



Form

STATE OF MICHIGAN ENTERPRISE PROCUREMENT

Michigan Office of State Employer
400 S. Pine Street. Lansing, MI 48933

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. 071B7700115

between
THE STATE OF MICHIGAN
and

CONTRACTOR	York Risk Services Group, Inc.
	645 W. Grand River Ave., Suite 100
	Howell, MI 48843
	Scott Gaffner
	(517) 338-3349
	Scott.gaffner@yorkrsg.com
	3636

STATE	Program Manager	Cheryl Schmittdiel	OSE
		(517) 373-7400	
		Schmittdielc@michigan.gov	
	Contract Administrator	Dan Stevens	DTMB
		(517) 284-7049	
		StevensD6@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION: Third Party Claims Administration Services For Workers Compensation			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
March 30, 2017	March 29, 2020	5 – 1 year	March 29, 2020
PAYMENT TERMS		DELIVERY TIMEFRAME	
2NET21 and Net 45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			
MISCELLANEOUS INFORMATION			
THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing RFP No. 007116B0008468. Orders for delivery will be issued directly by Departments through the issuance of a Purchase Order Form.			
ESTIMATED ADMINISTRATION FEES AT TIME OF EXECUTION			\$3,776,247.00

For the Contractor:

[Redacted]
[Redacted]

Date

For the State:

Tom Falik
Services Division Director
State of Michigan

Date



STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and York Risk Services Group a Michigan Corporation. This Contract is effective on March 30, 2017 (“**Effective Date**”), and unless terminated, expires on March 29, 2020.

This Contract may be renewed for up to 5 additional 1 year period(s). Renewal must be by written agreement of the parties, and will automatically extend the Term of this Contract.

The parties agree as follows:

1. **Duties of Contractor.** Contractor must perform the services and provide the deliverables described in **Exhibit A – Statement of Work** (the “**Contract Activities**”). An obligation to provide delivery of any commodity is considered a service and is a Contract Activity.

Contractor must furnish all labor, equipment, materials, and supplies necessary for the performance of the Contract Activities, and meet operational standards, unless otherwise specified in Exhibit A.

Contractor must: (a) perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b) meet or exceed the performance and operational standards, and specifications of the Contract; (c) provide all Contract Activities in good quality, with no material defects; (d) not interfere with the State’s operations; (e) obtain and maintain all necessary licenses, permits or other authorizations necessary for the performance of the Contract; (f) cooperate with the State, including the State’s quality assurance personnel, and any third party to achieve the objectives of the Contract; (g) return to the State any State-furnished equipment or other resources in the same condition as when provided when no longer required for the Contract; (h) not make any media releases without prior written authorization from the State; (i) assign to the State any claims resulting from state or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the Contract; (j) comply with all State physical and IT security policies and standards which will be made available upon request; and (k) provide the State priority in performance of the Contract except as mandated by federal disaster response requirements. Any breach under this paragraph is considered a material breach.

Contractor must also be clearly identifiable while on State property by wearing identification issued by the State, and clearly identify themselves whenever making contact with the State.

2. **Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

If to State:	If to Contractor:
Dan Stevens 525 West Allegan St, 1 st Flr NE Lansing, MI. 48909 StevensD6@michigan.gov (517) 284-7049	Robert Dewey, VP- Client Services 625 Kenmoor SE, Suite 217 Grand Rapids, MI 49546 robert.dewey@yorkrsg.com 616-222-3970

3. **Contract Administrator.** The Contract Administrator for each party is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a “**Contract Administrator**”):

State:	Contractor:
Dan Stevens 525 West Allegan St, 1 st Flr NE Lansing, MI. 48909 StevensD6@michigan.gov (517) 284-7049	Scott W. Gaffner, CIC, CRM York Risk Services Group 645 W. Grand River Ave., Suite 100 Howell, MI 48843 Scott.Gaffner@yorkrsg.com 517-338-3349

4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a “**Program Manager**”):

State:	Contractor:
Cheryl Schmittziel, Deputy Director Office of the State Employer 400 South Pine Street Lansing, MI 48909 Schmittzielc@michigan.gov 517-373-7400	Chad Johnson York Risk Services Group 645 W. Grand River Ave., Suite 100 Howell, MI 48843 Chad.Johnson@yorkrsg.com 517-338-3264

5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in Exhibit A) if, in the opinion of the State, it will ensure performance of the Contract.

6. **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by a company with an A.M. Best rating of "A" or better, and a financial size of VII or better.

Required Limits	Additional Requirements
Commercial General Liability Insurance	
<p><u>Minimal Limits:</u></p> <p>\$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations</p> <p><u>Deductible Maximum:</u></p> <p>\$50,000 Each Occurrence</p>	<p>Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 0.</p> <p>Coverage must not have exclusions or limitations related to sexual abuse and molestation liability.</p>
Umbrella or Excess Liability Insurance	
<p><u>Minimal Limits:</u></p> <p>\$5,000,000 General Aggregate</p>	<p>Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds.</p>
Automobile Liability Insurance	
<p><u>Minimal Limits:</u></p> <p>\$1,000,000 Per Occurrence</p>	<p>Contractor must have their policy: (1) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.</p>
Workers' Compensation Insurance	
<p><u>Minimal Limits:</u></p> <p>Coverage according to applicable laws governing work activities.</p> <p><u>Minimal Limits:</u></p> <p>\$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.</p>	<p>Waiver of subrogation, except where waiver is prohibited by law.</p>
Privacy and Security Liability (Cyber Liability) Insurance	
<p><u>Minimal Limits:</u></p> <p>\$1,000,000 Each Occurrence \$1,000,000 Annual Aggregate</p>	<p>Contractor must have their policy: (1) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.</p>

Crime (Fidelity) Insurance	
<u>Minimal Limits:</u> \$1,000,000 Employee Theft Per Loss	Contractor must have their policy: (1) cover forgery and alteration, theft of money and securities, robbery and safe burglary, computer fraud, funds transfer fraud, money order and counterfeit currency, and (2) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as Loss Payees.
Professional Liability (Errors and Omissions) Insurance	
<u>Minimal Limits:</u> \$3,000,000 Each Occurrence \$3,000,000 Annual Aggregate <u>Deductible Maximum:</u> \$50,000 Per Loss	

If any of the required policies provide **claims-made** coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of Contract Activities; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Contract Activities; and (c) if coverage is canceled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or purchase order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

This Section is not intended to and is not be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

7. **MiDEAL Administrative Fee and Reporting.** Contractor must pay an administrative fee of 1% on all MiDEAL payments made to Contractor under the Contract including transactions with MiDEAL members and other states (including governmental subdivisions and authorized entities). Administrative fee payments must be made by check payable to the State of Michigan and mailed to:

Department of Technology, Management and Budget
 Financial Services – Cashier Unit
 Lewis Cass Building
 320 South Walnut St.

P.O. Box 30681
Lansing, MI 48909

Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales. Reports should be mailed to DTMB-Procurement.

The administrative fee and purchasing activity report are due within 30 calendar days from the last day of each calendar quarter.

- 8. Extended Purchasing Program.** Upon written agreement between the State and Contractor, this Contract may be extended to: (a) MiDEAL members, (b) other states (including governmental subdivisions and authorized entities), or (c) State of Michigan employees. MiDEAL members include local units of government, school districts, universities, community colleges, and nonprofit hospitals. A current list of MiDEAL members is available at www.michigan.gov/mideal.

If extended, Contractor must supply all Contract Activities at the established Contract prices and terms, and the State reserves the right to impose an administrative fee and negotiate additional discounts based on any increased volume generated by such extensions.

Contractor must submit invoices to, and receive payment from, extended purchasing program members on a direct and individual basis.

