



MICHIGAN INDIGENT DEFENSE COMMISSION

The Michigan Indigent Defense Commission ensures that quality public defense services are accessible to all eligible adults charged with a criminal offense in Michigan.

Date: Tuesday, April 30, 2024, Time: 9:30 a.m.
Michigan Bankers Association
507 S. Grand Ave, Lansing, MI 48933

MEETING AGENDA

1. Call to Order
2. Roll call and opening remarks
3. Introduction of Commission members and guests
4. Public comment
5. Additions to agenda
6. Consent agenda (**action item**)
 - a. February 20, 2024 Meeting Minutes
7. Chair Report
 - a. 2024 Ad hoc committee assignments
8. Executive Director Report
 - a. FY2025 Byrne Jag RFP (**action item**)
9. Commission Business
 - a. Standing Committee Reports
 - i. Executive Committee – *Christine Green, Chair*
 - b. Ad hoc Committee Reports
 - i. Equity and Inclusion – *David Jones, Committee Chair*
 - ii. ABA Revised 10 Principles – *Tracey Brame and John Shea, co-chairs*
 - c. MIDC Standards Implementation
 - i. FY23 Compliance Year End Reporting
 - o Budget adjustments (information items)

ii. FY24 Compliance Planning

- Overview of FY24 submissions approved and funding distributed to date
- Changes to approved plans
 1. Tuscola County (action item)
 2. Kent County (information item)
- Notice of Noncompliance
 1. Iron County

~ Break for Lunch ~

d. Regional Update: Northern Michigan, *Lauren Calef, Regional Manager*

e. FY25 Compliance Planning Guidance and Resources

- i. Revised rubric (action item)
- ii. Funding for line-ups/show ups (action item)

10. Adjourn – next meeting June 25, 2024 beginning at 9:30 a.m.

Online Access: For members of the public who wish to join the meeting online, please email Marcela Westrate at WestrateM1@michigan.gov or call (517) 648-3143 to request a Zoom link. This link will be provided in the morning before the meeting begins.

Michigan Indigent Defense Commission Meeting Minutes

The meeting was held in person at the Michigan Bankers Association building in Lansing, Michigan. Remote access via Zoom was available for Commissioners and, upon request, for members of the public. The MIDC website and meeting notice included information for members of the public on how to contact the MIDC to obtain the Zoom link for participation. Commissioners were able to participate remotely if they qualified for an exemption under the Open Meetings Act or if they requested an accommodation under the Americans with Disabilities Act, 42 USC 12131 *et. seq.*, and Rehabilitation Act, MCL 395.81 *et. seq.*, pursuant to Attorney General Opinion No. 7318.

February 20, 2024

Time: 11:00 am

Michigan Bankers Association
507 S. Grand Ave, Lansing, MI 48933

Commission Members Participating

The following members participated in person:

- Chair Christine Green
- Joshua Blanchard
- Tracey Brame
- Kimberly Buddin
- Paul Bullock
- Andrew DeLeeuw
- Judge James Fisher
- David Jones
- Debra Kubitskey
- Margaret McAvoy
- Tom McMillin
- Alicia Moon
- Rob VerHeulen

The following member observed the meeting via Zoom but did not participate in the discussions:

- Thomas Adams

The following Commissioners were absent:

- James Krizan
- Judge Mathes
- John Shea
- William Swor
- Gary Walker

Chair Green called the meeting to order at 11:00 am.

Introduction of Commission members and guests

Chair Green invited guests to introduce themselves to the Commission. She introduced Justin Hodge, Clinical Associate Professor of Social Work, University of Michigan.

Public Comment

The following people provided public comment:

- Jill Recker
- Craig Paull

Approval of Agenda

Commissioner McAvoy moved to adopt the agenda as presented. Commissioner Brame seconded. The motion carried.

Consent Agenda

Chair Green removed the December 2023 minutes from the consent agenda. Commissioner VerHeulen moved that the minutes be approved. Judge Fisher seconded. The motion carried.

Chair Report

Chair Green indicated that Commissioners Brame and Shea would serve as co-chairs on the ad hoc committee to review the American Bar Association's revised 10 Principles of a Public Defense Delivery System.

Commissioner McAvoy will chair a new ad hoc Bylaws committee. The following Commissioners will also serve on the committee: Brame, Blanchard, Kubitskey, and Green.

Executive Director Report

Executive Director Staley gave an overview of the expert/investigator clearing house. This would be used by local systems and would serve as a one-stop shop for systems looking for the names and contact information of experts and investigators.

Commissioner McMillin moved that the Executive Director be authorized to begin the RFP process with LARA for a contracted position to manage the expert and investigator clearinghouse and that the RFP document return to the Commission after it is drafted. Commissioner Buddin seconded. The motion carried.

Commission Business

Standing committee reports

Chair Green provided an update on the Executive Committee's activities.

Commissioner Blanchard provided an update on the Performance Standards Committee. The work of the committee is reflected in the grant manual and compliance plan. The committee discussed the numbers in the workload standards.

Commissioner Brame provided an update on the Training and Evaluation Committee. The work of the committee is reflected in the grant manual.

Ad hoc Committees

Commissioner Budden provided an update on the Data Committee.

Commissioner Jones provided an update on the Equity and Inclusion Committee. Commissioner Jones was appointed to the Commission on Diversity, Equity, and Inclusion in the Michigan Judiciary to represent the MIDC. That group held its first meeting in February.

MIDC Annual Impact Report

Commissioner VerHeulen moved to approve and publish the annual report pursuant to MCL 780.999. Commissioner Bullock seconded the motion. The motion carried.

MIDC Standards Implementation

Berrien County submitted a request to use existing funds for a construction project to build a confidential area for client meetings. The request exceeds the dollar threshold for construction projects and is before the Commission for approval. Senior staff recommends approving the request.

Judge Fisher moved to approve the construction project requested by Berrien County. Commissioner McMillin seconded. Chair Green requested a roll call vote. The motion failed with six yeas (Green, Brame, Buddin, Fisher, Kubitskey, McMillin) and six nays (Blanchard, Bullock, DeLeeuw, Jones, McAvoy, VerHeulen).

