

# PROPOSAL INSTRUCTIONS

Department of Environment, Great Lakes, and Energy

**Michigan Home Energy Efficiency Rebates Planning – Sec. 50121**

**Request for Proposal No. 24000000759**

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**This is a Request for Proposal (RFP) for:  
Michigan Home Energy Efficiency Rebates Planning – Sec. 50121**

**RFP Timeline**

| Event  | Time              | Date                        |
|--|-------------------|-----------------------------|
| RFP issue date   | N/A               | Thursday, December 21, 2023 |
| Deadline for bidders to submit questions about this RFP  | 3:00 p.m. Eastern | Wednesday, January 10, 2024 |
| Anticipated date the State will post answers to bidder questions on <a href="http://www.michigan.gov/SIGMAVSS">www.michigan.gov/SIGMAVSS</a> | N/A               | Tuesday, January 16, 2024   |
| Proposal deadline*   | 3:00 p.m. Eastern | Friday, January 26, 2024    |
| Anticipated contract begin date  | N/A               | Tuesday, February 27, 2024  |

**\*A bidder’s proposal received at 3:00:01 p.m. Eastern is late and subject to disqualification.**

This RFP is subject to change. Check [www.michigan.gov/SIGMAVSS](http://www.michigan.gov/SIGMAVSS) for current information.

1. **PROPOSAL PREPARATION.** The State recommends reading **all** RFP materials prior to preparing a proposal, particularly these Proposal Instructions and the Vendor Questions Worksheet. Bidders must follow these Proposal Instructions and provide a complete response to the items indicated in the RFP Structure and Documentation table below. References and links to websites or external sources may not be used in lieu of providing the information requested in the RFP within the proposal. Include the bidder's company name in the header of all documents submitted with your proposal. **Note that all documents and information submitted as part of a proposal will become public record immediately upon receipt by the State. Proposals received by the State may be posted on the State's publicly available website after bidders are notified of the award recommendation.**

Commented [L(1)]: Unless requested, the bidder must follow the format of Schedule A in providing their proposal responses, including the font and size.

**RFP Structure and Documentation**

| Document                              | Description  | Bidder Response Instructions   |
|---------------------------------------|--|--|
| <b>Cover Page</b>                     | Provides RFP title and number, important dates, and contact information for Solicitation Manager | Informational  |
| <b>Proposal Instructions</b>          | Provides RFP instructions to bidders   | Informational  |
| <b>Confidential Treatment Form</b>    | Required verification on whether bidder's proposal contains confidential information             | <b>Bidder to complete and submit by proposal deadline</b>  |
| <b>Vendor Questions Worksheet</b>     | Questions to bidders on background and experience  | <b>Bidder to complete and submit by proposal deadline</b>  |
| <b>Schedule A – Statement of Work</b> | Statement of work  | <b>Bidder to complete and submit by proposal deadline</b>  |
| <b>Schedule B – Pricing</b>           | Pricing for goods and services sought by the State through this RFP                              | <b>Bidder to complete and submit by proposal deadline</b>  |
| <b>Contract Terms</b>                 | Provides legal terms for a contract awarded through this RFP                                     | Deemed accepted by bidder unless information required in the <b>Evaluation Process</b> section of this document is submitted by proposal deadline. |

2. **CONTACT INFORMATION FOR THE STATE.** The sole point of contact for the State concerning this RFP is listed on the Cover Page. Contacting any other State personnel, agent, consultant, or representative about this RFP may result in bidder disqualification.

- 3. **MODIFICATIONS.** The State may modify this RFP at any time. Modifications will be posted on [www.michigan.gov/SIGMAVSS](http://www.michigan.gov/SIGMAVSS). This is the only method by which the RFP may be modified.
- 4. **QUESTIONS.** Bidder questions about this RFP must be emailed to the Solicitation Manager or posted on [www.michigan.gov/SIGMAVSS](http://www.michigan.gov/SIGMAVSS) no later than the time and date specified on the Cover Page. In the interest of transparency, only written questions are accepted. Answers to questions will be posted on [www.michigan.gov/SIGMAVSS](http://www.michigan.gov/SIGMAVSS). Submit questions using the format below; a Microsoft Excel format or similar is suggested.

| Q # | Document and Section | Page # | Bidder Question |
|-----|----------------------|--------|-----------------|
|     |                      |        |                 |

5. **DELIVERY OF PROPOSAL.**

**Electronic** – The bidder must submit its proposal, all attachments, and any modifications or withdrawals electronically through [www.michigan.gov/SIGMAVSS](http://www.michigan.gov/SIGMAVSS). The price proposal should be saved separately from all other proposal documents. The bidder should submit all documents in a modifiable (native) format (examples include but are not limited to Microsoft Word or Excel and Google Docs or Sheets). In addition to submitting documents in a modifiable format, the bidder may also submit copies of documents in PDF. Attachment file size is limited to 6 MB per document. Bidder’s failure to submit a proposal as required may result in disqualification. The proposal and attachments must be fully uploaded and submitted prior to the proposal deadline. **Do not wait until the last minute to submit a proposal**, as the SIGMA VSS system requires the creation of an account and entry of certain information, in addition to uploading and submitting the materials. The SIGMA VSS system **will not** allow a proposal to be submitted after the proposal deadline identified in the solicitation Closing On/Closing Date fields (Summary view/Detail view), even if a portion of the proposal has been uploaded.

Questions on how to submit information or how to navigate in the SIGMA VSS system can be answered by calling **(517) 284-0540 or (888) 734-9749**. The Solicitation Manager will not provide assistance related to the submittal of the proposal and all attachments on the day of the proposal deadline. Responsibility for a complete submission lies with the bidder. **Note that all documents and information submitted in any manner as part of a proposal will become public record immediately upon receipt by the State. Proposals received may be posted by the State on the State’s publicly available website after bidders are notified of the award recommendation.**

6. **EVALUATION PROCESS.** The State will evaluate each proposal based on the following factors:

|    | Technical Evaluation Criteria                               | Weight |
|----|---|--------|
| 1. | Vendor Questions Worksheet                                  | 25     |
| 2. | Schedule A, Statement of Work, Section 1 Requirements       | 25     |
| 3. | Schedule A, Statement of Work, Section 2 Staffing           | 25     |
| 4. | Schedule A, Statement of Work, Section 3 Project Management | 25     |
|    | <b>Total</b>  | 100    |

Proposals receiving 80 or more technical evaluation points will have pricing evaluated and considered for award.

The State may utilize all bidder information, without regard to a proposal’s technical score, to determine fair market value for goods or services sought. The State is not obligated to accept the lowest price proposal. If applicable, the State’s evaluation will include consideration of a bidder’s qualified disabled veterans/service-disabled veteran owned business(QDV/SDVOB) status under [MCL 18.1261\(8\)](#). Additional information on the SDVOB preference is available at: [Michigan.gov/SDVOB](#).

The State strongly encourages strict adherence to the Contract Terms. The State reserves the right to deem a bid non-responsive for failure to accept the Contract Terms. Nevertheless, the bidder may submit proposed changes to the Contract Terms in track changes (i.e., visible edits) with an explanation of the bidder’s need for each proposed change. Failure to include track changes with an explanation of the bidder’s need for the proposed change constitutes the bidder’s acceptance of the Contract Terms. General statements, such as that the bidder reserves the right to negotiate the terms and conditions, may be considered non-responsive. Failure to respond timely to requests for proposed changes to Contract Terms during ongoing negotiations may be cause for disqualification.

The State may but is not required to conduct an on-site visit to tour and inspect the bidder’s facilities; require an oral presentation of the bidder's proposal; conduct interviews, research, reference checks, and background checks; and request additional price concessions at any point during the evaluation process.

7. **NOTICE OF DEFICIENCY.** The State reserves the right to issue a **Notice of Deficiency** to bidders if the State determines after the proposal deadline that a portion of the RFP was deficient, unclear, or ambiguous. Failure to respond to a **Notice of Deficiency** timely may be cause for disqualification.
8. **CLARIFICATION REQUEST.** The State reserves the right to issue a **Clarification Request** to a bidder to clarify its proposal if the State determines the proposal is not clear. Failure to respond to a **Clarification Request** timely may be cause for disqualification.