- 9. Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor. Contractor hereby acknowledges, except for Contractor Technology contained herein, that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein. Further, Contractor grants the State a perpetual, royalty free, fully paid, and irrevocable license to Contractor Technology that are part of the Contract Activities. For purposes of this section, "Contractor Technology" means all works of authorship, materials, information and other intellectual property created prior to or independently of the performance of the services, or created by Contractor or its subcontractors as a tool for their use in performing the services, plus any modifications or enhancements thereto and derivative works based thereon. Any pre-existing software applications of Contractor, whether embedded in a Contract Activity or stand alone, will be independently licensed. The State may grant Contractor a license in work made for hire under the terms of the Contract

- 10. Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation, and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make

all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.

11. **Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
12. **Background Checks.** Upon request, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.
13. **Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.
14. **Change of Control.** Contractor will notify, at least 90 calendar days before the effective date, the State of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

15. **RESERVED.**

16. **Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in Exhibit A. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted, but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 23, Termination for Cause.

Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any Contract Activities, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Contract Activities to the State. If acceptance with deficiencies or rejection of the Contract Activities impacts the content or delivery of other non-completed Contract Activities, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract. However, nothing herein affects, alters, or relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract.

If Contractor is unable or refuses to correct the deficiency within the time response standards set forth

in this Contract, the State may cancel the order in whole or in part. The State, or a third party identified by the State, may perform the Contract Activities and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.

17. RESERVED.

18. Risk of Loss and Title. Until final acceptance, title and risk of loss or damage to Contract Activities remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Contract Activities, Contractor must remove them from the premises within 10 calendar days after notification of rejection. The risk of loss of rejected or non-conforming Contract Activities remains with Contractor. Rejected Contract Activities not removed by Contractor within 10 calendar days will be deemed abandoned by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Contract Activities.

19. RESERVED.

20. Terms of Payment. Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities performed as specified in Exhibit A. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the State's exclusive use. Notwithstanding the foregoing, all prices are inclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

The State has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. The State will notify Contractor of any dispute within a reasonable time. Payment by the State will not constitute a waiver of any rights as to Contractor's continuing obligations, including claims for deficiencies or substandard Contract Activities. Contractor's acceptance of final payment by the State constitutes 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 disputed.

The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/cpexpress> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment.

Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

21. Reserved.

22. Stop Work Order. The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or purchase order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.

- 23. Termination for Cause.** The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the State to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 24, Termination for Convenience.

The State will only pay for amounts due to Contractor for Contract Activities accepted by the State on or before the date of termination, subject to the State's right to set off any amounts owed by the Contractor for the State's reasonable costs in terminating this Contract. The Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the State incurs to procure the Contract Activities from other sources.

- 24. Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 25, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities.

- 25. Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 180 calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.

- 26. General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements,

representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any negligent acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations.

The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding at its expense; (iii) employ its own counsel at its expense; and to (iv) retain control of the defense at its expense if the State deems necessary. Contractor will not, without the State's written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. To the extent that any State employee, official, or law may be involved or challenged, the State may, at its own expense, control the defense of that portion of the claim.

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. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

- 27. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against 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.
- 28. Limitation of Liability.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
- 29. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.
- 30. RESERVED.**
- 31. State Data.**
- a. Ownership. The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) the State's data collected, used, processed, stored, or generated as the result of the Contract Activities; (b) personally identifiable information ("**PII**")

collected, used, processed, stored, or generated as the result of the Contract Activities, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and, (c) personal health information ("PHI") collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State. This Section survives the termination of this Contract.

- b. Contractor Use of State Data. Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Contract Activities. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Contract Activities, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This Section survives the termination of this Contract.
- c. Extraction of State Data. Contractor must, within five (5) business days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the State Data in the format specified by the State.
- d. Backup and Recovery of State Data. Unless otherwise specified in Exhibit A, Contractor is responsible for maintaining a backup of State Data and for an orderly and timely recovery of such data. Unless otherwise described in Exhibit A, Contractor must maintain a contemporaneous backup of State Data that can be recovered within two (2) hours at any point in time.
- e. Loss of Data. In the event of any act, error or omission, negligence, misconduct, or breach that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within 5 calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twenty-four (24) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable

from the State in connection with the occurrence; (g) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and, (h) provide to the State a detailed plan within 10 calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. This Section survives the termination of this Contract.

32. Non-Disclosure of Confidential Information. The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this Contract.

- a. Meaning of Confidential Information. For the purposes of this Contract, the term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.
- b. Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to 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 responsibilities; 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 or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
- c. Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to

violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.

- d. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.
- e. Surrender of Confidential Information upon Termination. Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party.

33. Data Privacy and Information Security.

- a. Undertaking by Contractor. Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the State Data; (b) protect against any anticipated threats or hazards to the security or integrity of the State Data; (c) protect against unauthorized disclosure, access to, or use of the State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, which are available to Contractor upon request.
- b. Audit by Contractor. No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to the State.
- c. Right of Audit by the State. Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. During the providing of the Contract Activities, on an ongoing basis from time to time and without notice, the State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the State, Contractor agrees to complete, within 45 calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.
- d. Audit Findings. Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.

- e. State's Right to Termination for Deficiencies. The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this Section.

34. **RESERVED.**

35. **RESERVED.**

36. **Records Maintenance, Inspection, Examination, and Audit.** The State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain, and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Contract Activities are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If any financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Contract must be paid or refunded within 45 calendar days.

This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

37. **Warranties and Representations.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; and (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 23, Termination for Cause.

38. **Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

- 39. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 40. RESERVED.**
- 41. RESERVED.**
- 42. Nondiscrimination.** Under the Elliott-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.*, Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, or mental or physical disability. Breach of this covenant is a material breach of this Contract.
- 43. Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
- 44. Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
- 45. Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 46. Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
- 47. Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.
- Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely, or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.
- 48. Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.

- 49. Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
- 50. Order of Precedence.** In the event of a conflict between the terms and conditions of the Contract, the exhibits, a purchase order, or an amendment, the order of precedence is: (a) the purchase order; (b) the amendment; (c) Exhibit A; (d) any other exhibits; and (e) the Contract.
- 51. Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 52. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 53. Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.
- 54. Entire Contract and Modification.** This Contract is the entire agreement and replaces all previous agreements between the parties for the Contract Activities. This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**").

STATE OF MICHIGAN

Contract # 071B7700115
Workers' Compensation Third Party Administration Services

EXHIBIT A STATEMENT OF WORK CONTRACT ACTIVITIES

PROJECT REQUEST

This Contract is to provide third party claims administration for Workers' Disability Compensation for State of Michigan employees. The Contractor must, in part, provide claims administration, claim processing, claim reporting and record keeping, overpayment recovery, subrogation, return-to-work support, dispute resolution, auditing and billing, claim reserving claims investigation and litigation support.

The effective date of the contract will be March 30, 2017 through March 29, 2020 with five optional one year renewals.

BACKGROUND

The State of Michigan is self-insured for its obligations pursuant to the Worker's Disability Compensation Act and provides for wage loss and medical payments for workers' compensation disability (work related) injuries and illnesses incurred by state employees.