Regional Update

Susan Prentice-Sao, Regional Manager for the MIDC's Western Region, provided an update on the activities in her region.

Commissioner Blanchard left the meeting at 1:52 pm.

Commissioner Brame left the meeting at 2:00 pm.

FY25 Compliance Planning Resources

Ms. McCowan provided an overview of the changes made to the compliance plan and cost analysis for FY25. Judge Fisher moved to approve the FY25 compliance plan and cost analysis revisions. Commissioner Jones seconded. The motion carried.

Judge Fisher moved that staff's proposed changes to the Grant Manual be approved. Commissioner DeLeeuw seconded. The motion carried.

Presentation from Justin Hodge, Clinical Associate Professor of Social Work, University of Michigan

The ad hoc committee on Diversity, Equity, and Inclusion, requested that Professor Justin Hodge from the University of Michigan be invited to present to Commissioners about the Commission's policy development and work.

Chair Green adjourned the meeting at 3:37 pm.

The next meeting will be held on April 30, 2024 in Lansing at 9:30 am.

Respectfully submitted,

Marcela Westrate



PROPOSAL INSTRUCTIONS

Department of Licensing and Regulatory Affairs

Qualifying Attorneys through Trial Skills Training Courses
Request for Proposal No. [REDACTED]

Solicitation Manager Name: Brenda Davis
Direct Phone: 517-256-7482
Email: DavisB24@michigan.gov

This is a Request for Proposal (RFP) for:
A Project Manager for the Michigan Indigent Defense Commission's (MIDC) Byrne JAG grant.

RFP Timeline

Event	Time	Date
RFP issue date	3:00pm	Wednesday, May 1, 2024
Deadline for bidders to submit questions about this RFP	3:00 p.m. Eastern	Wednesday, May 15, 2024
Anticipated date the State will post answers to bidder questions on www.michigan.gov/SIGMAVSS	3:00pm	Wednesday, May 22, 2024
Proposal deadline*	3:00 p.m. Eastern	Friday, May 31, 2024
Anticipated contract begin date	N/A	Tuesday, October 1, 2024

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

This RFP is subject to change. Check www.michigan.gov/SIGMAVSS for current information.



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

RFP Structure and Documentation

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

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



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

Q #	Document and Section	Page #	Bidder Question

5. **DELIVERY OF PROPOSAL.**

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

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

6. **MANDATORY MINIMUM REQUIREMENTS.** To avoid disqualification, the bidder must provide documentation to support the following:
 - a. . Confirmation of completion of a "train the trainer" or similar trainer development program;
 - b. Demonstrated training skills, this must include written evaluations or other written reviews;



- c. Written summary of experiences representing or providing direct services to clients in the criminal legal system

Only proposals meeting the mandatory minimum requirements will be considered for evaluation.

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

	Technical Evaluation Criteria	Weight
1.	Statement of Work – Schedule A (excluding Section 3)	50
2.	Staffing – Schedule A, Section 3	25
4.	Vendor Questions Worksheet	25
	Total	100

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

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

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

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

8. **NOTICE OF DEFICIENCY.** The State reserves the right to issue a **Notice of Deficiency** to bidders if the State determines after the proposal deadline that a portion of the RFP was deficient, unclear, or ambiguous. Failure to respond to a **Notice of Deficiency** timely may be cause for disqualification.



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



Award Recommendation and Evaluation Synopsis on

www.michigan.gov/SIGMAVSS or in the manner it was originally published

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

If you wish to initiate a protest of the award, you must submit your written protest to KwicienL@michigan.gov no later than 3:00 pm, 3 business days after posting the **Award Recommendation and Evaluation Synopsis**. The State reserves the right to adjust this timing and will publish any change.

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

- 13. STATE ADMINISTRATIVE BOARD.** Contracts equal to \$250,000 or greater than require approval by the State Administrative Board. The State Administrative Board's decision is final; however, its approval does not constitute a contract. The award process is not complete until the awarded contractor receives a contract fully executed by all parties.
- 14. GENERAL CONDITIONS.** The State will not be liable for any costs, expenses, or damages incurred by a bidder participating in this solicitation. The bidder agrees that its proposal will be considered an offer to do business with the State in accordance with its proposal, including the Contract Terms, and that its proposal will be irrevocable and binding for a period of **180** calendar days from date of submission. If a contract is awarded to the bidder, the State may, at its option, incorporate any part of the bidder's proposal into a contract. This RFP is not an offer to enter into a contract. This RFP may not provide a complete statement of the State's environment or contain all matters upon which agreement must be reached. The bidder understands that their proposal will become public record immediately upon receipt by the State. Other than verified trade secrets, proposals submitted via www.michigan.gov/SIGMAVSS are the State's property.
- 15. CONFIDENTIAL TREATMENT FORM AND THE FREEDOM OF INFORMATION ACT.** As a public record, all portions of the bidder's proposal and resulting contract are subject to disclosure as required under Michigan's Freedom of Information Act (FOIA), MCL 15.231, et seq. However, the State may exempt some information from disclosure as permitted by law. Under MCL 18.1261(13)(b), records containing "a trade secret as defined under section 2 of the uniform trade secrets act, 1998 PA 448, MCL 445.1902," are exempt from disclosure under FOIA. In addition, "financial or proprietary information" submitted with a bidder's proposal is exempt from disclosure under FOIA. **A bidder's failure to comply with this Section is grounds for rejecting a bidder's proposal as non-responsive.** As a part of its proposal, each bidder must follow the procedure below.
- a. SUBMIT A COMPLETED "CONFIDENTIAL TREATMENT FORM" (CT FORM) WITH YOUR BID.** Completion and submission of the CT Form is required regardless of whether the bidder seeks confidential treatment of information. **Failure to submit a completed CT Form may be cause for disqualification from the solicitation process. If a bidder fails to properly complete and**



submit the CT Form or otherwise fails to follow CT Form instructions, the proposal may be publicly disclosed in its entirety without redaction after an award recommendation.

