

**STATE OF MICHIGAN
CENTRAL PROCUREMENT SERVICES**

Department of Technology, Management, and Budget
525 W. ALLEGAN ST., LANSING, MICHIGAN 48913
P.O. BOX 30026 LANSING, MICHIGAN 48909



CONTRACT CHANGE NOTICE

Change Notice Number **3**

to

Contract Number **071B6600064**

CONTRACTOR	RISK & REGULATORY CONSULTING, LLC
	20 Batterson Park Road , Suite 380
	Farmington, CT 06032
	Jan Moenck
	860-409-4883
	jan.moenck@riskreg.com
	CV0052513

STATE	Program Manager	Matthew Torok	DIFS
		517-284-8680	
		torokm@michigan.gov	
	Contract Administrator	Joy Nakfoor	DTMB
		(517) 249-0481	
		nakfoorj@michigan.gov	

CONTRACT SUMMARY				
DIFS FINANCIAL EXAMINATION AND ANALYSIS SERVICES P				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
April 5, 2016	April 4, 2019	2 - 1 Year	April 4, 2021	
PAYMENT TERMS		DELIVERY TIMEFRAME		
NET 45		N/A		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
N/A				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		April 4, 2021
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$555,555.55	\$0.00	\$555,555.55		
DESCRIPTION				
Effective June 11, 2019, please note the Program Manager for the State has been changed to Matthew Torok (torokm@michigan.gov, 517-284-8680).				
All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Procurement approval.				

STATE OF MICHIGAN CENTRAL PROCUREMENT SERVICES

Department of Technology, Management, and Budget
525 W. ALLEGAN ST., LANSING, MICHIGAN 48913
P.O. BOX 30026 LANSING, MICHIGAN 48909



CONTRACT CHANGE NOTICE

Change Notice Number 2

to

Contract Number 071B6600064

CONTRACTOR	RISK & REGULATORY CONSULTING, LLC
	20 Batterson Park Road , Suite 380
	Farmington, CT 06032
	Jan Moenck
	860-409-4883
	jan.moenck@riskreg.com
	CV0052513

STATE	Program Manager	Darcie Payne	DIFS
		517-248-8674	
		payned3@michigan.gov	
	Contract Administrator	Joy Nakfoor	DTMB
		(517) 249-0481	
		nakfoorj@michigan.gov	

CONTRACT SUMMARY

DIFS FINANCIAL EXAMINATION AND ANALYSIS SERVICES P

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
April 5, 2016	April 4, 2019	2 - 1 Year	April 4, 2021
PAYMENT TERMS		DELIVERY TIMEFRAME	
NET 45			
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		April 4, 2021
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$555,555.55	\$0.00	\$555,555.55		

DESCRIPTION

Effective April 25, 2019, please note the Contractor address has been updated.

All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Procurement approval.



STATE OF MICHIGAN
CENTRAL PROCUREMENT SERVICES
 Department of Technology, Management, and Budget
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913
 P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **1**

to

Contract Number **071B6600064**

CONTRACTOR	RISK & REGULATORY CONSULTING, LLC
	801 Nicollet Mall West Tower , #1100
	Minneapolis, MN 55402
	Jan Moenck
	612-868-9839
	jan.moenck@riskreg.com
	CV0052513

STATE	Program Manager	Darcie Payne	DIFS
		517-248-8674	
		payned3@michigan.gov	
	Contract Administrator	Joy Nakfoor	DTMB
		(517) 249-0481	
		nakfoorj@michigan.gov	

CONTRACT SUMMARY

DIFS - FINANCIAL EXAMINATION & ANALYSIS SERVICES PREQUALIFICATION			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
April 5, 2016	April 4, 2019	2 - 1 Year	April 4, 2019
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card	<input type="checkbox"/> PRC	<input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS
N/A

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	2 years	<input type="checkbox"/>		April 4, 2021
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$555,555.55	\$0.00	\$555,555.55		

DESCRIPTION

Effective 2/26/2019, the following changes are implemented:

- 1.) the 2 - 1 year options available on this contract are hereby exercised. The revised contract expiration date is 4/4/2021.
- 2.) the Program Manager has been changed to Darcie Payne (payned3@michigan.gov, 517-248-8674), and
- 3.) the Contract Administrator has been changed to Joy Nakfoor (nakfoorj@michigan.gov, 517-249-0481).

All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement, DTMB Procurement approval, and State Administrative Board approval on 2/26/2019.

STATE OF MICHIGAN
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT & BUDGET
 PROCUREMENT

525 W. ALLEGAN STREET
 LANSING, MI 48933

P.O. BOX 30026
 LANSING, MI 48909

NOTICE OF CONTRACT NO. 071B6600064

between
 THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Risk & Regulatory Consulting, LLC 801 Nicollet Mall West Tower #1100 Minneapolis, MN 55402	Jan Moenck	jan.moenck@riskreg.com
	PHONE	VENDOR TAX ID # (LAST FOUR DIGITS ONLY)
	(612) 868-9839	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER	DIFS	Bob Lamberjack	(517) 335-1746	lamberjackr@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Joshua Wilson	(517) 284-7027	Wilsonj31@michigan.gov

CONTRACT SUMMARY

DESCRIPTION: Department of Insurance and Financial Services (DIFS) - Financial Examination and Analysis Services Prequalification Program.			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
3 Years	April 5, 2016	April 4, 2019	2, 1-year
PAYMENT TERMS	F.O.B.	SHIPPED TO	
NET 45	N/A	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. 007116B0006684. Orders for delivery will be issued directly by Departments through the issuance of a Purchase Order Form.			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION		\$555,555.55	

For the Contractor:

_____,
Contract Administrator

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 Risk & Regulatory Consulting, LLC (“**Contractor**”), a Delaware corporation. This Contract is effective on April 5, 2016 (“**Effective Date**”), and unless terminated, expires on April 4, 2019.

The Contract may be renewed in writing by mutual agreement of the parties. The Contract may be renewed for up to two (2) additional one (1) year periods.