1. Requirements

1.1 Systems Compatibility

- a) The State of Michigan's Human Resource Management Network (HRMN) system utilizes Lawson software. The Contractor must interface via electronic data feed with this system to upload and download all claim information as defined by the State. Refer to (Exhibit F) "Performance Standards" for employee demographics. Electronic interface with the Long Term Disability (LTD) Third Party Administrator (TPA) is required.
- b) Contractor is responsible for any changes, and any associated costs therein, to their systems or processes required to support the receipt and processing of State of Michigan files. Electronic protocols for electronic data transfer will be consistent with the State of Michigan Information Technology (IT), technical policies, standards and procedures.
- c) RESERVED.
- d) Contractor's types of measurement tools used to assess customer satisfaction and quality assurance.
 - *Third party consultant to conduct engagement surveys of existing clients.*
 - *Annual Stewardship meeting with Key clients to assess quality and satisfaction.*
 - *Annual Client Focus Group of key partners to obtain feedback on Contractor's performance and future initiatives.*
 - *Direct electronic survey to client stakeholders allowing discreet and anonymous feedback- performed annually.*
- e) Contractor's methodologies to solicit feedback about services rendered by client, and monitor and track complaints.

Contractor will assign a Senior Account Executive to monitor performance and obtain feedback on services provided. This will be done via routine meetings, project calls and in-person risk management meetings with contractor's clients. Complaints, issues and needs are tracked via Customer Relationship Management tool. This tool is used to document the progress and completion of open projects, tasks and issues.

- f) Contractors tracking system to monitor the types, frequency, progress and resolution of complaints and grievances.

Contractor's tracking system will monitor types, frequency, progress and resolution of complaints. Changes in procedure are documented in contractor's Client Service Handling instructions, which are stored both within the tracking system and the claims system.

1.2 Environment

The links below provide information on the State's Enterprise information technology (IT) policies, standards and procedures which includes security policy and procedures, eMichigan web development, and the State Unified Information Technology Environment (SUITE).

Contractors must conform to State IT policies and standards. All services and products provided must comply with all applicable State IT policies and standards.

Enterprise IT Policies, Standards and Procedures:

http://michigan.gov/dtmb/0,4568,7-150-56355_56579_56755---,00.html

All software and hardware items provided by the Contractor must run on and be compatible with the MDTMB Standard Information Technology Environment. Additionally, the State must be able to maintain software and other items produced as the result of the Contract. Therefore, non-standard development tools may not be used unless approved by MDTMB. The Contractor must request, in writing, approval to use non-standard software development tools, providing justification for the requested change and all costs associated with any change. The MDTMB Project Manager must approve any tools, in writing, before use on any information technology project.

It is recognized that technology changes rapidly. The Contractor may request, in writing, a change in the standard environment, providing justification for the requested change and all costs associated with any change. The State's Project Manager must approve any changes, in writing, and MDTMB, before work may proceed based on the changed environment.

Enterprise IT Security Policy and Procedures:

<http://www.michigan.gov/documents/dmb/1210.32.pdf>

http://www.michigan.gov/documents/dmb/1325_193160_7.pdf

http://www.michigan.gov/documents/dmb/1335_193161_7.pdf

http://www.michigan.gov/documents/dmb/1340_193162_7.pdf

The State's security environment includes:

- MDTMB Single Login.
- MDTMB provided SQL security database.
- Secured Socket Layers.
- SecureID (State Security Standard for external network access and high risk Web systems)

MDTMB requires that its single - login security environment be used for all new client-server software development. Where software is being converted from an existing package, or a client-server application is being purchased, the security mechanism must be approved in writing by the State's Project Manager and MDTMB Office of Enterprise Security.

1.3 Accessibility

The State of Michigan, Office of the State Employer and others as designated by the Program Manager, shall have electronic access to, and be able to copy into a Microsoft Office format, all claim information maintained by the third-party administrator. Such electronic information shall include all information necessary to identify and determine current status and all activity performed for a claim.

- a) Contractor's level of electronic access along with the amount of claim detail provided.

Contractor offers a front end system, a risk management tool that will provide instant access to the information in a format requested by the State. Contractor's system provides data visualization, an expanding library of customizable reports and interactive tools which transform volumes of data into useful, impactful information that can be understood at a glance. Available on all data platforms, including tablets and other mobile devices.

- b) RESERVED.

1.4 Turnaround Times

The Contractor must provide services as described in this Contract on an accurate and timely basis as described elsewhere in this Contract. Claim accuracy is defined by industry standards.

- a) Contractor's claims processing procedures and edits that are applied when claims are opened, pending, approved or denied.

Contractor's system shall not allow for claim registration without an active service contract. When the claim is registered, it will be assigned to the adjuster designated to the State. Any missing information (such as date of birth, return to work date, etc.) is communicated to the adjuster from Contractors' intake center via claim note. All new claims are assigned a diary to the designated adjuster and their unit manager. Contractor's system will track pending, approved and denied claims.

- b) Contractor's time standard for making a disability determination.

Contractor's determinations to accept, delay or deny a claim will be made within 5 business days upon receipt of all necessary information.

- c) Contractor's standard for tracking compliance.

Contractor audits claim adjusters quarterly for compliance with best practices. Adjusters' results are tied to annual performance goals. Training is conducted for any individual not attaining at least a 90% score on their audit. Contractor's unit manager will maintain a diary on every open claim. The unit manager will be able to identify trends and provide training opportunities and trends through the management of the diary.

1.5 Claims Intake

- a) The Contractor will be able to receive claims by any method, including telephone (toll-free), facsimile (fax), e-mail, regular mail delivery, electronic data transfer, and Internet based claim services. The Contractor must implement any of these claim-reporting methodologies upon request.
- b) Contractor will develop protocols for electronic data transfer that are consistent with the State of Michigan requirements to ensure data security; see section 1.2 Environment.

- c) The Contractor must develop, at their own expense, the necessary electronic interfaces or file transfer protocols to allow such electronic file transfer to occur. These must comply with all State of Michigan data security provisions.

Contractor will provide and make any additional interfaces or modifications as required at contractor's own expense and will comply with the State of Michigan data security provisions.

- d) The Contractor must also interface with the long-term disability third party administrator.

Contractor will create any additional interfaces or modifications at their own expense if the need arises.

- e) Contractor's process of notification to the employer and injured worker of your receipt of claim (Indemnity and Medical only).

All claims received by Contractor will be faxed (or by other method acceptable to the State) within 24 hours to the department case managers. The faxes will contain the following data: location name, claim number, claimant's name employee number, date of injury, an injury description, claim type, adjuster and the claim's open date. Within 24 hours after a claim is registered into the claims platform, an introductory letter with an informational packet is mailed to the employee for both indemnity and medical only claims.

- f) Contractor's types of data captured; level of automated edits used to support triage decisions; types of standards used to triage the case and steps to initiate disability case management intervention.

Contractor's claim registration captures demographic information: name, address, age, social security number; as well as detail surrounding the type and cause of injury, body part injured, occupational and location coding. All relevant data from the investigation, medical, and legal arenas are placed in the claim system.

The initial assignment to the claim adjuster will be completed at the claim supervision level. Contractor's system indexing will alert at the time of claim registration of any prior events for that injured employee. Severe injuries will be immediately "round-tabled" with the Claim Adjuster and Claim Management.

Decisions to involve case management will be completed at the earliest intervention stage. Assignments are subsequently directed to the appropriate case manager under Contractor's direction. All medical nurse Case Managers work within Contractor's written medical management standards.

Contractor's system will continuously reviews claims looking for certain "triggers" – specific characteristics of claims that are key drivers for increasing the claim duration and the cost of indemnity and medical benefits. Whenever one of those triggers is found, the system will automatically alerts one of the Clinical Review Nurses. Refer to (Exhibit G) "Workers' Compensation Claim Flow Chart".

1.6 Claim Investigation

- a) All indemnity claims require a 3 point contact be initiated within 1 business day of receipt of claim by Contractor and documented in the claim file. A 3 point contact must include: employee interview, interview with employee agency (including supervisor as required), and medical provider to confirm the injury description, initial diagnosis, estimated length of disability, treatment plan and employee physical capabilities (work status).

