



To: IHCD A Partners

Notice: PN-23-35

From: IHCD A

Date: October 23, 2023

Re: **Request for Proposals – Weatherization Assistance Program Software**

The Indiana Housing and Community Development Authority seeks to contract with an individual or entity to provide data system and project management software for the Weatherization Assistance Program (Wx). The Wx program provides energy conservation measures to reduce utility bills of low-income Hoosiers across the state. The United States Department of Energy (DOE) allocates funds to IHCD A for distribution to our network of 19 Local Service Providers (LSPs) to perform weatherization work.

IHCD A is interested in a data system that will aid in the administration of the Wx program and accommodate the reporting needs of IHCD A and DOE. The system should be capable of tracking and reporting all eligible weatherization services performed for residential clients who receive weatherization assistance. Respondents should have extensive experience in the delivery, customization, and implementation of Weatherization data systems.

Click [here](#) to access the Request for Proposals (RFP).

The deadline for submission is Monday November 20, 2023, at 5:00 PM EST.

Responses must be submitted via email. All documents must be submitted as a PDF unless otherwise indicated in the RFP to:

Joely Pope
Energy and Utility Programs Special Projects Manager
Indiana Housing and Community Development Authority
IHCDAEnergy@ihcda.IN.gov

Applications that miss the deadline for submission and/or do not contain all of the required forms/documents as listed in the RFP may be determined ineligible for further consideration.



ADDRESS 30 South Meridian Street, Suite 900, Indianapolis, IN 46204
PHONE 317 232 7777 TOLL FREE 800 872 0371 WEB www.ihcda.IN.gov

EQUAL OPPORTUNITY EMPLOYER AND HOUSING AGENCY

State of Indiana
Lieutenant Governor
Suzanne Crouch





REQUEST FOR PROPOSALS (RFP)

for

WEATHERIZATION ASSISTANCE PROGRAM SOFTWARE

INDIANA HOUSING AND COMMUNITY DEVELOPMENT AUTHORITY

30 South Meridian Street, Suite 900

Indianapolis, IN 46204

<http://www.in.gov/ihcda/>

317-232-7777

ISSUE DATE: Monday October 23, 2023

RESPONSE DEADLINE: Monday November 20, 2023, 5:00 PM EST

TABLE OF CONTENTS

PART 1 SCOPE OF THIS REQUEST

- 1. PURPOSE OF THIS REQUEST FOR PROPOSALS (RFP)**
- 2. ABOUT THE INDIANA HOUSING AND COMMUNITY DEVELOPMENT AUTHORITY**
- 3. SCOPE OF SERVICES**
- 4. RFP TIMELINE**

PART 2 RFP PROCESS

- 1. SELECTION PROCESS**
- 2. QUALIFICATIONS EVALUATION CRITERIA**
- 3. RESPONSIBLE RESPONDENT REQUIREMENTS**
- 4. RFP SUBMISSION ITEMS**
- 5. FORMAT FOR SUBMISSION AND DUE DATE**

PART 3 TERMS AND CONDITIONS

- 1. STATE POLICIES**
- 2. FEDERAL REQUIREMENTS**
- 3. RFP TERMS AND CONDITIONS**
- 4. QUALIFICATIONS COVER SHEET**
- 5. CERTIFICATION OF RESPONDENT**
- 6. APPLICATION CHECKLIST**
- 7. BUDGET**
- 8. DATA SYSTEM FEATURES**
- 9. TECHNICAL CONSIDERATIONS**

PART 1

SCOPE OF THIS REQUEST

1. PURPOSE OF THIS REQUEST FOR PROPOSALS (“RFP”)

The Indiana Housing and Community Development Authority seeks to contract with an individual or entity to provide data system and project management software for the Weatherization Assistance Program (Wx) as detailed in the Scope of Services section of this RFP.

2. ABOUT THE INDIANA HOUSING AND COMMUNITY DEVELOPMENT AUTHORITY

MISSION STATEMENT

The Indiana Housing and Community Development Authority (“IHCDA”) creates housing opportunities, generates, and preserves assets, and revitalizes neighborhoods by facilitating the collaboration of multiple stakeholders, investing financial and technical resources in development efforts, and helping build capacity of qualified partners throughout Indiana.

VISION

At IHCDA, we believe that growing Indiana's economy starts at home. Everyone can agree that all Hoosiers should have the opportunity to live in safe, affordable, good-quality housing in economically stable communities. That's the heart of IHCDA's mission. Our charge is to help communities build upon their assets to create places with ready access to opportunities, goods, and services. We also promote, finance, and support a broad range of housing solutions, from temporary shelters to homeownership.

IHCDA's work is done in partnership with developers, lenders, investors, and nonprofit organizations that use our financing to serve low and moderate-income Hoosiers. We leverage government and private funds to invest in financially sound, well-designed projects that will benefit communities for many years to come. And our investments bear outstanding returns. The activities that we finance help families become more stable, put down roots, and climb the economic ladder. In turn, communities grow and prosper, broadening their tax base, creating new jobs, and maximizing local resources. IHCDA's work is truly a vehicle for economic growth, and it all starts at home.

OVERVIEW (for more information visit <http://www.in.gov/ihcda/>)

IHCDA was created in 1978 by the Indiana General Assembly and is a quasi-public financially self-sufficient statewide government agency. IHCDA's programs are successful in large part because of the growing network of partnerships IHCDA has established with local, state, and federal governments, for-profit businesses, and not-for-profit organizations. For-profit partners include investment banks, mortgage lenders, commercial banks, corporate investment managers and syndicators, apartment developers, investors, homebuilders, and realtors. Not-for-profit partners include community development corporations, community action agencies, and not-for-profit developers.

ABOUT THE WEATHERIZATION ASSISTANCE PROGRAM (Wx)

The Weatherization Assistance Program (Wx) provides energy conservation measures to reduce the utility bills of low-income Hoosiers across the state. The program offers clients a permanent solution to reducing their energy bills by making their homes more energy efficient. The United States Department of Energy (DOE) allocates funds to IHCDA for distribution to our network of 19 Local Service Providers to perform weatherization work.

3. SCOPE OF SERVICES

The Bipartisan Infrastructure Law (BIL) provided additional funding for the Weatherization Assistance Program (Wx), allowing Indiana the opportunity to search for a data system that will aid in the administration of the Wx program and accommodate the reporting needs of DOE and the organization.

The provider should have extensive expertise in the delivery, customization, and implementation of Wx data systems and project management software. Indiana has 19 subgrantees, known as Local Service Providers (LSPs), that administer the Wx program across the state, covering 92 counties. Each subgrantee has staff that will require training from the provider during the implementation stage of the new data system. We anticipate at least 3 LSPs will be selected as pilot groups that will begin working with IHCDA and the provider early on in this process. In addition to working with the pilot LSPs, the provider will need to have a training plan for the implementation of the software system. We anticipate the non-pilot LSPs will have a broad range of comfort levels with technology, which may require additional support and training from the provider.

The data system/project management software should be capable of tracking and reporting all eligible weatherization services performed for residential clients who receive Wx assistance. IHCDA is interested in a system that can monitor and track Wx jobs, track weatherization activities from application through completion, prioritize Wx applicants, report financial expenditures, and track required fields for state and federal reporting requirements.

IHCDA's priorities include, but are not limited to, the following:

- Replacement of IHCDA's current Wx data system, IWAP;
- Importing relevant historical data from IWAP into the new system to comply with DOE reporting requirements and track homes that have been weatherized in the previous 15 years;
- Customization of the new system to meet the unique needs of the Wx network;
- Statewide Wx Application or an API with an application software to collect applicant information;
- Ability to track Wx jobs from application through completion;
- Technical assistance and training from the provider for IHCDA and subgrantees on how to use the new data system;
- Ability for IHCDA to view the system from the client/LSP side;
- Establish key technical support from provider for future enhancements/upgrades;
- Dashboards!

4. **RFP TIMELINE**

Below is a tentative project timeline. We hope to have the new data system live for Indiana's Weatherization Network by July 2024. If the respondent feels that this is not realistic, they may pose a different timeline in their response.

October 23, 2023	RFP released to the general public.
November 1, 2023	Questions from potential respondents concerning RFP due to IHCDA by 5:00 p.m. EST. Questions may be submitted via email to IHCDAEnergy@ihcda.IN.gov with the subject line "Wx RFP Questions."
November 8, 2023	IHCDA will post Q&A to website based on respondent questions received via email.
November 20, 2023	Respondent must submit proposal by 5:00 p.m. in PDF format.
November 30, 2023	IHCDA will review responses and select finalists to present system demo(s). Finalists will be notified of the date and time for their virtual presentations.
December 4 th and 7 th 2023	Virtual presentations of software systems.
January 2024 January 2024	Final Selection and IHCDA Delegation Contract start date.
January 2024	Initial system build and customization for Indiana.
March 2024	Provider will begin to work with 3 pilot sites while we trial run the new system.

PART 2

RFP PROCESS

1. SELECTION PROCESS

Evaluation of all qualifications will be completed by IHCD. Respondent must also be responsive and responsible as described in Section 2 and 3 of Part 2 of this RFP. Selection of a Respondent is at the sole discretion of IHCD.

2. QUALIFICATIONS EVALUATION CRITERIA

The following will be IHCD's primary consideration in the selection process:

1. Compliance with requirements of this RFP.
2. An assessment of the Respondent's ability to deliver the indicated service in accordance with the specifications set out in the RFP.
3. Experience of the Respondent.
4. Strength of client references.
5. Knowledge of data systems and project management software related to the Weatherization Assistance Program that are recognized by the Department of Energy (DOE).
6. Knowledge of state and federal reporting requirements for Weatherization.
7. Ensuring system is user-friendly while protecting sensitive client information.
8. Competitive fee (include a list of pricing options/models that you offer).