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:
Joshua Wilson Constitution Hall, 1 st Floor, NE 525 West Allegan St. Lansing, MI 48909 (517) 284-7027 WilsonJ31@michigan.gov	Jan Moenck, Partner 801 Nicollet Mall West Tower #1100 Minneapolis, MN 55402 (612) 868-9839 jan.moenck@riskreg.com

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**”):

If to State:	If to Contractor:
Joshua Wilson Constitution Hall, 1 st Floor, NE 525 West Allegan St. Lansing, MI 48909 (517) 284-7027 WilsonJ31@michigan.gov	Jan Moenck, Partner 801 Nicollet Mall West Tower #1100 Minneapolis, MN 55402 (612) 868-9839 jan.moenck@riskreg.com

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:
Bob Lamberjack, Chief Examiner Department of Insurance and Financial Services 611 W. Ottawa Street P.O. Box 30220 Lansing, MI 48909 (517) 335-1746 lamberjackr@michigan.gov	Jan Moenck, Partner 801 Nicollet Mall West Tower #1100 Minneapolis, MN 55402 (612) 868-9839 jan.moenck@riskreg.com

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	
<u>Minimal Limits:</u> \$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 <u>Deductible Maximum:</u> \$50,000 Each Occurrence	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.

Umbrella or Excess Liability Insurance	
<u>Minimal Limits:</u> \$5,000,000 General Aggregate	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.
Automobile Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Per Occurrence	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.
Workers' Compensation Insurance	
<u>Minimal Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
<u>Minimal Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.	
Privacy and Security Liability (Cyber Liability) Insurance	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence \$1,000,000 Annual Aggregate	
Professional Liability (Errors and Omissions) Insurance	
<u>Minimal Limits:</u> \$1,000,000 Each Claim \$1,000,000 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, where such cancellation does not result in equal or better coverage; 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. **Administrative Fee and Reporting.** Contractor must pay an administrative fee of 1% on all payments made to Contractor under the Contract including transactions with the State (including its departments, divisions, agencies, offices, and commissions), 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.** This contract is extended to MiDEAL members. 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. Upon written agreement between the State and Contractor, this contract may also be extended to: (a) State of Michigan employees and (b) other states (including governmental subdivisions and authorized entities).

If extended, Contractor must supply all Contract Activities at the established Contract prices and terms. 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 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.
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. **Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in

Exhibit A.

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. **Reserved.**

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. Contractor may terminate the Contract if it is legally or professionally obligated to, by giving the State 30 calendar days prior written notice [or such lesser notice as may be required to comply with its legal and professional obligations consistent with industry standards per Section 1(a), Duties of Contractor].
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 90 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 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; (iii) employ its own counsel; and to (iv) retain control of the defense 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.**

1. **Disclaimer of Damages.** Neither party will be liable, regardless of the form of action, whether in contract, tort, negligence, strict liability or by statute or otherwise, for any claim related to or arising under this Contract for consequential, incidental, indirect, punitive or special damages, including without limitation lost profits and lost business opportunities.
2. **Limitation of Liability.** In no event will either party's aggregate liability to the other party under this Contract, regardless of the form of action, whether in contract, tort, negligence, strict liability or by statute or otherwise, for any claim related to or arising under this Contract, exceed the maximum amounts of fees specified in the Statement of Work.
3. **Exceptions.** Subsections (a) (Disclaimer of Damages) and (b) (Limitation of Liability) above, shall not apply to:
 - Contractor's obligation to indemnify under Section 26 of this Contract;
 - Contractor's obligations under Section 31 of this Contract (State Data), subject to the Security Breach Indemnity Cap; and
 - Damages arising from either party's recklessness, bad faith, or intentional misconduct.

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 that should be in Contractor's possession 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. Notwithstanding anything to the contrary set forth in this Section or any other provisions of this Contract, the aggregate liability of Contractor for damages under this Section shall not exceed the greater of Five Million Dollars (\$5,000,000.00) or the maximum amount of Fees specified in the Statement of Work (the "Security Breach Indemnity Cap"). This Section survives the termination of this Contract for so long as Contractor has possession, custody or control of State data.

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. Contractor may retain its working papers, copies of work products prepared by it, and Contractor may retain encrypted data backups maintained in confidentiality at a bonded 3rd party for up to one year, in accordance with the requirements and professional standards of this Contract.

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

- 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. No audit will involve access to Contractor's systems or require Contractor to provide any information or take any steps that would cause Contractor to violate its confidentiality obligations to any other client. 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. **State Printing.** All printing in Michigan must be performed by a business that meets *one* of the following: (a) have authorized use of the Allied Printing Trades Council union label in the locality in which the printing services will be performed; (b) have on file with the Michigan Secretary of State, a sworn statement indicating that employees producing the printing are receiving prevailing wages and are working under conditions prevalent in the locality in which the printing services will be performed; or (c) have a collective bargaining agreement in effect and the employees are represented by an operations that is not influenced or controlled by management.
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 No. 071B6600064
Financial Examination/Analysis Services – Pre-Qualification

EXHIBIT A
STATEMENT OF WORK
CONTRACT ACTIVITIES

Project Request

This is a Contract for financial examination and analysis services (esp. of insurance companies) for the Department of Insurance and Financial Services (DIFS) to meet the responsibilities listed in Section 1.0 Requirements, other State Departments and MiDEAL Members (authorized local units of government).

The Contractor will be required to submit a proposal per project that DIFS issues through a second tier Request for Proposal (RFP) by email. The scope of work will cover financial examinations or analysis for companies doing business in the State of Michigan, potentially including companies that are located outside the State of Michigan. Financial examinations and analysis could include completing the entire examination or just completing certain tests on information or data maintained in another state. Additionally, insurance companies that are currently located in Michigan may possibly move their books and records out of state and may need examinations (the determination of whether to assign these examinations will be made on a case by case basis).

Background

DIFS regulates a wide range of entities including, but not limited to, the following:

- Full and single line Health Maintenance Organizations (HMOs).
- Blue Cross and Blue Shield of Michigan.
- Multiple Employer Welfare Arrangements (MEWAs).
- Property, Casualty, Life and Health Insurance Companies.
- United States Branches of Canadian Insurers.
- Limited Liability Pools.
- Reciprocal Exchanges.
- Municipal Pools.
- Legislatively Created Entities.

Specifically, DIFS is responsible for regulating the financial solvency and compliance with Michigan insurance laws, regulations, bulletins and NAIC requirements.

A. DIFS Program Objective:

A primary program objective for DIFS is to ensure that insurance companies doing business in the State of Michigan remain solvent and able to fulfill their contractual obligations to policyholders.