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



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

DRAFT



CONFIDENTIAL TREATMENT FORM

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

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

Section 1. CONFIDENTIAL TREATMENT IS NOT REQUESTED

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

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

RFP Number _____ RFP Title _____
Signature _____ Date _____

Printed Name, Title, Company



Section 2. CONFIDENTIAL TREATMENT IS REQUESTED

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

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

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

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

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

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

_____ RFP Number

_____ RFP Title

_____ Signature

_____ Date

_____ Printed Name, Title, Company



VENDOR QUESTIONS WORKSHEET

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

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



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



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



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



Information Sought	Bidder Response
Contact role at time of project. Contact phone. Contact email.	
City. State. Zip.	
1. Project name and description of the scope of the project. 2. What role did your company play? 3. How is this project experience relevant to the subject of this RFP?	
Dollar value.	
Start and end date (mm/yy – mm/yy)	
Status (completed, live, other – specify phase)	
Results obtained.	
Experience 3	
Company name. Contact name. Contact role at time of project. Contact phone. Contact email.	
City. State. Zip.	
1. Project name and description of the scope of the project. 2. What role did your company play? 3. How is this project experience relevant to the subject of this RFP?	
Dollar value.	
Start and end date (mm/yy – mm/yy)	
Status (completed, live, other – specify phase)	
Results obtained.	
6. Standard Contract Terms	



Information Sought	Bidder Response
Bidder must affirm agreement with the attached Contract Terms. If not in agreement, written exceptions in accordance with the Evaluation Process section of the Proposal Instructions must be provided with Bidder's proposal.	
7. Michigan Economic Impact	
Number of employees currently employed at locations within the State of Michigan.	
Number of additional employees to be employed at locations within the State of Michigan if awarded this Contract (if any).	
Minimum wage paid to employees employed at locations within the State of Michigan.	
Average wage paid to employees employed at locations within the State of Michigan.	
Percentage of employees employed at locations within the State of Michigan that are covered by employer-provided health insurance.	
8. Labor, Antidiscrimination and Environmental Laws Compliance	
Bidder must disclose any violations of state or federal labor, antidiscrimination and employment laws and regulations received within the past five years.	
Bidder must disclose any violations of state or federal environmental laws and regulations received within the past five years.	
9. Supplier Diversity	
Does your company have a supplier diversity program or training?	Choose an item.
Bidder agrees that if Bidder is awarded a contract with a dollar amount of \$500,000 or greater from this RFP, Bidder shall provide a copy of their current EEO-1 demographic report provided that Bidder meets Federal requirements to file an EEO-1 report.	Choose an item.
10. Other	
Classification of Employees. I certify that the company has properly classified its employees	Choose an item.



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



Information Sought	Bidder Response
attachments or supplement documents and processes are accurate.	
11. Response to State Requests	
Bidder agrees to respond, by established deadlines, to all requests from the State including but not limited to, clarification requests, notices of deficiency, and proposed changes to Contract Terms.	Choose an item.

DRAFT



Contractor must enter company name here.

SCHEDULE A – STATEMENT OF WORK CONTRACT ACTIVITIES

Request for Proposal (RFP) No. [REDACTED]

Qualifying Attorneys through Trial Skills Training Courses

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

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

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

BACKGROUND

To ensure that indigent accused receive the effective assistance of counsel, the MIDC’s approved Standard 7 requires attorneys providing defense services to meet minimum qualifications. One critical component of the proposed standard is a tiered system to match experience levels with case assignments. The MIDC seeks to pilot a unique trial simulation program where inexperienced attorneys can become qualified through mock trial exercises.

SCOPE

To ensure that indigent accused receive the effective assistance of counsel to which they are constitutionally entitled, Standard 7 requires attorneys providing defense services to meet minimum professional qualifications. The project will help attorneys who are currently representing indigent clients to continue to do so and will ensure that poor people charged with crimes are represented by qualified counsel no matter where in Michigan they reside.

The greatest need for this pilot project will be in the mid-Michigan, Western Michigan, and Northern Michigan regions where a lack of trial experience has been documented. Once the systems are identified, the program will be developed in coordination with a Project Manager and experienced trial attorneys. Multiple types of trials will be created and tested to ensure the experience is meaningful. The “trials” will become the basis for a guidebook to be replicated to a broader range of systems at the conclusion of the program.



The goal is to continue to build on the MIDC’s successful training program by expanding the scope to necessary topics, to additional areas of the state where training is necessary, and to identify and train faculty to assist with the training.

1. Requirements
1.1. General Requirements

Table with 2 columns: Requirement/Action and Description. Includes sections for GOAL, Goal Requirements, checkboxes for agreement/exceptions, and a green box for bidder compliance description.

Table with 2 columns: Goal Requirements and The Contractor will identify qualified faculty and train the faculty.

Table with 2 columns: Requirement/Action and Description. Includes checkboxes for agreement/exceptions, a grey box for listing exceptions, and a green box for bidder compliance description.



Goal Requirements	<p>The Contractor will schedule and conduct single and multi-day training sessions.</p> <p>The Contractor will identify the number of sessions conducted. The Contractor will collect evaluations, and review and assess these evaluations to identify whether any changes are necessary.</p>
--------------------------	---

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

Goal Requirements	The Contractor will develop and finalize a guidebook to use in future training programs.
--------------------------	--

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



1.2. Transition

Read and delete: Describe transition language necessary for Contract execution. Post-contract transition language is in the *Standard Contract Terms*. If the language is not sufficient, mark the section in the *Standard Contract Terms* "Reserved," and insert appropriate post-contract transition language here.

All training materials including manuals, copies of presentations, and evaluations, must be transmitted to the State and/or the new Contractor as specified by the State. The current Contractor is required to complete all tasks contained in the current contract, including any activities, reports, and data collection through the expiration date of the contract.

The contractor must work with the State and/or the previous/successive contractor during implementation of any transition plan to affect an orderly transition to the new contractor.