- 9. RESERVATIONS.** The State reserves the right to:
- a. Disqualify a bidder for failure to follow these instructions.
  - b. Discontinue the RFP process at any time for any or no reason. The issuance of an RFP, your preparation and submission of a proposal, and the State's subsequent receipt and evaluation of your proposal does not commit the State to award a contract to you or anyone, even if all the requirements in the RFP are met.
  - c. Consider late proposals if: (i) no other proposals are received; (ii) no complete proposals are received; (iii) the State received complete proposals, but the proposals did not meet mandatory minimum requirements or technical criteria; or (iv) the award process fails to result in an award.
  - d. Consider an otherwise disqualified proposal if no other proposals are received.
  - e. Disqualify a proposal based on: (i) information provided by the bidder in response to this RFP; (2) the bidder's failure to complete registration on [www.michigan.gov/SIGMAVSS](http://www.michigan.gov/SIGMAVSS) ; or (3) if it is determined that a bidder purposely or willfully submitted false or misleading information in response to the RFP.
  - f. Consider prior performance with the State in making its award decision.
  - g. Consider overall economic impact to the State when evaluating proposal pricing and in the final award recommendation. This includes but is not limited to: considering principal place of performance, number of Michigan citizens employed or potentially employed, dollars paid to Michigan residents, Michigan capital investments, job creation, tax revenue implications, and economically disadvantaged businesses.
  - h. Consider total-cost-of-ownership factors (e.g., transition and training costs) when evaluating proposal pricing and in the final award recommendation.
  - i. Refuse to award a contract to any bidder that has failed to pay State taxes or has outstanding debt with the State.
  - j. Enter into negotiations with one or more bidders on price, terms, technical requirements, or other deliverables.
  - k. Award multiple, optional-use contracts, or award by Contract Activity.
  - l. Evaluate the proposal outside the scope identified in the **Evaluation Process** section of this document if the State receives only one proposal.
- 10. AWARD RECOMMENDATION.** The contract will be awarded to the responsive and responsible bidder who offers the best value to the State, as determined by the State. Best value will be determined by the bidder meeting the minimum point threshold and offering the best combination of the factors stated in the **Evaluation Process** section of this document, and price, as demonstrated by the proposal. The State will post an **Award Recommendation and Evaluation Synopsis** on [www.michigan.gov/SIGMAVSS](http://www.michigan.gov/SIGMAVSS) or in the manner it was originally published.

**11. DEBRIEF MEETING AND BID PROTEST.** The State will post an **Award Recommendation and Evaluation Synopsis** which will provide instructions on how to request a debrief meeting.

If you wish to initiate a protest of the award, you must submit your written protest to the Solicitation Manager no later than 5:00 p.m., 5 business days after posting the **Award Recommendation and Evaluation Synopsis**. The State reserves the right to adjust this timing and will publish any change.

Additional information about the protest process is available at [DTMB - Programs and Policies \(michigan.gov\)](#) under the "Bidder Protests" link.

**12. STATE ADMINISTRATIVE BOARD.** Contracts equal to \$250,000 or greater than require approval by the State Administrative Board. The State Administrative Board's decision is final; however, its approval does not constitute a contract. The award process is not complete until the awarded contractor receives a contract fully executed by all parties.

**13. GENERAL CONDITIONS.** The State will not be liable for any costs, expenses, or damages incurred by a bidder participating in this solicitation. The bidder agrees that its proposal will be considered an offer to do business with the State in accordance with its proposal, including the Contract Terms, and that its proposal will be irrevocable and binding for a period of 180 calendar days from date of submission. If a contract is awarded to the bidder, the State may, at its option, incorporate any part of the bidder's proposal into a contract. This RFP is not an offer to enter into a contract. This RFP may not provide a complete statement of the State's environment or contain all matters upon which agreement must be reached. The bidder understands that their proposal will become public record immediately upon receipt by the State. Other than verified trade secrets, proposals submitted via [www.michigan.gov/SIGMAVSS](http://www.michigan.gov/SIGMAVSS) are the State's property.

**14. CONFIDENTIAL TREATMENT FORM AND THE FREEDOM OF INFORMATION ACT.** As a public record, all portions of the bidder's proposal and resulting contract are subject to disclosure as required under Michigan's Freedom of Information Act (FOIA), MCL 15.231, et seq. However, the State may exempt some information from disclosure as permitted by law. Under MCL 18.1261(13)(b), records containing "a trade secret as defined under section 2 of the uniform trade secrets act, 1998 PA 448, MCL 445.1902," are exempt from disclosure under FOIA. In addition, "financial or proprietary information" submitted with a bidder's proposal is exempt from disclosure under FOIA. **A bidder's failure to comply with this Section is grounds for rejecting a bidder's proposal as non-responsive.** As a part of its proposal, each bidder must follow the procedure below.

**a. SUBMIT A COMPLETED "CONFIDENTIAL TREATMENT FORM" (CT FORM) WITH YOUR BID.** Completion and submission of the CT Form is required regardless of whether the bidder seeks confidential treatment of information. **Failure to submit a completed CT Form may be cause for disqualification from the solicitation process. If a bidder fails to properly complete and submit the CT Form or otherwise fails to follow CT Form instructions, the proposal may be publicly disclosed in its entirety without redaction after an award recommendation.**

- i. Complete and sign Section 1 of the CT Form if the bidder does NOT request confidential treatment of information contained in its proposal; or
  - ii. Complete and sign Section 2 of the CT Form if the bidder requests confidential treatment of certain information. **Bidder must also submit a “Public Copy” of the proposal with the trade secret, financial, and proprietary information redacted and clearly labeled as the “Public Copy.”**
  - iii. Failure to complete and sign a CT Form may result in disqualification of the bidder. **If a bidder fails to properly complete and submit the CT Form or otherwise fails to follow the CT Form instructions, the proposal, in its entirety, will be treated as a “Public Copy” and may be publicly disclosed by the State without redaction after bidders have been notified of an award recommendation.**
- b. FOIA REQUESTS.** If a FOIA request is made for a bidder’s proposal, the Public Copy may be distributed to the public along with the bidder’s CT Form. The CT Form is a public document and serves as an explanation for the redactions to the Public Copy. Do not put any trade secret, financial, or proprietary information in the CT Form. Do not redact the CT Form itself.
- c. NO ADVICE.** The State will not advise a bidder as to the nature or content of documents entitled to protection from disclosure under FOIA or other laws, as to the interpretation of such laws, or as to the definition of trade secret or financial or proprietary information. Nothing contained in this provision will modify or amend requirements and obligations imposed on the State by FOIA or other applicable law.
- d. FAILURE TO REQUEST CONFIDENTIAL TREATMENT.** Failure to request material be treated as confidential as specified herein relieves the State, its agencies, and personnel from any responsibility for maintaining material in confidence.
- e.** Bids containing a request to maintain an entire proposal as confidential may be rejected as non-responsive. Bidders may not request confidential treatment with respect to resumes, pricing, and marketing materials. The State reserves the right to determine whether material designated as exempt by a bidder falls under MCL 18.1261 or other applicable FOIA exemptions. If a FOIA request is made for materials that the bidder has identified as trade secret, financial, or proprietary information, the State has the final authority to determine whether the materials are exempt from disclosure under FOIA.
- f.** Bidder forever releases the State, its departments, subdivisions, officers, and employees from all claims, rights, actions, demands, damages, liabilities, expenses and fees, which arise out of or relate to the disclosure of all or a portion of bidder’s proposal submitted under this RFP. Bidder must defend, indemnify and hold the State, its departments, subdivisions, officers, and employees harmless, without limitation, from and against all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to any FOIA request, including

potential litigation and appeals, related to the portion of bidder's proposal submitted under this RFP that bidder has identified as a trade secret, or financial or proprietary information. The State will notify bidder in writing if indemnification is sought. The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense, or any portion thereof, if the State deems necessary. Bidder will not, without the State's written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. If a State employee, official, or law is involved or challenged, the State may control the defense of that portion of the claim. Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.



## CONFIDENTIAL TREATMENT FORM

**INSTRUCTIONS.** Bidder must complete either *Section 1* or *Section 2* of this CT Form and sign where indicated. **Do not complete both sections.** This CT Form must be signed by the individual who signed the bidder's proposal. A completed CT Form must be submitted with your proposal, regardless of whether your proposal contains confidential information.

**Failure to submit a completed CT Form with your bid is grounds for rejecting the proposal as non-responsive. If a bidder fails to properly complete and submit the CT Form or otherwise fails to follow CT Form Instructions, the proposal, in its entirety, will be treated as a "Public Copy" and may be publicly disclosed by the State without redaction after bidders have been notified of an award recommendation. See the Confidential Treatment Form and The Freedom of Information Act (FOIA) sections of the Proposal Instructions for additional information**

### Section 1. CONFIDENTIAL TREATMENT IS NOT REQUESTED

This section must be completed, signed, and submitted with the proposal if the bidder does **not** request confidential treatment of any material contained in the proposal. **If this section is completed, do not complete Section 2. CONFIDENTIAL TREATMENT IS REQUESTED.**

**By signing below, the bidder affirms that confidential treatment of material contained in their proposal is not requested.**

\_\_\_\_\_  
RFP Number

\_\_\_\_\_  
RFP Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name, Title, Company

**Section 2. CONFIDENTIAL TREATMENT IS REQUESTED**

This section must be completed, signed, and submitted with the proposal if bidder requests confidential treatment of any material contained in the proposal. Submission of a completed CT Form is required to request confidential treatment. **If this section is completed, do not complete Section 1. CONFIDENTIAL TREATMENT IS NOT REQUESTED.**

Provide the information in the table below. Bidder may add rows or additional pages using the same format shown in the table. Bidder must specifically identify the information to be protected as confidential and state the reasons why protection is necessary.

The CT Form will not be considered fully complete unless, for each confidentiality request, the bidder: (1) identifies the Proposal Page #, Section #, and Paragraph #, (2) identifies whether the material is a Trade Secret (TS), Proprietary Financial Information (FI), or Proprietary Information (PI), and (3) explains the specific legal grounds that support treatment of the material as TS, FI, or PI. Bidders must provide a complete justification as to how the material falls within the scope of an applicable FOIA exemption or relevant case law. Bidders must not simply cite to an applicable exemption or case name. Bidders must also provide the contact information for the person at their organization authorized to respond to inquiries by the State concerning the material.