DIFS's regulatory responsibilities include ensuring company solvency and policyholder protection and maintaining National Association of Insurance Commissioners (NAIC) accreditation standards. To accomplish this, DIFS must review insurance companies' financial statements in a timely manner and examine each company at least every three (3) years and more frequently for problematic companies and is mandated by Michigan law to examine companies at least once every five (5) years and every three (3) years upon a company's request. Other states require examination reports every three (3) years, and some domestic companies in Michigan write business in these states and therefore need an examination every three (3) years. DIFS must remain in a position to accommodate domestic multi-state licensees with at least a triennial examination. In addition to regularly performing the analysis on the financial statements, DIFS must be able to review and analyze new applications, re-qualification applications, and other requests such as requests for additional authority in a timely manner to not hinder competition in the insurance marketplace.



In addition, to maintain NAIC accreditation DIFS must meet required periods for monitoring and analyzing financial statements and to ensure compliance with Michigan regulations.

B. Level / Volume of Service:

DIFS is responsible for monitoring and analyzing the financial statements of approximately 1,400 Michigan based insurance companies, including approximately 170 domestic insurance companies or insurance related entities. Currently, approximately 20 of these insurance companies do business in the State of Michigan but maintain books and records outside Michigan. During the past five (5) years, DIFS has requested 24 out of state examinations to be completed. The exact number of examinations will vary each year.

1.0 Requirements

1.1 In Scope

Contractor must perform insurance company examinations and analysis as required by individual DIFS second tier RFPs to determine solvency, compliance with Michigan insurance laws, regulations, bulletins and National Association of Insurance Commissioners (NAIC) requirements. Contractor must travel to company sites as necessary to complete examinations and analysis.

1.2 Work and Deliverable

The Contractor must provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

A. Second Tier Project Assignment:

DIFS will prepare a written RFP that details the company involved and the work to be performed by the Contractor.

Some project assignments will include several members within an insurance holding company that must be examined at the same time. Each second tier RFP will be submitted to all pre-qualified Contractors by email. Each second tier RFP from DIFS will include the following information:

1. Cover Sheet:
 - a. Contractor work statement due date.
 - b. Name of company or companies to be analyzed/examined.
 - c. Period of company operation time to be reviewed by this analysis/examination.
 - d. Expected end work product, i.e., agreed-upon procedures.
 - e. Criteria for determining acceptance of deliverables and final acceptance criteria.
2. Excerpts from Company's Annual Statement or Quarterly Statement if Annual Statement is not available:
 - a. Appointments can be made to review the entire annual statement or quarterly statements or other documents that are available to the public by contacting DIFS.

B. Second Tier Contractor Proposal:

The Contractor will have approximately three (3) weeks from the date the second tier RFP is received to submit a proposal in response to an RFP. The Contractor must respond to the second tier RFP with a quotation and a project plan. (In detailing costs, the Contractor must not exceed the hourly rates included in Exhibit C.)

1. Responses to second tier RFPs must include the following:
 - a. Assignment Scope: Statement of the project assignment.
 - b. Dates by which analysis/examination of the company will begin and be completed.



- c. Description of the services, including:
- 1) Contractor's approach to completing the financial analysis or completing a statutory examination of the company identified in the second tier RFP (to include a history of the company, particular industry considerations, any significant issues raised by DIFS, etc.).
 - 2) Technical project plan.
 - 3) End product of the assignment (e.g. all examination work-papers, including a finalized examination report, following NAIC guidelines, etc.).
 - 4) Individual staff assigned to project.
- d. Assigned staff information:
- 1) Name and title.
 - 2) Background and credentials.
 - 3) Total amount of experience relevant to completing financial examinations.
 - 4) Specific experience relevant to the type of company being examined.
(Not necessary to include individual resumes, if included in Contractor's proposal under which this Agreement was awarded.)

NOTE: It is imperative that Contractor staff who perform these examinations not be affiliated or associated (either financially or contractually) with an entity being examined and that there be no financial or contractual relationship, either written or oral, with an entity being examined and this Contractor, during the life of this Agreement. Failure by the firm to comply with this provision will result in the cancellation of this Contract.

- e. Detail of costs:
- 1) Staff assigned to project.
 - 2) Estimated hours assigned for each of the project-staff members.
 - 3) The hourly rate per staff person. The hourly rate must also include travel costs.*
 - 4) Total projected cost for examination.

*Hourly rates must be inclusive of travel costs that may be incurred by the Contractor during the normal course of an individual project. Should the Contractor be required to defend their findings at a hearing, DIFS will reimburse the Contractor for any specific travel costs incurred while defending the findings. This reimbursement is in addition to the total cost bid and accepted by the DIFS in response to a second tier RFP. Travel costs incurred to attend hearings must be approved by DIFS prior to incurring and only be incurred to defend the Contractor's findings, pursuant to the State of Michigan Travel policy, as listed on the travel Web site. Travel costs cannot exceed those established by the Department of Civil Service for employee reimbursement; see: http://www.michigan.gov/dmb/0,1607,7-150-9141_13132---,00.html

2. FINANCIAL EXAMINATIONS – Proposal responses to a second tier RFP for Financial Examinations must include the following:

- a. The Contractor must develop a specific examination plan for the Company using the NAIC Examiners Handbook process, which must be jointly approved by the Contractor's partner and manager, Examiner-in-Charge, and its Chief Examiner. The Contractor's examination plan must include:
- 1) A description of the standard examination tests which the Contractor will use to determine the solvency of the company.
 - 2) A description of tests which the Contractor will use to determine compliance with Michigan laws, regulations and bulletins and an elapsed time and worker-hours budget.
 - 3) The specific examination dates, from start date to completion date, without any delays or gaps.



- 5) All the individual staff assigned to the examination, the areas each individual will be assigned to the examination, and the estimated number of hours each individual will participate in the examination. (Note that this description **must** reflect that the examination's senior level auditor is scheduled on-site continuously throughout the entire examination and that the senior auditor must have previous experience in auditing insurance companies).