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

1.3. Training

The Contractor must explain its training capabilities and any training that is included in its proposal. Training includes both in-person and online, the contractor must explain both.

The Contractor must provide documentation and training materials.

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
<input type="checkbox"/>	I have reviewed the above requirement and have noted all exception(s) below.
List all exception(s):	
Bidder must explain its training capabilities and any training that is included in its proposal:	

1.4. Funding Requirements

Contractor agrees to comply with any requirements specified by the MIDC's Byrne JAG grant.



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

2. Service Requirements

2.1. Timeframes

All Contract Activities must be delivered within 30 calendar days of the end of the contract. ~~insert length of time desired for delivery~~ business days from receipt of order. The receipt of order date is pursuant to the Notices section of the Standard Contract Terms.

Formatted: Highlight

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

2.2. Final Acceptance

The State will use the following criteria to determine acceptance of the Contract Activities: all objectives in the Project Plan have been completed and approved by the State.

3. Staffing

3.1. Contractor Representative

The Contractor must appoint a Project Manager who will respond to State inquiries regarding the Contract Activities, answer questions related to ordering and delivery, etc. (the "Contractor Representative").

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

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

3.2. Customer Service Telephone Number

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



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

3.3. Work Hours

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

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

3.4. Key Personnel

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

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

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



any Unauthorized Removal in respect of which the State does not elect to exercise its rights under Termination for Cause, Contractor will issue to the State the corresponding credits set forth below (each, an "Unauthorized Removal Credit"):

- i. For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be \$15,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30-calendar days before the Key Personnel's removal.
- ii. If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30-calendar days, in addition to the \$15,000.00 credit specified above, Contractor will credit the State \$500.00 per calendar day for each day of the 30-calendar day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$15,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30-calendar days of shadowing will not exceed \$30,000.00 per individual.

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

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

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

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



7. List each Key Personnel staff member's length of employment or affiliation with the Contractor's organization.
8. Identify each Key Personnel's percentage of work time devoted to this Contract.
9. Identify where each Key Personnel staff member will be physically located (city and state) during the Contract performance.

<Add more rows below as needed>

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

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

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

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

3.5. Organizational Chart

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

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

3.6. Disclosure of Subcontractors

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

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



- A complete description of the Contract Activities that will be performed or provided by the subcontractor.

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

3.7. Security

The Contractor will be subject the following security procedures:

The Contractor must explain any additional security measures in place to ensure the security of State facilities. The State may require the Contractor's personnel to wear State issued identification badges.



The Contractor's staff may be required to make deliveries to or enter State facilities. The Contractor must: (a) explain how it intends to ensure the security of State facilities, (b) whether it uses uniforms and ID badges, etc., (c) identify the company that will perform background checks, and (d) the scope of the background checks.

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
<input type="checkbox"/>	I have reviewed the above requirement and have noted all exception(s) below.
List all exception(s):	
Bidder must explain any additional security measures in place to ensure the security of the State and its facilities:	

4. Project Management

4.1. Project Plan

The Contractor will carry out this project under the direction and control of the Program Manager. Within 30 calendar days of the Effective Date, the Contractor must submit a final project plan to the Program Manager for approval. The plan must include: (a) the Contractor's organizational chart with names and title of personnel assigned to the project, which must align with the staffing stated in accepted proposals; and (b) the project breakdown showing sub-projects, tasks, timeline, and resources required.

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

4.2. Meetings

The Contractor must attend the following meetings: an initial meeting at a mutually-agreed upon date and time.

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

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

4.3. Reporting

The Contractor must submit monthly written reports to Marla McCowan, the MIDC's Deputy Director. The State may request other reports if necessary.

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



List all exception(s):
Bidder must explain its reporting capabilities and any reporting that is included in its proposal:
Bidder must provide samples of required reports as attachments to this RFP. List file names here.

5. Pricing

5.1. Price Term

Pricing is firm for the entire length of the Contract.

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

6. Ordering

6.1. Authorizing Document

The appropriate authorizing document will be the Delivery Order.

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

7. Invoice and Payment

7.1. Invoice Requirements

All invoices submitted to the State must include: (a) date; (b) purchase order; (c) quantity; (d) description of the Contract Activities; (e) unit price/rate; (g) vendor-generated invoice number; and (h) total price. Overtime, holiday pay, and travel expenses will not be paid. The description of Contract Activities must include a summary of any work done in support of the grant-funded activities including but not limited to administrative tasks, curriculum development, teaching and preparation, expenses related to faculty reimbursement, any supplies paid for with grant funding.

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

7.2. Payment Methods

The State will make payment for Contract Activities via EFT.

<input type="checkbox"/>	I have reviewed the above requirement and agree with no exception.
--------------------------	--



I have reviewed the above requirement and have noted all exception(s) below.

List all exception(s):

7.3. Procedure

Invoices should be emailed to Marla McCowan (McCowanM@michigan.gov) and Marcela Westrate (WestrateM1@michigan.gov).

I have reviewed the above requirement and agree with no exception.

I have reviewed the above requirement and have noted all exception(s) below.

List all exception(s):

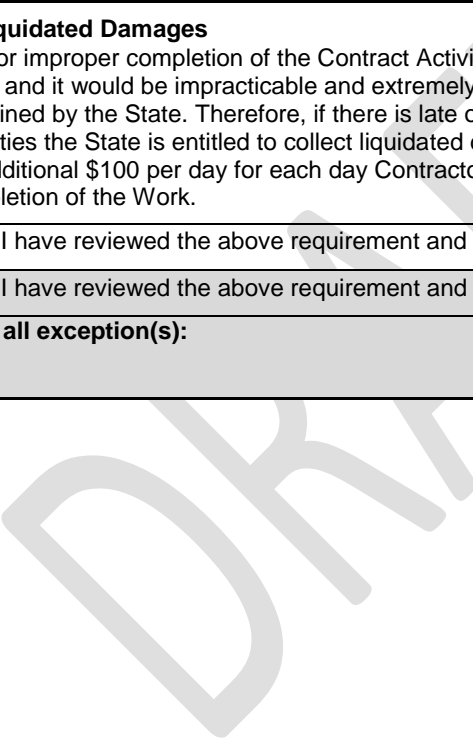
8. Liquidated Damages

Late or improper completion of the Contract Activities will cause loss and damage to the State and it would be impracticable and extremely difficult to fix the actual damage sustained by the State. Therefore, if there is late or improper completion of the Contract Activities the State is entitled to collect liquidated damages in the amount of \$5000 and an additional \$100 per day for each day Contractor fails to remedy the late or improper completion of the Work.