3. RESPONSIBLE RESPONDENT REQUIREMENTS

IHCD shall not award any contract until the selected Respondent, has been determined to be responsible. A responsible Respondent must:

1. Have adequate financial resources to perform the project, or the ability to obtain them;
2. Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all the Respondent's existing commercial and governmental business commitments;
3. Have a satisfactory performance record as indicated by supplied references;
4. Have a satisfactory record of integrity and business ethics;
5. Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them;
6. Have supplied all requested information;
7. Be legally qualified to contract in the State of Indiana and if it is an entity described in IC Title 23, it must be properly registered with the Indiana Secretary of State (There is a fee to register with the Secretary of State), and owe no outstanding reports to the Indiana Secretary of State; and
8. Be otherwise qualified and eligible to receive an award under applicable laws and regulations, including not be suspended or debarred from federal/State of Indiana contracting opportunities. If a prospective contractor is found to be non-responsible, a written determination of non-responsibility shall be prepared and included in the official file for this RFP, and the Respondent shall be advised of the reasons for the determination.
9. Preserve the confidentiality of applicant and state government data.

4. RFP SUBMISSION ITEMS

A major portion of the proposal will include filling out tables and textboxes, in addition to submitting attachments or documents. In sections where attachments are allowed, it will be indicated in the directions for each submission section. Where separate attachments are allowed, all documents should be submitted in Times New Roman 12-point font with 1-inch margins. Please limit your responses to the textboxes provided for the remaining questions we are seeking responses for. Please submit your proposal in the following format:

1. Qualifications Cover Sheet (includes link to Video Demo)
2. Certification
3. Application Checklist
4. Organization Qualifications and Experience
5. Key Personnel Identification
6. Scope of Work (Data System Features and Technical Considerations)
7. Timelines
8. Budget
9. Client References (3)

A. Qualifications Cover Sheet

The Respondent must submit a completed Cover Sheet which is located in Appendix A of this RFP, including the Summary of Qualifications and the table at the bottom of the page.

- a. All Respondents must include a link to a video demonstration (no longer than 10 minutes) showing how their data system works. Please include the point of view of the agencies who will be using this system on a daily basis.

B. Certification

- a. Please complete and attach the Respondent Certification located in Appendix B of this RFP.

C. Application Checklist

- a. Please fill out and attach the application checklist located in Appendix C of this RFP.

D. Organization Qualifications and Experience (1 page maximum)

Please provide a 1-page narrative describing your company's qualifications and experience with Weatherization data systems and project management software. This can be attached as a PDF. This section should include the following information:

- a. A brief description of the organization.
- b. Describe your experience with developing and implementing Weatherization data systems and project management software at the state level.
- c. In this section, please tell us which states and/or local agencies use your Weatherization software and for how long they have used it.

E. Key Personnel Identification (Up to 1 page per Team Member)

Key personnel would be the people directly assigned to work with IHCDCA on this project. Please provide the qualifications and experience of the key personnel that would be working on the software. Responses can be attached in PDF form. Responses should include:

- a. Identification of key personnel.

- i. Include their role for this project. For example: Point of Contact, Trainer, etc.
- b. Resumes and Qualifications for this project.
 - i. The individuals noted in the proposal must have experience in creating and implementing software systems. Please highlight experiences working with state government agencies and Weatherization programs.

F. Scope of Work

- a. For the Scope of Work, please respond to Appendix E and Appendix F to provide a detailed description of how your data system will meet IHCDA's desired features and technical requirements.
 - i. We do not expect a technical proposal in addition to what is provided in Appendix E and Appendix F. The responses to these sections will serve as the Scope of Work for your proposal.

G. Timelines

We hope to have the new data system for Indiana's Weatherization Network as soon as possible. Please submit a feasible and realistic timeline of how your organization will deliver a system that meets current/upcoming DOE requirements while meeting IHCDA's desired features and functionalities. Respondents should submit 2 separate timelines: The first for the initial build, customization, and longer-term system rollout. The second for your proposed training plan for the pilot groups and the LSPs. **Both timelines should be submitted as separate attachments in PDF form.** Please see below:

- a. Customization and System Rollout Timeline:
 - i. Please provide a detailed description of the full timeline for the new system to be built, customized, and implemented. The proposed timeline should also include the software demonstrations that will take place in December 2023. IHCDA would like to roll out the new system at the start of one of the following program years:
 - a. New DOE: April 2024
 - b. New BIL: July 2024
 - c. New LIHEAP: October 2024
 - ii. This timeline should include the initial system customization, the pilot testing phase, any further customization, and when the network might switch to the new data system.
- b. Training and Technical Assistance Timeline:
 - i. Please provide a detailed description of what the training plan will be for the pilot groups and the rest of the Weatherization network. In the timeline and training plan, please also include the following information:
 - a. Describe the training plan for the pilot groups and when the remainder of the LSPs will be trained on the new system.
 - b. Include a description of what type of training materials will be provided and how the network will access these materials.
 - c. Describe how you will train the network as future enhancements are implemented.

H. Budget

- a. Using the chart from Appendix D, please give us your proposed budget for each stage of this project.

I. Client References (3)

Please provide three references of clients who use your software system for Weatherization that we can contact to get an independent assessment of your system capabilities. These can be attached in PDF form. One of your references must be a state agency. Please include the following:

- a. Organization Name/State,
- b. Brief description of the software, and
- c. Contact person's name, telephone number, and email address.

5. FORMAT FOR SUBMISSION AND DUE DATE

Respondent's proposal must be submitted via email.

Joely Pope
Energy and Utility Programs Special Projects Manager
Indiana Housing and Community Development Authority
30 South Meridian, Suite 900
Indianapolis, IN 46204
IHCDAEnergy@ihcda.IN.gov

The deadline for submission is Monday November 20, 2023, at 5:00 PM EST.

Applications that miss the submission deadline and/or do not contain all of the required forms/documents as listed in this RFP may be determined ineligible for further consideration.

By submitting a proposal to IHCDA, your organization is agreeing to adhere to the terms and conditions outlined in our contract template and the additional State of Indiana Office of Technology requirements. Please see the attachments which can be found on IHCDA's Public Notices webpage.

In your response, please note any exceptions that you may need if selected to build the Weatherization software. This can be uploaded in the proposal as a separate attachment in PDF form following the Cover Sheet and Certification.

TERMS AND CONDITIONS

1. STATE POLICIES

1. **ETHICAL COMPLIANCE:** By submitting a proposal, the Respondent certifies that it shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code § 4-2-6 et seq., Ind. Code § 4-2-7, et seq., the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. Respondent will be required to attend online ethics training conducted by the State of Indiana.
2. **PAYMENTS:** Any payments for services under any contract awarded pursuant to this RFP shall be paid by IHCD in arrears in conformance with State fiscal policies and procedures and, as required by IC §4-13-2-14.8, the direct deposit by electronic funds transfer to the financial institution designated by the successful Respondent in writing unless a specific waiver has been obtained from the IHCD Controller. No payments will be made in advance of receipt of the goods or services that are the subject of any contract except as permitted by IC §4-13-2-20.
3. **EMPLOYMENT ELIGIBILITY VERIFICATION.** The Respondent cannot knowingly employ an unauthorized alien. The Respondent shall require its contractors who perform work for the Respondent pursuant to the project must certify to the Respondent that the contractor does not knowingly employ or contract with an unauthorized alien.
4. **CONFIDENTIALITY OF STATE INFORMATION.** The Respondent understands and agrees that data, materials, and information disclosed to the Respondent may contain confidential and protected information. The Respondent covenants that data, material, and information gathered, based upon or disclosed to the Respondent for the purpose of this project will not be disclosed to or discussed with third parties without the prior written consent of the IHCD. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Respondent and IHCD agree to comply with the provisions of IC §4-1-10 and IC §4-1-11. If any Social Security number(s) is/are disclosed by Respondent, Respondent agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this contract.
5. **ACCESS TO PUBLIC RECORDS:** Respondents are advised that materials contained in proposals are subject to the Access to Public Records Act ("APRA"), IC 5-14-3 et. seq., and the entire response may be viewed and copied by any member of the public. Respondents claiming a statutory exemption to disclosure under APRA must place all confidential documents (including the requisite number of copies) in a sealed envelope marked "Confidential". Respondents should be aware that if a public records request is made under APRA, IHCD will make an independent determination of confidentiality, and may seek the opinion of the Indiana Public Access Counselor. Prices are not considered confidential information. The following information shall be subject to public inspection after the contract award:
 - A. The RFP.
 - B. A list of all vendors who received the RFP.
 - C. The name and address of each Respondent.
 - D. The amount of each offer.
 - E. A record showing the following:
 - a. The name of the successful Respondent.
 - b. The dollar amount of the offer.