C. Service Requirements

1. Financial Examinations

If awarded the financial examination (project) assignment, Contractor must carry out this project under the direction and control of DIFS, and must:

- a. Perform specific examination tests identified in the initial examination plan and other examination tests as deemed necessary throughout the course of the examination to determine solvency and compliance with Michigan insurance laws, regulations and bulletins. The Contractor must review the tests performed and the results found with a DIFS examiner on request.
- b. Meet the NAIC accreditation standards and other standards of the NAIC for using outside firms to perform examinations. [NAIC requires the use of a CPA on an examination, where the insurer is licensed in more than one (1) state, and other additional requirements will vary by examination and according to each state's circumstances. While there exists many different levels of service that a CPA may provide an insurance department, the use of a CPA in an examination is typically accomplished through an "agreed-upon procedures engagement."] Therefore, in order to comply with NAIC standards many of the examinations conducted under this Contract will be completed using agreed-upon procedures. DIFS will make the final determination whether agreed-upon procedures are necessary and acceptable.
- c. Work in conjunction with DIFS consulting actuary firms. The Contractor will be responsible for testing the underlying data used by the consulting actuary for accuracy and completeness.
- d. Use, if available, the company's independent certified public accountant (CPA) work-papers to the greatest extent possible without compromising the Contractor's responsibility to perform the necessary tests as defined in the work statement and approved examination plan.
- e. Document all work performed and examination findings in examination work-papers, ensuring all work-papers generated during the examination meet its firm's work-paper quality standards, the NAIC Examiners Handbook standards, and DIFS work-paper standards (all work-papers will be reviewed and must be approved by the Examiner-in-Charge (EIC) and Chief Examiner). These work-papers shall become the property of DIFS after the examination.
- f. Be responsible for bringing own supplies and equipment. The only items DIFS will request of the company being examined are access to a telephone, facsimile, and a photocopier (as the telephone may or may not have a dedicated line for use with computers).
- g. **Not** contact the company prior to the on-site examination without written authorization from DIFS, even though it is DIFS's practice to give companies at least 30 days' notice prior to beginning an on-site examination.
- h. Assign staffs who are certified public accountants familiar with Michigan insurance laws, regulations, bulletins and NAIC requirements supervising the examination. When performing an examination of Canadian insurers, the Contractor may assign chartered accountants as staff from its Canadian office(s).
- i. Identify any items of noncompliance with State statutes and regulations, whether financial or non-financial, which become apparent during the examination. Also, the Contractor must identify any findings, again whether financial or non-financial, where the company could improve its operations, controls or reporting. DIFS will make the final determination about which items should then be



discussed with the company and then whether that item should be included in the final report or management letter.

- j. Work with, and under the direction of the EIC, to prepare a draft copy of the examination report and management letter on the company. The management letter must include all findings that are not material to the company's financial solvency or code violations, but are areas where the company could improve its operations, controls or reporting.
- k. Submit examination findings and work-papers to DIFS within 10 calendar days following the completion of the on-site examination of the company unless otherwise agreed to by DIFS. If the Contractor prepares a draft report and management letter, then the report and management letter must conform to reporting guidelines, as published by the NAIC, and DIFS policies and procedures.
- l. Make changes to the report as agreed to, following discussions with DIFS.
- m. Hold a meeting with DIFS and the company being examined to discuss any findings or comments arising from the examination. After the meeting, adjust the draft report and management letter based on the meeting and subsequent information received by DIFS and submit the final draft report and management letter to DIFS within 10 calendar days of approval of the draft by the EIC.
- n. Attend final exit conference meetings at the DIFS office, if regulated entities accept DIFS's offer for one (1) final exit conference. The cost of travel and hourly rate must be included in the overall cost proposed by the Contractor.
- o. Remain available to answer any inquiries or clarify test-work and findings found during the examination until the next examination of the Company is completed. This is normally a three (3)-year period. Also, the Contractor must assist DIFS during any administrative or court proceedings involving the examination reports, the examinations or any matter related to the Contractor's work under this Contract.
- p. Upon notice by DIFS, appear or be available to appear for testimony in any administrative or court proceedings involving the examination reports, the examinations or any matter related to the Contractor's work under this Contract. DIFS will pay for this type of service outside the cost proposed under the Contract. However, DIFS will only pay the individual hourly rates agreed to within this Contract. These services will only be provided at the request of the Program Manager and a total agreed price will be determined before any services are rendered. No additional costs will be provided above the amount agreed to by the Program Manager.
- q. Remain available to participate in Chapter 81 processes. During the course of an examination, it may become necessary for DIFS to take a Chapter 81 action, such as seizure of the assets or rehabilitation. If these services are above the normal course of the examination, a separate arrangement will be negotiated with the Contractor. DIFS will make the final determination whether the services are above the normal course of the examination. Once a Chapter 81 action is taken, the Director of the Receivership Division, DIFS, may take responsibility for the examination.
- r. Remain available to participate in review by the NAIC if necessary. DIFS will go through at least one (1) on-site review by the NAIC accreditation team during this Contract period. The Contractor's anticipated participation would include answering questions about its work-papers and the oversight by DIFS during the examination. DIFS will pay for this type of service outside the cost proposed under the Contract. The rate charged by the Contractor for these services must be the hourly rates agreed to in the Contract. These services will only be provided at the request of the Program Manager and a total agreed price will be determined before any services are rendered. No additional costs will be provided above the amount agreed to by the Program Manager.



- s. Remain available to answer any questions or provide any additional documentation requested by the auditor general's office if DIFS is audited during this Contract period by the auditor general's office. DIFS is also audited by the State of Michigan Legislature's Office of the Auditor General. The Auditor General may review the Contractor's work-papers. DIFS will pay for this type service outside the cost proposed under the Contract. The rate charged by the Contractor for these services must be the hourly rates agreed to in the Contract. These services will only be provided at the request of the Program Manager and a total agreed price will be determined before any services are rendered.

NOTE: No additional costs will be provided above the amount agreed to by the Program Manager.

From time to time, zone examiners may participate on these examinations. DIFS may receive little or no advance notice of their participation. These examiners will be assigned specific line items by DIFS to complete and may also want to participate in the planning process. In addition, these examiners will also sign the report so that they will also have the right to review any work-papers produced from the exam; if they (individually or from their zone) report any specific concerns, DIFS may be involved in investigating them.

- t. Within ten (10) working days from the beginning of the examination, unless otherwise agreed upon, the Contractor will submit a project plan to the EIC and Chief Examiner for final approval. This final project plan or agreed upon procedures will be finalized after the examination planning has been completed jointly by the Contractor and DIFS. This final implementation plan must be in agreement with the Contractor's accepted and approved quotation and must include the following:
 - i. The Contractor's project organizational structure.
 - ii. The Contractor's staffing table with names and title of personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.
 - iii. The project breakdown showing sub-projects, activities and tasks, and resources required and allocated to each.
 - iv. The time-phased plan in the form of a graphic display, showing each event, task, and decision point in the Contractor's project plan.