I have reviewed the above requirement and agree with no exception.

I have reviewed the above requirement and have noted all exception(s) below.

List all exception(s):





Enter company name here

SCHEDULE B - PRICING

Request For Proposal No. [REDACTED] Qualifying Attorneys through Trial Skills Training Courses

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

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

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

Please summarize the total costs and also submit a detailed breakdown by each objective with the proposal.

CATEGORY – Key Personnel				
Position Title	Personnel Salary	Hourly Rate	Estimated Number of Hours	Total
		\$		\$
		\$		\$
		\$		\$
		\$		\$



STANDARD CONTRACT TERMS

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

This Contract may be renewed for up to 2 additional 1 year period(s). Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

The parties agree as follows:

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

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

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

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

- 2. Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.



If to State:	If to Contractor:
See Contract Administrator information shown below.	[Name] [Street Address] [City, State, Zip] [Email] [Phone]

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

State:	Contractor:
Brenda Davis 611 W. Ottawa St. Lansing, MI 48911 517-256-7482	[Name] [Street Address] [City, State, Zip] [Email] [Phone]

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

State:	Contractor:
Marla McCowan 611 W. Ottawa, 4 th Floor Lansing, MI 48913 McCowanM1@michigan.gov 517-388-6702	[Name] [Street Address] [City, State, Zip] [Email] [Phone]

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

6. **Insurance Requirements.**



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



(6) In the event any required coverage is cancelled or not renewed, Contractor must provide written notice to the Contract Administrator no later than 5 business days following such cancellation or nonrenewal.

f. Subcontractors. Contractor is responsible for ensuring its subcontractors, if any, carry and maintain insurance coverage as applicable to the subcontracted service(s).

g. Limits of Coverage & Specific Endorsements. (See Table 6.1 Below)

TABLE 6.1

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



Required Limits	Additional Requirements
Workers' Compensation Insurance	
Minimum Limits: Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
Minimum Limits: \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease	
Privacy and Security Liability (Cyber Liability) Insurance	
Minimum Limits: \$1,000,000 Each Occurrence \$1,000,000 Annual Aggregate	Contractor must have their policy cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.

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

7. Reserved

8. Reserved

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

10. Intellectual Property Rights. If a Statement of Work requires Contractor to create any intellectual property, Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the



extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.

- 11. Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.
- 12. Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel providing services by providing a notice to Contractor.
- 13. Background Checks.** Pursuant to Michigan law, all agencies subject to IRS Pub. 1075 are required to ask the Michigan State Police to perform fingerprint background checks on all employees, including Contractor and Subcontractor employees, who may have access to any database of information maintained by the federal government that contains confidential or personal information, including, but not limited to, federal tax information. Further, pursuant to Michigan law, any agency described above is prohibited from providing Contractors or Subcontractors with the result of such background check. For more information, please see Michigan Public Act 427 of 2018. Upon request, or as may be specified in a Statement of Work, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.
- 14. Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.
- 15. Change of Control.** Contractor will notify the State, within 30 days of any public announcement or otherwise once legally permitted to do so, of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a



transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

- 16. Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in a Statement of Work.
- 17. Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in a Statement of Work. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section [2424](#), Termination for Cause.

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

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

18. Reserved

19. Reserved

20. Reserved

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



taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

The State has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. The State will notify Contractor of any dispute within a reasonable time. Payment by the State will not constitute a waiver of any rights as to Contractor's continuing obligations, including claims for deficiencies or substandard Contract Activities. Contractor's acceptance of final payment by the State constitutes a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed.

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

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

22. Liquidated Damages. Liquidated damages, if applicable, will be assessed as described in a Statement of Work. The parties understand and agree that any liquidated damages (which includes but is not limited to applicable credits) set forth in this Contract are reasonable estimates of the State's damages in accordance with applicable law. The parties acknowledge and agree that Contractor could incur liquidated damages for more than 1 event. The assessment of liquidated damages will not constitute a waiver or release of any other remedy the State may have under this Contract for Contractor's breach of this Contract, including without limitation, the State's right to terminate this Contract for cause under Section 24 and the State will be entitled in its discretion to recover actual damages caused by Contractor's failure to perform its obligations under this Contract. However, the State will reduce such actual damages by the amounts of liquidated damages received for the same events causing the actual damages. Amounts due the State as liquidated damages may be set off against any fees payable to Contractor under this Contract, or the State may



bill Contractor as a separate item and Contractor will promptly make payments on such bills.

23. Stop Work Order. The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or delivery order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.

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

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

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

25. Termination for Convenience. The State may immediately terminate this Contract in whole or in part without penalty and for any reason or no reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately. Contractor must submit all invoices for Contract Activities accepted by the State within 30 days of the date of termination. Failure to submit an invoice within



that timeframe will constitute a waiver by Contractor for any amounts due Contractor for Contract Activities accepted by the State under this Contract, or (b) continue to perform the Contract Activities in accordance with Section 26, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities to the extent the funds are available.

- 26. Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 90 calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (d) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.
- 27. Return of State Property.** Upon termination or expiration of this Contract for any reason, Contractor must take all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to the Contractor by any entity, agent, vendor, or employee of the State.
- 28. Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially



prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations.