- c. The basis on which the award was made.
- F. The entire contents of the contract file except for proprietary information that may have been included with an offer, such as:
 - a. trade secrets;
 - b. manufacturing processes;
 - c. financial information not otherwise publicly available; or
 - d. other data that does not bear on the competitive goals of public procurement that was not required by the terms of the RFP itself to be made available for public inspection.
- 6. **TAXES, FEES AND PENALTIES:** By submitting a proposal Respondent certifies that neither it nor its principal(s) is presently in arrears in payment of its taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana or the United States Treasury. Respondent further warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by either the State or Federal Government pending against it, and agrees that it will immediately notify IHCDCA of any such actions.
- 7. **CONFLICT OF INTEREST:** Respondent must disclose any existing or potential conflict of interest relative to the performance of the services resulting from this RFP, including any relationship that might be perceived or represented as a conflict. By submitting a proposal in response to this RFP, Respondent affirms that it has not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or any employee or representative of same, in connection with this procurement. Any attempt to intentionally or unintentionally conceal or obfuscate a conflict of interest will automatically result in the disqualification of the Respondent's proposal or immediate termination of an awardee's contract. An award will not be made where an actual conflict of interest exists. IHCDCA will determine whether a conflict of interest exists and whether an apparent conflict of interest may reflect negatively on IHCDCA, should IHCDCA select Respondent. Further, IHCDCA reserves the right to disqualify any Respondent on the grounds of actual or apparent conflict of interest.
- 8. **APPEALS/PROTEST:** Respondent may appeal/protest the award of this contract based on alleged violations of the selection process that resulted in discrimination or unfair consideration. The appeal/protest must include the stated reasons for the Respondent's objection to the funding decision, which reasons must be based solely upon evidence supporting one (1) of the following circumstances:
 - a. Clear and substantial error or misstated facts which were relied on in making the decision being challenged;
 - b. Unfair competition or conflict of interest in the decision-making process;
 - c. An illegal, unethical or improper act; or
 - d. Other legal basis that may substantially alter the decision.

The appeal/protest must be received within ten (10) business days after the Respondent receives notice of the contract award, or the appeal/protest will not be considered. All protests shall be in writing, submitted to the Compliance Attorney, who shall issue a written decision on the matter. The Compliance Attorney may, at his/her discretion, suspend the procurement pending resolution of the protest if the facts presented so warrant. The Respondent will receive written acknowledgement of receipt of the appeal/protest within five (5) business days of its receipt, noting the day the appeal/protest was received. Any appeal/protest regarding the funding decision made by IHCDCA will be examined and acted upon

by the Compliance Attorney within thirty (30) days of its receipt. The decision of the Compliance Attorney is final.

2. FEDERAL REQUIREMENTS

Respondent agrees to comply with the following federal regulations:

- a. Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- b. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- c. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- d. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- e. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is

permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- f. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” 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 the requirements of 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.
- g. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- h. Debarment and Suspension (Executive Orders 12549 and 12689)—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 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “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.
- i. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal 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 must 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 non-Federal award.

3. RFP TERMS AND CONDITIONS

This request is issued subject to the following terms and conditions:

- A. This RFP is a request for the submission of qualifications, but is not itself an offer and shall under no circumstances be construed as an offer.
- B. IHCDa expressly reserves the right to modify or withdraw this request at any time, whether before or after any qualifications have been submitted or received.
- C. IHCDa reserves the right to reject and not consider any or all Respondents that do not meet the requirements of this RFP, including but not limited to: incomplete qualifications and/or qualifications offering alternate or non-requested services.

- D. IHCDCA reserves the right to reject any or all companies, to waive any informality in the RFP process, or to terminate the RFP process at any time, if deemed to be in its best interest.
- E. In the event the party selected does not enter into the required agreement to carry out the purposes described in this request, IHCDCA may, in addition to any other rights or remedies available at law or in equity, commence negotiations with another person or entity.
- F. In no event shall any obligations of any kind be enforceable against IHCDCA unless and until a written agreement is entered into.
- G. The Respondent agrees to bear all costs and expenses of its response and there shall be no reimbursement for any costs and expenses relating to the preparation of responses of qualifications submitted hereunder or for any costs or expenses incurred during negotiations.
- H. By submitting a response to this request, the Respondent waives all rights to protest or seek any remedies whatsoever regarding any aspect of this request, the selection of another Respondent or Respondents with whom to negotiate, the rejection of any or all offers to negotiate, or a decision to terminate negotiations.
- I. IHCDCA reserves the right not to award a contract pursuant to the RFP.
- J. All items become the property of IHCDCA upon submission and will not be returned to the Respondent.
- K. IHCDCA reserves the right to split the award between multiple applicants and make the award on a category by category basis and/or remove categories from the award.
- L. The Respondent certifies that neither it nor its principals, contractors, or agents are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from utilizing federal funds by any federal or state department or agency.
- M. The Respondent understands that IHCDCA will enter into contract preparation activities with the Respondent whose RFP appears to be the most advantageous to IHCDCA. If at any time the contract preparation activities are judged to be ineffective, the state may do the following:
 - i. Cease all activities with that Respondent.
 - ii. Begin contract preparation activities with the next highest ranked Respondent.
- N. A copy of IHCDCA's most recent Contract Boilerplate is attached as an Exhibit to this RFP. By submitting a response to this RFP, Respondent acknowledges the acceptance of IHCDCA's Contract Boilerplate and the understanding that such Boilerplate is non-negotiable.
- O. Additionally, IHCDCA will not agree to any of the following terms or conditions:
 - a. Any provision requiring IHCDCA to provide insurance
 - b. Any provision requiring IHCDCA to provide indemnity
 - c. Any provision providing that this Contract be construed in accordance with laws other than those of the State of Indiana
 - d. Any provision providing that suit be brought in any state other than Indiana
 - e. Any provision providing for resolution of contract disputes
 - f. Any provision requiring IHCDCA to pay any taxes
 - g. Any provision requiring IHCDCA to pay penalties, liquidated damages, interest or attorney's fees
 - h. Any provision modifying the applicable Indiana statute of limitations
 - i. Any provision relating to the time within which a claim must be made
 - j. Any provision requiring payment of consideration in advance unless authorized by an exception listed in IC 4-13-2-20
 - k. Any provision limiting disclosure of this Agreement in violation of the Access to Public Records Act, IC 5-14-3
 - l. Any provision providing for automatic renewal
 - m. Any provision requiring IHCDCA to agree to limit the liability of the Respondent

APPENDIX A. Qualifications Cover Sheet

Name of Individual, Firm, or Business: _____

Tax Id: _____

Address: _____

Phone Number: _____

Website Address: _____

Software Video Demonstration Link: _____

Contact Person: _____

Title: _____

Email Address: _____

Phone Number: _____

Contract Signatory Authority: _____

Title: _____

Total Budget Amount: \$ _____

Summary of Qualifications to Complete This Work (250 words or less)

	Yes	No
Does your organization have experience working with State Weatherization agencies?		
Does your organization have experience in creating Weatherization specific software?		
Can your organization commit to a virtual software demonstration on December 4 th or December 7 th , 2023?		
Does your software include a Statewide application or ability to collect intake information?		

APPENDIX B. Certification

INDIANA HOUSING AND COMMUNITY DEVELOPMENT AUTHORITY

CERTIFICATION OF RESPONDENT

I hereby certify that the information contained in these qualifications and any attachments is true and correct and may be viewed as an accurate representation of proposed services to be provided by this organization. I acknowledge that I have read and understood the requirements and provisions of the RFP and agree to abide by the terms and conditions contained herein.

I _____ am the _____ of

the (type name of signatory authority) corporation, partnership, association, or other entity named as company and the Respondent herein, and I am legally authorized to sign this and submit it to the Indiana Housing and Community Development Authority on behalf of said organization.

18 U.S.C. § 1001, "Fraud and False Statements," provides among other things, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, anyone who knowingly and willfully: (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, and/or imprisoned for not longer than five (5) years.

Respondent:

Signed: _____

Name: _____

Title: _____

Date: _____

Firm name: _____

APPENDIX C. Application Checklist

Proposal Submission Items	Check
Qualifications Cover Sheet	
Link to 10-minute Software Video Demonstration	
Completed Questionnaire on Cover Sheet	
Certification	
Document Noting Contract/IOT Exceptions	
Organization Qualifications and Experience	
Key Personnel Identification	
Data System Features Chart	
Technical Considerations (all sections)	
Timelines	
Budget	
Client References (3)	

APPENDIX D. Budget

Please submit your budget using the following table. If there will be additional budget items not listed in this table, please include those as needed.

SERVICE	FEE	HOW FEE IS CALCULATED	PAYABLE	PROCESS	BUDGETED AMOUNT
Briefly describe the service/tasks	\$ Amount per service	Describe how each fee was calculated. Please provide a justification for the cost of each service listed in this table.	Indicate when the service is expected to be paid for (Example: Upon completion of Task 1)	Describe the process for how the payment will be made (Example: Contractor submits invoice, IHCDA pays within X days).	Total \$ Amount Budgeted for this service
Hosting Fee					
Software Licensing/Software Development					
Training					
Maintenance					
Installation					
Professional Services					
TOTAL					

APPENDIX E. Data System Features

The vendor's proposed data system should contain all of the following capabilities. Please indicate whether your product currently has each feature, if your company is currently building the feature, if you can build our desired features, or if the feature or capability is not possible to build. For each feature, select only one response by filling an X into the checkbox.

Key Weatherization Features	Currently Have	Currently Building	Can Build	Not Possible
Intake/Client Application				
Do you have a Weatherization application for clients?				
Is there an API to work with another system to collect applicant information?				
Do you currently have the data points necessary from clients to complete an application? (Example: client/household information)				
Can the system collect client income documentation?				
Does the system have the ability to collect utility account information/interface with Vendor Portals?				
Do dates auto populate when filling out any forms in the system?				
Can you see all actions on an individual application from a system audit?				
Eligibility Determination				
Does the system have Categorical Eligibility Options?				
Can the system determine income eligibility?				
Prioritization/Waitlist				
Does the system have a waitlist?				
Do you have a waitlist prioritization tool/process?				
Do you have a waitlist management tool/process?				
Can your waitlists be customized at the IHCD or LSP level?				
Deferral/Walkthrough				
Does the system have the ability to upload pictures (forms and client information)?				
Does the system have the ability to upload different file types?				
Can applicants complete forms in the system?				
Does your product have a mobile application?				
Does the system list Deferral Reasons?				
Does the system auto populate dates? Show date of walkthrough?				
Energy Audit				
Can the system sync with NEAT/MHEA?				
Can it sync with other energy auditing/modeling software?				
Can work orders be created in the system?				
Deferral Remediation				
Does your system allow you to select measures called for?				