**Bidder must also submit a “Public Copy” of the proposal with the trade secret, financial, and proprietary information redacted and clearly labeled as the “Public Copy”.**

| (1)<br>Proposal Page #, Section #, Paragraph # | (2)<br>Material is Trade Secret (TS), Proprietary Financial Information (FI), Proprietary Information (PI) | (3)<br>Applicable FOIA Exemption with Written Justification | (4)<br>Bidder Contact Information |
|--|--|---|-----------------------------------|
|  |  |   |                                   |

**By signing below, the bidder affirms that confidential treatment of material contained in their proposal is requested and has attached to this form a redacted “Public Copy” of the bidder’s proposal.**

\_\_\_\_\_ RFP Number

\_\_\_\_\_ RFP Title

\_\_\_\_\_ Signature

\_\_\_\_\_ Date

\_\_\_\_\_ Printed Name, Title, Company

## VENDOR QUESTIONS WORKSHEET

Provide a detailed response to each question. “You” and “company” refers to the bidder.

| Information Sought  | Bidder Response |
|---|-----------------|
| <b>1. Contact Information</b>   |                 |
| Bidder’s sole contact person during the RFP process. Include name, title, address, email, and phone number.   |                 |
| Person authorized to receive and sign a resulting contract. Include name, title, address, email, phone number and vendor customer code in SIGMA VSS.  |                 |
| <b>2. Company Background Information</b>  |                 |
| Legal business name and address. Include business entity designation, e.g., sole proprietor, Inc., LLC, or LLP.   |                 |
| What state was the company formed in?   |                 |
| Phone number.   |                 |
| Website address.  |                 |
| Number of years in business.  |                 |
| <b>Number of employees.</b>   |                 |
| Legal business name and address of parent company, if any.  |                 |
| Has there been a recent change in organizational structure (e.g., management team) or control (e.g., merger or acquisition) of your company? If the answer is yes: (a) explain why the change occurred and (b) how this change has affected your company. |                 |
| Discuss your company’s history. Has growth been organic, through mergers and acquisitions, or both?   |                 |
| Has bidder ever been debarred, suspended, or disqualified from bidding or contracting with any entity, including the State of Michigan? If yes, provide the date, the entity, and details about the situation.  |                 |
| Has your company been a party to litigation against the State of Michigan? If the answer is   |                 |

| Information Sought   | Bidder Response |
|--|-----------------|
| yes, then state the date of initial filing, case name and court number, and jurisdiction.  |                 |
| Within the last 5 years, has your company or any of its related business entities defaulted on a contract or had a contract terminated for cause? If yes, provide the date, contracting entity, type of contract, and details about the termination or default.  |                 |
| State your gross annual sales for each of the last 5 years.<br><br>If receiving a contract under this RFP will increase your gross revenue by more than 25% from last year's sales, explain how the company will scale-up to manage this increase.   |                 |
| Describe partnerships and strategic relationships you think will bring significant value to the State.   |                 |
| State the physical address of the place of business that would have primary responsibility for this account if bidder is awarded a contract under this RFP.  |                 |
| <b>Bidder affirms that any business types identified on its SIGMA VSS profile, including those eligible for <a href="#">Geographically Disadvantaged Business Enterprise (GDBE)</a> and <a href="#">Michigan Supplier Community Program (MiSC)</a>, are valid.</b>   | Choose an item. |
| <b>3. Qualified Disabled Veteran/Service-Disabled Veteran-Owned Business Program</b>   |                 |
| Under <a href="#">MCL 18.1261</a> , a “qualified disabled veteran” means a business entity that is 51% or more owned by 1 or more veterans with a service-connected disability. A “service-connected disability” means a disability incurred or aggravated in the line of duty in the active military, naval, or air service as described in 38 USC 101(16). Are you a qualified disabled veteran? | Choose an item. |

| Information Sought   | Bidder Response  |
|--|--|
| <p>To demonstrate qualification as a qualified disabled veteran, you must provide:</p> <p>(a) Proof of service and conditions of discharge (DD214 or equivalent);</p> <p>(b) Proof of service-connected disability (DD214 if the disability was documented at discharge or Veterans Administration Rating Decision Letter or equivalent if the disability was documented after discharge); and</p> <p>(c) Legal documents setting forth the ownership of the business entity.</p> <p>In lieu of the documentation identified above, you may provide proof of certification by the National Veterans Business Development Council.</p>        | <p>Enter the names of documents submitted with your proposal to demonstrate status as a qualified disabled veteran.</p>  |
| <b>4. Participation in RFP Development or Evaluation</b>   |  |
| <p>Did your company, an employee, agent, or representative of your company, or any affiliated entity participate in developing any component of this solicitation? For purposes of this question, business concerns, organizations, or individuals are affiliates of each other if, directly or indirectly: (1) either one controls or has power to control the other or (2) a third-party controls or has the power to control both. Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities or equipment, and common use of employees.</p> | <p>Choose an item.</p> <p>If you enter "YES", you are not eligible for contract award or to work as a subcontractor for the awarded vendor.</p>  |
| <p>If you are awarded a contract under this solicitation, in order to provide the goods or services required under a resulting contract, do you intend to partner or subcontract with a person or entity that assisted in the development of this solicitation?</p>  | <p>Choose an item.</p> <p>If you enter "YES," you are not eligible for contract award. An awarded vendor may not partner or subcontract with anyone to provide goods and services required under a resulting contract if that subcontractor or partner assisted in the development of this solicitation.</p> |

| Information Sought  | Bidder Response  |
|---|--|
| Will your company, or an employee, agent, or representative of your company, participate in the evaluation of the proposals received in response to this RFP?   | Choose an item.<br><br>If you enter "YES", you are not eligible for contract award or to work as a subcontractor for the awarded vendor. |
| <b>5. State of Michigan Experience and Prior Experience</b>   |  |
| Does your company have experience working with the State of Michigan? If so, please provide a list (including the contract number) of the contracts you hold or have held with the State for the last 10 years. |  |
| Describe at least 3 relevant experiences from the last 5 years supporting your ability to successfully manage a contract of similar size and scope for the work described in this RFP.                          |  |
| <b>Experience 1</b>   |  |
| Company name.<br>Contact name.<br>Contact role at time of project.<br>Contact phone.<br>Contact email.  |  |
| City.<br>State.<br>Zip.   |  |
| 1. Project name and description of the scope of the project.<br>2. What role did your company play?<br>3. How is this project experience relevant to the subject of this RFP?                                   |  |
| Dollar value.   |  |
| Start and end date (mm/yy – mm/yy)  |  |
| Status (completed, live, other – specify phase)   |  |
| Results obtained.   |  |
| <b>Experience 2</b>   |  |
| Company name.<br>Contact name.<br>Contact role at time of project.  |  |

| Information Sought  | Bidder Response |
|---|-----------------|
| Contact phone.<br>Contact email.  |                 |
| City.<br>State.<br>Zip.   |                 |
| 1. Project name and description of the scope of the project.<br>2. What role did your company play?<br>3. How is this project experience relevant to the subject of this RFP? |                 |
| Dollar value.   |                 |
| Start and end date (mm/yy – mm/yy)  |                 |
| Status (completed, live, other – specify phase)   |                 |
| Results obtained.   |                 |
| <b>Experience 3</b>   |                 |
| Company name.<br>Contact name.<br>Contact role at time of project.<br>Contact phone.<br>Contact email.  |                 |
| City.<br>State.<br>Zip.   |                 |
| 1. Project name and description of the scope of the project.<br>2. What role did your company play?<br>3. How is this project experience relevant to the subject of this RFP? |                 |
| Dollar value.   |                 |
| Start and end date (mm/yy – mm/yy)  |                 |
| Status (completed, live, other – specify phase)   |                 |
| Results obtained.   |                 |
| <b>6. Standard Contract Terms</b>   |                 |
| Bidder must affirm agreement with the attached Contract Terms. If not in agreement, written exceptions in accordance with the Evaluation                                      |                 |

| Information Sought  | Bidder Response |
|---|-----------------|
| Process section of the Proposal Instructions must be provided with Bidder's proposal.   |                 |
| <b>7. Michigan Economic Impact</b>  |                 |
| Number of employees currently employed at locations within the State of Michigan.   |                 |
| Number of additional employees to be employed at locations within the State of Michigan if awarded this Contract (if any).  |                 |
| Minimum wage paid to employees employed at locations within the State of Michigan.  |                 |
| Average wage paid to employees employed at locations within the State of Michigan.  |                 |
| Percentage of employees employed at locations within the State of Michigan that are covered by employer-provided health insurance.  |                 |
| <b>8. Labor, Antidiscrimination and Environmental Laws Compliance</b>   |                 |
| Bidder must disclose any violations of state or federal labor, antidiscrimination and employment laws and regulations received within the past five years.  |                 |
| Bidder must disclose any violations of state or federal environmental laws and regulations received within the past five years.   |                 |
| <b>9. Supplier Diversity</b>  |                 |
| Does your company have a supplier diversity program or training?  | Choose an item. |
| Bidder agrees that if Bidder is awarded a contract with a dollar amount of \$500,000 or greater from this RFP, Bidder shall provide a copy of their current EEO-1 demographic report provided that Bidder meets Federal requirements to file an EEO-1 report. | Choose an item. |
| <b>10. Other</b>  |                 |
| <b>Classification of Employees.</b> I certify that the company has properly classified its employees in accordance with federal/state labor and employment laws.  | Choose an item. |