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

Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

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

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



- 32. State Data.** All data and information provided to Contractor by or on behalf of the State, and all data and information derived therefrom, is the exclusive property of the State ("**State Data**"); this definition is to be construed as broadly as possible. Upon request, Contractor must provide to the State, or a third party designated by the State, all State Data within 10 calendar days of the request and in the format requested by the State. Contractor will assume all costs incurred in compiling and supplying State Data. No State Data may be used for any marketing or commercial purposes.
- 33. Reserved.**
- 34. Non-Disclosure of Confidential Information.** The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties.
- a. Meaning of Confidential Information.** For the purposes of this Contract, the term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; or, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was or is: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.
- b. Obligation of Confidentiality.** The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be



required to execute a separate agreement to be bound by the provisions of this Section.

- c. Cooperation to Prevent Disclosure of Confidential Information.** Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. Remedies for Breach of Obligation of Confidentiality.** Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.
- e. Surrender of Confidential Information upon Termination.** Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party. However, the State's legal ability to destroy Contractor data may be restricted by its retention and disposal schedule, in which case Contractor's Confidential Information will be destroyed after the retention period expires.

35. Reserved

36. Reserved.

37. Reserved.

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



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

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

- 39. Representations and Warranties.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section [2424](#), Termination for Cause.
- 40. Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.
- 41. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.



42. Reserved.

43. Reserved.

44. Nondiscrimination. Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and [Executive Directive 2019-09](#). Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.

45. Unfair Labor Practice. Under MCL 423.324, the State may void this Contract if the name of the Contractor, or the name of a subcontractor, manufacturer, or supplier of the Contractor, subsequently appears on the Unfair Labor Practice register compiled under MCL 423.322.

46. Governing Law. This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in the Michigan Court of Claims. Contractor waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint an agent in Michigan to receive service of process.

47. Non-Exclusivity. Nothing contained in this Contract is intended nor is to be construed as creating any requirements contract with Contractor, nor does it provide Contractor with a right of first refusal for any future work. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.

48. Force Majeure. Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.

49. Dispute Resolution. The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is



unlikely or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.

- 50. Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without the prior written approval of the State, and then only in accordance with the explicit written instructions of the State.
- 51. Schedules.** All Schedules and Exhibits that are referenced herein and attached hereto are hereby incorporated by reference. The following Schedules are attached hereto and incorporated herein:

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

- 52. Entire Agreement and Order of Precedence.** This Contract, which includes Statement of Work, and schedules and exhibits, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and Statement of Work; (b) second, Statement of Work as of the Effective Date; and (c) third, schedules expressly incorporated into this Contract as of the Effective Date. NO TERMS ON CONTRACTOR'S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE CONTRACT ACTIVITIES, OR DOCUMENTATION HEREUNDER, EVEN IF ATTACHED TO THE STATE'S DELIVERY OR PURCHASE ORDER, WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE OR ANY AUTHORIZED USER FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE AND THE AUTHORIZED USER, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.
- 53. Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 54. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.



55. Survival. Any right, obligation or condition that, by its express terms or nature and context is intended to survive, will survive the termination or expiration of this Contract; such rights, obligations, or conditions include, but are not limited to, those related to transition responsibilities; indemnification; disclaimer of damages and limitations of liability; State Data; non-disclosure of Confidential Information; representations and warranties; insurance and bankruptcy.

56. Contract Modification. This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**"). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.

DRAFT

To: Commissioners

From: Commissioner David Jones, MIDC DEI Committee Chair

Re: Committee Meeting April 17, 2024 at 10:00 a.m.

Date: April 22, 2024

Committee members present:

Committee Chair Jones

Commissioners Adams, Brame, and Kubitskey

Committee members absent:

- Commissioner DeLeeuw

Meeting notes:

The Committee discussed aspirations and expectations for attendance and participation.

Old Business

- Highlights of Presentation at the February Commission meeting by Prof. Justin Hodge. Slides can be accessed [here](#).

New Business

- Review Implementation of the [MIDC Strategic Plan](#)
- MIDC Staffing Update
- Discussion of local studies assessing need for DEI impact
- General information about training offered through the MIDC's Byrne Jag grant opportunities
- Commissioner Adams offered to coordinate a tour of an MDOC facility

Other DEI-Related Updates

- MI DEI Trainings
 - **MI-DEI Arab/Chaldean Americans' Impact on State Government**
- Upcoming DEI Holidays
 - **May 17 – International Day Against Homophobia, Transphobia, and Biphobia**

To: Michigan Indigent Defense Commission

From: Marla R. McCowan
Deputy Director/Director of Training

Re: Compliance Planning and Costs:
FY24 status updates and staff recommendations; FY25
compliance planning

Date: April 22, 2024

I. Funding Awards by Fiscal Year

	MIDC Funding	Local Share	Total System Costs
FY 2019	\$86,722,179.85	\$37,963,396.67 ¹	\$124,685,576.52
FY 2020	\$117,424,880.47	\$38,523,883.90	\$157,698,982.46
FY 2021	\$129,127,391.54	\$38,486,171.32	\$167,613,562.86
FY 2022	\$138,348,406.27	\$38,146,920.09	\$176,495,326.36
FY 2023	\$173,928,393.06	\$38,825,422.67	\$212,753,815.73
FY 2024	\$280,402,368.78	\$38,825,422.67	\$319,227,791.45

The MIDC annually collects information about the balance of funds distributed to systems in a form completed by the local funding units due no later than October 31. See the MIDC Act, MCL 780.993(15).

¹ The annual inflationary increase described in MCL 780.983(i) is calculated from the FY2019 local share.

II. FY24 Compliance Plans and Costs

A. Status of FY24 Compliance Plans

As of the October 17, 2023 meeting, the Commission approved all 120 compliance plans and cost analyses pursuant to M.C.L. 780.993(4). The individual funding for each system is available on the MIDC's website.

Contracts were distributed to all systems beginning at the end of August through November 2023. As of this writing, all contracts have been returned for execution and processing the funding distribution pursuant to the contract terms.