Does it allow you to track what measures were completed?				
Does it show if the home was inspected?				
Can the system identify which funding sources were used for each individual weatherization job?				
Does the system show who completed the work?				
Can it show dates/total time taken to complete a job?				
Health & Safety				
Does it show which measures are called for?				
Can the system show what measures were completed?				
Does it show if the home was inspected?				
Can the system identify which funds were used?				
Does it show who completed the work?				
Interim Inspection				
Does the system have an inspection checklist to make sure the home is safe to go to Shell?				
Does the system allow the user to go back to the original forms and fill out what has been completed?				
If the system has inspection checklists, can it auto populate required steps from previous measures in the system?				
Is it possible to assign contractors to specific measures?				
Shell Work				
Does it show which measures are called for?				
Can the system show what measures were completed?				
Does it show if an inspection was completed?				
Does it show which funds were used for each job?				
Does it show who completed the work?				
Is there an automation process that can automatically send work orders to Weatherization contractors?				
Can contractors themselves confirm in the system what stage the job is at/when the job is complete?				
Is there a built-in contractor module to track workflow?				
Closeout				
Does the system have the ability to lock/unlock jobs?				
Can the system lock/unlock jobs in batches?				
Does the system have a module for Quality Control Inspections (QCI)?				
Does the system have the ability to track/edit Quality Assurance (QA) forms?				
Can we determine what funding sources (DOE, BIL, LIHEAP) were used for each individual job?				
Invoicing				
Is there an invoicing module?				
Can the system receive/accept invoices?				
Can the system reject/deny invoices?				
IHCDA Claims				
Can the system print claim documentation and other documents in batches (PDF form)?				
Does it interface with pay roll systems?				

Can it track work hours per measure?				
Is there a custom calculation capability?				
Is there an inventory library (for materials on the job)?				
Does your system estimate/calculate the average cost per unit (including overhead)?				
Monitoring				
Do you have a monitoring module?				
Reporting				
Does your system meet federal DOE reporting requirements?				
Does your system have Ad hoc reporting capabilities?				
Can the same report from all LSPs/agencies be pulled down at once in a batch?				
Does your system track for Davis-Bacon requirements?				
General System Capabilities				
Can the system send communication automatically to clients/applicants?				
Does the system have the ability to track homes/units served with unique identifiers?				
Does the system have signature capabilities?				

APPENDIX F. Technical Considerations

All Respondents must provide answers to the following questions in your submission. Please fill in the textboxes for your responses. Separate attachments are not required for this section. Please do not attempt to make the textboxes larger. We ask that your responses for each question are detailed, but brief. Finalists will have the opportunity to go into more detail regarding their system capabilities if selected for a virtual software demonstration.

1. Communication Plan

- a. Please describe how you would communicate and work with IHCD A on future technology enhancements, fixing bugs, responding to issues with the system, etc.

- b. Please explain how your organization responds to tickets/if you have a ticketing system.

- c. As state and federal reporting requirements may change, describe how you will work with IHCD A to address new needs and changes for the system.

- d. Please also detail the frequency of planned communication with IHCD A and the other stakeholders using the system.

2. API Capabilities

- a. What is your process for creating a new API? Please provide examples.

- b. What other programs can your Weatherization software already interface with? Examples include LIHEAP, energy modeling, DMS, HUD, etc.

- c. What formats can the system handle for imports and exports?

- d. How does the system handle multiple funding sources?
- Can it braid multiple funding sources for one Weatherization job?
 - Can you pair specific line items to the funding source?

- e. How does your system link data? Please describe:
 - i. Any relationships to ensure Unique IDs are accurately captured.
 - ii. How the system handles relationships between tables/queries and what/how key identifiers are used.

3. Security

- a. Please describe how your system will balance having a user-friendly interface while protecting Personally Identifiable Information (PII) and meeting Indiana State IT requirements?

- b. Have you or your partners ever had a data breach?
 - i. If so, please describe what you did to address the situation.
 - ii. How would you inform IHADA that a data breach has occurred?

- c. Please describe the permission capabilities your software has and at what levels.
 - iii. Will utility vendors have access to the software/how much access are they granted?
 - iv. Does your software already have a built-in rebate module for Weatherization jobs?

4. **Client Application**

- a. What does income eligibility/determination look like in your system?

- b. How does your system collect data/allow notes on individual cells?

- c. If clients can complete forms in the actual system, what file types and sizes are accepted? What layers of security are provided to protect against files with viruses attached to them?

- d. If you do have a mobile application, what platforms does it work on? (Example: iPhone and Android).

- e. If you have a mobile application, what processes can be completed in the application? How do you ensure it is encrypted (at rest, in transit, and in use)?

5. Enhancement and Customization Policy

- a. Please describe your process for working with state weatherization agencies on enhancements or requested updates of the system.

6. Energy Auditing and Modeling

- a. If the system can sync with other energy auditing/modeling software, what does that process look like? What other software can it link to?

- b. How are measures put into the system? What can be customized or added to these lists?

- c. As the State, can we put a list of measures into the system? Can it be modified by us as needed? Or is the list already built in? (Measures might change based on IHCD or DOE policy).

7. Weatherization Work Orders

- a. How are work orders developed and utilized in the system? Are there any project management tools built in?

8. Deferrals and Inspections

- a. If a home is not safe to go to shell, how does the system handle this? Does it assign tasks to a specific contractor to address any concerns before the job can move forward?

9. Invoicing and Reporting

- a. What does the invoicing process look like in your system? (From the contractors to the Local Service Providers).

- b. How are reports managed? Can users create their own custom reports? Can we archive old reports?

- c. How does the system deal with changeover time?

- d. Who has control over what reports can be made/ensure we are meeting federal guidelines?

10. General System Capabilities

- a. Does your system currently have a module that deals with utility rebates? If yes, please describe.

- b. Does your system track multi-family Weatherization jobs? What works for other states?
i. How does your system handle large and small multi-family jobs?

- c. Does your system have a job planning or management tool? If yes, please describe.

- d. What does it look like to add/subtract from a process over time?
- i. If we received a new grant, can we add in questions to this process? What does this look like from a customization standpoint?
 - ii. Can IHCDA add things to the system with ease? Or just your organization?

- e. Is there any other module that you have built that we should know about for Weatherization? What stands out about your software compared to competitors?

PROFESSIONAL SERVICES CONTRACT

Contract Number: [REDACTED]

This Professional Services Contract ("Contract"), entered into by and between the **Indiana Housing and Community Development Authority** ("IHCDA") and **Contractor** (the "Contractor"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Duties of Contractor.

The Contractor shall provide the services as set forth in **Exhibit A**, attached hereto and incorporated fully herein, and as summarized below:

[Sentence summarizing Contractor services]

2. Consideration.

The Contractor will be paid in the manner described more fully in **Exhibit B**, attached hereto and made a part hereof. Total remuneration under this Contract shall not exceed [REDACTED] and **00/100 Dollars (\$0.00)**.

3. Term.

This Contract shall take effect as of [REDACTED], **2023** ("Effective Date") and shall remain in effect through [REDACTED] (the "Term").

4. Access to Records.

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

5. Assignment; Successors.

- A. The Contractor binds its successors and assignees to all the terms and conditions of this Contract. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of IHCDA, provided that the Contractor gives written notice (including evidence of such assignment) to IHCDA thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.
- B. The Contractor shall not assign or subcontract the whole or any part of this Contract without IHCDA's prior written consent. Additionally, the Contractor shall provide prompt written notice to IHCDA of any change in the Contractor's legal name or legal status so that the changes may be documented and payments to the successor entity may be made.

6. Assignment of Antitrust Claims.

As part of the consideration for the award of this Contract, the Contractor assigns to IHCD A all right, title and interest in and to any claims the Contractor now has, or may acquire, under State or federal antitrust laws relating to the products or services which are the subject of this Contract.

7. Audits.

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

IHCD A considers the Contractor to be a “Contractor” under 2 C.F.R. 200.331 for purposes of this Contract. However, if it is determined that the Contractor is a “subrecipient” and if required by applicable provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements), the Contractor shall arrange for a financial and compliance audit, which complies with 2 C.F.R. 200.500 *et seq.*

8. Authority to Bind Contractor.

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

9. Changes in Work.

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

10. Compliance with Laws.

- A. The Contractor shall comply with all applicable federal, State, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable State or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by IHCD A and the Contractor to determine whether the provisions of this Contract require formal modification.
- B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC §4-2-6 *et seq.*, IC §4-2-7, *et seq.* and the regulations promulgated thereunder. **If the Contractor has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special State appointee, as those terms are defined in IC §4-2-6-1, has a financial interest in the Contract, the Contractor shall ensure compliance with the disclosure requirements in IC §4-2-6-10.5 prior to the execution of this Contract.** If the

Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, IHCDCA may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

- C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State of Indiana may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to IHCDCA.
- D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify IHCDCA of any such actions. During the term of such actions, the Contractor agrees that IHCDCA may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.
- E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and IHCDCA decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that IHCDCA may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC §5-17-5.
- F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for IHCDCA. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with IHCDCA.
- G. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- H. As required by IC §5-22-3-7:
 - (1) The Contractor and any principals of the Contractor certify that:
 - (A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of:
 - (i) IC §24-4.7 [Telephone Solicitation of Consumers];
 - (ii) IC §24-5-12 [Telephone Solicitations]; or

- (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];
in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
 - (B) the Contractor will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.
- (2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor, except for de minimis and nonsystematic violations,
 - (A) has not violated the terms of IC §24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
 - (B) will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

11. Condition of Payment.

All services provided by the Contractor under this Contract must be performed to IHCD's reasonable satisfaction, as determined at the discretion of the undersigned IHCD representative and in accordance with all applicable federal, State, local laws, ordinances, rules and regulations. IHCD shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of any federal, State, or local statute, ordinance, rule or regulation. As required by IC §4-13-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the IHCD Controller. As a further condition of payment, the Contractor shall complete in full and return to IHCD a federal Form W-9 (Request for Taxpayer Identification Number and Certification).

