-300, The Improper Payments Information Act (IPIA) of 2002, was enacted by Congress on November 26, 2002. (This act can be found at <http://thomas.loc.gov/bss/d107/d107laws.html>.)

On August 31, 2007 CMS issued a final rule with regulations for the Medicaid and SCHIP PERM process (42 CFR Parts 431 and 457) to meet the requirements of the IPIA. The Federal Register including these regulations (Vol. 72, No. 169) can be found on the CMS web site at <http://www.cms.hhs.gov/PERM/Downloads/PERM%20Final%20Reg.pdf>. This Federal Register also includes information regarding CMS' estimation of cost for the performance of PERM activities.

Additional federal requirements and guidance from CMS regarding the PERM process are available at: <http://www.cms.hhs.gov/PERM>

Statistical information regarding the Michigan Medicaid caseload, including the number of applications received monthly, is available at: [http://www.michigan.gov/dhs/0,1607,7-124-5458\\_7696\\_10830---,00.html](http://www.michigan.gov/dhs/0,1607,7-124-5458_7696_10830---,00.html).

The State of Michigan's Medicaid eligibility policies and procedures are contained in the *Program Administrative Manual* and *Program Eligibility Manual* available online at: <http://www.mfia.state.mi.us/olmweb/ex/html>.



### Attachment C Glossary of Pertinent Terms

**Active Case** – A case containing information on an individual who is enrolled in the Medicaid or SCHIP program in the month that eligibility is reviewed.

**Applicant** – A person applying for public assistance under Medicaid and SCHIP.

**Beneficiary** – An applicant for, or recipient of, Medicaid or SCHIP benefits.

**Case** – An individual beneficiary.

**CMS** – Centers for Medicare & Medicaid Services, the federal agency under the U.S. Department of Health and Human Services (DHHS) that oversees the Medicaid and SCHIP programs.

**CMS Corrective Action Plan** – The detailed written plan required by CMS to correct or resolve any errors identified during the PERM reviews.

**Corrective Action Plan** – The detailed written plan required by DCH to correct or resolve a deficiency or event causing the assessment of liquidated damage(s) or sanction(s) against the Contractor.

**DCH** – The Michigan Department of Community Health.

**DHS** – The Michigan Department of Human Services.

**DHS Local Offices** – County-based offices within the Department of Human Services that determine Medicaid eligibility and maintain Medicaid case files.

**DMB** – The Michigan Department of Management and Budget.

**Documentation** – Materials and information, in addition to what is entered into the eligibility information system, that are required to complete the case review and determine eligibility for Medicaid and SCHIP. See the policy and procedures manual referenced in Attachment B.

**Dual Eligible** – An individual who is eligible to receive services through both the Medicare and the Medicaid programs.

**Eligible or Eligibility** – Meeting Michigan's criteria for receiving benefits under the Michigan Medicaid and SCHIP programs.

**Error Report** – A report providing a detailed listing of errors that resulted from a file transfer, file match and or file update.

**FFY or Federal Fiscal Year** – the one-year period used by the Federal government for accounting purposes that begins October 1 and ends September 30 of the following calendar year.

**HIPAA or Health Insurance Portability and Accountability Act** – A law enacted in 1996 by the Congress of the United States. When referenced in this Contract it includes all related rules, regulations and procedures.

**Information** – (i.) Structured Data: Data that adhere to specific properties and validation criteria that are stored as fields in database records. Structured queries can be created and run against structured data, where specific data can be used as criteria for querying a larger data set. (ii.) Document: Information that does not meet the definition of structured data includes text, files, spreadsheets, electronic messages and images of forms and pictures.

**Information System/Systems** – A combination of computing hardware and software that is used in: (a) the capture, storage, manipulation, movement, control, display, interchange or transmission of information, or both, i.e. structured data (which may include digitized audio and video) and document; or (b) the processing of such information for the purposes of enabling or facilitating, or both, a business process or related transaction.



**IPIA or Improper Payments Information Act of 2002** – The law enacted by Congress in 2002 (P.L. 107-300) resulting in the Payment Error Rate Measurement Program.

**Medicaid** –the health care coverage program, created in 1965 by Title XIX of the Social Security Act, which provides coverage for low-income people and long-term care coverage for low-income elderly. Coverage groups include: pregnant women and children; members of families with a dependent child; those who are disabled or blind, or those age 65 or older. Medicaid is regulated by the U.S. Department of Health and Human Services (DHHS) through the Centers for Medicare & Medicaid Services (CMS). The Department of Community Health has been designated the single state agency responsible for administering this program in Michigan.

**Medicaid Eligibility Policies and Procedures** – The state’s Medicaid eligibility policies and procedures manual are contained in the *Program Administrative Manual* and *Program Eligibility Manual* available online. See Attachment B.

**MMIS or Medicaid Management Information System** – Computerized system used for the processing, collecting, analysis, and reporting of information needed to support Medicaid and SCHIP claims payment functions. The MMIS consists of all required subsystems as specified in the State Medicaid Manual.

**MSA or Medical Services Administration** – The organizational unit within the Department of Community Health responsible for day-to-day operations of the Medicaid program in Michigan, including the development of Medicaid and SCHIP eligibility policy.

**Negative Case** – A case containing information on an individual who applied for Medicaid or SCHIP benefits and was denied, or whose program benefits were terminated, based on an eligibility determination or on a completed redetermination or renewal. Cases where the application or the redetermination were incomplete are excluded.

**PERM or Payment Error Rate Measurement** – A new federal program set forth by the Improper Payments Information Act of 2002 designed to reduce the rate of improper payments in Medicaid and SCHIP programs.

**Quality Assurance** – Planned and systematic actions established to ensure that a business function is performed and data are generated, documented (recorded), and reported in compliance with State and Federal policy, applicable regulatory requirements and the terms of the Contract resulting from the RFP.

**Review Month** – The month in which eligibility is reviewed and is generally when the last action to grant or redetermine eligibility was taken. If the last action was taken beyond 12 months prior to the sample month, the review month becomes the sample month.

**Review Year** – The federal fiscal year being analyzed for PERM eligibility errors. For Michigan, the FFY is 2009 – October 1, 2008 through September 30, 2009. Michigan will again participate in the PERM review process every three years thereafter.

**RFP** – Request for Proposals.

**Sample Month** – The month in which the case is pulled for review.

**SCHIP or State Children’s Health Insurance Program** – The health insurance program created in 1998 by Title XXI of the Social Security Act to provide coverage for uninsured children under the age of nineteen (19). Michigan operates a stand-alone program (MICHild) and a Medicaid expansion program (Healthy Kids) to provide healthcare coverage for uninsured children.

**SFY or State Fiscal Year** – The one-year period used by Michigan state government, for accounting purposes, that begins October 1 and ends September 30 of the following calendar year. Michigan’s fiscal year is the same as the federal fiscal year.

**SSI or Supplemental Security Income** – A federal program of cash assistance for low-income persons meeting federal disability criteria. For states like Michigan with a federal “1634 Agreement” these individuals also receive full Medicaid benefits.

**SSI Certification Letters** – Letters issued by the Social Security Administration (SSA) documenting current and past Social Security benefit eligibility information.