| Information Sought  | Bidder Response        |
|---|------------------------|
| <p><b>Abusive Labor Practices.</b> The Contractor certifies that it will not furnish any Deliverable that was produced fully or partially by forced labor, forced or indentured child labor, or indentured servitude.</p>   | <p>Choose an item.</p> |
| <p><b>Certification of Michigan Business - Public Act 431 of 1984, Sec. 268.</b> I certify that the company has, pursuant to the provisions of Sec 268 of Public Act 431 of 1984, filed a Michigan Business Tax Corporate Income Tax Return. I certify that the company has, pursuant to the provisions of Sec 268 of Public Act 431 of 1984, filed a Michigan Income Tax return showing income generated in, or attributed to the State of Michigan. I certify that the company has, pursuant to the provisions of Sec 268 of Public Act 431 of 1984, withheld Michigan Income Tax from compensation paid to the company's owners and remitted the tax to the Michigan Department of Treasury.</p> | <p>Choose an item.</p> |
| <p><b>Iran Linked Business- Public Act 517 of 2012.</b> I certify that the Company is not an Iran-Linked business as defined by Public Act 517 of 2012.</p>   | <p>Choose an item.</p> |
| <p><b>Clean Corporate Citizen.</b> I certify that the Company is a Clean Corporate Citizen as defined by the Environmental Protection Act, 1994 PA 451.</p>   | <p>Choose an item.</p> |
| <p><b>Convict Labor.</b> The Contractor certifies that if using convict labor, it is complying with all applicable state and federal laws and policies.</p>   | <p>Choose an item.</p> |
| <p><b>SOM Debt/Tax Payment.</b> All SOM tax/debts. I certify that all applicable State of Michigan taxes are paid, and that no outstanding debt is owed to the State of Michigan.</p>   | <p>Choose an item.</p> |
| <p><b>Authorization to Verify Information Provided by Vendor.</b> I authorize the State to verify that all information provided in this registration, in bidding and contracting documents, and any attachments or supplement documents and processes are accurate.</p>   | <p>Choose an item.</p> |
| <p><b>11. Response to State Requests</b></p>  |                        |

| Information Sought   | Bidder Response |
|--|-----------------|
| <b>Bidder agrees to respond, by established deadlines, to all requests from the State including but not limited to, clarification requests, notices of deficiency, and proposed changes to Contract Terms.</b> | Choose an item. |

Contractor must enter company name here.

## SCHEDULE A – STATEMENT OF WORK CONTRACT ACTIVITIES

Request for Proposal (RFP) No. 24000000759

### **Michigan Home Energy Efficiency Rebates Planning – Sec. 50121**

This schedule identifies the anticipated requirements of any Contract resulting from this RFP. The term “Contractor” in this document refers to a bidder responding to this RFP, as well as the Contractor who is awarded the contract. The term “bidder” is used to identify where specific responses to the RFP are required.

The Contractor must respond to each requirement or question and explain how it will fulfill each requirement. Attach any supplemental information and appropriately reference within your response.

**IMPORTANT NOTE TO CONTRACTORS/BIDDERS: There are specific requirements for which acceptance must be simply acknowledged through a checkbox(es), and others that require further explanation. Click one checkbox and complete the entries as identified.**

### **BACKGROUND**

The Michigan Department of Environment, Great Lakes, and Energy (EGLE) is committed to promoting healthy communities, economic growth, and environmental sustainability through energy efficiency and renewable energy by offering a variety of programs through both federal and state funding. The Inflation Reduction Act (IRA) authorized the U.S. Department of Energy (DOE) to carry out the Home Energy Rebate Programs to help households save money on energy bills, improve energy efficiency, and reduce indoor and outdoor air pollution. The Home Energy Rebate Programs consists of two programs: the Home Energy Efficiency Rebates (IRA Section 50121) and the Home Electrification and Appliance Rebates (IRA Section 50122).

The Home Energy Efficiency Rebates will provide funding to lower the upfront cost of whole-home energy efficiency upgrades in single-family and multi-family homes aiding retrofitting and electrification efforts. The Home Electrification and Appliance Rebates will help finance the upfront cost of efficient electric technologies in single-family and multi-family homes.

### **1. Requirements**

#### **1.1. General Requirements**

The Contractor will focus on:

- Expertise
  - Be the expert on Sec.50121 DOE Home Energy Efficiency Rebates program.
  - Collaborate with selected contractor for Sec.50122 DOE Home Electrification and Appliance Rebates Program.

- Strategic Planning
  - Conduct stakeholder engagement and listening sessions with the following Michigan entities (but not limited to):
    - State of Michigan: EGLE Divisions and Offices, Department of Health and Human Services (DHHS), Michigan State Housing Development Authority (MSHDA), Michigan Public Commission (MPSC), Licensing and Regulatory Affairs (LARA), Labor and Economic Opportunity (LEO)
    - Local and Tribal governments
    - Community based organizations
    - Investor-owned, cooperative, and municipal utilities
    - Residential contractors, labor unions, trade organizations
    - Suppliers
  - Identify program design priorities to address Michigan's needs, including but not limited to:
    - Streamlined and easy for residents to navigate.
    - Preventing or reducing program deferrals.
    - Health and safety issues.
    - Additional support needed to assist with the increased demand for local permits and code inspections.
    - Material Management & Recycling of energy efficiency and electrification related equipment and materials replaced in homes.
    - Equipment warranties and labor and parts warranties.
    - Reporting and data tracking.
  - Identify existing contracts and program delivery mechanisms that meet programmatic requirements.
  - Develop plan to address equity and environmental justice in program.
- Coordinated Program Delivery
  - Develop approach for integrating rebates with existing federal, state, utility, and community-based programs that does not duplicate or recreate existing Michigan rebate programs.
  - Engage relevant stakeholders to consider how and when co-delivery of resources to be most effective.
  - Research on standards and best practices of standing up energy efficiency rebate programs.
  - Develop recommendations for complementary programming through the DOE State Energy Program, and Energy Efficiency Conservation Block Grant programs.
- Workforce needs and connection to the DOE Training for Residential Energy Contractors and Energy Auditor programs.
  - Identify needs of residential contractor training programs as it relates to implementing HER programs in Michigan.
  - Identify existing programs, certifications, and gaps; identify job categories with shortages, develop strategy for recruiting and filling gaps.

- Capacity
  - Develop contracting materials and mechanisms for third party program implementation. Note: selected contractor will not be eligible to apply as a third party implementor.
- Consumer Outreach & Education
  - Identify effective approaches for outreach to disadvantaged communities.
  - Draft and develop relevant communications and public information, including but not limited to press releases, website content, and marketing materials.

In consultation with EGLE, the Contractor shall develop all elements of the program design and prepare the written narratives for the Sec.50121 Application. Iterative drafts shall be provided to EGLE for review, feedback, and edits. EGLE will serve as the final approver on the content of the program design and applications. EGLE will be responsible for submission to DOE and will serve as the Prime Applicant for the federal award, as required by DOE.

A state's plan for implementing a Home Energy Efficiency Rebates program will need to include information regarding how the state will --

1. use procedures, as approved by the Secretary, for determining the reductions in home energy use resulting from the implementation of a home energy efficiency retrofit that are calibrated to historical energy usage for a home consistent with BPI 2400, for purposes of modeled performance home rebates;
2. use open-source advanced measurement and verification software, as approved by the Secretary, for determining and documenting the monthly and hourly (if available) weather normalized energy use of a home before and after the implementation of a home energy efficiency retrofit, for purposes of measured performance home rebates;
3. value savings based on time, location, or greenhouse gas emissions;
4. provide for quality monitoring to ensure each home energy efficiency retrofit for which a rebate is provided is documented in a certificate that—
  - a. is provided by the contractor and certified by a third party to the homeowner; and
  - b. details the work performed, the equipment and materials installed, and the projected energy savings or energy generation to support accurate valuation of the retrofit;
5. provide a federal rebate of \$200 to a contractor or aggregator for eligible retrofits carried out in a home located in a disadvantaged community;
6. ensure that a homeowner or aggregator does not receive a federal rebate for the same single upgrade through both the Home Efficiency Rebates and any other Federal grant or rebate program, including the Home Electrification and Appliance Rebates;
7. ensure that a homeowner or eligible building owner does not receive a federal rebate in excess of the maximum specified rebate amount; and
8. determine whether a project qualifies for the elevated refund amounts available to households below 80% AMI.

**Deliverables:** The expected outputs from these supported activities include:

1. Stakeholder meetings held throughout the state, including development of any materials (invitation, presentation, handouts, website content, surveys, etc.) regarding the Sec.50121 Home Energy Efficiency Rebate Program.
2. Final Application for the Sec.50121 Home Energy Efficiency Rebate Program approved by the EGLE that fulfills the scope of work, state objectives, and federal requirements, including the following plans:
  - a. Community Benefits Plan
  - b. Education and Outreach Strategy
  - c. Consumer Protection Plan
  - d. Utility Data Access Plan
  - e. Privacy and Security Risk Assessment
  - f. Market Transformation Plan
3. Final State Implementation Plan and corresponding contracting/granting materials and mechanisms for third party program implementation.
4. Proposed supplemental funding programs for local and tribal governments and workforce.
5. Routine and consistent meetings with EGLE, and written status reports for EGLE to discuss and evaluate progress on the plan development and program implementation.
6. Appropriate oversight of subcontractors, as applicable.
7. All necessary compliance-related information and documentation prepared for EGLE submission to the DOE.