12. Confidentiality of State Information.

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

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

13. Continuity of Services.

A. The Contractor recognizes that the service(s) to be performed under this Contract are vital to IHCDA and must be continued without interruption and that, upon Contract expiration, a successor, either IHCDA or another contractor, may continue them. The Contractor agrees to:

1. Furnish phase-in training; and
2. Exercise its best efforts and cooperation to affect an orderly and efficient transition to a successor.

B. The Contractor shall, upon IHCDA's written notice:

1. Furnish phase-in, phase-out services for up to sixty (60) days after this Contract expires; and
2. Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan and shall be subject to IHCDA's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this Contract are maintained at the required level of proficiency.

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

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

14. Debarment and Suspension.

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

B. The Contractor certifies that it has verified the State and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify IHCDA if any subcontractor becomes

debarred or suspended, and shall, at IHCDAs request, take all steps required by IHCDAs to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

15. Default by IHCDAs.

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

16. Disputes.

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

B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by IHCDAs or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against IHCDAs for such costs.

C. If the parties are unable to resolve a contract dispute between them after good faith attempts to do so, a dissatisfied party shall submit the dispute to the Commissioner of the Indiana Department of Administration for resolution. The dissatisfied party shall give written notice to the Commissioner and the other party. The notice shall include: (1) a description of the disputed issues, (2) the efforts made to resolve the dispute, and (3) a proposed resolution. The Commissioner shall promptly issue a Notice setting out documents and materials to be submitted to the Commissioner in order to resolve the dispute; the Notice may also afford the parties the opportunity to make presentations and enter into further negotiations. Within thirty (30) business days of the conclusion of the final presentations, the Commissioner shall issue a written decision and furnish it to both parties. The Commissioner's decision shall be the final and conclusive administrative decision unless either party serves on the Commissioner and the other party, within ten (10) business days after receipt of the Commissioner's decision, a written request for reconsideration and modification of the written decision. If the Commissioner does not modify the written decision within thirty (30) business days, either party may take such other action helpful to resolving the dispute, including submitting the dispute to an Indiana court of competent jurisdiction. If the parties accept the Commissioner's decision, it may be memorialized as a written Amendment to this Contract if appropriate.

D. IHCDAs may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by IHCDAs to the Contractor of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for the Contractor to terminate this Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

E. With the written approval of the Commissioner of the Indiana Department of Administration, the parties may agree to forego the process described in subdivision C. relating to submission of the dispute to the Commissioner.

F. This paragraph shall not be construed to abrogate provisions of Ind. Code 4-6-2-11 in situations where dispute resolution efforts lead to a compromise of claims in favor of IHCD as described in that statute. In particular, releases or settlement agreements involving releases of legal claims or potential legal claims of IHCD should be processed consistent with Ind. Code 4-6-2-11, which requires approval of the Governor and Attorney General.

17. Drug-Free Workplace Certification.

As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to IHCD within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State of Indiana for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

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

employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, State, or local health, law enforcement, or other appropriate agency; and

- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

18. Employment Eligibility Verification.

As required by IC §22-5-1.7, the Contractor swears or affirms under the penalties of perjury that the Contractor does not knowingly employ an unauthorized alien. The Contractor further agrees that:

- A. **Intentionally Omitted.**

- B. The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

- C. The Contractor shall require his/her/its subcontractors, who perform work under this Contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien.

IHCDA may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by IHCDA.

19. Employment Option.

If the IHCDA determines that it would be in the IHCDA's best interest to hire an employee of the Contractor, the Contractor will release the selected employee from any non-competition agreements that may be in effect. This release will be at no cost to IHCDA or the employee.

20. Force Majeure.

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

21. Funding Cancellation.

As required by Financial Management Circular 3.3 and IC § 5-22-17-5, when the Executive Director of IHCDA or the Director of the State Budget Agency makes a written determination

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

22. Governing Law.

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

23. HIPAA Compliance.

If this Contract involves services, activities or products subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Contractor covenants that it will appropriately safeguard Protected Health Information (defined in 45 CFR 160.103), and agrees that it is subject to, and shall comply with, the provisions of 45 CFR 164 Subpart E regarding use and disclosure of Protected Health Information.

24. Indemnification.

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

25. Independent Contractor; Workers' Compensation Insurance.

The Contractor is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership or joint venture agreement between the parties. Except as provided for in Section 24 above, neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party. The Contractor shall provide all necessary unemployment and workers' compensation insurance for the Contractor's employees and shall provide IHCDA with a Certificate of Insurance evidencing such coverage, upon request.

26. Indiana Veteran Owned Small Business Enterprise Compliance.

Award of this Contract was based, in part, on the Indiana Veteran Owned Small Business Enterprise ("IVOSB") participation plan, as detailed in the IVOSB Subcontractor Commitment Form, commonly referred to as "Attachment A-1" in the procurement documentation and incorporated by reference herein. Therefore, any changes to this information during the Contract term must be approved by IDOA's Division of Supplier Diversity and may require an amendment. It is the State's expectation that the Contractor will meet the subcontractor commitments during the Contract term. The following certified IVOSB subcontractor(s) will be participating in this Contract: **[Add additional IVOSBs using the same format.]**

IVOSB	COMPANY NAME	PHONE	EMAIL OF CONTACT PERSON	PERCENT
N/A				

Briefly describe the IVOSB service(s)/product(s) to be provided under this Contract and include the estimated date(s) for utilization during the Contract term:

A copy of each subcontractor agreement must be submitted to the Division of Supplier Diversity within thirty (30) days of the effective date of this Contract. The subcontractor agreements may be uploaded into Pay Audit (Indiana's subcontractor payment auditing system), emailed to IndianaVeteransPreference@idoa.IN.gov, or mailed to IDOA, 402 W. Washington Street, Room W-478, Indianapolis, IN 46204. Failure to provide a copy of any subcontractor agreement may be deemed a violation of the rules governing IVOSB procurement and may result in sanctions allowable under 25 IAC 9-5-2. Requests for changes must be submitted to IndianaVeteransPreference@idoa.IN.gov for review and approval before changing the participation plan submitted in connection with this Contract.

The Contractor shall report payments made to certified IVOSB subcontractors under this Contract on a monthly basis using Pay Audit. The Contractor shall notify subcontractors that they must confirm payments received from the Contractor in Pay Audit. The Pay Audit system can be accessed on the IDOA webpage at: www.in.gov/idoa/mwbe/payaudit.htm. The Contractor may also be required to report IVOSB certified subcontractor payments directly to the Division of Supplier Diversity, as reasonably requested and in the format required by the Division of Supplier Diversity.

The Contractor's failure to comply with the provisions in this clause may be considered a material breach of the Contract.

27. Information Technology Enterprise Architecture Requirements.

If this Contract involves information technology-related products or services, the Contractor agrees that any such products or services are compatible with the technology standards, including the assistive technology standard, all found at <https://www.in.gov/iot/2394.htm>. IHCDA may terminate this Contract for default if the terms of this paragraph are breached.

28. Insurance.

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

1. Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits not less than \$700,000 per person and \$2,000,000 per occurrence unless additional coverage is required by IHCDA. IHCDA is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Contract.

2. Intentionally Omitted.

3. Errors and Omissions liability with minimum liability limits of \$1,000,000 per claim and in the aggregate. Coverage for the benefit of IHCD shall continue for a period of two (2) years after the date of service provided under this Contract.

4. Fiduciary liability if the Contractor is responsible for the management and oversight of various employee benefit plans and programs such as pensions, profit-sharing and savings, among others with limits no less than \$700,000 per cause of action and \$2,000,000 in the aggregate.

5. Valuable Papers coverage, if applicable, with an Inland Marine Policy Insurance with limits sufficient to pay for the re-creation and reconstruction of such records.

6. Surety or Fidelity Bond(s) if required by statute or by the agency.

7. Cyber Liability addressing risks associated with electronic transmissions, the internet, networks and informational assets, and having limits of no less than \$700,000 per occurrence and \$5,000,000 in the aggregate.

8. The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance upon request and proof of workers' compensation coverage meeting all statutory requirements of IC § 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana.

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

1. The insurer must have a certificate of authority or other appropriate authorization to operate in the State in which the policy was issued.

2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.

3. IHCD shall be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify IHCD under this Contract shall not be limited by the insurance required in this Contract.

4. The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to IHCD.

5. The Contractor waives and agrees to require their insurer to waive their rights of subrogation against IHCD.

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

29. Key Person(s).

- A. If both parties have designated that certain individual(s) are essential to the services offered, the parties agree that should such individual(s) leave their employment during the term of this Contract for whatever reason, IHCD A shall have the right to terminate this Contract upon thirty (30) days' prior written notice.
- B. In the event that the Contractor is an individual, that individual shall be considered a key person and, as such, essential to this Contract. Substitution of another for the Contractor shall not be permitted without express written consent of IHCD A.