- b) As a representative of the State of Michigan, contact with employees by the Contractor must be conducted in a polite and professional manner. Examiners or other representatives of the Contractor who fail to conduct themselves in a manner deemed inappropriate by the State of Michigan must be removed from the State account. The Project Manager and Program Manager will establish specific evaluation criteria. The decision of the State shall be final.
- c) The Contractor must assist the State in developing informational material that informs the employee of their rights and responsibilities under the Worker's Disability Compensation Act and must assure that information is readily provided to assist employees.

Additionally, Contractors' Mobile App (e.g. ClaimDirect™) will be available to injured employees providing injured workers with the convenience of anytime access to their workers' compensation claim information right from their smartphone. Injured workers will be able to securely connect to their vital workers' compensation data, staying up-to-date. In addition to information about their claim, injured workers can: access their pharmacy benefit card, find physicians in network, submit mileage for reimbursement and submit return to work information.

- d) The Contractor must document all attempts to contact, and all contacts with the employee, the employer, and the treating provider. The information obtained from these contacts must be accurately documented in the claim file. This information will be the basis for any subsequent decisions relative to the payment or denial of the claim and must be placed in the file within 24 hours of contact.
- e) Contractor's management reports generated daily to depict the frequency, type and outcomes of contacts.

Contractor has multiple levels of oversight monitoring the frequency, type and outcomes of contacts.

1. *Unit Manager Dashboard*

- a. *The Unit Manager has a dashboard of adjuster oversight metrics that is updated nightly. Included in the metrics is a dashboard for "claims requiring attention". This itemizes claims that have either not yet had a contact initiated, or not completed. This allows for re-distribution of these auditable actions to other employees.*

2. *Claim System Detailed Reports*

- a. *Management has access to "Note Detail" reports by adjuster that provide detail reports of note contents by note type and keyword.*

3. *Phone Monitoring Reports*

- a. *Contractor will record 100% of the phone calls. The manager can listen to any call and will do so when there is a complaint as to the professionalism and courtesy of Contractor's staff. The phone system provides detailed reports as the events of the calls including call times, duration and phone numbers.*

1.7 State Access to Files

Upon providing reasonable verbal or written notice to the Contractor of the need for such information, the State of Michigan must receive all paper and electronic files and have electronic and paper access to any and all files maintained by the Contractor. All requests for such information must be provided through the State's Program Manager. The Contractor must comply with all legislated medical information privacy requirements.

1.8 Freedom of Information Act Requests

Any and all requests for information under the Freedom of Information Act that relates to files or data maintained by the Contractor on behalf of the State of Michigan must be directed to the State's Program Manager for proper disposition.

2. Claims Administration

2.1 Audits

- a) The State of Michigan will require the Contractor to undergo independent financial and performance audits, at no additional expense to the State of Michigan, to assure both the financial and operational viability of the disability management programs, including but not limited to a Service Organization Type 2 (SOC2) or comparable audit as approved by the State's Program Manager. This audit shall analyze the security, availability, integrity, confidentiality and privacy of the Contractor's system and claims processing as identified by the State's Program Manager. These audits will require the Contractor to provide timely assistance and otherwise full cooperation, detailed claim information, data base access, hard copy claim file access, staff access, and space access to the group selected to perform the indicated audit. These audits may be performed annually. The State's Program Manager will determine the type of audit and frequency to be provided within reason.

Contractor will conduct a SOC 2 audit of controls annually for the life of this contract. Contractor is currently SOC 1, Type 2 certified for Workers' Compensation Claims handling.

- b) Contractor's types and frequency of independent audits contractor's company undergoes to ensure system integrity and contract compliance.

Contractor will conduct annual independent audits of Service Organization Controls (SOC 1) and is currently SOC1, Type 2 certified. Contractor performs an annual audit of compliance based on the contractual performance standards. A published report of those results, with corresponding supporting documentation is released to the State.

- c) RESERVED.

2.2 Loss Fund

- a) Loss Fund invoices must include at a minimum, claim number, employee ID number, payee name, payment date, paid from date, paid through date, claim payment type and amount.
- b) Invoices for loss fund shall be submitted to the Program Manager on a weekly basis.

2.3 Fees

The fees established under this Contract are on a per claim basis for handling the standard claims activity associated with workers' compensation related claims, and is all-inclusive for that claim activity. Additional services related fees, if not included in the standard per claim fee, must be specifically presented to the State and agreed to prior to acceptance. Please see terms and conditions section 54 Entire Contract and Modification. Unless otherwise specified, all data and reporting fees must be included in the per claim fee. The basis on which such fees are to be charged must also be provided.

3.0 Staffing

3.1. Contractor Representatives

The Contractor must appoint a Project Manager specifically assigned to State of Michigan accounts, who will respond to State inquiries regarding the Contract Activities, answering questions related to ordering and delivery, etc. (the "Contractor Representative").

The Contractor must notify the Contract Administrator at least 30 calendar days before removing or assigning a new Contractor Representative.

*Contractor Representative:
Chad Johnson, Sr. Account Executive.*

3.2. Customer Service Toll-Free Number

- a) The Contractor must provide a toll-free number for the State to make contact with the Contractor Representative. The Contractor Representative must be available for calls during the State's operating hours Monday – Friday, 8:00 a.m. to 5:00 p.m. EST.
- b) A toll-free number must be established to allow for toll-free claim reporting and toll-free inquiry and information.
- c) The Contractor must provide a telephone recording system for all adjusting staff to be provided for recorded conversations and quality assurance. All telephone calls must be recorded and preserved for the life of the claim. The State must have access to any recorded conversations. All telephone messages will be returned within one business day from the date the message is left for the Contractor.
- d) Contractor's current system or steps for implementation or development.

Contractor utilizes a call recording solution, which records all calls at the adjusters and call center locations. All recordings shall be captured, stored and accessed in open, standardized file formats, regardless of their source –Data such as Start Date/Time of Recording, Call Duration, Number Dialed/Caller ID, Extension and others shall be captured by the call recording software system and stored with the call record.

3.3. Work Hours

The Contractor must provide Contract Activities during the State's normal working hours Monday - Friday, 8:00 a.m. to 5:00 p.m. EST.

3.4. Key Personnel

- a) The Contractor must provide adequate staffing designated to the State of Michigan account in order to support all claims processing and support services required by the State of Michigan and Workers' Disability Compensation Act. Examiner caseloads for standard and litigated claims must be at levels so not to impede on timely, accurate, and responsible claims management. The Contractor must explain how staffing and/or subcontractors will be used and monitored to meet the quality expectations. If it is determined by Contractor that additional staffing is required after the award of this contract, the Contractor will provide the additional staffing at no additional cost to the State of Michigan. The State reserves the right to require removal of any personnel deemed unsatisfactory by the State or the addition of personnel to meet service level guarantees.
- b) The Contractor must identify the Key Personnel numbered below, indicate where they will be physically located, describe the functions they will perform, and provide current chronological résumés.

The State and Contractor agree that the Contractor shall have a point of contact designated in each of these functional areas of Claim processing, Technology, Finance/Accounting, Implementation, Account Management, Project Management and others as agreed upon by the State and Contractor. These points of contact shall have knowledge and expertise with service delivery to the State of Michigan.

- c) The Contractor must appoint individuals who will be directly responsible for the day-to-day operations of the Contract ("Key Personnel"). Key Personnel must be specifically assigned to the

State account, be knowledgeable on the contractual requirements, and respond to State inquires within one business day.