**Minimum Qualifications:**

1. The Contractor shall have at least three (3) years of experience administering at least one (1) similar rebate and incentive programs.
2. The Contractor shall have at least two (2) years of experience managing federal funds and associated compliance and reporting requirements.
3. The Contractor should demonstrate experience with administering one or more rebate programs and/or assistance programs in Michigan.
4. The Contractor shall provide sufficient personnel and program capacity to perform the required services. The Contractor shall ensure that all personnel have appropriate training, education, experience, and orientation to fulfill the requirements of their assigned positions to meet the state’s expectations.

|  |  |
|--|--|
| <input type="checkbox"/>   | I have reviewed the above requirement and agree with no exception.           |
| <input type="checkbox"/>   | I have reviewed the above requirement and have noted all exception(s) below. |
| <b>List all exception(s):</b>  |  |
| <b>Bidder must describe how they comply with the above requirement(s):</b> |  |

**1.2. Funding Requirements**

All Grant awards made under the Home Energy Rebate Programs shall comply with applicable law, including regulations contained in 2 CFR Part 200 as amended by 2 CFR Part 910. The funding for this contract is through the DOE Sec. 50121 Home Energy Efficiency Rebate Program, in which EGLE is the Recipient. The Recipient will apply all the terms and conditions of this Award, as applicable, including the Intellectual Property Provisions, to all subrecipients (and subcontractors, as appropriate), as required by 2 CFR 200.101, and to require their strict compliance therewith. Further, the Recipient will apply the Award terms as required by 2 CFR 200.327 to all subrecipients (and subcontractors, as appropriate), and to require their strict compliance therewith.

|  |  |
|--|--|
| <input type="checkbox"/>   | I have reviewed the above requirement and agree with no exception.           |
| <input type="checkbox"/>   | I have reviewed the above requirement and have noted all exception(s) below. |
| <b>List all exception(s):</b>  |  |
| <b>Bidder must describe how they comply with the above requirement(s):</b> |  |

**2. Staffing**

**2.1. Contract Representative**

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

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

|  |  |
|--|--|
| <input type="checkbox"/>                                   | I have reviewed the above requirement and agree with no exception.           |
| <input type="checkbox"/>                                   | I have reviewed the above requirement and have noted all exception(s) below. |
| <b>List all exception(s):</b>                              |  |
| <b>Bidder must identify its Contractor Representative:</b> |  |

**2.2. Customer Service Toll-Free Number**

The Contractor must specify its toll-free number for the State to contact the Contractor Representative. The Contractor Representative must be available for calls during the hours of 8:00 am to 5:00 pm EST.

|  |  |
|--|--|
| <input type="checkbox"/>   | I have reviewed the above requirement and agree with no exception.           |
| <input type="checkbox"/>   | I have reviewed the above requirement and have noted all exception(s) below. |
| <b>List all exception(s):</b>                                      |  |
| <b>Bidder must identify its Customer Service Toll-Free Number:</b> |  |



**2.3. Work Hours**

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

|                               |  |
|-------------------------------|--|
| <input type="checkbox"/>      | I have reviewed the above requirement and agree with no exception.           |
| <input type="checkbox"/>      | I have reviewed the above requirement and have noted all exception(s) below. |
| <b>List all exception(s):</b> |  |

**2.4. Key Personnel**

The Contractor must appoint at least one individual who will be directly responsible for the day-to-day operations of the Contract (“Key Personnel”). Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquiries within 24 hours.

The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State’s Project Manager, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. The State may require a 30-calendar day training period for replacement personnel.

Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor’s removal of Key Personnel without the prior written consent of the State is an unauthorized removal (“Unauthorized Removal”). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel’s employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under the **Termination for Cause** section of the Standard Contract Terms. It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under Termination for Cause, Contractor will issue to the State the corresponding credits set forth below (each, an “Unauthorized Removal Credit”):

- i. For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be \$25,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to



shadow the Key Personnel who is leaving for a period of at least 30-calendar days before the Key Personnel's removal.

- ii. If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30-calendar days, in addition to the \$25,000.00 credit specified above, Contractor will credit the State \$833.33 per calendar day for each day of the 30-calendar day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$25,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30-calendar days of shadowing will not exceed \$50,000.00 per individual.

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

The Contractor must identify the Key Personnel, indicate where they will be physically located, describe the functions they will perform, and provide current chronological résumés.

|                               |  |
|-------------------------------|--|
| <input type="checkbox"/>      | I have reviewed the above requirement and agree with no exception.           |
| <input type="checkbox"/>      | I have reviewed the above requirement and have noted all exception(s) below. |
| <b>List all exception(s):</b> |  |

- A. The Contractor must identify all Key Personnel that will be assigned to this contract in the table below which includes the following:
  1. Name and title of staff that will be designated as Key Personnel.
  2. Key Personnel years of experience in the current classification.
  3. Identify which of the required key personnel positions they are fulfilling.
  4. Key Personnel's roles and responsibilities, as they relate to this RFP, if the Contractor is successful in being awarded the Contract. Descriptions of roles should be functional and not just by title.
  5. Identify if each Key Personnel is a direct, subcontract, or contract employee.
  6. Identify if each Key Personnel staff member is employed full-time (FT), part-time (PT) or temporary (T), including consultants used for the purpose of providing information for the proposal.
  7. List each Key Personnel staff member's length of employment or affiliation with the Contractor's organization.
  8. Identify each Key Personnel's percentage of work time devoted to this Contract.
  9. Identify where each Key Personnel staff member will be physically located (city and state) during the Contract performance.

<Add more rows below as needed>

| 1.<br>Name | 2.<br>Years of Experience in Current Classification | 3.<br>Role(s) / Responsibilities | 4.<br>Direct / Subcontract / Contract | 5.<br>% of Work Time | 6.<br>Physical Location |
|------------|---|----------------------------------|---------------------------------------|----------------------|-------------------------|
|            |   |                                  |                                       |                      |                         |

**B.** The Contractor must provide **detailed, chronological resumes** of all proposed Key Personnel, including a description of their work experience relevant to their purposed role as it relates to the RFP.

Qualifications will be measured by education and experience with particular reference to experience on projects similar to that described in the RFP.

**Bidder must provide the resumes and information as required above – either in this response box or identified here as an attachment to this RFP.**

**2.5. Organizational Chart**

The Contractor must provide an overall organizational chart that details staff members, by name and title, and subcontractors.

**Bidder must provide detailed information as required above – either in this response box or identified here as an attachment to this RFP.**

**2.6. Disclosure of Subcontractors**

If the Contractor intends to utilize subcontractors, the Contractor must disclose the following:

- The legal business name; address; telephone number; a description of subcontractor’s organization and the services it will provide; and information concerning subcontractor’s ability to provide the Contract Activities.
- The relationship of the subcontractor to the Contractor.
- Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.
- A complete description of the Contract Activities that will be performed or provided by the subcontractor.

**Bidder must provide detailed information as requested in the above requirement(s).**

**The legal business name, address, telephone number of the subcontractor(s).**

| Bidder must provide detailed information as requested in the above requirement(s).  |                 |
|---|-----------------|
| A description of subcontractor's organization and the services it will provide and information concerning subcontractor's ability to provide the Contract Activities. |                 |
| The relationship of the subcontractor to the Bidder.  |                 |
| Is the subcontractor a GDBE?  | Choose an item. |
| Whether the Bidder has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.                               |                 |
| A complete description of the Contract Activities that will be performed or provided by the subcontractor.  |                 |
| Of the total bid, the price of the subcontractor's work.  |                 |
| Bidder must provide information based on the work performed by all subcontractors   |                 |
| Total percentage of work that will be performed by subcontractors:  |                 |

### 3. Project Management

#### 3.1. Project Plan

The Bidder's proposed project plan should be broken down into at least three phases within the corresponding time frame:

| Phase     | Scope of Work  | Timeframe                          |
|-----------|--|------------------------------------|
| Phase I   | Expertise, Strategic Planning                            | Must be complete by April 30, 2024 |
| Phase II  | Coordinated Program Delivery                             | Must be complete by June 30, 2024  |
| Phase III | Workforce Needs, Capacity, Consumer Outreach & Education | Ongoing through contract period    |

Bidders may propose accelerated timelines and/or additional phases. Project plan should identify items such as the timeline for each phase of the project, required contact personnel; the date the project plan must be submitted to the State; project management process; project breakdown identifying sub-projects, tasks, and resources

required; expected frequency and mechanisms for updates/progress reviews; process for addressing issues/changes; and individuals responsible for receiving/reacting to the requested information.

|  |  |
|--|--|
| <input type="checkbox"/>                                       | I have reviewed the above requirement and agree with no exception.           |
| <input type="checkbox"/>                                       | I have reviewed the above requirement and have noted all exception(s) below. |
| <b>List all exception(s):</b>                                  |  |
| <b>Bidder must submit its project plan as described above:</b> |  |

**3.2. Meetings**

The Contractor must attend the following meetings (to be held by Microsoft Teams or in-person):

Contract kick-off meeting within 5-business days of the Effective Date  
 Weekly meetings thereafter with the Program Manager.