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

Key person(s) to this Contract is/are **None**.

30. Licensing Standards.

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

31. Merger & Modification.

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

32. Minority and Women's Business Enterprises Compliance.

Award of this Contract was based, in part, on the Minority and/or Women's Business Enterprise ("MBE" and/or "WBE") participation plan as detailed in the Minority and Women's Business Enterprises Subcontractor Commitment Form, commonly referred to as "Attachment A" in the procurement documentation and incorporated by reference herein. Therefore, any changes to this information during the Contract term must be approved by

Division of Supplier Diversity and may require an amendment. It is the State's expectation that the Contractor will meet the subcontractor commitments during the Contract term.

The following Division of Supplier Diversity certified MBE and/or WBE subcontractors will be participating in this Contract: **[Add additional MBEs and WBEs using the same format.]**

MBE or WBE COMPANY NAME	PHONE	EMAIL	OF CONTACT PERSON	PERCENT
N/A				

Briefly describe the MBE and/or WBE service(s)/product(s) to be provided under this Contract and include the estimated date(s) for utilization during the Contract term:

A copy of each subcontractor agreement must be submitted to the Division of Supplier Diversity within thirty (30) days of the effective date of this Contract. The subcontractor agreements may be uploaded into Pay Audit (Indiana's subcontractor payment auditing system), emailed to MWBECompliance@idoa.IN.gov, or mailed to Division of Supplier Diversity, 402 W. Washington Street, Room W-462, Indianapolis IN 46204. Failure to provide a copy of any subcontractor agreement may be deemed a violation of the rules governing MBE/WBE procurement and may result in sanctions allowable under 25 IAC 5-7-8. Requests for changes must be submitted to MWBECompliance@idoa.IN.gov for review and approval before changing the participation plan submitted in connection with this Contract.

The Contractor shall report payments made to Division of Supplier Diversity certified subcontractors under this Contract on a monthly basis using Pay Audit. The Contractor shall notify subcontractors that they must confirm payments received from the Contractor in Pay Audit. The Pay Audit system can be accessed on the IDOA webpage at: www.in.gov/idoa/mwbe/payaudit.htm. The Contractor may also be required to report Division of Supplier Diversity certified subcontractor payments directly to the Division, as reasonably requested and in the format required by the Division of Supplier Diversity.

The Contractor's failure to comply with the provisions in this clause may be considered a material breach of the Contract.

33. Nondiscrimination.

Pursuant to the Indiana Civil Rights Law, specifically IC §22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, State, or local law ("Protected Characteristics"). The Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be

regarded as a material breach of this Contract, but nothing in this paragraph shall be construed to imply or establish an employment relationship between IHCD and any applicant or employee of the Contractor or any subcontractor.

IHCDA is a recipient of federal funds, and therefore, where applicable, the Contractor and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

34. Notice to Parties.

Whenever any notice, statement or other communication is required under this Contract, it will be sent by E-mail, or first-class U.S. mail service to the following addresses, unless otherwise specifically advised.

A. Notices to IHCD shall be sent to:

Contract Manager/Director Name
Indiana Housing and Community Development Authority
30 South Meridian Street, Suite 900
Indianapolis, Indiana 46204
(E-mail)

With a copy to:

David W. Stewart
General Counsel
Indiana Housing and Community Development Authority
30 South Meridian Street, Suite 900
Indianapolis, Indiana 46204
DStewart2@ihcda.in.gov

B. Notices to the Contractor shall be sent to:

35. Order of Precedence; Incorporation by Reference.

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

36. Ownership of Documents and Materials.

A. All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, source code and other materials (the "Materials") not developed or licensed by the Contractor prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the Contractor hereby transfers and assigns any ownership claims to IHCDCA so that all Materials will be the property of IHCDCA. If ownership interest in the Materials cannot be assigned to IHCDCA, the Contractor grants IHCDCA a non-exclusive, non-cancelable, perpetual, worldwide royalty-free license to use the Materials and to use, modify, copy, and create derivative works of the Materials.

B. Use of the Materials, other than related to contract performance by the Contractor, without the prior written consent of IHCDCA, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to the Materials developed for or supplied by IHCDCA and used to develop or assist in the services provided while the Materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall provide IHCDCA full, immediate, and unrestricted access to the Materials and to Contractor's work product during the term of this Contract.

37. Payments.

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

B. If the Contractor is being paid in advance for the maintenance of equipment, software or a service as a subscription, then pursuant to IC § 4-13-2-20(b)(14), the Contractor agrees that upon termination of this Contract, it shall promptly refund the consideration paid, pro-rated through the date of termination

38. Penalties/Interest/Attorney's Fees.

IHCDCA will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as permitted by Indiana law, in part, IC §5-17-5, IC §34-54-8, IC §34-13-1 and IC §34-52-2-3.

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

39. Progress Reports.

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

40. Public Record.

The Contractor acknowledges that IHCDCA will not treat this Contract as containing confidential information. This Contract is a public record subject to the Indiana Access to Public Records Act (Ind. Code § 5-14-1.5). Use by the public of the information contained in this Contract shall not be considered an act of IHCDCA.

41. Renewal Option.

This Contract may be renewed under the same terms and conditions, subject to the approval of the IHCDCA Executive Director and in compliance with IHCDCA policies and IC §5-22-17-4. The term of the renewed contract may not be longer than the term of the original Contract.

42. Severability.

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

43. Substantial Performance.

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

44. Taxes.

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

45. Termination for Convenience.

This Contract may be terminated, in whole or in part, by IHCDCA, which shall include and is not limited to the Indiana Department of Administration (“IDOA”) and the State Budget Agency whenever, for any reason, IHCDCA determines that such termination is in its best interest. Termination of services shall be affected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination may continue. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. IHCDCA will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided but in no case shall total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date. For the purposes of this paragraph, the parties stipulate and agree that IDOA shall be deemed to be a party to this agreement with authority to terminate the same for convenience when such termination is determined by the Commissioner of IDOA to be in the best interests of the State.

46. Termination for Default.

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

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

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

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

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

E. This Contract may be suspended and/or terminated immediately if the Contractor has breached, defaulted, or committed fraud under this Contract or another contract between the Contractor and IHCD A. Further, Contractor's breach or default of other agreements or obligations related to this Contract shall constitute a material breach of this Contract.

47. Travel. Intentionally Omitted.

48. Waiver of Rights.

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

49. Work Standards.

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

50. Public Statements, Press Releases, and Media.

Contractor acknowledges that IHCDa is solely responsible for all public statements, press releases and media related to services provided by Contractor under this Contract. Contractor shall (a) distribute the marketing material provided by IHCDa at the times and according to the instructions given by IHCDa; (b) promptly refer all media inquiries regarding the services provided under this Contract to IHCDa; (c) immediately contact IHCDa with any questions about media or marketing materials; (d) not alter the marketing materials provided by IHCDa; (e) not contact media (traditional or otherwise) regarding the services provided by Contractor under this Contract; and (f) not create marketing materials related to the Contract, unless approved by IHCDa. Breach of this Section 50 may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with IHCDa.

51. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.

If the total remuneration under this contract exceeds \$150,000 the Contractor must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

52. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

Contractors that apply or bid for a federal award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal 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 must 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 non-Federal award.

53. State Boilerplate Affirmation Clause.

I swear or affirm under the penalties of perjury that I have not altered, modified, changed, or deleted the State's standard contract clauses (as contained in the 2022 OAG/IDOA *Professional Services Contract Manual*) in any way except as follows:

11. Condition of Payment. Added “as required by IC §4-13-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with IHCDCA Controller.” Added “As a further condition of payment, the Contractor shall complete in full and return to IHCDCA a federal Form W-9 (Request for Taxpayer Identification Number and Certification), the form of which is attached hereto as **Exhibit C** and made a part hereof” to comply with requirements of IHCDCA’s accounting department.

12. Confidentiality of State Information. Added the words “or other personal information” into the first sentence in the second paragraph of this section after the words “Social Security numbers”. Added “or on behalf of IHCDCA” into the first sentence in the second paragraph of this section after the phrase “maintained by”.

18. Employment Eligibility Verification. Deleted A and modified C, since IHCDCA is a public body corporate and politic and does not meet the definition set forth in IC 4-6-3-1 referenced in IC 22-5-1.7-7.

20. Force Majeure. Replaced “because” with “for any reason beyond its control, including” after “benefits” and before “disaster” and deleted “not the fault of the affected party” in the first sentence.

21. Funding Cancellation. Referenced the Executive Director of IHCDCA along with the Director of the State Budget Agency since some of IHCDCA’s funding comes from other non-State sources.

22. Governing Law. Substituted “courts located in Marion County, Indiana” for “the State” at the end of the last sentence of the section.

25 Independent Contractor. Inserted “Except as provided in Section 24 above,” before the sentence beginning with “Neither party shall assume”.

28. Insurance. Changed paragraph A(1) to lower limits to \$700,000 per person and \$2,000,000 per occurrence. The reduced coverage amounts are acceptable to IHCDCA, given that the higher limit of \$5,000,000 would require multiple layers of insurance coverage at a cost that is disproportionate to the contract amount. Deleted paragraph A(2). Modified Paragraph (A)4 to reduce the per occurrence liability limit to \$2,000,000. Modified the first sentence of paragraph A(8) to make the Contractor obligated to provide the proof of insurance upon request. Modified the second sentence of paragraph (C) to make the Contractor obligated to provide the proof of insurance upon request.