- d) The State has 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, introduce the individual to the State's Program Manager, and 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. The State may require a 30-calendar day training period for replacement personnel.
- e) Contractor will not remove any Key Personnel from their assigned roles on this 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"). An Unauthorized Removal 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. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under Termination for Cause in the Standard Terms. It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under Termination for Cause, Contractor will issue to the State the corresponding credits set forth below (each, an "Unauthorized Removal Credit"):
 - (i) For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be \$25,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30 calendar days before the Key Personnel's removal.
 - (ii) If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30 calendar days, in addition to the \$25,000.00 credit specified above, Contractor will credit the State \$833.33 per calendar day for each day of the 30 calendar-day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$25,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30 calendar days of shadowing will not exceed \$50,000.00 per individual.

Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed above: (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; and (ii) may, at the State's option, be credited or set off against any fees or other charges payable to Contractor under this Contract.

3.5. Organizational Chart

- a) RESERVED.
- b) Contractor's staffing structure and processes that support the identification of client needs and resolution of client concerns.

Contractors' Account Managers shall work closely with Contractor's executive and management staff to provide customized leadership and direction to the professionals involved in the program. Customer concerns and/or complaints will be routed to the Account Manager for review and resolution as quickly as possible, and if needed, will be escalated to the appropriate management or executive staff for response. Contractor will track any complaint filed and the resulting resolution of those issues and will use the information to identify any trends, changes or enhancements to the program throughout the term as well as, notify the State.

- c) Contractor's performance standards required by staff function in terms of productivity, accuracy, timeliness and customer relations.

An acceptable audit result is 90%. The audit measures accuracy, timeliness, appropriateness, and ensures that claim files are moved to resolution as quickly as possible. 100% of the phone calls within the call center and adjusting staff shall be recorded. Any assertion of an unprofessional allegation shall be investigated and addressed. If a deficiency is noted in the staff's interaction, counseling, training and performance management may be considered.

- d) Contractor's evaluation of staff and result sharing.

Goals are established annually for each staff member. The goals include 90% achievement of all audits, 100% closing ratio (closing as many files annually as are opened). The unit manager may also assign unique goals to individual with training needs, and specific interests. Individual results are not share with customers.

3.6 Disclosure of Subcontractors

- a) If the Contractor intends to utilize subcontractors, the Contractor must disclose the following: The legal business name; address; telephone number; a description of subcontractor's organization and the services it will provide; information concerning subcontractor's ability to provide the Contract Activities; complete description of the Contract Activities that will be performed or provided by subcontractor; and price of the subcontractor's work.

Contractor does not intend to subcontract the requirements of this contract.

- b) The State of Michigan reserves the right to reject any proposed subcontractor. In the event the State finds a proposed subcontractor unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection.

4.0 Claim Determination

- a) Contractor will make claim compensability determinations within 14 calendar days from the date employer was notified of the injury. If claim determination is unable to be made within 14 calendar days from the date the employer was notified of the injury, Contractor will file statutory forms to indicate what is needed in order to complete the investigation and will communicate current status to the appropriate state of Michigan departmental contact and claimant.
- b) Contractor must take steps to ensure disability determination decisions are appropriately made.

The adjuster will make the compensability determination upon completion of the initial investigation, including securing appropriate supporting medical documentation. The adjuster is required to articulate the basis of their determination in the claim file. The unit manager maintains a diary on each claim, and will address any deficiency or needs at the time of review. The adjuster roundtables large exposure files and completes a large loss report on any claim that exceeds \$100k on an incurred basis. The large loss report is reviewed and approved by the unit manager as well as the technical claim manager.

- c) Contractor's protocol for notifying department contacts and claimants of pended claims, claim approval and denials is.

The claim adjuster shall communicate the determination of the claim to the employee and client. Benefits, responsibilities and questions are addressed when a claim is approved. When claims are denied, the adjuster shall explain the basis for the denial, as well as the claimant's options.

4.1 Claim File Documentation

- a) All files must be documented in a logical manner that allows a reviewer the ability to quickly review all claim activity and determine the current status of a claim. Files must also be documented in a consistent manner with all pertinent material related to the claim and such documentation shall be current in the file from receipt by the Contractor.
- b) Claim files must be separated to reflect the distinct aspects of the claim. Examples include but are not limited to medical documentation, legal notices, litigation correspondence, payment information, claim notes, forms required by the State of Michigan Workers' Disability Compensation Act etc. Claim examiner notes must be current and maintained electronically in a current and accurate manner.
- c) Claim file notes must contain but not be limited to, statement of coverage, detailed and comprehensive summary of all telephone conversations, attempted telephone contacts, summary of investigations, compensability determination and rationale, subrogation potential, summary of medical received, plan of action (including current summary of claim, medical status, proactive action based strategy, and anticipated date of claim resolution), disputes, and detailed summary of any communications regarding the claim.
- d) All claim files and information shall be retained by the Contractor for the life of this contract. Upon expiration or termination of this contract, all claim files, paper and electronic, and related information shall be returned to the State of Michigan or its designated representative.
- e) Contractor must take security measures used to protect the confidentiality of each claimant's medical and personal identifiable information.

Claim system access is limited to authorized and approved users. All user access requests are documented and approved by the State for the State of Michigan users, user IDs are assigned to each person and security settings are associated with each ID which limit the data available to them based on their job role.

- f) Some of the current claims in open or re-open status have an electronic claim file along with an associated paper claim file. The paper claim file may contain information not converted into the electronic file. Contractor shall either create an electronic record or retain the paper file for the life of this contract.

4.2 Claim Payments

- a) The Contractor must make payment decisions on behalf of the State of Michigan within the parameters described in all applicable statutes and policies of the State and shall be responsible for the processing of all claim payments unless otherwise determined by the Program Manager.

All claim payments are to be made in accordance with statutory requirements as provided in the Workers' Disability Compensation Act or procedures established by the State of Michigan along with proper documentation and notice to all relevant parties. 99% of claim benefit payments must be calculated correctly.

b) RESERVED.

c) Contractor's explanation of medical bill review and payment process will provide that:

All reviewable bills received in the Contractor offices are date stamped upon receipt. The assigned adjuster approves the adjudicated bill prior to check issuance to ensure the services are reasonable and necessary, and related to the work injury. Contractor will promote an environment that allows them to be flexible and customize their medical review program to meet the State of Michigan's needs.

Contractor's technology solution will allow the adjusters to easily access and review bills online and review bill history at any time. The adjuster portal will maintain an image of all bills and Explanation of Review (EOR) as well as transaction history.

Additional cost containment strategies:

- 1) *Advanced Diagnostic Imaging Network and Scheduling Services*
- 2) *Utilization Review (Pre-Authorization and Peer Review)*
- 3) *Medicare Set-Aside*

d) RESERVED.

e) Medical provider reconsiderations of medical bill payments reviewed and processed

Medical providers can submit a request for reconsideration by mail, email, facsimile, or telephone. Contractor maintains a dedicated telephone, facsimile line, and email address for provider inquires and disputes. All telephone calls are returned within one business day and reconsiderations are turned around within 14 days. For disputes that arise out of the PPO contracts, contractor will forward the dispute to the applicable PPO for review and final decision regarding the validity of the contract. If the request is valid, the bill is reconsidered, and the additional payment is issued. If the request is not valid, the provider will be notified that their request is denied with an explanation of the denial. If the provider needs additional explanation, a medical bill review analyst will be available to discuss the review with the medical provider. In the event that the provider does not agree with the final decision, we will defend contractor's clients in any administration proceedings.

f) RESERVED.

g) In the event of an overpayment, Contractor will immediately notify the designated department contact, the State's Program Manager and claimant and document in the claim file the reason for the overpayment, amount of the overpayment and plan of action for recovery.

h) The State of Michigan will not be responsible for overpayments on claims resulting from error within the scope of Contractor's control. Any overpayment resulting from error within the scope of Contractor's control is the responsibility of the Contractor. Contractor will immediately credit the State of Michigan in full amount of the overpayment and apply the credit directly to the affected claim.

i) Overpayment recovery is the responsibility of the Contractor and all recoveries must be credited to the affected claim.

j) Contractor must provide an overpayment process, to minimize overpayment occurrence and maximize overpayment recovery. Implementation of this process will require approval from the State's Program Manager. The State's Program Manager reserves the right to require changes to

the Contractor's overpayment process in the event the State's Program Manager finds the process ineffective.