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

|                               |  |
|-------------------------------|--|
| <input type="checkbox"/>      | I have reviewed the above requirement and agree with no exception.           |
| <input type="checkbox"/>      | I have reviewed the above requirement and have noted all exception(s) below. |
| <b>List all exception(s):</b> |  |

**3.3. Reporting**

The Contractor must submit to the EGLE Program Manager, the following written reports:

DOE Quarterly and Annual Reports

Sec. 50121 program design implementation report (due date TBD)

Complementary programs report (due date TBD)

|  |  |
|--|--|
| <input type="checkbox"/>   | I have reviewed the above requirement and agree with no exception.           |
| <input type="checkbox"/>   | I have reviewed the above requirement and have noted all exception(s) below. |
| <b>List all exception(s):</b>  |  |
| <b>Bidder must provide samples of required reports as attachments to this RFP. List file names here.</b> |  |

**4. Pricing**

**4.1. Price Term**

Pricing is firm for the entire length of the Contract.

**5. Ordering**

**5.1. Authorizing Document**

The appropriate authorizing document for the Contract will be a Delivery Order (DO).

|                               |  |
|-------------------------------|--|
| <input type="checkbox"/>      | I have reviewed the above requirement and agree with no exception.           |
| <input type="checkbox"/>      | I have reviewed the above requirement and have noted all exception(s) below. |
| <b>List all exception(s):</b> |  |

**6. Invoice and Payment**

**6.1. Invoice Requirements**

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

|                               |  |
|-------------------------------|--|
| <input type="checkbox"/>      | I have reviewed the above requirement and agree with no exception.           |
| <input type="checkbox"/>      | I have reviewed the above requirement and have noted all exception(s) below. |
| <b>List all exception(s):</b> |  |

**6.2. Payment Methods**

The State will make payment for Contract Activities via Electronic Funds Transfer (EFT).

|                               |  |
|-------------------------------|--|
| <input type="checkbox"/>      | I have reviewed the above requirement and agree with no exception.           |
| <input type="checkbox"/>      | I have reviewed the above requirement and have noted all exception(s) below. |
| <b>List all exception(s):</b> |  |

**6.3. Procedure**

Invoices and progress reports are to be submitted to the program manager via email on a monthly basis.

|                               |  |
|-------------------------------|--|
| <input type="checkbox"/>      | I have reviewed the above requirement and agree with no exception.           |
| <input type="checkbox"/>      | I have reviewed the above requirement and have noted all exception(s) below. |
| <b>List all exception(s):</b> |  |

**7. Service-Level Agreements (SLAs)**

- A. The Contractor will be held accountable to meet the requirements and the service level requirements established in this Contract.
- B. The State reserves the right to reconsider or amend SLA amounts for split awards should they occur.
- C. **Please Note:** Should bidders require clarification or have any questions with regard to the SLAs, they should submit them during the *Question-and-Answer Period* of this solicitation; please see the **Proposal Instructions** for the timeline.

**Service Level Agreements for this Contract will be as follows:**

| <b>SLA Metric 1. Timely Deliveries</b>                             |   |
|--|---|
| <b>Definition and Purpose</b>                                      | <p>The expected outputs from these supported activities include:</p> <ul style="list-style-type: none"> <li>• Stakeholder meetings held throughout the state, including development of any materials (invitation, presentation, handouts, website content, surveys, etc.) regarding the Sec.50121 Home Energy Efficiency Rebate Program.</li> <li>• Final Application for the Sec.50121 Home Energy Efficiency Rebate Program approved by the EGLE that fulfills the scope of work, state objectives, and federal requirements, including the following plans:               <ul style="list-style-type: none"> <li>○ Community Benefits Plan</li> <li>○ Education and Outreach Strategy</li> <li>○ Consumer Protection Plan</li> <li>○ Utility Data Access Plan</li> <li>○ Privacy and Security Risk Assessment</li> <li>○ Market Transformation Plan</li> </ul> </li> <li>• Final State Implementation Plan and corresponding contracting/granting materials and mechanisms for third party program implementation.</li> <li>• Proposed supplemental funding programs for local and tribal governments and workforce.</li> <li>• Routine and consistent meetings with EGLE, and written status reports for EGLE to discuss and evaluate progress on the plan development and program implementation.</li> <li>• Appropriate oversight of subcontractors, as applicable.</li> <li>• All necessary compliance-related information and documentation prepared for EGLE submission to the DOE.</li> </ul> |
| <b>Acceptable Standard</b>   | <p>The acceptable standard is 100% compliance.</p>  |
| <b>Credit Due for Failing to Meet the Service Level Agreements</b> | <ol style="list-style-type: none"> <li>1. \$100.00 may be assessed for each of the first five occurrences of non-compliance in a given calendar year.</li> <li>2. \$500.00 may be assessed beginning with the sixth occurrence of non-compliance and on each occurrence thereafter in a given calendar year.</li> </ol> <p>Extenuating circumstances will be reviewed by the Program Manager before any Service Credits are assessed.</p> <p>At the discretion of the State, these credits may be applied toward any payable due to the Contractor or be payable directly to the State. Payments made directly to the state will be completed within 10 days of notice of assessment.</p>   |

|                               |  |
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| <input type="checkbox"/>      | I have reviewed the above requirement and agree with no exception.           |
| <input type="checkbox"/>      | I have reviewed the above requirement and have noted all exception(s) below. |
| <b>List all exception(s):</b> |  |

Enter company name here

## SCHEDULE B - PRICING

Request For Proposal No. 24000000759

### Michigan Home Energy Efficiency Rebates Planning – Sec. 50121

1. The Contractor must provide a pricing schedule for the proposed Contract Activities. The pricing schedule should be submitted in a modifiable format (e.g., Microsoft Word or Excel); however, you may also submit an additional pricing schedule in a non-modifiable format (e.g., PDF). Failure to complete the pricing schedule as requested may result in disqualification of your proposal.
2. Price proposals must include all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g., shipping and handling, per piece pricing, and palletizing).
3. The Contractor is encouraged to offer quick payment terms. The number of days must not include processing time for payment to be received by the Contractor's financial institution.

Quick payment terms: [REDACTED] % discount off invoice if paid within [REDACTED] days after receipt of invoice.

4. By submitting its proposal, the Contractor certifies that the prices were arrived at independently, and without consultation, communication, or agreement with any other Contractor.

| Pricing     |   |    |
|-------------|---|----|
| Personnel   | Include all staff performing work on the project. For each staff person, provide their name, job title, annual salary/wages, and percent of time dedicated to the contract.   | \$ |
| Fringe      | Allowable benefits include health, dental, and optical insurance. For each listed staff person, provide their fringe benefit rate, and confirm their annual fringe benefit cost. Note, bidders will be required to justify the fringe rates given in their proposed budget prior to an agreement being finalized. | \$ |
| Contractual | All sub-recipients and subcontractors and their estimated costs should be identified. Provide the vendor/contract name, the service, and the amounts. Use TBD if the entity is  | \$ |



|                               |  |    |
|-------------------------------|--|----|
|                               | unknown. Include the basis of cost (competitive, historical, quote, catalog, etc.).  |    |
| Supplies & Materials          | Items costing less than \$5,000 per unit or a useful life expectancy of less than one year. Supplies are generally consumed during the project performance. Supply items must be direct costs to the project and not duplicative of supply costs included in the indirect rate applied for this project. Provide the item, unit cost, and quantity of units. | \$ |
| Other Direct Costs            | Include all other known direct costs not otherwise categorized or disallowed. Provide the title/name and the cost of each item/service listed, and the amount.   | \$ |
| Travel                        | Include all mileage, lodging, meals, and other known travel costs. All listed travel must be necessary or beneficial to the performance of the proposal. Bidders must use the most recent State of Michigan Travel Rates posted by the Michigan Department of Technology, Management & Budget.   | \$ |
| Indirect                      | Provide the indirect rate (up to 10% de minimis or must have an approved Federally Negotiated Indirect Rate)   | \$ |
| Total Cost for two (2) years: |  | \$ |

## STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and [Insert Company Name] (“**Contractor**”), a [Insert State & Entity Status, e.g., a Michigan corporation or a Texas limited liability company]. This Contract is effective on February 27, 2024 (“**Effective Date**”), and unless terminated, will expire on February 26, 2026 (the “**Term**”).

This Contract may be renewed for up to one additional one-year period(s). Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

The parties agree as follows:

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

Contractor must furnish all labor, equipment, materials, and supplies necessary for the performance of the Contract Activities unless otherwise specified in a Statement of Work.

Contractor must: (a) perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b) meet or exceed the performance and operational standards, and specifications of the Contract; (c) provide all Contract Activities in good quality, with no material defects; (d) not interfere with the State’s operations; (e) obtain and maintain all necessary licenses, permits or other authorizations necessary for the performance of the Contract; (f) cooperate with the State, including the State’s quality assurance personnel, and any third party to achieve the objectives of the Contract; (g) return to the State any State-furnished equipment or other resources in the same condition as when provided when no longer required for the Contract; (h) assign to the State any claims resulting from state or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the Contract; (i) comply with all State physical and IT security policies and standards which will be made available upon request; and (j) provide the State priority in performance of the Contract except as mandated by federal disaster response requirements. Any breach under this paragraph is considered a material breach.