34. Notice to Parties. Deleted “As required by IC §4-13-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the Indiana Auditor of State.” after address of Contractor.

37. Payments. Deleted “35 days” before “in arrears” in subsection A. Substituted “IHCDCA Controller” for “Indiana Auditor of State” in subsection A because IHCDCA manages its funds separately from the State. Substituted “IHCDCA” for “The State Budget Agency” in subsection B.

40. Public Record. Deleted “and the State will post this Contract on the transparency portal as required by Executive Order 05-07 and IC § 5-14-3.5-2” after “information” in the first sentence. Added “This Contract is a public record subject to the Indiana Access to Public Records Act (Ind. Code § 5-14-1.5).”

41. Renewal Option. Replaced “Commissioner of the Department of Administration and the State Budget Director” with “the IHCD Executive Director” after “approval of.” Added “IHCD policies and” after “compliance with.”

45. Termination for Convenience. Substituted “may continue” for “becomes effective” in lines 4 – 5 of this paragraph.

46. Termination for Default. Added subsection E: This Contract may be suspended and/or terminated immediately if the Contractor has breached, defaulted, or committed fraud under this Contract or another contract between the Contractor and IHCD. Further, Contractor’s breach or default of other agreements or obligations related to this Contract shall constitute a material breach of this Contract.

50. Public Statements, Press Releases, and Media. Added this provision.

51. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Added this provision. Required for federally funded awards.

52. Byrd Anti-Lobbying Amendment. Added this provision. Required for federally funded awards.

NON-COLLUSION AND ACCEPTANCE

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a State officer, employee, or special State appointee, as those terms are defined in IC §4-2-6-1, has a financial interest in the Contract, the Contractor attests to compliance with the disclosure requirements in IC §4-2-6-10.5.**

Agreement to Use Electronic Signatures

I agree, and it is my intent, to sign this Contract by accessing the electronic signature tool in Adobe to electronically submit this Contract to IHCDA. I understand that my signing and submitting this Contract in this fashion is the legal equivalent of having placed my handwritten signature on the submitted Contract and this affirmation. I understand and agree that by electronically signing and submitting this Contract in this fashion I am affirming to the truth of the information contained therein and my authority to bind the Contractor. I also understand that if I decide not to sign this Contract electronically, I must notify IHCDA so that this Contract may be re-submitted to me and I may sign it and return it to IHCDA in the traditional manner.

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

Contractor

By: _____

Printed: _____

Title: _____

Date: _____

Indiana Housing and Community Development Authority

By: _____

Printed: J. Jacob Sipe

Title: Executive Director

Date: _____

Contract Number:

{00044408-1}

EXHIBIT A
SCOPE OF SERVICES

Contract Number:

PURPOSE

The purpose of this Contract to which this Exhibit A is attached is to engage the Contractor to [insert purpose]. To accomplish this purpose, the Contractor shall perform the following services in accordance with the conditions and/or specifications stated in this Contract and any proposal submitted by the Contractor for which IHCD A awarded this Contract. The services must be performed to the reasonable satisfaction of IHCD A, and any deficiency identified by IHCD A's authorized representative shall be corrected as provided in this Contract.

PERFORMANCE SCHEDULE

Although the term of this Contract is stated in Section 3 of the Contract, the Contractor's services are to be performed in accordance with the following schedule, unless this Contract is amended in writing by mutual agreement of the parties:

Activity/Service	Date Due

EXHIBIT B
PROJECT COST/FEE SCHEDULE

Contract Number: _____

For performing the services required by this Contract, as more fully described in Exhibit A, to the satisfaction of IHCD, the Contractor will be reimbursed in accordance with the following fee schedule. Unless otherwise indicated in the schedule, the Contractor is responsible for any and all expenses incurred in rendering its services under this Contract.

SERVICE	FEE	PAYABLE	PROCESS	BUDGETED AMOUNT
			Contractor submits an invoice referencing Contract No. _____, along with appropriate documentation. IHCD will pay within 30 days of receipt and approval of each properly documented invoice.	

Unless modified in writing and signed by the parties in the same manner as the Contract to which this Exhibit B is attached, the total amount of fees and/or reimbursed costs under this Contract shall not exceed _____ and 00/100 Dollars **(\$0.00)**

**State of Indiana Additional Terms and Conditions
Software as a Service Engagements**

Exhibit X to the Contract between the State acting through [agency name] and the Contractor.

DEFINITIONS

Data means all information, whether in oral, written, or electronic form, created by or in any way originating with the State, and all information that is the output of any computer processing, or other electronic manipulation, of any information that was created by or that in any way originated with the State, in the course of using and configuring the Services.

Data Breach means any actual or reasonably suspected unauthorized access to or acquisition of Encrypted Data.

Encrypted Data means Data that that is required to be encrypted under the contract and Statement of Work.

Indiana Office of Technology means the agency established by Ind. Code § 4-13.1-2-1.

Information Security Framework means the State of Indiana's written policy and standards document governing matters affecting security and available at <https://www.in.gov/iot/security/information-security-framework2/>.

Security Incident means any actual or reasonably suspected unauthorized access to the contractor's system, regardless of whether contractor is aware of a Data Breach. A Security Incident may or may not become a Data Breach.

Service(s) means that which is provided to the State by contractor pursuant to this contract and the contractors obligations under the contract.

Service Level Agreement means a written agreement between both the State and the contractor that is subject to the terms and conditions of this contract. Service Level Agreements should include: (1) the technical service level performance promises (i.e. metrics for performance and intervals for measure); (2) description of service quality; (3) identification of roles and responsibilities; (4) remedies, such as credits; and (5) an explanation of how remedies or credits are calculated and issued.

Statement of Work means the written agreement between both the State and contractor attached to and incorporated into this contract.

TERMS

1. Data Ownership: The State owns all rights, title, and interest in the Data. The contractor shall not access State user accounts or Data, except: (1) in the normal course of data center operations; (2) in response to Service or technical issues; (3) as required by the express terms of this contract, applicable Statement of Work, or applicable Service Level Agreement; or (4) at the State's written request.

Contractor shall not collect, access, or use Data except as strictly necessary to provide Service to the State. No information regarding State's use of the Service may be disclosed, provided, rented, or sold to any third party for any reason unless required by law or regulation or by an order of a court of competent jurisdiction. This obligation shall survive and extend beyond the term of this contract.

2. Data Protection: Protection of personal privacy and Data shall be an integral part of the business activities of the contractor to ensure there is no inappropriate or unauthorized use of Data at any time. To this end, the contractor shall safeguard the confidentiality, integrity, and availability of Data and shall comply with the following conditions:

a. The contractor shall implement and maintain appropriate administrative, technical, and organizational security measures to safeguard against unauthorized access, disclosure, or theft of Data. Contractor shall implement and maintain heightened security measures with respect to Encrypted Data. Such security measures shall be in accordance with Indiana Office of Technology practice and recognized industry practice, including but not limited to the following:

1. Information Security Framework; and

2. Indiana Office of Technology Cloud Product and Service Agreements, Standard ID: IOT-CS-SEC-010.

b. All Encrypted Data shall be subject to controlled access. Any stipulation of responsibilities shall be included in the Statement of Work and will identify specific roles and responsibilities.

c. The contractor shall encrypt all Data at rest and in transit. The State may, in the Statement of Work, identify Data it deems as that which may be publicly disclosed that is not subject to encryption. Data so designated may be maintained without encryption at rest and in transit. The level of protection and encryption for all Encrypted Data shall meet or exceed that required in the Information Security Framework.

d. At no time shall any Data or processes — that either belong to or are intended for the use of State — be copied, disclosed, or retained by the contractor or any party related to the contractor for subsequent use in any transaction that does not include the State.

e. The contractor shall not use any information collected in connection with the Services for any purpose other than fulfilling its obligations under the contract.

3. Data Location: Storage of Data at rest shall be located solely in data centers in the United States and the contractor shall provide its Services to the State and its end users solely from locations in the United States. The contractor shall not store Data on portable devices, including personal laptop and desktop computers. The contractor shall access Data remotely only as required to provide technical support. The

contractor shall provide technical user support on a 24/7 basis unless specified otherwise in the Service Level Agreement.

4. Notice Regarding Security Incident or Data Breach:

a. Incident Response: contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries, and seeking external expertise as mutually agreed upon, defined by law, or contained in the contract. Discussing Security Incidents and Data Breaches with the State must be handled on an urgent basis, as part of contractor's communication and mitigation processes as mutually agreed upon in the Service Level Agreement, contained in the contract, and in accordance with IC 4-1-11 and IC 24-4.9 as they may apply.

b. Security Incident Reporting Requirements: The contractor shall report a Security Incident to the State-identified contact(s) as soon as possible by telephone and email, but in no case later than two (2) days after the Security Incident occurs. Notice requirements may be clarified in the Service Level Agreement and shall be construed in accordance with IC 4-1-11 and IC 24-4.9 as they may apply.

c. Data Breach Reporting Requirements: If a Data Breach occurs, the contractor shall do the following in accordance with IC 4-1-11 and IC 24-4.9 as they may apply: (1) as soon as possible notify the State-identified contact(s) by telephone and email, but in no case later than two (2) days after the Data Breach occurs unless a shorter notice period is required by applicable law; and (2) take commercially-reasonable measures to address the Data Breach in a timely manner. Notice requirements may be clarified in the Service Level Agreement. If the Data involved in the Data Breach involves protected health information, personally identifying information, social security numbers, or otherwise confidential information, other sections of this contract may apply. The requirements discussed in those sections must be met in addition to the requirements of this section.