2. Financial Analysis

If awarded the financial analysis (project) assignment, the Contractor must carry out this project under the direction and control of DIFS, and must:

- a. Execute a cursory review on all assigned companies' financial statements in accordance with NAIC Guidelines and DIFS policies and procedures within 10 working days of the assignment. Prepare a listing of all companies assigned and make recommendations commensurate with findings. This listing and recommendation will be submitted and reviewed by DIFS.
- b. Execute an in-depth review and worksheet of the all assigned companies' financial statements in accordance with DIFS policies and procedures.
- c. Complete each separate worksheet within three (3) days from the start date of the review, unless as otherwise agreed to by DIFS. This worksheet will be reviewed and approved by DIFS.

DIFS may also have comments or concerns that will require additional review, follow up, and documentation by the Contractor.



- d. Complete any other tasks required to execute a financial analysis within NAIC Guidelines for the assigned project, as determined by DIFS.
- e. Submit concise written biweekly progress reports to DIFS indicating the work and reviews completed during the two (2) weeks, work in progress, problems real or anticipated, estimated date of completion for all.
- f. Meet the NAIC accreditation standards and other standards of the NAIC for using outside firms to perform examinations. [NAIC requires the use of a CPA on an examination, where the insurer is licensed in more than one state, and other additional requirements will vary by examination and according to each state's circumstances. While there exists many different levels of service that a CPA may provide an insurance department, the use of a CPA in an examination is typically accomplished through an "agreed-upon procedures engagement."] Therefore, in order to comply with NAIC standards many of the examinations conducted under this Contract will be completed using agreed-upon procedures. DIFS will make the final determination whether agreed-upon procedures are necessary and acceptable.
- g. Meet at least monthly with DIFS, or whenever requested by DIFS, with the Contractor's Project Manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise.

D. Second Tier RFP Evaluation

1. Each second tier RFP response will be evaluated utilizing the following criteria:
 - Description of Examination Services:
 - Examination Plan (per NAIC guidelines)
 - Service Description (per NAIC guidelines)
 - Resource Allocation:
 - Appropriate supervisory-staff time allocated (per NAIC guidelines)
 - Computer specialist allocated to evaluate IT (per NAIC guidelines)
 - Examination's senior level auditor is scheduled on-site continuously throughout the entire examination
 - Senior auditor has previous experience in auditing insurance companies
 - Total project staff hours for completion of examination
 - Time:
 - Complete within 180 days or less from date assigned
 - Estimated Date of Completion
 - Total Price

2. Acceptance

2.1 Acceptance, Inspection and Testing

The State will use the following criteria to determine acceptance of the Contract Activities:

Once DIFS staff has determined that the Contractor's master work-papers (supporting papers and final report) have been completed within NAIC guidelines and the Contractor has provided all deliverables required of the individual second tier RFPs, DIFS will authorize final payment.

3. Staffing

3.1 Contractor Representative

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

Contractor's Representative:



Jan Moenck, Partner
801 Nicollet Mall West Tower #1100
Minneapolis, MN 55402
Tel: (612) 629-9079
Jan.Moenck@riskreg.com

The Contractor must notify the Contract Administrator at least 10 calendar days before removing or assigning a new Contractor Representative.

3.2 Work Hours

The Contractor must provide Contract Activities during the State's normal working hours Monday – Friday 7:00 a.m. to 6:00 p.m. EST, and possible night and weekend hours depending on the requirements of the project.

3.3 Key Personnel

The Contractor must appoint one individual 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 inquiries within 24 hours.

Contractor's Key Personnel must be on-site or available at during the following times: Monday – Friday 7:00 a.m. to 6:00 p.m. EST.

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 Project 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.

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.

Contractor Key Personnel follows:

Name	Position/Title	Professional Designations	Educational Degree	Location
Moenck, Jan	Partner	CFE, CIA, CRP, CFA, CFSA, CISA	MBA, Finance, B.A. Accounting and Computer Science	Minneapolis, MN
Clark, Joseph	Partner	CPA, AIE, FLMI, CFE (Fraud), CFF	Bachelor of Science, Accounting	Hartford, CT
Alaimo, Paul	Supervising Examiner	CPA	M.B.A. B. S. Business Administration, – Finance	Nashville, TN
Bartlett, Barbara	Supervising Examiner	CPA, CFE	B.A. Accounting, B.A. Business Finance, MBA Business	Kansas City, MO
Bebee, Emma	Consultant		B.S. Accounting	Baltimore, MD
Benck, Darin	Director	CPA, CFE, CFE(fraud), CIA, RHU, CRMA	B.S. B.A. Accounting	Dallas, TX
Bjorkman, Matthew	Director	CPA	M.S. Accounting and Taxation B.S. Business Administration	Marlborough, CT
Crandall, David	Senior Manager	CPA, CFE, CIA, CBA, RHU	B.S. Accounting, MBA Management	Cromwell, CT
Cross, Dean	Supervising Examiner	CPA, CFE	B.S. Accounting	Lebanon, PA
D'Amato, John	Director	CPA, CFE, MCM	B.S.B.A. Accounting, Business Administration	Lakeway, TX
Danus, Ashley	Supervising Examiner	CPA	B.S. Accounting	Ellicott City, MD
Dombrowski, John	Senior Consultant		B.S. Accounting	Bloomfield, CT
Gardner, Jaki	Regulatory Consultant	FLMI, CFE	B.S. Accounting	West St. Paul, MN
Garrity, Leo	Senior Manager	CPA	B.S. Accounting	Alpharetta, GA
Griffieth, Alan	Supervising Examiner	CPA, CFE	B.S. Accounting	Chandler, AZ
Henley, Natalie	Senior Consultant	CPA, MBA	MBA Technology Management	Eagleville, TN
Hernandez, Shawn	Supervising Examiner	CFE	B.S. Accounting	Jefferson City, MO
Jacobs, Joe	Manager	CFE	B.S. Accounting	Nanticoke PA
Jennings, Andrew	Senior Consultant	CFE	B.S. Accounting	Fort Worth, TX
Johnson, Joshua	Supervising Examiner	CFE	B.S.B.A Accounting	Lincoln, NE



Name	Position/Title	Professional Designations	Educational Degree	Location
Kinney, Amber	Manager	CPA, CFE, CISA	B.S. Accounting, M.B.A.	Frederick, MD
Marynenka, Hanna	Consultant		B.S. Accounting and Information Systems	Baltimore, MD
Michael, William	Director	CFE, CIA, CPCU, ARe	Bachelor of Business Administration, Risk Management and Insurance	Churchville, PA
Moore, Craig	Senior Director	CPA, CFE	B.S. Finance	Baltimore, MD
Moody, Connie	Manager	CPA, CFE	B.S. Accounting	Carmel, IN
Quasnitschka, Alex	Manager	CFE	B.S. Business Admin, Acctg Major	Cromwell, CT
Rennick, Scott	Supervising Examiner	CFE	MBA, B.S. Business Admin., Mgmt and Int'l Business	Blue Springs, MO
Rushford, Christopher	Director	CPA, CFE	B.S. Business Administration	East Longmeadow, MA
Sawyer, Collette	Senior Consultant	CFE, CPM	B.S. Accounting Master of Accountancy	South Jordan, UT
Stewart, Cathie	Senior Director	CPA, CFE, CGMA	B.A. Economics/ Accounting, M.S. Forensics Studies	Marana, AZ
Talbert Pence, Alea	Manager	CFE, CIA	B.B.A. Accounting	Ft Worth, TX
Teshale, Abbie	Senior Consultant	CFE	B.S. Business Admin, Accounting	Addison, TX
Towchik, Shawn	Director	CFE	B.A. Business Admin, Accounting	Colleyville, TX
Van Alsten, Andrew	Senior Consultant		M.S. Accounting, B.S. Finance	Baltimore, MD
Wilson, Kathleen	Consultant		B.S. Accounting and Information Systems	Hughesville, MD
Zafer, Waheed	Supervising Examiner	CFE	B.S. Accounting and Business Administration	Naperville, IL

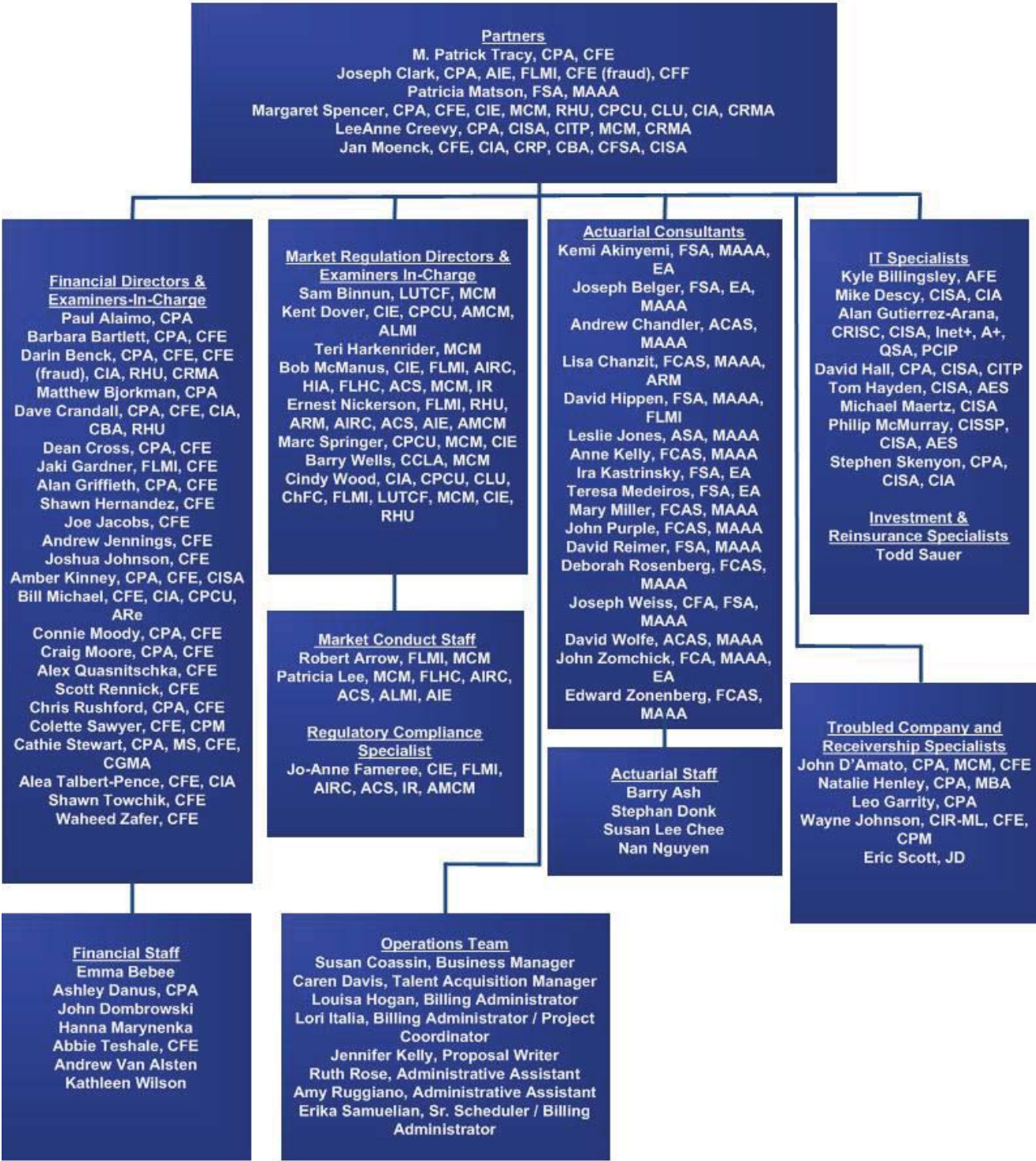


3.4 Organizational Chart

Contractor's Organizational Chart follows:

Risk & Regulatory Consulting, LLC

01-06-16





3.5 Disclosure of Subcontractors

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; and information concerning subcontractor's ability to provide the Contract Activities.

The relationship of the subcontractor to the Contractor.

Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.

A complete description of the Contract Activities that will be performed or provided by the subcontractor.
Of the total Contract, the price of the subcontractor's work.

3.6 Security

The Contractor will be subject the following security procedures:

The Contractor's staff may be required to make deliveries to or enter State facilities. The Contractor must: (a) ensure the security of State facilities, and (b) perform background checks. The State may require the Contractor's personnel to wear State issued identification badges.

4. Project Management

4.1 Project Plan

1. Contractor's sample project plan with proposal including details in sections 1.2.B and 1.2.C.1.t is as follows:

RRC qualifications, specifically including the names, qualifications, education, training, experience and certifications of all individuals who may provide services under any contract resulting from this RFP are included in Appendix I – Resumes. As indicated in the resumes, our team includes former regulators, public accounting and insurance industry professionals. Our employee model and commitment to training have helped RRC develop an exceptional team, dedicated to serving regulators. RRC employs nearly 30 CFEs, many of whom have well over 10 years of experience with financial examinations, who will perform or supervise the performance of the services. We place a high degree of emphasis on training our personnel, including training staff in TeamMate and ACL.

The primary goals of the risk-focused examination process are to (1) assess the effectiveness of the company's risk management processes, internal controls, and corporate governance, (2) identify significant current and other than financial reporting risks, including prospective risks, and (3) to assess the significant risks that a company's surplus is materially misstated. Critical to this approach is the consideration of prospective risks, those which expose a company to solvency risks beyond a particular balance sheet date, and which allow the DIFS to understand and monitor a company to a greater degree and focus on the most threatening solvency risks it faces. An additional goal for each examination is to perform the work in a timely and efficient manner and provide valuable insight to the DIFS. Our experience in conducting financial examinations related to a variety of lines of businesses or companies has allowed us to gain significant experience and efficiencies in working with routine as well as challenging circumstances. We understand that each line of insurance presents different challenges and risks during an examination, and we know that a "cookie cutter" approach does not work for State regulators.

RRC risk-focused examinations will be performed in accordance with the requirements of the current NAIC Examiners Handbook, and policies, guidelines and standards established by the DIFS and applicable sections of the Michigan Insurance Law. Each examination will cover the period designated by the DIFS including any material transactions or events occurring subsequent to the examination date and noted during the course of the examination. Our risk-focused approach will be designed to maximize reliance on work performed by the insurer's external auditors, as well as its internal auditors and other consultants when applicable.



In light of recent guidance from the NAIC, significant emphasis will be placed on prospective and other than financial reporting risks, especially those associated with the NAIC designated “Critical Risk Categories”. Significant risks will be identified through interaction with the DIFS’s analysts and other key State employees, publicly available documentation, documentation obtained from the company, and through the C-level management interview process. After the significant risks are identified, we will determine the key functional activities upon which our examination efforts will be focused. We will then assign the significant identified risks to the key functional activities and Exhibit V, making sure that we have addressed all applicable Critical Risk Categories.

We will identify both prospective and financial reporting significant risks facing the Company in Phases 1 and 2 using the NAIC Examiners Handbook concepts of the likelihood of an occurrence and the magnitude of an impact. We may utilize inherent risk “heat” maps (e.g., graphical depictions of the relative risk associated with a particular examination area) to document and communicate this process to the DIFS.

As part of Phase 1, we will assess the corporate governance, internal audit function, and enterprise risk management function of the Company. In addition, during Phases 1 and 2, we will determine any IT testing gaps that may exist using our COBIT mapping tools. RRC has developed a “toolkit” grounded in the NAIC Examiners Handbook guidance and concepts that will assist the examination team and the DIFS through this assessment process.

In coordination with the DIFS, we will develop a plan to test certain risk mitigation strategies (e.g., internal controls) in Phase 3 using the concepts in the NAIC Examiners Handbook. The objective of Phase 3 is to identify and test internal controls to determine if they are designed and operating effectively in order to reduce Phase 5 substantive testing procedures. We will carefully follow the NAIC Examiners Handbook guidance in our residual risk assessment process, where appropriate, recommending that the examination team re-test critical controls or rely on other testing completed by independent parties such as the Company’s CPAs and/or internal audit. For those risks deemed to be less significant, we may document entire reliance, as appropriate and applicable, on work performed by others so that we can focus our efforts on the most critical risks facing the Company. In addition to the reliance on work performed by others, we will perform independent testing in areas to address significant risks where testing was not performed by others or it is determined that additional testing is warranted.

If *applicable*: if the insurer company has filed an ORSA summary report with the DIFS we would plan to use that filing to assist Phases 1 and 2 of the planning process. We also would use the Phase 3 risk mitigation work on selected ORSA risks to both understand and validate how the company stressed its critical risks.

We may utilize residual risk heat maps or graphical depictions of the residual risk after consideration of mitigating controls, to document and communicate the Phase 4 residual risk assessment. After assessing work of the CPAs, internal auditors, and any other available sources such as the company’s Sarbanes-Oxley Section 404 review and/or NAIC Model Audit Rule workpapers in Phase 3. If applicable, we will perform independent examiner testing in Phase 3 and then determine the residual risk facing the insurer as part of Phase 4. Substantive test work on those areas with low residual risk will be limited in order to focus on those areas with moderate to high residual risk. The insight gained from this process allows for significant input to the Company and to the recommended monitoring plan (i.e., the Supervisory Plan) that is submitted to the DIFS in Phase 6 of the examination. Phase 7, report writing, involves drafting the DIFS’s report and summarizing all findings as a result of the examination.

For smaller domiciled insurers, the approach can be tailored to take into account situations where internal controls may not be present or well documented, in order to be cost efficient while assuring that all high inherent risks have been identified. We have developed both a “small company” and “single state writer” examination approach, including an IT approach that meets the requirements of the NAIC Examiners Handbook, but in a streamlined manner.



RRC has considerable experience in coordinating multi-state examinations. Throughout the phases, the RRC team will coordinate with the other states involved in the examination through regularly scheduled status updates. Through these status updates, agreement will be reached on key prospective risks that should be scoped into the review and their associated testing. Additionally, for key functional activities common between the various companies, RRC will coordinate identification of risk and agreement on in-scope risks and associated testing.

ERM and Corporate Governance Assessment

The risk-focused approach requires an assessment of a Company's corporate governance. Our corporate governance subject matter experts have added a tool that allows examiners to assess corporate governance on a scale of 1-5 using the Exhibit M questions as the base guidance. The assessment tool also includes an internal audit, ERM and IT governance component. Understanding ERM maturity is required for ORSA filers, but is useful on any company that uses ERM to manage and control risk.

An assessment of corporate governance (including ERM) is consistent with the NAIC's objective of prioritizing companies. Also, better management comments for companies with governance issues are a by-product of the assessment process. The assessment of corporate governance is usually conducted with significant interaction at the holding company level. Our tools are designed in a manner that would allow the corporate governance to be assessed by the DIFS examiners, if desired.

Use of Other Specialists

RRC feels strongly about integration of specialists into all phases of the risk-focused examination. Our proposed examination team includes life, health, and property casualty actuaries, ERM/ORSA specialists, investment specialists, statutory accounting specialists, and reinsurance specialists. These resources are trained and available to assist the examiner in charge to execute an effective risk focused examination. We understand that specialists are covered by other contract sections and could involve other vendors. RRC has worked effectively following direction from the State including work with other vendors. We believe the RRC training and common culture makes coordinating with our multi-disciplined employees the most efficient approach. RRC's specialists are employees rather than sub-contractors, and work closely with the rest of the examination team to provide a seamless and integrated work product.

RRC Job Management Process

RRC understands that the examination is performed under the direction of a DIFS supervising examiner. In addition to the EIC assigned from RRC (and approved by the DIFS), RRC has substantial experience at the partner /director level. Each project includes oversight from a Firm Partner and/or Director specifically assigned to the engagement. Our Partners and Directors are hands-on and qualified with credentials such as CFE, CISA and MBA to name a few. Each possess years of industry experience and a proven ability to provide excellent service to State regulators. These procedures ensure an effective and efficient examination process.

RRC believes it is important to identify and report issues relating to compliance and solvency during the examination process. RRC suggest a four-step process for notifying and communicating to our client any issues that could have an impact upon the timely completion of the project:

1. We provide periodic status reports at designated intervals, as agreed with the DIFS, to the person designated as our contact by the DIFS. We will include a detailed report indicating the hours that were spent and the cost of the examination to date including expenses. We also include estimates to complete all assigned work.
2. We establish periodic telephone calls with our contact(s) to discuss the examination progress and produce written minutes from those calls to document the discussions and guidance provided for the examination team.



3. For an urgent issue, we immediately communicate with the DIFS's designated contact(s). This is usually done by both e-mail and telephone with a written follow-up communication.
4. Issues are captured in the form of written emails or memoranda unless otherwise requested.

We believe our process, including partner and/or director oversight of our resources, underscores RRC's commitment to quality and experience in conducting various aspects of financial examinations in accordance with the NAIC Examiners Handbook. It facilitates active analysis and resolution of examination issues.

Examination Workpapers

We use TeamMate for workpaper documentation on all financial examinations. We are prepared to work in any TeamMate Citrix environment deemed necessary. Should the DIFS require RRC to host a project locally, RRC will retain a copy of the electronic TeamMate workpapers in accordance with our firm's requirements and provide the DIFS with the original examination workpapers (i.e., the TeamMate Master) in accordance with its requirements. Every effort will be made to scan all relevant data into the TeamMate files to eliminate, hard copy workpapers.

The Examination deliverables will be a set of workpapers which will become the property of the DIFS, be subject to review by the DIFS at its convenience, and will meet the standards required and established by the DIFS. To the extent it is necessary, RRC makes available to its state clients our secure hosted server environment which is where confidential TeamMate files are located. This facilitates real time remote reviews of the workpapers by the DIFS and the examination quality assurance reviewer.

Information Security

We understand that projects of the nature of services covered in the proposed work could be impacted by weak information security. Therefore, one of our primary project goals revolves around protecting the insurer and DIFS's information. In compliance with RRC, client, and regulatory requirements, we utilize industry standard security measures to isolate and secure insurer and state information transmissions and corporate email.

We have Secure File Transfer Protocol (SFTP) capability with virus software and encryption for significant data and information file transfers. Our computers are encrypted and we use secure email for sending sensitive documents. We use PGP Whole Disk Encryption (PGP) on all employee laptops and external hard drives to protect client and insurer data from loss or theft. PGP Whole Disk Encryption provides non-stop disk encryption which is continuously safeguarded from unauthorized access. Users are required to enter a pass phrase upon starting up the laptop before being prompted to enter any Windows or network passwords. The software also has built-in anti-key logging which prevents pass phrases from being captured or stolen. PGP encrypts all data including temporary files, system registry, browser history, local caches, etc.

Any files that our employees receive and save on their computers, or that our employees generate and save, will be safeguarded by this encryption software. Even if the hard drive were to be removed from the laptop, the drive would still be encrypted. In addition, our security policies prohibit the loading of software that introduces inappropriate risk to confidential information. We also employ PGP Shredder, which is used for permanent destruction of electronic files and documents and we have the ability to utilize encrypted email when sending sensitive or confidential information to any party. Lastly, the data on our employees' laptops is automatically backed up every day to prevent significant loss of data and work product should equipment failure or other losses occur.

4.2 Meetings

The Contractor must attend the following meetings:

- Project status meeting
- Post examination meeting
- Final report conference meeting

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



4.3 Reporting

This information will be requested in individual Second Tier RFPs.

5. Ordering

5.1 Authorizing Document

The appropriate authorizing document for the Contract will be purchase order and/or blanket purchase order.

6. Invoice and Payment

6.1 Invoice Requirements

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.**

6.2 Payment Methods

- a. The State will make payment for Contract Activities monthly by lump sum fixed price payment, based upon DIFS review of hours worked and sufficient progress.
- c. The State has the right to hold back, as a retainage, an amount equal to twenty-five percent (25%) of all amounts invoiced by Contractor for Services/Deliverables. The amounts held back must be released to Contractor after the State has granted Final Acceptance.
- d. The Contractor will be held to the price quoted in the second tier RFP response. No additional funds will be approved and paid to the Contractor for delays in the examination because of company delay of providing needed examination information unless the Contractor can provide sufficient documentation to demonstrate the delays. The delays must be a significant portion of the information such that the Contractor's staff is not able to remain productive. Also, the Contractor must be able to demonstrate that its staff could not be temporarily reassigned during any such lulls in receiving documentation. DIFS does not anticipate any delays and would work with the Contractor and company to ensure delays will not occur.
- e. DIFS will pay for all Financial Examination services by the Contractor that are provided according to the terms of this Contract. No charges shall be submitted to the regulated insurance company being examined, unless otherwise directed by DIFS.



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**EXHIBIT B
RESERVED**



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 Financial Examination/Analysis Services – Pre-Qualification

**EXHIBIT C
 PRICING**

1. Pricing will be finalized in accordance with the second tier, competitive selection process per Exhibit A.
2. Pricing 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).
3. Pricing Table

Staff/Role	Hourly Rate
Examination Oversight	\$165.00
Examiner-in-Charge	\$145.00
Examination Staff	\$125.00
IT Examiner	\$165.00
Actuary	\$215.00