



MILITARY DEPARTMENT OF INDIANA
JOINT FORCES HEADQUARTERS – INDIANA
ADJUTANT GENERAL'S OFFICE
2002 SOUTH HOLT ROAD
INDIANAPOLIS, INDIANA 46241-4839



Indiana Civilian Cyber Corps (ICCC)

Client Agreement

PROFESSIONAL SERVICES CONTRACT
#MDI-SAB-24-S-0XX

This Contract entered by _____ (the "Cybersecurity Client") and **The Adjutant General's Office** (the "State"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Duties of Contractor. The Contractor shall provide the following services relative to this Contract:

Option 1 – the Cybersecurity Client is requesting cybersecurity training by the civilian cyber corps (IC 10-22-5(a))

Option 2 – the Cybersecurity Client is requesting the response capabilities of the civilian cyber corps because:

- (a) A cybersecurity incident has occurred; or
- (b) The Cybersecurity Client has recognized a potential security vulnerability that could lead to a cybersecurity incident, and is requesting rapid response assistance

The specific training required or incident response requested by the Cybersecurity Client shall be _____ provided for in the Attached Exhibit "A," hereby incorporated by reference and made a part hereof.

2. Consideration. The State will be paid at the rate of _____ for performing the duties set forth above. Total remuneration under this Contract shall not exceed \$ _____.

3. Term. This Contract shall be effective for a period of _____. It shall commence on _____ and shall remain in effect through _____.

4. Access to Records. Records pertaining to this Contract, the type of training or incident response requested, as well as other information incident to this Agreement, shall be governed by the specific provisions of IC 10-22-9 and IC 5-14-3-4.

5. Assignment; Successors.

A. The State binds its successors and assignees to all the terms and conditions of this Contract. The State may assign its right to receive payments to such third parties as the State may desire without the prior written consent of the Cybersecurity Client, provided that the State gives written notice (including evidence of such assignment) to the Cybersecurity Client 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.

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

8. Authority to Bind the State. The signatory for the State represents that he/she has been duly authorized, either through statutory mandate or appropriate delegation, to execute this Contract on behalf of the State and has obtained all necessary or applicable approvals to make this Contract fully binding upon the State when his/her signature is affixed to the Contract. Pursuant to IC 10-22-3, a civilian cyber corps advisor is not an agent, employee, or independent contractor of the state of Indiana for any purpose and has no authority to bind the state of Indiana with regard to third parties.

9. Changes in Work. The State shall not commence any additional work or change the scope of the work until both the State and the Cybersecurity Client have reviewed and agreed to the work or change in scope. The State 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.

12. Confidentiality of Cybersecurity Client Information. The Cybersecurity Client and the State understand and agree that data, materials, and information disclosed pursuant to this Contract may contain confidential and protected information. The parties acknowledge the confidentiality provisions of IC 10-22-9 and IC 5-14-3-4 concerning information exchanged or provided under this Contract.

16. 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 Cybersecurity Client may cancel and terminate this Contract.

17. Disputes.

A. Should any disputes arise with respect to this Contract, the Cybersecurity Client and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

B. The State 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.

21. Force Majeure. If 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.

22. 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 State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

23. Governing Law. This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

25. Immunity. Pursuant to IC 10-22-4, the adjutant general, the military department, and the state of Indiana are immune from tort liability for acts or omissions by a civilian cyber corps volunteer or civilian cyber corps advisor.

26. Independent Contractor; Workers' Compensation Insurance. The State is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership, or joint venture agreement between the parties. 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 State shall provide all necessary unemployment and workers' compensation insurance for the State's employees and volunteers as permitted by Indiana law.

29. Key Person(s).

A. If both parties have designated that certain individual(s) are essential to the services offered, the parties agree that should such individual(s) leave their employment during the term of this Contract for whatever reason the Cybersecurity Client shall have the right to terminate this Contract upon thirty (30) days' prior written notice.

B. Substitution of another shall not be permitted without express written agreement of the parties.

Nothing in sections A and B, above shall be construed to prevent the State from using the services of others to perform tasks ancillary to those tasks which directly require the expertise of the key person. Examples of such ancillary tasks include secretarial, clerical, and common labor duties. The State shall, always, remain responsible for the performance of all necessary tasks, whether performed by a key person or others.

Key person(s) to this Contract is/are _____

30. Licensing Standards. The State, its employees and volunteers 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 State pursuant to this Contract. The Cybersecurity Client will not pay the State for any services performed when the State, its employees or volunteers are not in compliance with such applicable standards, laws, rules, or regulations.

31. 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.

34. Nondiscrimination. 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 State covenants that it shall not discriminate against any employee or volunteer 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's 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"). The State certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Contract.

35. Notice to Parties. Whenever any notice, statement or other communication is required under this Contract, it shall be sent by first class mail or via an established courier / delivery service to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:

Indiana National Guard Headquarters
Attn: Alexis Teller, Deputy State Contract Officer
2002 South Holt Road, Bldg. #5
Indianapolis, IN 46241-4839
Email: alexis.n.cozzarelli.nfg@army.mil

B. Notices to the Cybersecurity Client shall be sent to:

Email: _____

As required by IC §4-13-2-14.8, payments to the State shall be made via electronic funds transfer in accordance with instructions provided by the State's Controller.

37. Ownership of Documents and Materials.

A. All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the "Materials") not developed or licensed by the State prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the State retains any ownership claims so that all Materials will be the property of the State.

B. Use of the Materials, other than related to contract performance by the State, without the prior written consent of the Cybersecurity Client, is prohibited.

38. Payments.

A. All payments shall be made 35 days 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 State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract.

39. 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, IC § 34-13-1 and IC § 34-52-2.

40. Progress Reports. The parties shall establish an appropriate timeline, thresholds, and measurable waypoints to gauge progress and success of this Contract. The report shall be oral, unless the State, upon receipt of the oral report, should deem it necessary to provide it in written form. The progress reports shall serve the purpose of assuring the parties that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

41. Public Record. The State acknowledges that it will treat this Contract as containing confidential information pursuant to IC 10-22-5 and IC 5-14-3-4, respectively, and will not post this Contract on its website as required by Executive Order 05-07 and IC § 5-14-3.5-2.

42. Renewal Option. This Contract may be renewed under the same terms and conditions. The term of the renewed contract may not be longer than the term of the original contract.

43. 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.

44. 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.

45. 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 Cybersecurity Client because of this Contract.

46. 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 affected by delivery to the Cybersecurity Client 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 State shall be compensated for services properly rendered prior to the effective date of termination. The Cybersecurity Client will not be liable for services performed after the effective date of termination. The State shall be compensated for services herein provided but in no case shall total payment made to the State 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.

48. Travel. No expenses for travel will be reimbursed unless specifically authorized by this Contract. Permitted expenses will be reimbursed at the rate paid by the State and in accordance with the Budget Agency's *Financial Management Circular – Travel Policies and Procedures* in effect at the time the expenditure is made. Out-of-state travel requests must be reviewed by the State for availability of funds and for conformance with *Circular* guidelines.

49. 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.

50. Work Standards. The State shall execute its responsibilities by following and always applying the highest professional and technical guidelines and standards. If the Cybersecurity

Client becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the Cybersecurity Client may request in writing the replacement of any or all such individuals, and the State shall grant such request if appropriate replacements can be made without substantially affecting the established services being performed under this Contract.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the State, or that the undersigned is the properly authorized representative, agent, member, or officer of the State. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent, or officer of the State, directly or indirectly, has entered or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof.

THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY

In Witness Whereof, the Cybersecurity Client 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 agree to the terms thereof.

[Cybersecurity Client]

(Where Applicable)

By: _____

Attested By: _____

Name and Title, Printed

Name and Title, Printed

Date: _____

Date: _____

Before me, a Notary Public in and for said County and State, _____
personally appeared this _____ day of _____, 20____, and after being duly sworn
upon his oath, says that the facts alleged in the foregoing instrument are true.

Notarized in State of: _____

ss: Notarized in County of: _____

My Commission Expires: _____

NOTARY PUBLIC SIGNATURE

County of Residence: _____

NOTARY PRINTED NAME

Approved by:

Adjutant General's Office:

Information Office of Technology Oversight:

By: _____

By: _____ N/A _____ (for)

Printed Name: Alexis Teller

Warren Lenard, Chief Information Officer

Title: Deputy Contract Officer

Title: _____

Date: _____

Date: _____

APPROVED as to Form and Legality:
Adjutant General's Office

Jason Thompson, General Counsel

Date: _____