5. Responsibilities Regarding Data Breach: This section applies when a Data Breach occurs with respect to Encrypted Data within the possession or control of the contractor.

a. The contractor shall: (1) cooperate with the State as reasonably requested by the State to investigate and resolve the Data Breach; (2) promptly implement necessary remedial measures, if necessary; and (3) document and provide to the State responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the Services, if necessary.

b. Unless stipulated otherwise in the Statement of Work, if a Data Breach is a result of the contractor's breach of its contractual obligation to encrypt Data or otherwise prevent its release as reasonably determined by the State, the contractor shall bear the costs associated with: (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators, or others required by federal and/or state law, or as otherwise agreed to in the Statement of Work; (3) a credit monitoring service required by federal and/or state law, or as otherwise agreed to in the Statement of Work; (4) a website or a toll-free number and call center for affected individuals required by federal and/or state law — all of which shall not amount to less than the average per-record per-person cost calculated for data breaches in the United States (in, for example, the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the Data Breach); and (5) complete all

corrective actions as reasonably determined by contractor based on root cause and on advice received from the Indiana Office of Technology. If the Data involved in the Data Breach involves protected health information, personally identifying information, social security numbers, or otherwise confidential information, other sections of this contract may apply. The requirements discussed in those sections must be met in addition to the requirements of this section.

6. Notification of Legal Requests: If the contractor is requested or required by deposition or written questions, interrogatories, requests for production of documents, subpoena, investigative demand or similar process to disclose any Data, the contractor will provide prompt written notice to the State and will cooperate with the State's efforts to obtain an appropriate protective order or other reasonable assurance that such Data will be accorded confidential treatment that the State may deem necessary.

7. Termination and Suspension of Service:

a. In the event of a termination of the contract, the contractor shall implement an orderly return of Data in a mutually agreeable and readable format. The contractor shall provide to the State any information that may be required to determine relationships between data rows or columns. It shall do so at a time agreed to by the parties or shall allow the State to extract its Data. Upon confirmation from the State, the contractor shall securely dispose of the Data.

b. During any period of Service suspension, the contractor shall not take any action that results in the erasure of Data or otherwise dispose of any of the Data.

c. In the event of termination of any Services or contract in its entirety, the contractor shall not take any action that results in the erasure of Data until such time as the State provides notice to contractor of confirmation of successful transmission of all Data to the State or to the State's chosen vendor.

During this period, the contractor shall make reasonable efforts to facilitate the successful transmission of Data. The contractor shall be reimbursed for all phase-out costs (i.e., costs incurred within the agreed period after contract expiration or termination that result from the transfer of Data or other information to the State). A reimbursement rate shall be agreed upon by the parties during contract negotiation and shall be memorialized in the Statement of Work. After such period, the contractor shall have no obligation to maintain or provide any Data and shall thereafter, unless legally prohibited, delete all Data in its systems or otherwise in its possession or under its control. The State shall be entitled to any post-termination assistance generally made available with respect to the Services, unless a unique data retrieval arrangement has been established as part of a Service Level Agreement.

d. Upon termination of the Services or the contract in its entirety, contractor shall, within 30 days of receipt of the State's notice given in 7(c) above, securely dispose of all Data in all of its forms, including but not limited to, CD/DVD, backup tape, and paper. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the State upon completion.

8. Background Checks: The contractor shall conduct a Federal Bureau of Investigation Identity History Summary Check for each employee involved in provision of Services: (1) upon commencement of the contract; (2) prior to hiring a new employee; and (3) for any employee upon the request of the State.

The contractor shall not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to one (1) year is an authorized penalty. The contractor shall promote and maintain an awareness of the importance of securing the State's information among the contractor's employees, subcontractors, and agents. If any individual providing Services under the contract is not acceptable to the State, in its sole opinion, as a result of the background or criminal history investigation, the State, in its sole option shall have the right to either: (1) request immediate replacement of the individual; or (2) immediately terminate the contract, related Statement of Work, and related Service Level Agreement.

9. Access to Security Logs and Reports: The contractor shall provide to the State reports on a schedule and in a format specified in the Service Level Agreement as agreed to by both the contractor and the State. Reports shall include latency statistics, user access, user access IP address, user access history, and security logs for all Data. The State's audit requirements shall, if applicable, be defined in the Statement of Work.

10. Contract Audit: The contractor shall allow the State to audit conformance to the contract terms. The State may perform this audit or contract with a third party at its discretion and at the State's expense.

11. Data Center Audit: The contractor shall perform an annual independent audit of its data center(s) where Data, State applications, or other State information is maintained. The contractor shall perform this independent audit at its expense and shall, upon completion, provide an unredacted version of the complete audit report to the State. (The contractor may redact its proprietary information from the unredacted version, however.) A Service Organization Control (SOC) 2 audit report or equivalent approved by the Indiana Office of Technology sets the minimum level of a third-party audit.

The State may perform an annual audit of contractor's data center(s) where Data, State applications, or other State information is maintained. The audit may take place onsite or remotely, at the State's discretion. The State shall provide to contractor thirty (30) days' advance notice prior to the audit. The contractor will make reasonable efforts to facilitate the audit and will make available to the State members of its staff during the audit. The State may contract with a third party to conduct the audit at its discretion and at the State's expense. If the contractor maintains Data, State applications, or other State information at multiple data centers, the State may perform an annual audit of each data center.

The parties agree that any documents provided to the State under this paragraph shall be deemed a trade secret of contractor and is deemed administrative or technical information that would jeopardize a record keeping or security system, and shall be exempt from disclosure under the Indiana Access to Public Records Act, IC 5-14-3.

12. Change Control and Advance Notice: The contractor shall give notice to the State for change management requests. Contractor shall provide notice to the State regarding change management requests that do not constitute an emergency change management request at least two (2) weeks in advance of implementation. Contractor shall provide notice to the State regarding emergency change management requests no more than twenty-four (24) hours after implementation.

Contractor shall make updates and upgrades available to the State at no additional cost when contractor makes such updates and upgrades generally available to its users. No update, upgrade, or other change to the Service may decrease the Service's functionality, adversely affect State's use of or access to the Service, or increase the cost of the Service to the State.

13. Security: The contractor shall, on an annual basis, disclose its non-proprietary system security plans or security processes and technical limitations to the State such that adequate protection and flexibility can be attained between the State and the contractor. For example: virus checking and port sniffing. The State and the contractor shall share information sufficient to understand each other's roles and responsibilities. The contractor shall take into consideration feedback from the Indiana Office of Technology with respect to the contractor's system security plans.

The parties agree that any documents provided to the State under this paragraph shall be deemed a trade secret of contractor and is deemed administrative or technical information that would jeopardize a record keeping or security system, and shall be exempt from disclosure under the Indiana Access to Public Records Act, IC 5-14-3.

14. Non-disclosure and Separation of Duties: The contractor shall enforce role-based access control, separation of job duties, require commercially-reasonable nondisclosure agreements, and limit staff knowledge of Data to that which is absolutely necessary to perform job duties. The contractor shall annually provide to the State a list of individuals that have access to the Data and/or the ability to service the systems that maintain the Data.

15. Import and Export of Data: The State shall have the ability to import or export Data in piecemeal or in entirety at its discretion, with reasonable assistance provided by the contractor, at any time during the term of contract. This includes the ability for the State to import or export Data to/from other parties at the State's sole discretion. Contractor shall specify in the Statement of Work if the State is required to provide its' own tools for this purpose, including the optional purchase of contractor's tools if contractor's applications are not able to provide this functionality directly.

16. Responsibilities and Uptime Guarantee: The contractor shall be responsible for the acquisition and operation of all hardware, software, and network support related to the Services being provided. The technical and professional activities required for establishing, managing, and maintaining the environments are the responsibilities of the contractor. Subject to the Service Level Agreement, the Services shall be available to the State at all times. The contractor shall allow the State to access and use the Service to perform synthetic transaction performance testing.

The contractor shall investigate and provide to the State a detailed incident report regarding any unplanned Service interruptions or outages. The State may terminate the contract for cause if, at its sole discretion, it determines that the frequency of contractor-preventable outages is sufficient to warrant termination.

17. Subcontractor Disclosure: Contractor shall identify all of its strategic business partners related to Services, including but not limited to all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the contractor, and who may be involved in any

application development and/or operations.

The contractor shall be responsible for the acts and omissions of its subcontractors, strategic business partners, or other entities or individuals who provide or are involved in the provision of Services.

18. Business Continuity and Disaster Recovery: The State's recovery time objective shall be defined in the Service Level Agreement. The contractor shall ensure that the State's recovery time objective has been met and tested as detailed in the Service Level Agreement. The contractor shall annually provide to the State a business continuity and disaster recovery plan which details how the State's recovery time objective has been met and tested. The parties agree that any documents provided to the State under this paragraph shall be deemed administrative or technical information that would jeopardize a record keeping or security system, and shall be exempt from disclosure under the Indiana Access to Public Records Act, IC 5-14-3. The contractor shall work with the State to perform an annual disaster recovery test and take action to correct any issues detected during the test in a time frame mutually agreed upon between the contractor and the State in the Service Level Agreement.

The State's Data shall be maintained in accordance with the applicable State records retention requirement, as determined by the State. The contractor shall annually provide to the State a resource utilization assessment detailing the Data maintained by the contractor. This report shall include the volume of Data, the file formats, and other content classifications as determined by the State.

19. Compliance with Accessibility Standards: The contractor shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973, or any other state laws or administrative regulations identified by the State.

20. State Additional Terms and Conditions Revision Declaration: The clauses in this Exhibit have not been altered, modified, changed, or deleted in any way except for the following clauses which are named below: