

PROFESSIONAL SERVICES CONTRACT
For MANAGED SERVICE PROVIDER SERVICES

This Contract ("this Contract"), entered into by and between the Indiana Office of Administration Procurement Division on behalf of all State Agencies (the "State") and GuideSoft, Inc. dba Knowledge Services (the "Contractor"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

WHEREAS, the Indiana Office of Technology entered into a Professional Services Contract with Contractor for Managed Service Provider Services pursuant to RFP 8-43,

WHEREAS, Contractor agreed to provide pricing to Other Governmental Bodies as part of the Professional Services Contract for Managed Service Provider Services, and

WHEREAS, the State desires Contractor to provide Managed Service Provider Services for temporary administrative personnel;

THEREFORE, in consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Duties of Contractor.

The Contractor shall provide Managed Service Provider (MSP) services as described in Exhibit C, RFP 8-43, and the Contractor's response to RFP 8-43, Exhibit D, incorporated herein as by reference.

The Managed Service Provider (MSP) services shall include the following:

- A. The Contractor will provide a Vendor Management System that is accessible by end users through the Internet and residing on a secure server with backup and recovery capabilities;
- B. The Vendor Management System will accept requirements from the State for both time and labor and scope of work requests, provide those requirements to the supplier vendors, review, rate and filter the candidates or proposals from the supplier vendors, provide the best candidates and proposals to the State, capture timesheet information, and accurately invoice the State for the resources or deliverables by agency and P.O.;
- C. The Contractor is responsible for the all costs and fees associated with prescreening (background, drug, credit) checks. Prescreening requirements will be determined on a per-agency basis, and Contractor is responsible for defining such requirements in the job posting within the Vendor Management System
- D. The Vendor Management System will interface with Encompass (PeopleSoft) Financials/eProcurement to automate the requisition and invoicing process, with such definitions to be mutually agreed upon by the parties. The State will provide all necessary technical requirements and appropriate access to personnel and/or file structures on a timely basis to perform such work.
- E. The Contractor will provide Vendor Management System training for all users;
- F. The Contractor will provide ongoing support for the Vendor Management System;
- G. The Contractor will provide standard reports, as well as a reasonable amount of management reports and user-defined reports, available in hard copy and on-line either on request or scheduled;
- H. The Contractor will provide a concierge service to facilitate the State's use of the Vendor Management System;
- I. The Contractor will hold the Vendor Management System source code in escrow; Escrow means a software escrow account where Contractor has deposited with a third party the source code for the Vendor Management System.

- J. The Vendor Management System will track and store data for at least three (3) years after the contract expiration;
- K. The Contractor will provide a plan to implement the Vendor management System, report progress on the implementation, and identify and resolve issues during the implementation;
- L. The Contractor will provide a comprehensive plan to transition all existing staffing suppliers, and current projects and resources to the Vendor Management System;
- M. The Contractor will facilitate regular contract review meetings to review their performance and service level metrics;
- N. The Contractor will assist the State in quantifying cost savings and identify ongoing opportunities for additional savings during the life of the contract;
- O. The Contractor will track the performance of supplier vendors and resources and ensure that quality and service levels are maintained;
- P. The Contract will meet the established service levels as described in Exhibit B;
- Q. The Contractor will provide customer satisfaction survey metrics;
- R. The Contractor will provide the pricing in this Contract to Other Governmental Bodies (state and local units of government).

2. Consideration

The Contractor will be paid up to the maximum rates shown in Exhibit A, attached hereto and incorporated by reference. Total remuneration under this Contract shall not exceed twenty four million dollars (\$24,000,000).

- A. Compensation for the Services shall be contingent upon the actual performance of Services by the Contractor and based on the maximum hourly rates listed in Exhibit A – Managed Service Provider Rate.
- B. Maximum hourly rates identified for the term of the contract are fixed and are not subject to change at any time during the term of this Contract, unless by amendment executed by all signatories hereto, including any extension thereto, or during the term of any QPA Purchase Order.
- C. The rates will include the Vendor Management Service fee not to exceed 1.87%.
- D. Hourly service rates apply during normal business hours, Monday through Friday (excluding state holidays), 7:00 am to 7:00 pm. Upon twenty-four (24) hour advance verbal notice from the Using Agency authorized representative, Contractor will provide services during hours other than set forth above at the same rates.
- E. Temporary staff will not be compensated for State Holidays unless they work as approved by the Using Agency.
- F. If work in any work week for a contract personnel resource will exceed forty (40) hours, Using Agencies may, by a letter or memorandum signed by an Authorized Fiscal Agent of that agency, agree to pay Contractor the incremental cost in overtime wages incurred by Contractor as a result of the overtime work. In order for Contractor to qualify for reimbursement hereunder, all of the following conditions must be met:
 - i. consent from the Using Agency must precede the work for which additional reimbursement is sought;
 - ii. Contractor must accurately state the hourly wage or contract charge to Contractor ("the real hourly wage") of the affected contract employee; and,
 - iii. Contractor will receive reimbursement over and above the rates provided in the Rate Schedule only for the additional charge to Contractor resulting from overtime work. The overtime bill rate differential for State designated eligible positions will be at a rate of 1.4, i.e. forty percent (40%) above the accepted base rate in the rate schedule, and only for positions designated by the State as eligible for overtime. Overtime premium for rates in excess of or not included in the accepted published rate schedule will be negotiated at time of candidate acceptance by the State hiring manager or MSP.

Contractor or the supplier vendor shall ensure that employees are paid overtime pay if legally eligible.

- G. Contractor shall submit a properly prepared invoice of charges to the Using Agency weekly for services performed in the immediately preceding week to the Using Agency for review. Attached to the invoice shall be work statements representing each week with detailed information for each person performing work under the Contract such that the Using Agency can determine with reasonable accurateness the appropriateness of the charges being presented. The statements shall include, but not necessarily be limited to, the number of hours worked, the rates charged, and a general description of the work performed. Payment of the invoice, if accurate, shall be made thirty-five (35) calendar days from receipt in accordance with IC 5-17-5-1 et. seq.
- H. The State shall in good faith perform its obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law, in part, IC 5-17-5-1 et seq., IC 34-54-8-1 et seq., and IC 34-13-1-1 et seq. All payment obligations are subject to the encumbrance of monies and shall be made in arrears in accordance with Indiana law and State fiscal policies and procedures.
- I. Except as specified below, the State shall not be responsible for any travel, living, or out-of-pocket expenses of any kind incurred by the Contractor in the performance of any services under this Contract and/or any QPA Purchase Order. All such expenses are the sole responsibility of the Contractor. Any hours worked shall not include hours or time spent traveling to and from the assigned office of the Using Agency. Despite the foregoing, Using Agencies may reimburse Contractor solely for the travel, living, or out-of-pocket expenses incurred by Contractor's employees in traveling from the Using Agency's assigned office to branch or remote offices provided that:
 - i. The State will only reimburse such actual expenses up to the amount granted to state employees under State law, fiscal policy, and procedures for travel as stated in the current State Budget Agency Financial Management Circular.
 - ii. In order to receive reimbursement for expenses, Contractor must submit an itemized list of actual expenses and copies of receipts matching the claimed expenses.
 - iii. Failure to submit itemized expenses and matching receipts will result in nonpayment for expenses.

3. Term

This Contract shall be effective for a period of three (3) years and may be renewed for an additional three (3) year term, for a total of six (6) years. It shall commence on the last State signatory date and shall remain in effect for three (3) years after the last State signatory date.

4. Access to Records

The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.

5. Assignment; Successors

The Contractor binds its successors and assignees to all the terms and conditions of this Contract. The Contractor shall not assign or subcontract the whole or any part of this Contract without the State's prior written consent. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the State, provided that the Contractor gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be

made to more than one party.

6. Audits

The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC 5-11-1, *et. seq.* and audit guidelines specified by the State.

Following the expiration of this Contract, the Contractor shall arrange for a financial and compliance audit of funds provided by State pursuant to this Contract. Such audit is to be conducted by an independent public or certified public accountant (or as applicable, the Indiana State Board of Accounts), and performed in accordance with Indiana State Board of Accounts publication entitled "Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources," and applicable provisions of the Office of Management and Budget Circulars A-133 (Audits of States, Local Governments, and Non-Profit Organizations). The Contractor is responsible for ensuring that the audit and any management letters are completed and forwarded to the State in accordance with the terms of this Contract. Audits conducted pursuant to this paragraph must be submitted no later than nine (9) months following the close of the Contractor's fiscal year. Contractor agrees to provide the Indiana State Board of Accounts and the State an original of all financial and compliance audits. The audit shall be an audit of the actual entity, or distinct portion thereof that is the Contractor, and not of a parent, member, or subsidiary corporation of the Contractor, except to the extent such an expanded audit may be determined by the Indiana State Board of Accounts or the State to be in the best interests of the State. The audit shall include a statement from the Auditor that the Auditor has reviewed this Contract and that the Contractor is not out of compliance with the financial aspects of this Contract.

7. Authority to Bind Contractor

The signatory for the Contractor represents that he/she has been duly authorized to execute this Contract on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed, and accepted by the State.

8. Changes in Work

The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the State. Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

9. Compliance with Laws

A. The Contractor shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.

B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6 *et seq.*, IC § 4-2-7, *et. seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <http://www.in.gov/ethics/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44-1-3, and under any other applicable laws.

C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State. The Contractor agrees that any payments currently due to the State may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.

D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.

E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC § 5-17-5.

F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.

G. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

H. As required by IC 5-22-3-7:

(1) the Contractor and any principals of the Contractor certify that (A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of (i) IC 24-4.7 [Telephone Solicitation Of Consumers], (ii) IC 24-5-12 [Telephone Solicitations] , or (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) the Contractor will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

(2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

10. Condition of Payment

All services provided by the Contractor under this Contract must be performed to the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The State shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of and federal, state or local statute, ordinance, rule or regulation.

11. Confidentiality of State Information

The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material and information gathered, based upon or disclosed to the Contractor for the purpose of this Contract, will not be disclosed to or discussed with third parties without the prior written consent of the State.

The parties acknowledge that the services to be performed by Contractor for the State under this contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Contractor and the State agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by Contractor, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this contract.

For work to be performed by Contractor on behalf of the Department of Revenue, Contractor shall require all Resources to sign the State's *Confidentiality Agreement* and *Authorization to Release Information* forms on an annual basis, and further agrees to the following:

a. PERFORMANCE

In performance of this contract, Contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

- (1) All work will be done under the supervision of Contractor or Contractor's employees.
- (2) Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Disclosure to anyone other than an officer or employee of Contractor will be prohibited.
- (3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
- (4) The contractor certifies that the data processed during the performance of this contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by Contractor at the time the work is completed. If immediate purging of all data storage components is not possible, Contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
- (5) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the agency or his or her designee. When this is not possible, Contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the agency or his or her designee with a statement containing the date of destruction, description of material destroyed, and the method used.
- (6) All computer systems processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.

(7) No work involving Federal tax information furnished under this contract will be subcontracted without prior written approval of the IRS.

(8) Contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.

(9) The agency will have the right to void the contract if Contractor fails to provide the safeguards described above.

b. CRIMINAL/CIVIL SANCTIONS:

(1) Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

(2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431.

(3) Additionally, it is incumbent upon Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

c. INSPECTION:

The IRS and the Agency shall have the right to send its officers and employees into the offices and plants of Contractor for inspection of the facilities and operations provided for the performance of any work under this contract. On the basis of such inspection, specific measures may be required in cases where Contractor is found to be noncompliant with contract safeguards.

12. Continuity of Services

- A. The Contractor recognizes that the service(s) to be performed under this Contract are vital to the State and must be continued without interruption and that, upon Contract expiration, a successor, either the State or another contractor, may continue them. The Contractor agrees to:
1. Furnish phase-in training, and
 2. Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.
- B. The Contractor shall, upon the State's written notice:
1. Furnish phase-in, phase-out services for up to sixty (60) days after this Contract expires, and
 2. Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required.

The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the State's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this Contract are maintained at the required level of proficiency.

C. The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this Contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

D. The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations).

13. Debarment and Suspension

A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.

B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

14. Default by State

If the State, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination.

15. Disputes

- A. Should any disputes arise with respect to this Contract, the Contractor and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
- B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the Contractor as a result of such failure to proceed shall be borne by the Contractor.
- C. If a party to the contract is not satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon written notice, the parties have ten (10) working days, unless the parties mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved within ten (10) working days, a dissatisfied party will submit the dispute in writing according to the following procedure:
 - i. The parties agree to resolve such matters through submission in writing of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor and the State within ten (10) working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one of the parties concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration or mediation for a determination. If a party is not satisfied with the Commissioner's ultimate decision, the dissatisfied party, may submit the dispute to an Indiana court of competent jurisdiction.
 - ii. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the Contractor of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for Contractor to terminate this Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

16. Drug-Free Workplace Certification

The Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor or an employee of the Contractor in the State of Indiana has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total contract amount set forth in this Contract is in excess of \$25,000.00, the Contractor hereby further agrees that this Contract is expressly subject to the terms, conditions, and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this certification has been fully executed by the Contractor and made a part of the contract or agreement as part of the contract documents.

The Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

17. Employment Option

If the State determines that it would be in the State's best interest to hire or convert the employee of the Contractor or a participating program supplier to a State employee or to a State-designated payroll provider after the designated period in Exhibit A, Contractor or supplier vendor will release the selected employee from any non-compete agreements that may be in effect. This release will be at no cost to the State, Contractor or the employee.

If the State determines that it would be in the State's best interest to hire an employee of the Contractor or a participating program supplier vendor prior to completion of the designated period in Exhibit A, the State will notify the Contractor or applicable supplier vendor, who in turn will notify Contractor or applicable supplier vendor, of the State's intent to hire the resource. The State will negotiate a conversion fee with the contractor or applicable supplier vendor, which shall not exceed the maximum rates detailed in Exhibit A.

Upon receiving the approval of IDOA authority agent, the State shall pay a payrolling rate of twelve percent (12%) after statutory costs, which include FICA, Medicare, SUTA, FUTA and Workers

Compensation Insurance. Total markup will be approximately twenty two percent (22%), but in no event shall exceed twenty five percent (25%). M/WBE commitments outlined in Section 28 below shall exclude payroll spend.

18. Force Majeure

In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

19. Funding Cancellation

When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Director of SBA that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

20. Governing Laws

This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.

21. Indemnification

The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. The State shall not provide such indemnification to the Contractor.

22. Independent Contractor

Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party.

The Contractor shall be responsible for providing all necessary unemployment and workers' compensation insurance for the Contractor's employees.

23. Information Technology Enterprise Architecture Requirements

If the Contractor provides any information technology related products or services to the State, the Contractor shall comply with all IOT standards, policies and guidelines, which are online at <http://iot.in.gov/architecture/>. The Contractor specifically agrees that all hardware, software and services provided to or purchased by the State shall be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted under Section 508 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 794d) and IC 4-13.1-3. Any deviation from these architecture requirements must be approved in writing by IOT in advance. The State may terminate this Contract for

default if the Contractor fails to cure a breach of this provision within a reasonable time.

24. Insurance

A. The Contractor shall secure and keep in force during the term of this Contract, the following insurance coverages, covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract:

1. Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits of \$700,000 per person and \$5,000,000 per occurrence unless additional coverage is required by the State. The State is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Contract.
2. Automobile liability with minimum liability limits of \$700,000 per person and \$5,000,000 per occurrence. The State is to be named as an additional insured on a primary, non-contributory basis.
3. The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance prior to the commencement of this Contract and proof of Workers compensation coverage meeting all statutory requirements of IC 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana.

B. The Contractor's insurance coverage must meet the following additional requirements:

1. The insurer must have a certificate of authority issued by the Indiana Department of Insurance.
2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
3. The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.
4. The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.

Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the State before the commencement of this Contract.

25. Key Person(s) – Deleted by agreement of both parties

26. Licensing Standards

The Contractor, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the Contractor pursuant to this Contract. The State will not pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification or accreditation, the

Contractor shall notify the State immediately and the State, at its option, may immediately terminate this Contract.

27. Merger & Modification

This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, except by written agreement signed by all necessary parties.

28. Minority and Women’s Business Enterprises Compliance

The Contractor agrees to submit a copy of the agreement entered into between the Contractor and each MBE/WBE subcontractor where the State took the selection of the MBE/WBE by the Contractor into consideration when issuing the procurement award. The copy of the agreement must be submitted to the MWBE Division in IDOA within ninety (90) days of the execution of the contract between the Contractor and the State. The Contractor also agrees to send all amendments, changes, and terminations to these agreements to the MWBE Division in IDOA within ninety (90) days of their execution. Failure to provide a copy of the agreement or subsequent amendment, change, and termination may result in exclusion from future State procurements. If the Contractor is not excluded from future procurements, the actions or inactions of the Contractor with regard to the above will be taken into account in all phases and scoring in future procurements. In addition, the Contractor must obtain the approval of the Division before changing any MBE/WBE participation plan submitted in connection with this Contract.

The Contractor agrees to comply fully with the provisions of 25 IAC 5 and the Subcontractor Commitment submitted to the State. No changes may be made to the commitment without the written approval of the Minority and Women’s Enterprises Division of IDOA.

<u>MBE/WBE</u>	<u>PHONE</u>	<u>COMPANY NAME</u>	<u>SCOPE OF PRODUCTS and/or SERVICES</u>
WBE	812/479-8373	Action Temporary Service, Inc.	Temporary Admin/Clerical Staffing
WBE	317/844-1400	Chrysalis Consulting, LLC	Temporary Admin/Clerical Staffing
MBE	317/ 472-6777	Lee Computers	Temporary Admin/Clerical Staffing
MBE	317/541-9300	Ryan Consulting Group, Inc.	Temporary Admin/Clerical Staffing
MBE	317-578-7441	RCR Technology Corp	Temporary Admin/Clerical Staffing
MBE	317/723-3512	Professional Management Enterprises	Temporary Admin/Clerical Staffing
MBE	317/509-6604	The Morales Group Inc.	Temporary Admin/Clerical Staffing
WBE	260/434-0990	Briljent	Temporary Admin/Clerical Staffing
MBE	317-423-0609	The Bryant Group	Temporary Admin/Clerical Staffing

Amounts for each company will vary through the term of the contract. However the cumulative commitment will be as follows:

Minority Business Enterprise Commitment	8%
Women’s Business Enterprise Commitment	8%

29. Nondiscrimination

This covenant is enacted pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act. Breach of this covenant may be regarded as a material breach of this Contract, but nothing in this covenant shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

Pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the

Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's: race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Furthermore, Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services.

The Contractor understands that the State is a recipient of federal funds, and therefore, where applicable, Contractor and any subcontractors agree to comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246.

30. Notice to Parties

Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:

Indiana Office of Administration
Attention: Roxie Coble
Indiana Government Center South, Room W-468
402 W. Washington St.
Indianapolis, IN 46204

B. Notices to the Contractor shall be sent to:

GuideSoft, Inc. dba Knowledge Services
Attention: Julie Bielawski
8275 Allison Pointe Trail, Suite 200
Indianapolis, IN 46250

C. As required by IC 4-13-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the Indiana Auditor of State.

31. Order of Precedence; Incorporation by Reference

Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract, (2) attachments prepared by the State, (3) RFP 8-43, (4) Contractor's response to RFP 8-43, and (5) attachments prepared by the Contractor. All of the foregoing are incorporated fully by reference. All attachments, and all documents referred to in this paragraph are hereby incorporated fully by reference.

32. Ownership of Documents and Materials

All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the Contractor prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the Contractor transfers any ownership claim to the State and all such materials will be the property of the State. Use of these materials, other than related to contract performance by the Contractor, without the prior written consent of the State, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to these materials developed for or supplied by the State and used to develop or assist in the services provided while the materials are in the possession of the Contractor. Any loss or damage thereto

shall be restored at the Contractor's expense. The Contractor shall provide the State full, immediate, and unrestricted access to the work product during the term of this Contract.

33. Payments

A. All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by IC 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the Contractor in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC 4-13-2-20.

33. Penalties/Interest/Attorney's Fees

The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC 5-17-5, IC 34-54-8, and IC 34-13-1.

Notwithstanding the provisions contained in IC 5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

35. Progress Reports

The Contractor shall submit progress reports to the State upon request. The report shall be oral, unless the State, upon receipt of the oral report, should deem it necessary to have it in written form. The progress reports shall serve the purpose of assuring the State that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

36. Renewal Option

This Contract may be renewed under the same terms and conditions, subject to the approval of the Commissioner of the Department of Administration and the State Budget Director in compliance with IC 5-22-17-4. The term of the renewed contract may not be longer than the term of the original contract.

37. Security and Privacy of Health Information

The Contractor agrees to comply with all requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) in all activities related to this Contract, to maintain compliance throughout the life of this Contract, to operate any systems used to fulfill the requirements of this Contract in full compliance with HIPAA and to take no action which adversely affects the State's HIPAA compliance.

The parties acknowledge that the Department of Health and Human Services has issued the Final Rule, as amended from time to time, on the Standards for Privacy of Individually Identifiable Health Information, as required by HIPAA. To the extent required by the provisions of HIPAA and regulations promulgated thereunder, the Contractor covenants that it will appropriately safeguard Protected Health Information (PHI), as defined by the regulations, which is made available to or obtained by the Contractor in the course of its work under this Contract. The Contractor agrees to comply with applicable requirements of law relating to PHI with respect to any task or other activity it performs for the State as required by the final regulations.

38. Severability

The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

39. Substantial Performance

This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

40. Taxes

The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Contractor as a result of this Contract.

41. Termination for Convenience

This Contract may be terminated, in whole or in part, by the State whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided but in no case shall total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date.

42. Termination for Default

A. With the provision of thirty (30) days notice to the Contractor, the State may terminate this Contract in whole or in part if the Contractor fails to:

1. Correct or cure any breach of this Contract; the time to correct or cure the breach may be extended beyond thirty (30) days if the State determines progress is being made and the extension is agreed to by the parties;
2. Deliver the supplies or perform the services within the time specified in this Contract or any extension;
3. Make progress so as to endanger performance of this Contract; or
4. Perform any of the other provisions of this Contract.

B. If the State terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

C. The State shall pay the contract price for completed supplies delivered and services accepted. The Contractor and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

D. The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

43. Travel

No expenses for travel will be reimbursed unless specifically permitted under the Duties of Contractor. The Contractor will arrange all travel to be reimbursed under this Contract through the State's Department of Administration Travel Coordinator. All travel must be approved in advance by the State. Expenditures made by the Contractor for travel will be reimbursed at the current rate paid by the state and in accordance with the State Travel Policies and Procedures (see Travel Management Office website : <http://www.in.gov/idoa/2459.htm>) as specified in the current Financial Management Circular (see http://www.in.gov/idoa/files/travel_policy.pdf).

44. Waiver of Rights

No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Contractor's negligent performance of any of the services furnished under this Contract.

45. Work Standards

The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request

46. State Boilerplate Affirmation Clause

I swear or affirm under the penalties of perjury that I have not altered, modified, changed or deleted the State's Boilerplate contract clauses (as contained in the March 2008 OAG/ IDOA *Professional Services Contract Manual*) in any way except for the following clauses:

- 11. Confidentiality of State Information – Modified
- 17. Employment Option - Modified
- 25. Key Person(s) – Deleted
- 28. MWBE Compliance - Modified
- 30. Notice to Parties – Added contact information
- 43. Travel – Must be arranged by IDOA Travel Coordinator

THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the Contractor, or that he/she is the properly authorized representative, agent, member or officer of the Contractor, that he/she has not, nor has any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

In Witness Whereof, Contractor and the State have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below hereby agree to the terms thereof.

(Contractor:)

(Where Applicable)

By: 
Printed Name: Julianna M. Bielawski
Title: CEO
Date: 8/25/09

Attested By: 
Katie Petrangola
Corporate Counsel
8/25/2009

Indiana Office of Technology

Department of Administration

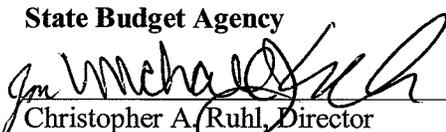
 (for)
Gerry Weaver, Chief Information Officer
Date: 9/4/09

 (for)
Mark W. Everson, Commissioner
Date: 8/27/09

State Budget Agency

APPROVED as to Form and Legality:

Office of the Attorney General

 (for)
Christopher A. Ruhl, Director
Director
Date: 9/1/09

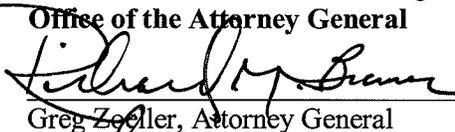
 (for)
Greg Zoeller, Attorney General
Date: September 8, 2009

Exhibit A
Program Outline

1. Hourly "Not to Exceed Rates" by position.

Position	State Job Code	KS Program Max Bill
Accountant 1	2RA1	\$36.00
Accountant 2	2RA2	\$29.00
Accountant 3	2RA3	\$24.00
Accountant 4	2RA4	\$18.00
Accountant 5	2RA5	\$17.00
Temporary, AccountClerk2, Clerical	3JA2	\$14.10
Temporary, AccountClerk3, Clerical	3JA3	\$12.50
Temporary, AccountClerk4, Clerical	3JA4	\$13.00
Temporary, Administrative Assistant 3, Professional	2WN3	\$14.60
Temporary, Administrative Assistant 4, Professional	2WN4	\$14.70
Temporary, Administrative Assistant 5, Professional	2WN5	\$16.10
Temporary, Clerical Assistant 4	3LD4	\$12.90
Temporary, Clerical Assistant 5	3LD5	\$11.50
Temporary, DataInputOperator2, Clerical	3QB4	\$12.70
Data Input Operator 2, Clerical, 9,500-10,499 keystrokes	3QB4	\$12.10
Data Input Operator 2, Clerical, 10,500-11,499 keystrokes	3QB4	\$12.70
Data Input Operator 2, Clerical, 11,500-12,499 keystrokes	3QB4	\$13.30
Data Input Operator 2, Clerical, 12,500-13,499 keystrokes	3QB4	\$13.90
Data Input Operator 2, Clerical, 13,500-14,499 keystrokes	3QB4	\$14.50
Data Input Operator 2, Clerical, 14,500-15,499 keystrokes	3QB4	\$15.20
Data Input Operator 2, Clerical, 15,500 - 16,499 keystrokes	3QB4	\$15.90
Data Input Operator 2, Clerical, 16,500-17,499 keystrokes	3QB4	\$16.60
Data Input Operator 2, Clerical, 17,500-18,499 keystrokes	3QB4	\$17.50
Data Input Operator 2, Clerical, 18,500 and up keystrokes	3QB4	\$18.40
Temporary, DataInputOperator3, Clerical	3QB4	\$11.80
Temporary, DataInputOperator4, Clerical	3QB4	\$11.50
Temporary, GenCOMOT2, Clerical	3MB2	\$13.00
Temporary, GenCOMOT3, Clerical	3MB3	\$12.60
Temporary, GenCOMOT4, Clerical	3MB4	\$12.10
Temporary, LegalAssistant5, Professional	1VA5	\$18.90
Temporary, Tax Analyst4, Professional	2RW4	\$15.70
Temporary, Tax Analyst5, Professional	2RW5	\$14.30
Temporary, Tax Analyst Supervisor6, Professional	7RW6	\$17.90
Temporary, WordProcessor2, Clerical	3QB4	\$13.40
Temporary, WordProcessor3, Clerical	3QB4	\$13.00
Temporary, WordProcessor4, Clerical	3QB4	\$13.00
Temporary, Warehouse Clerk	3PA2	\$11.60

2. Rate Differentials.

- a. The State shall pay a premium of 1.4 times the hourly rate for all overtime work pre-approved by the hiring manager and the Authorized Fiscal agent of the agency. Overtime is defined as work performed in excess of 40 hours per week, and only for the positions specified under this agreement.

3. Shift Premiums

The State shall pay the below stated shift premium upon pre-approval being given by the hiring manager and the Authorized Fiscal agent of the agency

- a. The State shall pay a shift premium multiplier of 1.05 times the hourly rate for all Evening shift work. Evening shift is defined as work performed from 5:00PM to 12:00 Midnight, and only for the positions specified under this agreement.
- b. The State shall pay a shift premium multiplier of 1.1 times the hourly rate for all Night shift work. Night shift is defined as work performed from 12:00 Midnight to 8:00 AM, and only for the positions specified under this agreement.
- c. The State shall pay a shift premium multiplier of 1.05 times the hourly rate for all Holiday or Weekend shift work. Night shift is defined as work performed from 12:00 Midnight to 8:00 AM, and only for the positions specified under this agreement

4. Direct Hire Fees.

a. **Direct hire fees - Nonprofessional Positions.**

The State shall pay the following direct hire fees for nonprofessional positions. Nonprofessional positions are defined as any position with less than \$40,000 in annual base salary per year.

Non-professional	Direct Hire Fee
Under \$40,000 per year in salary	\$3,000

- b. **Direct hire fees - Professional Positions.** The State shall pay the following direct hire fees for professional positions. Professional positions are defined as any position with more than \$40,000 in annual base salary per year.

Professional	Direct Hire Fee
Above \$40,000 per year in salary	20% of base salary on hire date excluding bonus plan and benefits

5. Conversion Fees.

- a. The "Conversion Fee" shall be the fee charged by Contractor when a Resource is converted to a direct hire employee of the State. Conversion Fees shall not be adjusted by the Mark-Up Rate. The Conversion Fee shall be calculated as follows:
- b. Conversion fees for nonprofessional positions shall be compensated as follows. Nonprofessional positions are defined as any position with less than \$40,000 in annual base salary per year.

Non professional	Conversion Fee
0 - 30 days worked	\$3,000
31 - 60 days worked	\$1,000

61 - 90 days worked	\$ 500
Over 90 days worked	\$ 0

- c. Conversion fees for professional positions shall be compensated as follows. Professional positions are defined as any position with more than \$40,000 in annual base salary per year.

Professional	Conversion Fee
0 - 30 days worked	20%
31 - 60 days worked	15%
61 - 90 days worked	12.5%
91 - 120 days worked	10%
121 - 180 days worked	5%
Over 180 days worked	0%

Exhibit B
Managed Service Provider Service Levels

The State expects that the MSP will demonstrate a high level of quality control standards and service to their clients. The MSP is required to describe its quality standards and guarantees of service, background check processes and other quality assurance processes, and its response to resources that are not performing to the State quality standards.

The State has also developed a high-level process that will be utilized throughout the life of this contract to ensure that the MSP is providing the best possible service to all agencies. Suppliers should be prepared to contribute regularly through this process in a variety of ways and should be prepared to receive reductions in business volume or pay liquidated damages to the State for inadequate service levels. The quality assurance process encompasses several key sections:

- A. Agency end users will request resources through the MSP's web-based ordering tool. If the Account Managers provide a group of resumes (minimum of three (3) per request), which the agency end user feels do not meet the requirements as stated in the requisition, the end user will return those resumes to the Account Manager and request a new group of resumes. If a second group of resumes is provided (minimum of three (3)), and no resumes within the group meet the requirements as stated in the requisition and clarified in the re-order process, the end user may return the resumes to the Account Manager and request a waiver from the State contract manager to utilize an out of program provider for the service need. To be accepted by the State, the Contractor(s) and the vendor/ supplier of the Contractor(s) will be added into the Vendor Management System at time of Contractor acceptance, but prior to the Contractor(s) start date, and be subject to the fees and contractual obligations of the State approved contract with the MSP.
- B. End users will have the opportunity to conduct, and request that the Contractor administer skills assessments specified by the agency (phone interviews, face to face interviews, capabilities tests, etc.) of the candidates they choose from the Account Manager-provided group of resumes. If the end user determines that the candidate will not meet the skill requirements of the position, the end user will reject the candidate and request another batch of resumes from which to choose another candidate. If this occurs twice with the same requisition, and the end user is still unable to find a candidate who meets the skills requirements of the position, the end user may request a waiver from the State contract manager to utilize an out of program provider for the service need. To be accepted by the State, the Contractor(s) and the vendor/ supplier of the Contractor(s) will be added into the Vendor Management System at time of Contractor acceptance, but prior to the Contractor(s) start date, and be subject to the fees and contractual obligations of the State approved contract with the MSP.
- C. If a resource begins work for a particular agency, and the agency determines within the first week (five (5) business days) that the resource does not have the skills or capabilities necessary to complete the job as requested in the original requisition, the agency may request that the resource be replaced immediately, and the State shall not pay for the work conducted by the unacceptable resource.
- D. A quarterly meeting will take place among the Account Managers, State Agency Representatives, and the State Contract Manager to review the quality of service provided to the State by the MSP. It is at this time that the State will score the MSP on a variety of performance criteria, including, but not limited to, the Service Level Agreements (SLAs) as outlined below. The MSP will also have the opportunity to provide the State with suggestions on how to improve its own processes relating to Medical Contract Services. If any service deficiencies are identified across the entire contract, the MSP and the State representatives will determine a plan of action to ensure that the level of service improves. Remedies for missing specific SLA-defined targets, as outlined below, will be imposed. If two (2) additional quarterly meetings occur with minimal or no improvement in the identified areas, it may be cause for the State to terminate the contract.

The SLAs will be reviewed monthly by the State contract manager to identify any issues requiring immediate attention and will be reviewed again during the quarterly meetings between the State and the MSP, as defined in part D above.

Performance Metric	MSP Goal	Performance Target	Description	Calculation	Frequency of Review
Requisition Confirmation Response time	4 business hours	92% or higher	Measures average response time from receipt of request to confirmation of request receipt.	Number of requisitions which received confirmation within 4 hours / total number of requisitions.	monthly
Resume Submittal Response time	4 business days	92% or higher	Measures average response time from receipt of request to delivery of first candidate's resume.	Number of requisitions which received first batch of resumes for review within 72 hours / total number of requisitions.	monthly
Normal Fill Rate	N/A	92% or higher	Measures contractor's ability to satisfactorily fulfill requisitions: Indicates how many requisitions are open.	Total number of filled positions at month end / total number of requisitions that have been in place over 2 weeks.	monthly
Normal Round 1 Fill Rate	N/A	80% or higher	Measures contractor's ability to satisfactorily fulfill requisitions within first round of resumes submitted to requestor (normal requisitions).	Total number of filled positions resulting from the first round of resumes / total number of requisitions filled.	monthly
Urgent Flagged Submittal Response Time	2 business days	92% or higher	Measures average response time from receipt of URGENT request to delivery of first candidate's resume.	Number of URGENT requisitions that received first batch of resumes for review within 24 hours / total number of URGENT requisitions.	monthly
Urgent Fill Rate	N/A	92% or higher	Measures contractor's ability to fulfill requisitions: Indicates how many requisitions are open.	Total number of URGENT filled positions at month end / total number of requisitions that have been in place over 2 weeks.	monthly
Urgent Round 1 Fill Rate	N/A	90% or higher	Measures contractor's ability to fulfill requisitions within first round of resumes submitted to requestor (URGENT requisitions).	Total number of URGENT filled positions resulting from the first round of resumes / total number of requisitions filled.	monthly
Attrition Rate	N/A	8% or lower	Measures resource turnover due to unplanned situations that are not caused by the State, not including inadequate performance, death, serious illness, etc.	Number of unplanned turnovers / total number of resources.	monthly
Performance Removal	N/A	5% or lower	Measures resource turnover due to inadequate resource performance.	Number of turnovers (due to inadequate performance) / total number of resources.	monthly
Offering Opportunity to the Network	N/A	30% or higher	Measure of how many resource resumes, provided to the State after requisition, are from the contractor's subcontractor network.	Total number of resumes provided to the State from subcontractor resource pools / total number of resumes provided to the State.	monthly
Usage of Network	N/A	90% or higher	Measure of how many subcontractor resources are selected by the State.	Number of subcontractor resources selected within period / total number of resources selected within period.	monthly
Minority Business Enterprise Usage	Commitment from Section 28	8% or higher	Measure of how many Minority Business Enterprises resources are being used by the State	Dollars paid to Minority Business Enterprises within period/Total dollars paid within period	monthly
Women's Business Enterprise Usage	Commitment from Section 28	8% or higher	Measure of how many Women's Business Enterprise resources are being used by the State	Dollars paid to Women's Business Enterprises within period/Total dollar's paid within period	monthly

The MSP will be allowed a sixty (60) day grace period during the implementation phase of the contract to ramp up services, without scoring on the performance metrics above. Resources billing at the State prior to the effective date

of this Contract shall be excluded from the performance metrics calculation. After the sixty (60) day grace period, tracking of each of the above performance metrics should begin, and the first report shall be due to the State contract manager one (1) month after the grace period ends.

Once a final scorecard, which will include the above performance metrics, has been developed, the State contract manager will calculate a score for the contractor's overall performance. If the score is below the minimum threshold, as agreed upon in negotiations by the MSP and the State, the following actions will be taken.

1. A discussion will take place between the MSP representatives and the State contract manager. The MSP will be given a warning, and a plan will be developed to improve on the problem areas within two (2) months.
2. If the next review occurs with minimal or no improvement in the problem areas, the MSP will be placed on probation, and the MSP will be given three (3) months to improve their overall service score.
3. If the next review with below-threshold score occurs within the three (3) month probationary period, the MSP will be required to give a three percent (3%) rebate on the month's revenue generated from MSP fees back to each agency which has provided revenue to the MSP.
4. If a fourth below-threshold score occurs within the next three (3) months, the MSP will be required to provide a five percent (5%) rebate on the month's revenue back to each agency that has provided revenue generated from MSP fees to the MSP, and the contract may be terminated by the State.