- k) All claims, payments and associated claims expenses must be recorded as associated with the individual claim. All claim benefit checks issued by the Contractor shall include expiration statement of 180 days from the date it was issued if not cashed by recipient within that period of time.
- l) Frequency of reviewing open claims and system

The claim adjuster maintains an active diary on all open claims. The Unit Manager has an automatically renewing 90 day diary on every file. The Unit Manager completes on-line case reviews and may adjust the adjuster's diary on a tighter, or more specific, timeline.

- m) Contractor' procedures in place to assure timely and accurate coordination of supplements and offsets (e.g., LTD, Social Security, Retirement, Unemployment Benefits etc.)

Prior to the payment of any disputed claim, the claim adjuster verifies with the LTD unit whether there have been any LTD payments made on the file. The claim adjuster will be notified through Contractor's automated diary system that the claimant will be eligible for supplemental benefits that may offset the wage loss payment.

An automated diary will be set for the adjuster to review at age 60 and annually thereafter for possible pension and social security coordination. Upon receipt of notification of the coordinated benefits, the adjuster will obtain documentation of the benefit type and amount, and adjust the benefit accordingly. Communication is sent to the claimant periodically to update and document the receipt of any other benefits.

4.3 Medical Case Management

- a) At a minimum, the Contractor must request Independent Medical Evaluations (IME) in the following circumstances:
- The treating physician is not cooperating or not facilitating communication.
 - There is a question of disability.
 - There are only subjective complaints.
 - There is a question of how a physician is handling a case.
 - There is a need to substantiate medical findings
 - Reasoning for the IME referral must be documented in the claim notes.
- b) Criteria and continued evaluation process of IME doctors used shall be provided to the State's Program Manager for approval.
- c) Contractors selected panel of specialists for IME referrals.

Contractor's IME vendor and Physician panel management, will be responsible for negotiating terms, setting quality standards and holding IME physicians and Networks to the highest standard. Additionally, Contractor manages a specialty network of physicians.

- d) RESERVED.
- e) Contractor's determination for Doctor Selection for IME's, and factors taken into consideration when selecting an IME to perform an IME

Contractor's physician selection is based on the circumstances of the specific claim to best match the provider with the diagnosis. An IME decision on a litigated claim is discussed between the Claim Adjuster and defense counsel to decide on the appropriate physician.

- f) Performance measurements of Contractor's IME program.

Through Quality Assurance process, all written reports will be reviewed for appropriate restrictions and limitations, clinical appropriateness, as well as ensuring adjuster questions are answered completely. Inadequate reports and physicians evaluations are flagged through this process. Contractor will reach out to all Physicians whose reports have been flagged to address issues. Contractor's National IME Network manager, MCMC does negotiate rates with IME Companies to ensure Contractor can service all of client's needs in all areas and specialties.

- g) Protocols in place to ensure that the most appropriate doctor is selected for the IME.

The physician selection is based on the circumstances of the specific claim to best match the provider with the diagnosis. This decision is often an element of contractor's case "round-table" discussions.

- h) A medical consultant or medical case manager, defined as an employee with a relevant clinical background in nursing or medicine (RN or MD), must be utilized, at a minimum, in the following situations:

- When an employee is not responding to treatment
- When there is a lack of compliance with medical regimen
- When there is a chemical dependency
- When there is long-term physiotherapy
- When there is prescription medication dispensed long-term (over 1 year)
- When physician visits are more than is typical for the type of injury/illness
- When referrals are more than typical for the type of injury/illness
- When prescriptions are more than typical for the type of injury/illness
- When the case extends substantially beyond the expected resolution date
- When the medical situation is a mix of occupational/non-occupational conditions
- When the employee and/or their support system are not capable of coordinating services, setting appointments or comprehending medical needs
- When the employee does not comply with medical treatment
- When the original Injury or illness causes a secondary health problem to occur

- i) RESERVED.

- j) Checks and balances that are in place to ensure the cases meeting referral criteria will in fact be referred.

Contractor's system scans all open claims every day, and when it finds a claim with any of these characteristics –or "triggers" – it is immediately sent to a dedicated Clinical Review Team. The continuous review means that triggers will be found no matter when in the life of the claim they occur. The claim adjusters have final authority to assign and are experienced to determine cases requiring case management assignments. All open claims have a supervisory diary to provide an additional level of control on recognizing claims needing this type of assignment.

- k) RESERVED.

- l) RESERVED.

- m) Policies, procedures, protocols to identify deficiencies in the case management process, and outcomes regarding the deficiency

A monthly quality review is performed by the Quality Review department comprised of experienced case management nurses. A review of a minimum of 10% of files is conducted monthly. If quality issues are identified, increased reviews will be implemented, quantity depending on the seriousness of the issue, and include open case files as well. Individual case manager quality issues are addressed and disciplinary action taken as necessary. Quality improvement results are reported to the manager and quality assurance committee. Additionally, supervisors review open files for their team on an ongoing basis and staffing with the case managers when issues arise or when opportunities for improvement are identified by the Team Leader. A score of 90% is passing, but the goal is a score of 95% or better.

Case management program is dependent upon continual monitoring. Cases are reviewed to assure timely contact is maintained with all parties, an active and aggressive case management plan is documented and being followed, appropriate documentation of case management savings and assuring that the nurse is bringing an overall positive impact to the case. Quality review scores are reviewed with nurses monthly and are a significant part of their ongoing and formal annual evaluation process.

4.4 Subrogation

- a) The Contractor must review and monitor all claims for subrogation potential involving third-party liability against any and all outside parties for which this subrogation may be appropriate. All reviews for subrogation potential must be documented in the claim notes.

When completing the initial 3 point contact, the adjuster will tailor their initial investigation using Contractor's investigation guidelines (example: motor vehicle accident, machine malfunction, etc.) to hone in on the issues pertinent to the subrogation potential. The claim adjuster completes the subrogation reporting form within the claim system and this triggers a diary to the Technical Claim Manager, who oversees all potential subrogation files. Contractor's claim system has a subrogation flag that is reportable as potential subrogation. Subrogation documentation is required on files in the claim notes and in ongoing claim management activity.

- b) The Contractor must document all subrogation efforts. The Contractor must collectively consult with the State's Departmental contact and appropriate division of the Attorney General's office and the State's Program Manager prior to actively pursuing any questionable third-party situation.
- c) All amounts received through subrogation must be provided to the State of Michigan as a reduction of the cost of the claim expenses recorded for that specific claim. Subrogation expenses must be included as part of the per claim fees assessed by the Contractor as part of the normal claim fee. This includes bankruptcy court filing and action for overpayment recoveries.

Contractor's efforts and claim handling expenses in subrogation recovery will not be charged to the file. However, costs incurred by the Attorney General's office, such as bankruptcy court filings, or other legal expenses will not be paid by the Contractor.

- d) Resources utilized to pursue subrogation opportunities.

Claim adjuster notifies Contractor's Technical Claim Manager of any potential subrogation claim. The Technical Claim Manager monitors each claim by use of the claim diary system. Contractor will engage experts, particularly in mechanical failures, to provide an expert opinion. The Claim Adjuster will put the responsible party as well as the claimant on notice of a potential third-party action. Claims requiring legal intervention are elevated to the Program Manager and the Attorney General's office. Contractor Claim Adjusters' are knowledgeable and experienced in subrogation recovery.