B. Reporting

The first quarter of reporting from systems for FY24 (covering October 1, 2023 through December 31, 2023) was due by January 31, 2024. The second quarter of reporting from systems (covering January 1, 2024 through March 31, 2024) is due April 30, 2024. Funding units are required to enter the following reporting in EGrAMS:

- [Attorney List](#)
- Financial Status Report
- Quarterly Program Report

MIDC staff published a document on the [grants page of the Commission's website](#) identifying changes to reporting for FY24, along with updated compliance reporting instructions, and a [recorded webinar](#) covering submission of reports through our EGrAMs. Sample invoicing for attorneys is available, along with a document relating to entering codes to capture various data points. The MIDC's Grant Manual was updated in February and posted to our Grant's page as well.

C. Changes to approved plans

1. Budget Adjustments

The Grants Director processed and approved the following [budget adjustment requests](#) (line item transfer requests) pursuant to the process set forth in the MIDC's Grant Manual at p. 41 (February 2024):

- Barry County
- Cheboygan County
- City of Roseville
- City of Southfield
- Delta County
- Genesee County
- Ingham County
- Ingham County
- Ionia County
- Jackson County
- Marquette County
- Monroe County
- Shiawassee County
- St. Clair County

2. Plan Changes

a. Tuscola County (action item)

FY23 approved total system cost: \$1,391,050.50

FY24 APPROVED total system cost: \$1,542,224.85

FY24 Additional Funds Requested: \$835,355.46

FY24 revised request: \$2,377,580.31

MIDC Staff recommends approval.

Approved 2023: Managed Assigned Counsel System. MAC Administrator (MACA) and staff attorney handle all arraignments and a portion of the assignments. Roster attorneys are assigned by MAC and paid hourly.

The funding unit discovered late last year that the contract attorneys were not adequately funded. Unfortunately, this was not discovered until well after the FY24 compliance plan had been submitted. FY23 had an overspending of \$435,355.46. To project the shortfall for FY24, the MACA took the overall spending through the first two quarters (10/1/23-3/31/24), multiplied it by two and subtracted the current proposed grant number. That left the system with a projected shortfall of approximately \$318,000.00. They have rounded that up to \$400,000.00 because the 4th Quarter is usually more expensive than the other three. Together, they are asking for an increase of \$835,355.46.

b. Kent County (information item)

The funding unit is moving forward with a plan to create a County-based public defender department in lieu of contracting with a vendor/non-profit for services.

3. Notice of Non-Compliance – Iron County

Pursuant to the process established by the MIDC in June 2021, the Senior Regional Manager initiated the noncompliance process notification to Iron County identifying the following issue:

- Failure to provide FY23 Amended Unexpended Balance Report – amended to correct errors in reported expenditures from 2019 to 2023 and errors in the reported unexpended balance reports from the same time period.

The funding unit has until May 6, 2024 to resolve the reporting.

III. FY24 Compliance Planning

All funding units are required to submit a plan for compliance with all approved MIDC Standards no later than April 22, 2024, pursuant MCL §780.993, which provides:

(3) No later than 180 days after a standard is approved by the department, each indigent criminal defense system shall submit a plan to the MIDC for the provision of indigent criminal defense services in a manner as determined by the MIDC and shall submit an annual plan for the following state fiscal year on or before October 1 of each year. A plan submitted under this subsection must specifically address how the minimum standards established by the MIDC under this act will be met and must include a cost analysis for meeting those minimum standards. The standards to be addressed in the annual plan are those approved not less than 180 days before the annual plan submission date. The cost analysis must include a statement of the funds in excess of the local share, if any, necessary to allow its system to comply with the MIDC's minimum standards.

(4) The MIDC shall approve or disapprove all or any portion of a plan or cost analysis, or both a plan and cost analysis, submitted under subsection (3), and shall do so within 90 calendar days of the

submission of the plan and cost analysis. If the MIDC disapproves any part of the plan, the cost analysis, or both the plan and the cost analysis, the indigent criminal defense system shall consult with the MIDC and, for any disapproved portion, submit a new plan, a new cost analysis, or both within 60 calendar days of the mailing date of the official notification of the MIDC's disapproval. If after 3 submissions a compromise is not reached, the dispute must be resolved as provided in section 15. All approved provisions of an indigent criminal defense system's plan and cost analysis must not be delayed by any disapproved portion and must proceed as provided in this act. The MIDC shall not approve a cost analysis or portion of a cost analysis unless it is reasonably and directly related to an indigent defense function.

Funding units are using the MIDC's Grant Management System (EGrAMS) to submit compliance plans. A detailed, self-guided tutorial was prepared for funding units and [linked on our website](#) along with resources and materials for planning. MIDC Staff conducted multiple live training events in early April and hosted "office hours" daily between April 15 – April 20 to offer technical support for using our grant management system.

FUNDING UNIT: _____

Date of Required Compliance: _____

Date(s) of Evaluation: _____

STANDARD 1	TOTAL POSSIBLE POINTS	TOTAL POINTS AWARDED	COMMENTS
Has the attorney list been updated and submitted in the most recent quarter?	3		
Has a process been established and implemented to pay for and confirm attorney training (including for new attorneys to complete skills training)?	3		
Is the system tracking and verifying CLE hours and discontinuing case assignments for attorneys who have not completed their CLE hours?	3		
<i>If the system is implementing CE Broker, have all attorneys registered and been advised to submit CLE via CE Broker?</i>	<i>non-point</i>		
STANDARD 2			
Have confidential meeting spaces been established or have sufficient steps been taken toward this end?	--		
• In holding facilities/jails	3		
• In courtrooms: out-of-custody clients	3		
• In courtrooms: in-custody clients	3		
Are defense attorneys using the confidential meeting space?	3		
Are attorneys being appointed and notified in a timely and effective fashion?	3		
Is the system verifying invoices/other documents to ensure timely client interviews?	3		
Does the system have a process to manage attorney non-compliance?	3		
STANDARD 3			
Is there a formal process for attorneys to seek funding for experts and investigators?	3		
Is a system in place to track requests, approvals and denials?	3		
STANDARD 4			
Is counsel being offered at all arraignments where an MCR 6.104(A) exception does not apply?	3		
Is counsel being offered at all other critical stages?	3		
<i>Who is conducting the waiver of counsel for arraignment?</i>	<i>non-point</i>		
<i>Have you observed the system encouraging waiver of counsel?</i>	<i>non-point</i>		
<i>Is there an advice of rights for counter pleas and pleas by mail, and is the system collecting information on these?</i>	<i>non-point</i>		
<i>Is there a process to provide contact information to the appointed attorney and the client after arraignment?</i>	<i>non-point</i>		