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

- 2. Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail

without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

| If to State:   | If to Contractor:  |
|--|--|
| <b>See Contract Administrator information shown below.</b> | [Name]<br>[Street Address]<br>[City, State, Zip]<br>[Email]<br>[Phone] |

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

| State:   | Contractor:  |
|--|--|
| Lisa VanOstran, EGLE<br>525 W. Allegan Street<br>Lansing MI 48915<br>vanostranl@michigan.gov<br>517-599-7680 | [Name]<br>[Street Address]<br>[City, State, Zip]<br>[Email]<br>[Phone] |

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

| State:  | Contractor:  |
|---|--|
| Julie Staveland, EGLE<br>525 W. Allegan Street<br>Lansing MI 48915<br>stavelandj@michigan.gov<br>517-420-8544 | [Name]<br>[Street Address]<br>[City, State, Zip]<br>[Email]<br>[Phone] |

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

## 6. Insurance Requirements.

- a. **General Requirements.** Contractor, at its sole expense, must maintain the insurance coverage as specified herein for the duration of the Term. Minimum limits may be satisfied by any combination of primary liability, umbrella or excess liability, and self-insurance coverage. To the extent damages are covered by any required insurance, Contractor waives all rights against the State for such damages. Failure to maintain required insurance does not limit this waiver.
- b. **Qualification of Insurers.** Except for self-insured coverage, all policies must be written by an insurer with an A.M. Best rating of A- VII or higher unless otherwise approved by DTMB Enterprise Risk Management.
- c. **Primary and Non-Contributory Coverage.** All policies for which the State of Michigan is required to be named as an additional insured must be on a primary and non-contributory basis.
- d. **Claims-Made Coverage.** If any required policies provide claims-made coverage, Contractor must:
  - (1) Maintain coverage and provide evidence of coverage for at least 3 years after the later of the expiration or termination of the Contract or the completion of all its duties under the Contract.
  - (2) Purchase extended reporting coverage for a minimum of 3 years after completion of work if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Contract.
- e. **Proof of Insurance**
  - (1) Insurance certificates showing evidence of coverage as required herein must be submitted to the Contract Administrator within 10 days of the contract execution date.
  - (2) Renewal insurance certificates must be provided on annual basis or as otherwise commensurate with the effective dates of coverage for any insurance required herein.
  - (3) Insurance certificates must be in the form of a standard ACORD Insurance Certificate unless otherwise approved by DTMB Enterprise Risk Management.
  - (4) All insurance certificates must clearly identify the Contract Number (e.g., notated under the Description of Operations on an ACORD form).
  - (5) The State may require additional proofs of insurance or solvency, including but not limited to policy declarations, policy endorsements, policy schedules, self-insured certification/authorization, and balance sheets.

- (6) In the event any required coverage is cancelled or not renewed, Contractor must provide written notice to the Contract Administrator no later than 5 business days following such cancellation or nonrenewal.
- f. **Subcontractors.** Contractor is responsible for ensuring its subcontractors carry and maintain insurance coverage.
- g. **Limits of Coverage & Specific Endorsements.** (See Table 6.1 Below)

**TABLE 6.1**

| Required Limits  | Additional Requirements  |
|--|--|
| <b>Commercial General Liability Insurance</b>  |  |
| <b>Minimum Limits:</b><br>\$1,000,000 Each Occurrence<br>\$1,000,000 Personal & Advertising Injury<br>\$2,000,000 Products/Completed Operations<br>\$2,000,000 General Aggregate | Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 20 10 12 19 and CG 20 37 12 19. |
| <b>Automobile Liability Insurance</b>  |  |
| <b>Minimum Limits:</b><br>\$1,000,000 Per Accident   | Contractor must have their policy: (1) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.               |

| Required Limits  | Additional Requirements  |
|--|--|
| <b>Workers' Compensation Insurance</b>   |  |
| <b>Minimum Limits:</b><br>Coverage according to applicable laws governing work activities.                             | Waiver of subrogation, except where waiver is prohibited by law. |
| <b>Employers Liability Insurance</b>   |  |
| <b>Minimum Limits:</b><br>\$500,000 Each Accident<br>\$500,000 Each Employee by Disease<br>\$500,000 Aggregate Disease |  |

**h. Non-Waiver.** This Section 6 is not intended to and is not to be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract, including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State.

**7. Reserved.**

**8. Reserved.**

**9. Relationship of the Parties.** The relationship between the parties is that of independent contractors. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor. Neither party has authority to contract for nor bind the other party in any manner whatsoever.

**10. Intellectual Property Rights.** If a Statement of Work requires Contractor to create any intellectual property, Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.

**11. Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation and provide the State

any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.

- 12. Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel providing services by providing a notice to Contractor.
- 13. Background Checks.** Pursuant to Michigan law, all agencies subject to IRS Pub. 1075 are required to ask the Michigan State Police to perform fingerprint background checks on all employees, including Contractor and Subcontractor employees, who may have access to any database of information maintained by the federal government that contains confidential or personal information, including, but not limited to, federal tax information. Further, pursuant to Michigan law, any agency described above is prohibited from providing Contractors or Subcontractors with the result of such background check. For more information, please see Michigan Public Act 427 of 2018. Upon request, or as may be specified in a Statement of Work, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.
- 14. Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.
- 15. Change of Control.** Contractor will notify the State, within 30 days of any public announcement or otherwise once legally permitted to do so, of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.
- In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

- 16. Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in a Statement of Work.
- 17. Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in a Statement of Work. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 24, Termination for Cause.

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

If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the State may cancel the order in whole or in part. The State, or a third party identified by the State, may perform the Contract Activities and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.

**18. Reserved.**

**19. Reserved.**

**20. Reserved.**

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

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



State constitutes a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed.

The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/SIGMAVSS> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment. Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

Excluding federal government charges and terms, Contractor warrants and agrees that each of the fees, economic or product terms or warranties granted pursuant to this Contract are comparable to or better than the equivalent fees, economic or product term or warranty being offered to any commercial or government customer (including any public educational institution within the State of Michigan) of Contractor. If Contractor enters into any arrangements with another customer of Contractor to provide the products or services, available under this Contract, under more favorable prices, as the prices may be indicated on Contractor's current U.S. and International price list or comparable document, then this Contract will be deemed amended as of the date of such other arrangements to incorporate those more favorable prices, and Contractor will immediately notify the State of such fee and formally memorialize the new pricing in a change notice.

- 22. Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in a Statement of Work. The parties understand and agree that any liquidated damages (which includes but is not limited to applicable credits) set forth in this Contract are reasonable estimates of the State's damages in accordance with applicable law. The parties acknowledge and agree that Contractor could incur liquidated damages for more than 1 event. The assessment of liquidated damages will not constitute a waiver or release of any other remedy the State may have under this Contract for Contractor's breach of this Contract, including without limitation, the State's right to terminate this Contract for cause under Section 24 and the State will be entitled in its discretion to recover actual damages caused by Contractor's failure to perform its obligations under this Contract. However, the State will reduce such actual damages by the amounts of liquidated damages received for the same events causing the actual damages. Amounts due the State as liquidated damages may be set off against any fees payable to Contractor under this Contract, or the State may bill Contractor as a separate item and Contractor will promptly make payments on such bills.
- 23. Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or delivery order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.

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

(b) If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (i) cease performance immediately. Contractor must submit all invoices for Contract Activities accepted by the State within 30 days of the date of termination. Failure to submit an invoice within that timeframe will constitute a waiver by Contractor for any amounts due to Contractor for Contract Activities accepted by the State under this Contract or (ii) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 25, Termination for Convenience.

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

**25. Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any reason or no reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately. Contractor must submit all invoices for Contract Activities accepted by the State within 30 days of the date of termination. Failure to submit an invoice within that timeframe will constitute a waiver by Contractor for any amounts due Contractor for Contract Activities accepted by the State under this Contract, or (b) continue to perform the Contract Activities in accordance with Section 26, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities to the extent the funds are available.

**26. Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 90 calendar days), provide all reasonable transition assistance requested by the State,

to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (d) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.

**27. Return of State Property.** Upon termination or expiration of this Contract for any reason, Contractor must take all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to the Contractor by any entity, agent, vendor, or employee of the State.

**28. Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

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

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

Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney

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

The State is constitutionally prohibited from indemnifying Contractor or any third parties.

- 29. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
- 30. Limitation of Liability and Disclaimer of Damages. IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
- 31. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (3) any complaint filed in a legal or administrative proceeding alleging the Contractor or its subcontractors discriminated against its employees, subcontractors, vendors, or suppliers during the term of this Contract; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.
- 32. State Data.** All data and information provided to Contractor by or on behalf of the State, and all data and information derived therefrom, is the exclusive property of the State ("**State Data**"); this definition is to be construed as broadly as possible. Upon request, Contractor must provide to the State, or a third party designated by the State, all State Data within 10 calendar days of the request and in the format requested by the State. Contractor will assume all costs incurred in compiling and supplying State Data. No State Data may be used for any marketing or commercial purposes.
- 33. Reserved.**

**34. Non-Disclosure of Confidential Information.** The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties.

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

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

**35. Reserved.**

**36. Reserved.**

**37. Reserved.**

**38. Records Maintenance, Inspection, Examination, and Audit.** Pursuant to MCL 18.1470, the State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain and provide to the State or its designee and the auditor general upon request, all records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

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

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

- 39. Representations and Warranties.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 24, Termination for Cause.
- 40. Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.
- 41. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 42. Reserved.**
- 43. Reserved.**
- 44. Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and [Executive Directive 2019-09](#). Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic

information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.