4.5 Fraud

- a) If the Contractor detects or becomes aware of any potentially fraudulent activity, throughout the Contractor's management of any claim, the Contractor must immediately provide the State's Program Manager with any and all relevant evidence to substantiate the detection of such fraudulent activity.
- b) The State's Program Manager, or designee, will maintain responsibility for investigation and will interact with Contractor on an as needed basis. Contractor must assist in and support further investigations if requested by the State's Program Manager.

4.6 Disability Management

- a) Contractor must proactively facilitate and support return to work efforts appropriate for the specific disability and consistent with direction provided by the State's Program Manager.
- b) The State of Michigan promotes case management in each department throughout state government. Each department typically has a Case Manager who is designated as the department's representative dealing with the third-party administrator and return to work issues. The Contractor must make all efforts to assist the departmental Case Managers and, when requested, to participate in any case management meetings reasonably scheduled by the State's Program Manager.
- c) The State's Program Manager, for the purpose of addressing claim specific issues, may also reasonably schedule periodic meetings.
- d) Contractor will assist the State of Michigan in the development of programs focused on early return to work and will support all efforts to return injured state employees to work.
- e) The State of Michigan supports and promotes the use of vocational rehabilitation services as a means to enhance a claimant's ability to return to work in a more expeditious manner. The Contractor will identify claims that will benefit from vocational rehabilitation services and will make recommendations to the State's Program Manager.
- f) If vocational rehabilitation is approved, the Contractor will only use vocational rehabilitation providers that have been approved through the Department of Licensing and Regulatory Affairs Workers' Compensation Agency.
- g) If the employer makes alternate duty or temporary transitional work available, how is this information captured and used.

Contractor captures lost time, modified duty--accommodated, modified duty-not accommodated through the work status tab on contractor's claim system platform. The work status tab is used to provide MIOSHA 300, 300A and 301 reports to many of contractor's clients.

- h) Steps taken if the employer cannot accommodate an employee with work restrictions.

Contractor will continue to medically manage the case for a full recovery and an unrestricted return to work. In the event this does not seem likely, a job search or vocational rehabilitation plan may be implemented.

- i) RESERVED.

5. Litigation Support

- a) Once it is apparent that a claim is going into litigation, the Contractor must notify the State's Program Manager and Labor Division, State Claims Section of the Attorney General's Office. The

specific process for this notification to occur and the forms and protocols will be established by the Labor Division, State Claims Section of the Attorney General's Office and the State's Program Manager, and provided to the Contractor.

- b) Once a claim is in litigation, the responsibility for the claim rests with the appropriate division with the Attorney General's office and the staff attorney assigned to the claim.
- c) The Contractor must provide any and all support requested by the designated Attorney General's representative in an accurate and timely manner satisfactory to the Attorney General, and subject to agreement between the Contractor's Account Manager and the State's Program Manager. The Contractor must continue to monitor and provide supporting information for all claims in litigation.
- d) The Contractor must provide timely and accurate file documentation to the Attorney General in the form and nature defined by the State of Michigan. The utilization of the Contractor's forms and documents must be with the consent and approval of the State's Program Manager.
- e) The Labor Division, State Claims Section of the Attorney General's Office or designee will control all investigation activity, settlement negotiations and settlements conducted on behalf of the State of Michigan for all litigated claims, with the advice and consent of the State's Program Manager.
- f) All billings for "outside investigators", as identified, will be processed through the Attorney General to the Contractor for payment and inclusion in the claim expense documentation.

5.1 Petitions

- a) Petitions for Hearing received by the Contractor must be provided to the Labor Division, State Claims Section of the Attorney General office within five (5) business days of receiving the petition.
- b) Contractor will provide a review of the relevant issues and an accurate summary within this time frame. For mediations, if it is determined that legal action is required, the completed Carrier's Response Form to the petition shall be filed within five (5) business days of receipt of the petition.
- c) If legal action is required, input will be obtained from the Labor Division, State Claims Section of the Attorney General's Office and Department Representative within five (5) business days from such determination. Copies of relevant material, as determined by the Attorney General, must be provided to the Attorney General for review and input.

5.2 Mediations

- a) The Contractor must have a claim examiner present at all mediations unless otherwise agreed to between the State and Contractor.
- b) For mediations where the Contractor is providing representation, at least 10 days prior to the mediation, the Contractor's representative must develop a comprehensive understanding of the relevant issues in the file, clarify the position of the Contractor, and assure concurrence from the Departmental Representative.
- c) Upon attending mediation, the Contractor's representative must observe claimant and document the proceedings. Documentation must include, at a minimum, description of the claimant's physical state, appearance, and demeanor, along with a specific analysis of the claimant's demands.
- d) If resolution does not take place, a mediation summary must be provided to the Attorney General within five (5) business days of the hearing. If agreement is reached and payment is to be made,

payments must be made in accordance with statutory requirements, with proper documentation and notice to all relevant parties.

5.3 Litigation Proceedings

- a) Any trial referrals must be made to the Labor Division, State Claims Section of the Attorney General's Office at least three (3) weeks prior to the pre-trial date.
- b) Any claim going to trial requires the Contractor to perform investigation, acquire documentation, conduct witness interviews, conduct background checks and schedule any medical examinations as requested by the Labor Division, State Claims Section of the Attorney General or its designee assigned to the claim. Accurate and complete documentation is required, along with timely completion of all tasks assigned by the Attorney General.
- c) Any issues that arise between Contractor and Attorney General's office will be brought to the attention of the State's Program Manager for resolution.

6. Document Retention

- a) All hard copy and electronic claim files, data and documentation associated with all claim files is the property of the State of Michigan, unless specifically agreed to otherwise.
- b) Any custom software developed to be used specifically for the execution of this contract by the Contractor utilizing funds provided under this Contract is the property of the State of Michigan.
- c) Any capital equipment purchased utilizing funds provided under this Contract is the property of the State of Michigan.

7. Project Management

7.1. RESERVED.

7.2. Meetings

Meetings will be conducted with the Contractor's project manager at a minimum of once per month or at the discretion of the State's Program Manager or designee for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise. In addition, there will be ongoing communication with the Contract team.

The State may request other meetings, as it deems appropriate.

7.3. Reporting

- a) All reporting requirements contained in Insurance Regulations, other State Statutes, Federal Legislation, or State Directives are the responsibility of the Contractor on behalf of the State of Michigan.
- b) The Contractor will complete, process and transmit all forms required under the Workers' Disability Compensation Act to the Worker's Compensation Agency and all applicable parties, on the State of Michigan's behalf.
- c) As agreed upon with the State's Program Manager, the Contractor will submit written summaries of progress outlining 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 State's Program Manager; and notification of any significant deviation from previously agreed-upon work plans.

- d) Contractor will act as the Agent on behalf of the Responsible Reporting Entity (RRE) under Section 111 of the Medicare, Medicaid & SCHIP Extension Act of 2007 (MMSEA).
- e) The Contractor must provide a monthly electronic database (e.g. Microsoft Access) which reflects all claims activity within the reporting period. This database must also provide a five year loss history reflecting all aggregate claim information as of the valuation date. The database must include the ability to edit reports and run additional customized reports on any combination of data elements.

Contractor's system will allow access to complete loss history and claim information by valuation dates. Reports can be on all captured data, and are available in pre-pared templates, as well as ad hoc. Contractor's system will be supported by a dedicated business analyst for the State of Michigan.

- f) Contractor must track independent medical evaluation (IME) costs and outcomes. Reports must be provided to the State's Program Manager on a quarterly basis and must include, at a minimum, claim number, claimant name, employee ID #, date of IME, IME Doctor, reason for the IME, IME opinion, action taken on claim as a result of an IME, and cost of IME.
- g) Contractor must track all overpayments. Reports must be provided to the State's Program Manager on a monthly basis. The report must include but not be limited to claim number, claimant name, employee ID number, gross amount of overpayment, reason for the overpayment, any money recovered, overpayment balance, plan of recovery and expected date for full overpayment recovery.
- h) Contractor must track all claims that are involved in vocational rehabilitation. Reports must be provided to the State's Program Manager on a quarterly basis in Excel format. The report must include but not be limited to claim number, claimant name, date of injury, injury description, diagnosis, date of referral to vocational rehabilitation, vocational rehabilitation company, vocational rehabilitation counselor (VRC), current amount paid to date in vocational rehabilitation expenses, status of vocational rehabilitation, VRC's current plan of action, summary of recent activity, vocational rehabilitation closed date.
- i) Contractor must track all medical bill payments and medical cost containment efforts. Reports must be provided to the State's Program Manager on a monthly basis. Reports must include but not be limited to claim number, claimant name, employee ID number, medical provider, dates of service (from and through), amount billed, amount of fee schedule reduction, amount of any cost containment programs provided by Contractor (itemized by program) and net amount of payment to provider, total amount of cost savings beyond fee schedule reductions.
- j) Each month the Contractor must provide the State's Program Manager or designees, a copy of a report that reflects the settlement payments for State departments for each month of the reporting period. This report must be provided within 15 business days from the end of the reporting period and must include monthly and quarterly summaries when appropriate. The information on this report must be broken down by department and must reflect the total dollar amount and number of settlements.
- k) Contractor will provide a monthly reconciliation report reflecting a reconciliation of the funds deposited in the TPA's account against the claims that have been actually paid and the checks that have been returned or that may not have cleared the account.
- l) On an as needed basis, the State's Program Manager may request Ad Hoc reports. The Contractor must comply with such requests. If the requests are of such magnitude to require additional information technology resources or staffing commitments, the Contractor must document such requirements and provide a cost estimate to the State. Further development of

such ad-hoc reports will only proceed with written authorization from the State's Program Manager. Any requests for ad-hoc reporting must be directed to the State's Program Manager for review and approval.

- m) The Contractor shall provide real time on-line reporting access to the state's Program Manager and provide reports based on any data the State's Program Manager requires to be collected at a frequency agreed to by the Contractor and State's Program Manager.

8. Invoice and Payment

8.1. Invoice Requirements

Invoices must be provided in an electronic format, acceptable to the Program Manager, on a monthly basis and must be provided within 10 business days from the end of the month for which the invoice applies. Invoices must include an itemized list of all claims and identifiable costs associated with providing administrative services under this Contract and shall be defined and broken down by department and agency codes. Any changes in the invoices must be confirmed with the Program Manager. Charges for claims handling expenses must be separated from other service fees and must be so identified on billing document.

All invoices submitted to the State must include: (a) date; (b) purchase order; (c) quantity; (d) description of the Contract Activities; (e) unit price; (f) shipping cost (if any); and (g) total price. Overtime, holiday pay, and travel expenses will not be paid.

8.2. Payment Methods

The State will make payment for Contract Activities via electronic funds or wire transfer.

9. RESERVED.

STATE OF MICHIGAN

Contract No. 071B7700115

Workers' Compensation Third Party Administration Services

Exhibit B

GENERAL PROPOSAL REQUIREMENTS

RESERVED.

STATE OF MICHIGAN

Contract No. 071B7700115
 Workers' Compensation Third Party Administration Services
Exhibit C

1. Price proposals must include all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g., shipping and handling, per piece pricing, and palletizing).
2. Prompt payment terms: 2% discount off invoice if paid within 21 days after receipt of invoice. Contractor offers a 3% Multi-Contract discount for WC and LTD Contracts.
3. Pricing Schedule

New Claim Filed (Medical) Est Qty 2325	York
Price Per Claim Year 1	\$160.00
Price Per Claim Year 2	\$162.00
Price Per Claim Year 3	\$164.00
Total for Year 1	\$372,000.00
Total for Year 2	\$376,650.00
Total for Year 3	\$381,300.00
Total for 3 Year Contract	\$1,129,950.00
New Claim Filed (Indemnity) Est Qty 444	
Price Per Claim Year 1	\$830.00
Price Per Claim Year 2	\$842.00
Price Per Claim Year 3	\$855.00
Total for Year 1	\$368,520.00
Total for Year 2	\$373,848.00
Total for Year 3	\$379,620.00
Total for 3 Year Contract	\$1,121,988.00
Administrative Fee	
Administrative Fee Year 1	\$246,500.00
Administrative Fee Year 2	\$250,200.00
Administrative Fee Year 3	\$254,000.00
Total 3 Year Admin. Fee	\$750,700.00
Maintenance Fee (Open > 36 Months) Est Qty 1733	
Maintenance Fee Year 1	\$134,400.00
Maintenance Fee Year 2	\$134,400.00
Maintenance Fee Year 3	\$134,400.00
Total Maintenance Fee	\$403,200.00
Bill Review Fee - Est Qty 35k per Page, Est Qty 80k per line	
Per Line	\$2.00 (1.5% Increase each Yr.)
Total Cost Year 1	\$160,000.00
Total Cost Year 2	\$162,400.00
Total Cost Year 3	\$164,800.00
Total Bill Review for 3 Years	\$487,200.00
TOTAL FOR 3 YEAR CONTRACT	\$3,893,038.00
TOTAL FOR 3 YEAR with 3% multi contract discount	\$3,776,247.00

Exhibit D, Performance Standards

The Contractor must track and report on the following measures/standards in order to measure compliance with performance. Contract based performance audits may be verified through external audit activity. The contractor must allow third party audits to measure performance standards.

The State’s Program Manager and contractor’s Account Manager will evaluate performance guarantees.

The final decision regarding performance penalties is that of the State’s Program Manager.

Performance Category	Performance Criteria	Standard	Percentage of Administrative fee calculated quarterly
Customer Service to Claimant and State	Telephone Response Time/Wait Time	95% Less than 1 minute	0.25%
	Speed of answer	Within 30 seconds	0.25%
	Abandonment rate	<= 5%	0.25%
	Percentage of calls that receive busy signal.	<= 1%	0.25%
	Telephonic conversation recording system is functional and operational during core business hours.	100%	0.25%
Claims Processing	Indemnity Claims: 3 point Contact initiated within 1 business day from the date received by contractor.	97% of all claims received in audit period.	0.50%
	Medical Only Claims: 2 point contact initiated within 1 business day from the date received by contractor.	97% of all claims received in audit period.	0.50%
	Claim determination within 14 calendar days from the date Contractor was notified of claim.	99%	0.50%
	Benefit payments made within 7 calendar days from date benefit is due.	99%	0.50%
	Claim benefit payment accuracy. Number of benefit payments paid correctly divided by total number of payments.	99% (Sample Based)	0.50%
	Claim coding accuracy. Claims coded correctly divided by total number of claims.	95% (Sample Based)	0.50%
Reporting	All specified reports required under this contract received within 14 days after the end of the reporting period.	100%	0.25%
	Ad Hoc Reports received within timeframes agreed to between contractor and Program Manager.	100%	0.25%
	All specified reports required under this contract will reflect correct and accurate information for the reporting period.	100%	0.25%
Invoice/Billing	All loss fund and services invoices and billings required under this contract will reflect correct and accurate information for the billing period.	100%	0.25%
Account Management	Return call and/or email to State of Michigan requests within 1 business day from the date of message.	100%	0.25%