STANDARD 5			
Are all case and docket assignments being managed by people who operate independently from the court?	3		
Is the approval of requests for experts and investigators made independently from the court?	3		
Is the approval of attorney payments made independently from the court?	3		
STANDARD 6			
Does the system have software, an excel document, or another process in place to track and monitor attorney workloads on a rolling 12-month basis?	3		
Does the system have a plan in place to gather workload information for their attorneys from other local systems where they practice?	<i>non-point</i>		
Where relevant, does the system have plans in place to manage attorneys exceeding their workload maximums, such as remote proceedings with attorneys from other systems, roving attorneys, recruitment to the roster, etc?	<i>non-point</i>		
STANDARD 7			
Does the system have a plan in place to identify the qualification level of all attorneys and keep this list updated over time?	3		
<i>Where relevant, does the system have a plan in place to hire new attorneys, increase the qualification levels of local attorneys or reach outside of the roster should there be a surplus of severe cases?</i>	<i>non-point</i>		
Does the system have a plan in place to regularly review and assess all attorneys in the system?	3		
STANDARD 8			
Are all salaried employees and hourly roster attorneys being paid consistent with Standard 8 rates?	3		
In systems paying roster attorneys any form of non-hourly rates, are sufficient steps being taken to ensure that attorneys are being compensated equivalent to Standard 8 rates? This should include careful time tracking and review of invoices.	3		
INDIGENCY STANDARD			
<i>Are people being screened for indigency?</i>	<i>non-point</i>		
<i>Is the system screening in a way that is consistent with their compliance plan?</i>	<i>non-point</i>		
REPORTING & FINANCIAL COMPLIANCE			
Have quarterly reports been submitted and approved?	--		
• Program Reports	3		
• FSRs	3		
• Attorney Lists	3		
List any areas of concern regarding contract compliance outside of the above.			

Scores	Raw Score	Rank Score	
Std. 1	0		
Std. 2	0		
Std. 3	0		
Std. 4	0		
Std. 5	0		
Std. 6	0		
Std. 7	0		
Std. 8	0		
Program Reports	0		
Financial Reports	0		
Attorney Lists	0		
Overall (pass/fail)			

To: Michigan Indigent Defense Commission
From: Marla R. McCowan, Deputy Director/Training Director
Date: April 23, 2024
Re: Use of MIDC Funding for Line Ups/Show Ups

It has come to senior staff's attention that one local system is compensating attorneys for reviewing "line ups" or "show ups" in daily scheduled shifts as part of their MIDC approved compliance plan. The attorneys' participation is at the request of the police during the investigation phase for the purpose of identifying a suspect in a crime. Compensating attorneys for this shift coverage is a long-established practice in this particular system. Based on a review of all other plans, the payment for daily coverage and availability for line ups/show ups appears to be unique to this local system.

The question is whether MIDC funding can be used for this purpose.

The MIDC Act requires implementation of minimum standards, rules, and procedures to guarantee the right of indigent defendants to the assistance of counsel as provided under the 6th Amendment to the U.S. Constitution and section 20 of article I of the state constitution of 1963. M.C.L. §780.991(2). In Michigan, the right to counsel attaches only to corporeal identifications conducted *at or after* the initiation of adversarial judicial criminal proceedings. *People v. Hickman*, 470 Mich. 602 (2004). Adversarial judicial criminal proceedings begin with a formal criminal charge, preliminary hearing, indictment, information, or arraignment. *Hickman*, 470 Mich. at 606.

There is no constitutional right to counsel during investigative pretrial identifications, i.e. line ups/show ups, as they are conducted prior to formally charging a person with a crime or other adversarial proceedings.

However, once the adversarial process begins, MIDC Standard 4 expressly requires that every system in Michigan make an attorney available for an adult charged with a crime facing the loss of his or her liberty. All persons determined to be eligible for indigent criminal defense services shall also have appointed counsel at pre-trial proceedings, during plea negotiations and at other critical stages, whether in or out of court. Part of defense counsel's responsibilities include challenging all forms of evidence, as appropriate, including identification evidence. "The vagaries of identification evidence are well-known; the annals of criminal law are rife with instances of mistaken identification." *United States v. Wade*, 388 U.S. 218, 228 (1967). "Eyewitness error is the most prevalent cause of wrongful convictions."

State v. Cheatam, 150 Wash. 2d 626, 664 (2003) (citations omitted). It is a “historical and legal fact that a significant number of innocent people have been convicted of crimes they did not commit” based on eyewitness identifications. *People v. Anderson*, 389 Mich. 155, 172 (1973), overruled on other grounds by *Hickman*, *supra*. See also *Perry v. New Hampshire*, 565 U.S. 228 (2012).

Michigan is not immune from the miscarriages of justice that result from of eyewitness misidentification. The National Registry of Exonerations lists more than 50 exonerations where “mistaken witness ID” was a contributing factor to the wrongful conviction.¹

In addition to representation by counsel once the adversarial process begins, the MIDC’s Standards also provide a framework for using experts to assist the defense. This would include “expert testimony on the hazards of eyewitness identification evidence.” *Perry*, 565 US at 247.

Based on Michigan law, the MIDC Act, and the MIDC’s Standards, funding relating to the defendant’s participation in a line up/show up and evidence that may flow therefrom should only be used once the adversarial process has begun. It is therefore staff’s recommendation that attorney services for pre-charge line-ups/show ups must no longer be funded as part of a compliance plan, effective May 1, 2024.

¹ The National Registry of Exonerations, available at <https://www.law.umich.edu/special/exoneration/Pages/browse.aspx?View={B8342AE7-6520-4A32-8A06-4B326208BAF8}&FilterField1=State&FilterValue1=Michigan> (last accessed April 2024).