- 45. Unfair Labor Practice.** Under MCL 423.324, the State may void this Contract if the name of the Contractor, or the name of a subcontractor, manufacturer, or supplier of the Contractor, subsequently appears on the Unfair Labor Practice register compiled under MCL 423.322.
- 46. Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in the Michigan Court of Claims. Contractor waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint an agent in Michigan to receive service of process.
- 47. Non-Exclusivity.** Nothing contained in this Contract is intended nor is to be construed as creating any requirements contract with Contractor, nor does it provide Contractor with a right of first refusal for any future work. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 48. Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
- 49. Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.
- Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.
- 50. Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without the prior written approval of the State, and then only in accordance with the explicit written instructions of the State.



**51. Schedules.** All Schedules and Exhibits that are referenced herein and attached hereto are hereby incorporated by reference. The following Schedules are attached hereto and incorporated herein:

| Document Title | Document Description |
|----------------|----------------------|
| Schedule A     | Statement of Work    |
| Schedule B     | Pricing              |

- 52. Entire Agreement and Order of Precedence.** This Contract, which includes Statement of Work, and schedules and exhibits, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and Statement of Work; (b) second, Statement of Work as of the Effective Date; and (c) third, schedules expressly incorporated into this Contract as of the Effective Date. NO TERMS ON CONTRACTOR'S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE CONTRACT ACTIVITIES, OR DOCUMENTATION HEREUNDER, EVEN IF ATTACHED TO THE STATE'S DELIVERY OR PURCHASE ORDER, WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE OR ANY AUTHORIZED USER FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE AND THE AUTHORIZED USER, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.
- 53. Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 54. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 55. Survival.** Any right, obligation or condition that, by its express terms or nature and context is intended to survive, will survive the termination or expiration of this Contract; such rights, obligations, or conditions include, but are not limited to, those related to transition responsibilities; indemnification; disclaimer of damages and limitations of liability; State Data; non-disclosure of Confidential Information; representations and warranties; insurance and bankruptcy.
- 56. Contract Modification.** This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**"). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.

## FEDERAL PROVISIONS ADDENDUM

This addendum applies to purchases that will be paid for in whole or in part with funds obtained from the federal government. The provisions below are required, and the language is not negotiable. Contractor agrees to comply with all obligations under federal rules or regulations for such funding, including but not limited to the provisions contained in this addendum. If any provision below conflicts with the State's terms and conditions, including any attachments, schedules, or exhibits to this Contract, the provisions below take priority to the extent a provision is required by federal law; otherwise, the order of precedence set forth in the Contract applies. Further, Contractor agrees to, through a Contract Change Notice, append or modify specific federal provisions to this Contract, if reasonably necessary to keep the State and Contractor in compliance with federal funding requirements, and comply with the terms set forth therein. Hyperlinks are provided for convenience only; broken hyperlinks will not relieve Contractor from compliance with the law.

### A. Equal Employment Opportunity

This Contract is not a “**federally assisted construction contract**” as defined in [41 CFR Part 60-1.3](#).

### B. Davis-Bacon Act (Prevailing Wage)

This Contract is not a “**federally assisted construction contract**” as defined in [41 CFR Part 60-1.3](#), nor is it a prime construction contract in excess of \$2,000.

### C. Copeland “Anti-Kickback” Act

This Contract is not a “**federally assisted construction contract**” as defined in [41 CFR Part 60-1.3](#), nor is it a prime construction contract in excess of \$2,000 where the Davis-Bacon Act applies.

### D. Contract Work Hours and Safety Standards Act

The Contract does not involve the employment of mechanics or laborers.

### E. Rights to Inventions Made Under a Contract or Agreement

If this Contract is funded by a federal “funding agreement” as defined under [37 CFR §401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

### F. Clean Air Act and the Federal Water Pollution Control Act

If this Contract is **in excess of \$150,000**, the Contractor must comply with all applicable standards, orders, and regulations issued under the Clean Air Act ([42 USC 7401-7671g](#)) and the Federal Water Pollution Control Act ([33 USC 1251-1387](#)), and during performance of this Contract the Contractor agrees as follows:

**(1) Clean Air Act**

- (i) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (ii) The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.
- (iii) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

**(2) Federal Water Pollution Control Act**

- (i) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (ii) The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.
- (iii) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

**G. Debarment and Suspension**

A “contract award” (see [2 CFR 180.220](#)) must not be made to parties listed on the government-wide exclusions in the [System for Award Management](#) (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement [Executive Orders 12549 \(51 FR 6370; February 21, 1986\)](#) and [12689 \(54 FR 34131; August 18, 1989\)](#), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than [Executive Order 12549](#).

- a. This Contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the Contractor is required to verify that none of the Contractor’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- b. The Contractor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

- c. This certification is a material representation of fact relied upon by the State. If it is later determined that the contractor did not comply with 2 C.F.R. Part. 180, subpart C and 2 C.F.R. Part. 3000, subpart C, in addition to remedies available to the State, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**H. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)**

Contractor has applied or bid for an award of **more than \$100,000** and shall file the required certification in *Exhibit 1 – Byrd Anti-Lobbying Certification* attached to the end of this Addendum. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

**I. Procurement of Recovered Materials**

If this Contract is a procurement to purchase products or items designated by the EPA under [40 C.F.R. part 247](#) during the course of a fiscal year, then under [2 CFR 200.323](#), Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

- a. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
  - a. Competitively within a timeframe providing for compliance with the contract performance schedule;
  - b. Meeting contract performance requirements; or
  - c. At a reasonable price.
- b. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- c. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

## **J. Prohibition on Contracting for Covered Telecommunications Equipment or Services**

Contractor acknowledges and agrees that [Section 889\(b\) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 \(the "McCain Act"\)](#), and [2 C.F.R. §200.216](#), prohibit the obligation or expending of federal award funds on certain telecommunication products or with certain entities for national security reasons on or after August 13, 2020.

During performance of this Contract, the Contractor agrees as follows:

(a) *Definitions.* As used in this Section J. Prohibition on Contracting for Covered Telecommunications Equipment or Services ("Section J"):

- (1) the terms "backhaul," "critical technology," "interconnection arrangements," "reasonable inquiry," "roaming," and "substantial or essential component" have the meanings defined in 48 CFR § 4.2101;
- (2) the term "covered foreign country" has the meanings defined in § 889(f)(2) of the McCain Act; and
- (3) the term "covered telecommunications equipment or services" has the meaning defined in § 889(f)(3) of the McCain Act.

(b) *Prohibitions.*

(1) Unless an exception in paragraph (c) of this Section J applies, neither the Contractor nor any of its subcontractors may use funds received under this Contract to:

- (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (iii) Enter into, extend, or renew a contract with an entity that uses any covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
- (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) *Exceptions.*

(1) This Section J does not prohibit Contractor from providing—

- (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

- (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) *Reporting requirement.*

- (1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this Section J to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
- (2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this Section J:
  - (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
  - (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this Section J: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

- (e) *Subcontracts.* The Contractor shall insert the substance of this Section J, including this paragraph (e), in all subcontracts and other contractual instruments.

**K. Domestic Preferences for Procurements**

As appropriate, and to the extent consistent with law, the Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this Section K – **Domestic Preferences for Procurements:**

*“Produced in the United States”* means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

*“Manufactured products”* mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**L. Affirmative Socioeconomic Steps**

For all contracts utilizing federal funding sources subject to Title 2 of the Code of Federal Regulations (C.F.R.) Part 200 issued on or after November 12, 2020, if subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

**M. Copyright and Data Rights**

Pursuant to 2 CFR § 200.315(b), the State may copyright any work which is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

**N. Additional FEMA Contract Provisions**

This Contract does not involve purchases that will be paid for in whole or in part with funds obtained from the Federal Emergency Management Agency (FEMA).

**a. Changes**

See the provisions regarding modifications or change notice in the Contract Terms.

**b. DHS Seal Logo and Flags**

The Contractor shall not use the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. The contractor shall include this provision in any subcontracts.

**c. Compliance with Federal Law, Regulations, and Executive Orders**

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the Contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

**d. No Obligation by Federal Government**

The federal government is not a party to this Contract and is not subject to any obligations or liabilities to the State, Contractor, or any other party pertaining to any matter resulting from the Contract.

**e. Program Fraud and False or Fraudulent Statements or Related Acts**

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor’s actions pertaining to this contract.

**O. Other Federal Contract Provisions**

The following provisions also apply to purchases that will be paid for in whole or in part with funds obtained from the federal government:

All Grant awards made under the Home Energy Rebate Programs shall comply with applicable law, including regulations contained in 2 CFR Part 200 as amended by 2 CFR Part 910. The funding for this contract is through the DOE Sec. 50121 Home Energy Efficiency Rebate Program, in which EGLE is the Recipient. The Recipient will apply all the terms and conditions of this Award, as applicable, including the Intellectual Property Provisions, to all subrecipients (and subcontractors, as appropriate), as required by 2 CFR 200.101, and to require their strict compliance therewith. Further, the Recipient will apply the Award terms as required by 2 CFR 200.327 to all subrecipients (and subcontractors, as appropriate), and to require their strict compliance therewith.



## EXHIBIT 1 BYRD ANTI-LOBBYING CERTIFICATION

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Contractor must complete this certification if the purchase will be paid for in whole or in part with funds obtained from the federal government and the purchase is greater than \$100,000.

### APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, **enter contractor name here**, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

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Signature of Contractor's Authorized Official

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Name and Title of Contractor's Authorized Official

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Date