



# **Washington State Auditor's Office**

CONTRACT NO. K625-SSC-1908

CONTRACT FOR IT PROFESSIONAL SERVICES

BETWEEN

WASHINGTON STATE AUDITOR'S OFFICE

AND

FELLOW

This Contract is made and entered into by and between the WASHINGTON STATE AUDITOR'S OFFICE (SAO) and the below named CONTRACTOR.

FELLOW

1221 East Pike Street, Suite 305  
Seattle, WA 98122  
(206) 430-6062

## 1. PURPOSE

The State of Washington Auditor's Office (SAO) is in need of senior level information Technology (IT) services to create an enhanced experience for users of the Financial Intelligence Tool (FIT). Users may include but are not limited to SAO audit staff and management, local government staff and officials and the public.

Based on contractor's previous stakeholder analyses and in-depth knowledge of SAO's systems, data, and procedures, contractor (jointly with SAO) will design, plan, and begin implementation of a consolidated application focused on the data and functionality related to the cumulative data filed by Washington local governments each year.

## 2. SCOPE OF WORK

- A. The contractor will provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth in the Attachment A - Performance Statement of Work, attached hereto and incorporated by reference. However, the State Auditor's Office reserves the right to modify the final Performance Statement of Work, including deleting and adding tasks, after completing the planning process and at critical points during the course of the contract.
- B. The scope of this contract includes the following related to the development of an integrated application migrating independent applications into FIT architecture.
  - **Planning and project management:** Participate in kick-off meeting. Develop and deliver work plan. Provide bi-weekly project status updates. Participate in other necessary project planning, research, and basic project management.
  - **Design, development, testing, and deployment:** Design and develop requirements for enhanced application: migration of the reporting functionality of Local Government comparative Statistic (LGCS), expansion of trending analysis functionality, mobile/tablet accessibility, and other accessibility improvements. Provide necessary updates and new functionality. Conduct testing prior to deployment. Launch new application and provide support during deployment.
  - **Production support:** Provide ongoing production support as needed.
  - **Knowledge Transfer:** Provide transfer of knowledge and underlying code needed to continue to operate and maintain the application internally.
- C. All work of the contractor will be expected to be of a professional quality acceptable to the State Auditor's Office.
- D. Attachment B, attached hereto and incorporated by reference, contains the General Terms and Conditions governing work to be performed under this contract, the nature of the working relationship between the State Auditor's Office and the contractor, and specific obligations of both parties.
- E. All work products and documentation resulting from work performed under this contract become the property of the State Auditor's Office.

## 3. PERIOD OF PERFORMANCE

The period of performance of this contract is scheduled to begin on or after July 1, 2019 or date of execution, whichever is later, and to end on or before June 30, 2020. Amendments extending the period of performance, if any, will be at the sole discretion of the State Auditor's Office. The

Contract may be extended by 3 additional one-year period(s) or otherwise amended at the sole discretion of the State Auditor's Office.

#### **4. REPRESENTATIONS AND WARRANTIES**

Any written commitment by contractor within the scope of this contract shall be binding upon contractor. Failure of contractor to fulfill such a commitment may constitute breach and shall render contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by contractor in its response or contained in any contractor or manufacturer publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, and any other communication medium accompanying or referred to in its response or used to effect the sale to agency.

##### **A. Compliance with Law**

Contractor represents and warrants that contractor shall comply with all applicable laws, regulations, and licensing requirements pertaining to its activities and operations under this Contract. Contractor shall not commit any act or omission, nor shall it allow its personnel or agents to commit any act or omission, that affects SAO or is in violation of any law, regulation, or licensing requirement.

##### **B. Compliance with State Policies**

Contractor represents and warrants that contractor shall comply with all applicable state policies pertaining to its activities under this Contract including, but not limited to, compliance with Washington State's IT, security, access, data protection, and privacy policies.

##### **C. Qualified to do business**

Contractor represents and warrants that contractor is qualified to do business in the State of Washington and shall provide written confirmation upon request.

##### **D. Debarment**

Contractor represents and warrants that neither contractor nor any of its personnel or agents are debarred or proposed for debarment from doing business with any state or local government in the United States or with the U.S. federal government.

##### **E. No Endorsement or Publicity**

The Parties understand and acknowledge that this Contract is not in any way an endorsement of contractor or contractor's IT Professional Services by SAO and shall not be so construed or communicated as such in any advertising, promotional, or other materials pertaining to Contractor. Unless prior written permission is granted by SAO, Contractor shall not reference SAO or this Contract in any advertising, promotional, or other materials distributed or made available beyond contractor, regardless of form or medium.

##### **F. No Wage Violations**

Contractor warrants that as of the execution of this Agreement, contractor has not been determined by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of RCW chapters 49.46, 49.48, or 49.52 within three (3) years prior to the date of the above-referenced procurement solicitation date. Contractor further warrants that it will remain in compliance with these requirements during the life of this contract. Contractor will immediately notify SAO of any finding of a willful violation entered by the Washington Department of Labor and Industries

or through a civil judgment entered by a court of limited or general jurisdiction entered during the life of this Agreement.

**5. DES FILING REQUIREMENT**

The provisions of Chapter 39.26 RCW require DES to file this sole source contract with the Department of Enterprise Services (DES) for approval. No work will commence or payment be made under the terms of this contract until it is approved by DES. In the event DES does not approve, the contract will not be executed.

**6. COMPENSATION**

Total compensation payable to the contractor for satisfactory performance of the work under this contract, will not exceed **\$480,000**. The contractor's compensation for services rendered will be based on the schedule set forth in Attachment A. If the State Auditor's Office decides to modify the final Performance Statement of Work, including deleting or adding tasks, at critical points during the course of the contract, the parties will negotiate in good faith whether to make an adjustment to the compensation set forth in Attachment A.

**7. BILLING PROCEDURES AND PAYMENT**

The State Auditor's Office will pay the contractor upon State Auditor's Office acceptance of services provided and receipt of properly completed invoices, which will be submitted to the Contract Manager in accordance with the schedule in Attachment A.

The invoices will describe and document, to the State Auditor's Office's satisfaction, an itemized description of the work performed and the progress of the project by deliverable as compared to the final Performance Statement of Work and fees. The invoice will include reference to K625-SSC-1908.

Payment will be considered timely if made by the SAO within thirty (30) calendar days after receipt of properly completed invoices. However, payment for each billing will be made after the SAO's determination that it is satisfied with the overall progress of the Contractor and the quality of each deliverable. If the SAO determines the Contractor has not made satisfactory progress in accordance with the Task Orders, the SAO may, in its sole discretion, withhold payments or terminate the contract.

**8. RETAINAGE**

Ten percent of each payment will be withheld pending completion of the contract. After completion and approval of all deliverables, the SAO Contract Manager will authorize payment in full of all retainage.

**9. NO ADVANCE PAYMENT**

No payments in advance or in anticipation of services or supplies to be provided under this contract will be made by the State Auditor's Office.

**10. CONTRACT MANAGEMENT**

The Contract Manager for each of the parties will be the contact person for all communications, notices, and billings regarding the performance of this contract.

**Contract Manager for the CONTRACTOR is:**  
Shawn Looney

1221 East Pike Street, Suite 305  
Seattle, WA 98122

Phone: (253) 458-1212  
[shawn.looney@beaconcrestconsulting.com](mailto:shawn.looney@beaconcrestconsulting.com)  
**Contract Manager for the SAO is:**  
Sherrie Ard

3003 Sunset Way S.E.  
Olympia, WA, 98504-0031  
Phone: (360) 725-5552  
[ards@sao.wa.gov](mailto:ards@sao.wa.gov)

#### **11. CONTRACTOR'S PERSONNEL**

- A. State Auditor's Office reserves the right to reject any of the contractor's employees, suppliers, or subcontractors for any reasonable and lawful cause. Any and all costs or expenses associated with replacement of any person or entity will be borne by the contractor.
- B. State Auditor's Office may, in the exercise of its discretion and judgment, identify certain of the contractor's employees as key personnel, and if so, the contractor will take all necessary steps to assure that said contractor's employees are available and assigned to the work as long as said employees are employed by the contractor.
- C. The contractor may not change or replace any of the staff assigned to this contract without prior approval of State Auditor's Office, whose approval will not be unreasonably withheld.
- D. The contractor warrants that it is available to perform the work within the time specified and that all work will be performed on a priority basis. The contractor will begin work promptly and will perform the work in a continuous and diligent manner, and the contractor will not interrupt the work except as may be provided under this contract.
- E. The contractor will be responsible to ensure that all its employees and subcontractor's employees are properly trained, certified, or licensed as appropriate and are properly qualified by education and experience to perform the work. The contractor will avoid overstaffing the work or shuffling personnel assigned to said work.
- F. The contractor, subcontractor(s) and their employees agree not to recruit any personnel from the State Auditor's for a period of six (6) months after conclusion of the project.

#### **12. COORDINATION AND COOPERATION**

- A. The contractor will cooperate with the State Auditor's Office and other firms, if any, to ensure that the work is properly performed on schedule. Contractor will collaborate with any other firms and coordinate its work with the work of such other firm(s), if any, which could affect the work. The contractor will proceed in such manner as to not interfere or delay the progress of the work as a whole.
- B. If any part of the contractor's work depends for proper execution or results upon the work of any other contractor(s), the contractor will inspect and promptly report in writing to the State Auditor's Office any defects in the work of such other contractor that renders it unsuitable for such proper execution or results. Failure of the contractor to do so will constitute its acceptance of the other firm's work as fit and proper for the reception of contractor's work, except as to defects that may develop in the other firms' work after the execution of the contractor's work.
- C. In cases of disagreement or disputes between the contractor and other firm(s) which could delay or interfere with the work due to the failure to collaborate and cooperate or which cannot be resolved between contractor and the others involved, the State Auditor's Office will be given prompt written notice specifying in detail the disagreement or dispute. In such cases, the State Auditor's Office will have the right to determine the proper method of coordinating the work, and the State Auditor's Office's decisions in this regard will be final, binding, and conclusive.
- D. Notwithstanding the existence of a dispute or disagreement between the State Auditor's Office and the contractor, the contractor will diligently and without interruption proceed with the work at such rates of progress as will ensure full completion of the work on time.

- E. The contractor will accommodate the Contract Manager's monitoring and management of the contract by meeting bi-weekly to discuss work progress and products as measured against the approved and final Performance Statement of Work. In these meetings, the contractor will communicate to the Contract Manager any issues or opportunities identified.

### 13. SUPERVISION AND COORDINATION

The contractor will:

- Designate a representative(s) with the authority to legally commit the contractor's firm. All communications given or received from the contractor's representative will be binding on the contractor.
- Promote and offer to the State Auditor's Office only those services as stated herein and allowed for by contractual requirements. Violation of this condition will be grounds for contract termination. Notwithstanding the foregoing, discussions of contractor capabilities and available services initiated by the State Auditor's Office for the purposes of planning future work shall not be considered grounds for contract termination.

### 14. INSURANCE

The successful proposer will provide insurance coverage as set out in this section. The intent of the required insurance is to protect the State Auditor's Office should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the contractor or subcontractor, or agents of either, while performing under the terms of this contract. The contractor will submit to the State Auditor's Office, within 15 days of the contract effective date, a certificate of insurance which outlines the coverage and limits defined in the Insurance section. The contractor will submit renewal certificates as appropriate during the term of the contract.

The contractor will provide insurance coverage, which will be maintained in full force and effect during the term of this contract, as follows:

- A. Commercial General Liability (CGL) Insurance Policy:** Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity, but no less than \$1,000,000 per occurrence. Additionally, the contractor is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.
- B. Automobile Liability:** In the event that services delivered pursuant to this contract involve the use of vehicles, either owned or not owned by the contractor, automobile liability insurance will be required. The minimum limit for automobile liability is: \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.
- C. Professional Liability:** When available, coverages with limits of not less than \$1,000,000 for any one occurrence.
- D. Cyber Security Insurance:** Vendor shall have and maintain insurance limits in the amount of \$2,000,000 per claim and \$2,000,000 annual aggregate to be maintained for the duration of the agreement and three years following its termination to respond to privacy and network security liability claims arising for any reason.
- E. Workers' Compensation Coverage:** Workers' compensation coverage with Washington statutory limits and employer's liability coverage of not less than \$500,000 for employer's liability. The contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes and regulations to the

full extent applicable. The State will not be held responsible in any way for claims filed by the contractor or its employees for services performed under the terms of the contract.

**F. Employer's Liability ("Stop Gap") Insurance:** In addition, the contractor will buy employer's liability insurance and, if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease. Employer's Liability ("Stop Gap") Insurance is intended to cover gaps between Workers' Compensation and CGL insurance.

**G. Additional Provisions:**

1. **Additional Insured:** The insurance required will be issued by an insurance company/is authorized to do business within the State of Washington, and will name the State of Washington, its agents and employees as additional insureds under the insurance policy/ies. All policies will be primary to any other valid and collectable insurance.
2. **Cancellation:** The State Auditor's Office will be provided 30 calendar days' written notice before cancellation or nonrenewal of any insurance referred to herein. The contractor will instruct the insurers to give the State Auditor's Office 30 calendar days' advance notice of any insurance cancellation or nonrenewal action.
3. **Identification:** Policy must reference the State's contract number and the State Auditor's Office.
4. **Insurance Carrier Rating:** All insurance and bonds should be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception will be reviewed and approved by the State Auditor's Office's Risk Manager or the Risk Manager of the Department of Enterprise Services before the contract is accepted or work may begin. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with RCW 48.15 and WAC 284-15.
5. **Excess Coverage:** By requiring insurance herein, the State does not represent that coverage and limits will be adequate to protect the contractor, and such coverages and limits will not limit contractor's liability under the indemnities and reimbursements granted to the State in this contract.

**15. ASSURANCES**

The State Auditor's Office and the contractor agree that all activity pursuant to this contract will be in accordance with all the applicable current federal and state laws, rules, and regulations.

**16. SURVIVAL**

All representations, warranties, covenants, agreements, and indemnities set forth in or otherwise made pursuant to this Contract shall survive and remain in effect following the expiration or termination of this Contract, *Provided*, however, that nothing herein is intended to extend the survival beyond any applicable statute of limitations periods.

**17. ORDER OF PRECEDENCE**

Each of the documents listed below is by this reference hereby incorporated into this contract. In the event of an inconsistency in this contract, the inconsistency will be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations;
- The terms of the basic contract and all attachments incorporated herein including Special Terms and Conditions as contained in this basic contract instrument

Attachment A – the Final Performance Statement of Work;  
Attachment B – General Terms and Conditions;

- The contractor’s proposal; and
- Any other provision, term or material incorporated herein by reference or otherwise incorporated.

**18. ENTIRE AGREEMENT**

This contract, including referenced attachments, and other documents, represents all the terms and conditions agreed upon by the parties. No other statements or representations, written or oral, will be deemed a part hereof.

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

**19. APPROVAL**

This contract will be subject to the written approval of the State Auditor’s Office’s authorized representative and will not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

THIS CONTRACT is executed by the persons signing below, who warrant they have the authority to execute the contract.

**FELLOW**

**STATE AUDITOR’S OFFICE**

\_\_\_\_\_  
Signature Date  
Shawn Looney, President

\_\_\_\_\_  
Signature Date  
Kristina Swanson,  
Director of Innovation and Technology

APPROVED AS TO FORM:  
Assistant Attorney General  
Date:

## ATTACHMENT A – STATEMENT OF WORK

### **CONTRACTOR'S PROJECT TEAM AND KEY PERSONNEL**

- Shawn Looney, Senior Business Analyst & Project Manager
- Micah Loffer, Lead Technical Architect/Developer
- Michelle Julien, QA/Testing
- Caleb Loffer, Senior Developer
- Andrew Stewart, Senior Developer
- Kate Schenot, DEI Creative (subcontractor), UX/UI Designer

### **TASK CATEGORY DESCRIPTIONS AND DELIVERABLES**

#### **1. Planning and Project Management**

- **Kick-off Meeting (Due within seven (7) days of performance start date):** The contractor will participate in a kick-off meeting to review expectations, timelines, roles & responsibilities, etc.
- **Project Plan (Due within thirty (30) days of performance start date):** The contractor will develop a detailed project plan with work breakdown to a level of detail where each task is no greater than 80 hours of work. The contractor is the lead on this deliverable, with SAO input/approval.
- **Project Status Reporting (Ongoing)** - The contractor will prepare (at least) bi-weekly written project status reports to SAO summarizing the progress of each deliverable and hold (at least) bi-weekly project status calls to review progress and discuss the next week's activities)

#### **2. FIT Architecture Migration design, development, testing, deployment**

- **Features and Development Tasks** – The contractor will deliver the system features and perform the development tasks as described in detail by the due dates listed in the tables below.
- **Design and development: service-based architecture** – Building upon previous work performed during the delivery of the new FIT application, contractor will deliver, in consultation with the SAO IS team, a service-oriented architecture that will be based on the OData standard as the method for providing data from backend databases such as EIS/CommonData, LGCS report system, LGExternalDB, etc. to SAO web applications and websites. This backend service layer will be designed with maximum reuse in mind. For example, services built as part of this SOW should also be useable by other web applications and websites at SAO and take into account the functional requirements of those applications or websites.
- **Agile Development Processes** – The development processes followed will utilize a Scrum based framework where a backlog of feature/function items will be jointly maintained, prioritized, and assigned to “time boxed” development iterations by SAO and contractor. For each iteration, there will be ongoing refinement of the backlog items (with detailed functional & design specification documents where needed – Scrum emphasizes working software over extensive documentation). The breadth and depth of the features & functions delivered for each key scope item is determined by the backlog prioritization process which seeks to maximize value given the project's budget and time constraints. As development progresses, testing of each backlog item will ensure compliance to the requirements. Following each completed iteration, there will be a review and demonstration of the iteration's features/functions.

Agile based deliverables include:

- Backlog & Sprint Planning – Backlog Items managed and prioritized in the SAO Team Foundation Server (TFS) instance. User stories and business scenarios managed within primary backlog item with links to any required functional or design specifications and traceability back to stakeholder engagement notes or requirements. These functional and design specifications may include artifacts such as business process diagrams, data dictionaries, and data flow diagrams.
- Testing & Validation – Application functionality delivered by contractor will be tested, validated, and documented by contractor and follow industry standard web application testing guidelines as well as any applicable SAO guidelines & policies. The following are the test phases that will allow contractor and SAO to verify and validate the solution as fit for service:
  - Unit Testing (verification of individual software units, or small groups of related code; responsibility of the developer)
  - System/Integration Testing (verification of the complete, integrated system meets its functional and non-functional objectives and requirements; responsibility of the Contractor QA team)
  - Performance Testing (assesses the system to know the extent to which it meets the performance requirements like load, volume, stress and also, worst case scenarios; responsibility of contractor QA team)
  - Regression Testing (re-execution of previously executed tests to ensure the test results are the same after each iteration of development changes; responsibility of contractor QA team)
  - User Acceptance Testing (validates the integrated system with its acceptance criteria and SAO's expectations; responsibility of SAO supported by contractor)
- Source & Executable Code – ASP.NET MVC, C#, JavaScript, .NETCORE Angular, and/or OData based source code delivered electronically to the SAO TFS instance and deployed to SAO Test Client Portal instance. SAO personnel will be responsible for deploying the solution into the SAO Production Client Portal (at CTS).
- Supported Devices
  - Browser Support
    - Primary: IE10+ (55%), Chrome (25%) → 80% of SAO website users
    - Other browser support will be delivered in the launch and readiness phase of work (see below) on a “best effort” basis
  - Tablet Support
    - Primary: Surface & iPad (iOS)
    - Other tablet support (Android) will be delivered in the launch and readiness phase of work (see below) on a “best effort” basis
  - Mobile Support will be a priority to support, with some limited capabilities and possible redirecting users to supported devices/resolutions
- “Launch Readiness” Backlog Refinement and Development – Jointly refine “go-live” backlog based on stakeholder review and feedback. Make final changes to accommodate any secondary browser/tablet specific bugs & tweaks. Complete development changes related to launch readiness backlog items.

- **Launch readiness (by June 30, 2020):** Provide support and bug fixes related to released functionality

**3. Production and Development Support (Ongoing)**

- **Production Support (for the ten (10) week period after launch readiness):** Provide break fix and implementation of FIT application as needed.

**COST/PAYMENT SCHEDULE SUMMARY**

Task/Description	Due Date	Estimated Budget
<b>1. Planning and Project Management</b>	Ongoing	\$24,000
<b>2. Design, development, testing, and deployment</b>	June 30, 2020	\$434,000
<b>3. Ongoing Production Support</b>	Ongoing	\$15,000
<b>Travel Expenses</b>		\$7,000
<b>Total Not-to-Exceed</b>		<b>\$480,000.00</b>

Hourly rate for work conducted under any task completed by Beacon Crest will not exceed the agreed to hourly rate of \$127.00/hour. Expenses for sub-contractor DEI Creative will be billed to SAO as a direct reimbursement with no markup to the invoices by contractor. Any work completed by DEI will not exceed an hourly rate of \$180.00/hour.

Descriptions, milestones, and individual budget items may be adjusted with written approval from SAO.

**DRAFT Scope items for K625-SSC-1908  
Financial Intelligence Tool (FIT) Contract**

The scope of this contract includes the following:

**1. Consolidated Portal & Migration of Internal Systems/Functions into FIT**

Based on contractor’s previous stakeholder analyses and knowledge of SAO’s systems, data, and procedures, contractor (jointly with SAO) will design, plan, and begin implementation of a consolidated portal focused on the data and functionality related to data collected by the State Auditor’s Office. This portal will serve key stakeholders as listed below including local governments, SAO audit staff, and the general public.

**1.1. Design Tasks**

1.1.1. Planning & Approach – Preliminary meetings with key stakeholders to discuss the planning and approach to use.

1.1.2. Discovery Meetings & User Research - Understanding what stakeholders want and need.

1.1.3. Document Requirements - Synthesizing the above info with SAO to determine a final requirements doc and information architecture

1.1.4. Portal Design and Reviews – Conceptual design with key page mockups for each stakeholder’s set of functionalities

**1.2. Implementation Tasks**

1.2.1. Roadmap Development & Iteration Planning – Based on the design above, develop a roadmap with SAO for implementation. Initial iteration planning for development/implementation based on the roadmap and joint prioritization discussions with SAO.

1.2.2. Design System Updates – Updates the SAO Design System components to support the initial development iterations.

1.2.3. Development - Implementation of highest priority items as defined in the roadmap and initial iteration planning.

### 1.3. Key Stakeholders

1.3.1. General Public – Improved educational and intuitive data access promoting data transparency and utilization will be provided to general public users whose access to FIT launched in March 2019.

1.3.2. Local Government – Improvements to data collection, self-assessments, and management of audit “to-do” checklists utilizing FIT components.

1.3.3. SAO Audit Staff – Provide audit staff data and templates (in FIT) to use as inputs to their analytical procedures (AP). Migrate and consolidate existing internal facing or limited access systems & functionality. Examples might include: Local Government Comparative Statistics (LGCS); Audit Reports and Tracker; Entity Information System; Annual Filing System.

1.3.4. SAO Information Systems (IS) - Identify opportunities to consolidate and reduce IT footprint and maintenance requirements.

## 2. FIT Functional Enhancements

Building upon previous work performed during the delivery of the new FIT application, contractor will deliver, in consultation with the SAO, several enhancements to the existing FIT application.

### 2.1. Enhanced Government Profile

2.1.1. Addition of new “achievement” badges and entity type specific information. These badges and information should provide links to associated data when possible.

2.1.2. Add more local government boundary information to the system's map feature.

2.1.2.1. Additional property tax boundary shapefiles

2.1.2.2. Prototype and deploy other non-property tax boundary data

2.1.3. Refinements and improvements to existing profile components

2.1.4. Enable service API calls to provide government profile data (including map images) to other SAO systems

### 2.2. Enhanced Government Type Profile

2.2.1. Government Type financial data (similar to statewide averages)

2.2.2. Statewide map

2.2.3. Audit issues by government type

2.2.4. Aggregate view of certain government type metrics that are reported on individual government profiles (e.g., assessed value)

### 2.3. Add Support for small devices (mobile and tablet)

2.3.1. Design Responsive Views for FIT for both mobile phones and tablets

2.3.2. Updates to the SAO Design System based on mobile design

- 2.3.3. Development & testing of mobile/tablet views
- 2.4. Addition of more comprehensive financial ratios
- 2.5. Addition of GAAP Operating Margin indicator
- 2.6. "Early warning" notification features (for local governments and audit staff)
- 2.7. Additional Data Stories and Informational Features (for public and local governments)
- 2.8. Improve/updates to visualization of financial ratio outlook
- 2.9. Enhanced "statewide" reporting
  - 2.9.1. Financial Ratios Report
  - 2.9.2. Statewide/Peer Set Financial Ratio Statistics (Averages, Counts)
  - 2.9.3. Add to financial Ratio graph view
- 2.10. Improved "no activity" reporting
- 2.11. Improved data sourcing and annotations
- 2.12. Published Public OData API

### 3. **Production Support**

Provide break fix and implementation of FIT, GIS Shapefile, and other FIT related application functionality. Troubleshooting, investigation, and bug fixing related to released functionality.

For all scope items, the following tasks are involved:

#### **PLANNING & PROJECT MANAGEMENT**

- Project Status Reporting – The contractor shall prepare (at least) bi-weekly written project status reports to the Center summarizing the progress of each deliverable and hold (at least) bi-weekly project status calls to review progress and discuss the next weeks' activities.
- Project Plan – Detailed project plan with work breakdown to a level of detail where each task is no greater than 80 hours of work. The contractor is the lead on this deliverable, with SAO input/approval.

#### **SOFTWARE DEVELOPMENT**

- Service-Based Architecture – Building upon previous work performed during the delivery of the new FIT application, contractor will deliver, in consultation with the SAO IS team, a service-oriented architecture that will be based on the OData standard as the method for providing data from backend databases. Examples might include, Local Government Comparative Statistics (LGCS), Audit Reports and Tracker, Entity Information System (EIS), Annual Filing System, etc. to SAO web applications and websites. This backend service layer will be designed with maximum reuse in mind. For example, services built as part of this scope primarily for FIT should also be useable by other web applications and websites at SAO and take into account the functional requirements of those applications or websites.
- Agile Development Processes – The development processes followed will utilize a Scrum based framework where a backlog of feature/function items will be jointly maintained, prioritized, and

assigned to “time boxed” development iterations by SAO and Contractor. For each iteration, there will be ongoing refinement of the backlog items (with detailed functional & design specification documents where needed – Scrum emphasizes working software over extensive documentation). The breadth and depth of the features & functions delivered for each key scope item is determined by the backlog prioritization process which seeks to maximize value given the project’s budget and time constraints. As development progresses, testing of each backlog item will ensure compliance to the requirements. Following each completed iteration, there will be a review and demonstration of the iteration’s features/functions.

Agile based deliverables include:

- Backlog & Sprint Planning – Backlog Items managed and prioritized in the SAO Team Foundation Server (TFS) instance. User stories and business scenarios managed within primary backlog item with links to any required functional or design specifications and traceability back to stakeholder engagement notes or requirements. These functional and design specifications may include artifacts such as business process diagrams, data dictionaries, and data flow diagrams.
- Testing & Validation – Application functionality delivered by Contractor will be tested, validated, and documented by Contractor and follow industry standard web application testing guidelines as well as any applicable SAO guidelines & policies. The following are the test phases that will allow Contractor and SAO to verify and validate the solution as fit for service:
  - Unit Testing (verification of individual software units, or small groups of related code; responsibility of the developer)
  - System/Integration Testing (verification of the complete, integrated system meets its functional and non-functional objectives and requirements; responsibility of the Contractor QA team)
  - Performance Testing (assesses the system to know the extent to which it meets the performance requirements like load, volume, stress and also, worst case scenarios; responsibility of Contractor QA team)
  - Regression Testing (re-execution of previously executed tests to ensure the test results are the same after each iteration of development changes; responsibility of Contractor QA team)
  - User Acceptance Testing (validates the integrated system with its acceptance criteria and SAO’s expectations; responsibility of SAO supported by Contractor)
- Source & Executable Code – ASP.NET Core, C#, Javascript, Angular, and/or OData based source code delivered electronically to the SAO TFS instance and deployed to SAO Test Client Portal instance. SAO personnel will be responsible for deploying the solution into the SAO Production Client Portal (at CTS).
- Supported Devices
  - Browser Support
    - Primary: Chrome, Edge
    - Other browser support will be delivered in the launch and readiness phase of work (see below) on a “best effort” basis
  - Tablet Support
    - Primary: Surface & iPad (iOS) (high and low resolution)
    - Other tablet support (Android) will be delivered on a “best effort” basis w/testing on three resolutions/size tablets

- Mobile Support
  - Primary: iPhone X+, Android 7+ (up to three “most popular” resolutions/sizes)
- “Launch Readiness” Backlog Refinement and Development

Jointly refine “go-live” backlog based on stakeholder review and feedback. Make final changes to accommodate any secondary browser/tablet specific bugs & tweaks. Complete development changes related to launch readiness backlog items.
- Knowledge Transfer

Provide application knowledge transfer to allow agency staff to independently support and maintain the application

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## **ATTACHMENT B - GENERAL TERMS AND CONDITIONS**

### **1. Definitions**

As used throughout this contract, the following terms shall have the meaning set forth below:

- A. "State Auditor's Office" (SAO) shall mean any division, section, office, unit or other entity of the State Auditor's Office, or any of the officers or other officials lawfully representing the State Auditor's Office.
- B. "Agent" shall mean the State Auditor's Office Contract Manager, and/or the delegate authorized in writing to act on the Manager's behalf.
- C. "Contractor" shall mean that firm, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the contractor.
- D. "Subcontractor" shall mean one not in the employment of the contractor, who is performing all or part of those services under this contract under a separate contract with the contractor. The terms "subcontractor" and "subcontractors" means subcontractor(s) in any tier.

### **2. Access to Data**

In compliance with RCW 39.26.180 the contractor shall provide access to data generated under this contract to the State Auditor's Office at no additional cost.

### **3. Advance Payments Prohibited**

No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the State Auditor's Office.

### **4. Amendments**

This contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

### **5. Americans with Disabilities Act (ADA) of 1990, Public Law 101-336, 28 CFR Part 35**

The contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

### **6. Assignment**

Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the contractor without prior written consent of the State Auditor's Office.

### **7. Attorneys' Fees**

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

### **8. Confidentiality/Safeguarding of Information**

Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this contract or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other state or federal statutes ("Confidential Information").

The contractor will not use or disclose any information concerning the State Auditor's Office, information which may be classified as confidential, for any purpose not directly connected with

the administration of this contract, except with prior written consent of the State Auditor's Office, or as may be required for peer review or by law, legal process, or AICPA Consulting Standards.

Confidential information may include, but is not limited to, employee information such as residential addresses, e-mail addresses, and telephone numbers, Social Security Numbers, financial profiles, credit card information, driver's license numbers, medical data or protected health information, law enforcement records, agency source code or object code, or agency security data.

Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

Immediately upon expiration or termination of this contract, contractor will destroyed all information including Confidential Information not required to be retained by professional standards.

Any breach of this provision may result in termination of the contract and the demand for return of all Confidential Information. The contractor agrees to indemnify and hold harmless the State Auditor's Office for any damages related to the contractor's unauthorized use of confidential information.

## **9. Conflict Of Interest**

The State Auditor's Office may, in its sole discretion, by written notice to the contractor terminate this contract if it is found after due notice and examination by the State Auditor's Office that there is a violation of RCW 42.52, Ethics in Public Service.

## **10. Copyright Provisions**

Unless otherwise provided, all materials produced under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the State Auditor's Office. The State Auditor's Office shall be considered the author of such materials. In the event the materials are not considered "works for hire" under the U.S. Copyright laws, contractor hereby irrevocably assigns all right, title, and interest in materials, including all intellectual property rights, to the State Auditor's Office effective from the moment of creation of such materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For materials that are delivered under the contract, but that incorporate pre-existing materials not produced under the contract, contractor hereby grants to the State Auditor's Office a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The contractor warrants and represents that contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the State Auditor's Office. The contractor will maintain its ownership of its pre-existing materials, such as methodologies, including any improvements or enhancements the contractor makes to its pre-existing materials.

The State Auditor's Office recognizes that: (A) valuable formulae, designs, drawings, and research data obtained by the State Auditor's Office within five years of the request for disclosure are exempt from disclosure when disclosure would produce private gain and public loss (RCW 42.56.270(1)); and (B) intellectual property and proprietary information may also be covered by the Washington Trade Secrets Act, chapter 19.108 RCW.

Where a request for documents potentially protected under these laws is made, the State Auditor's Office shall notify the contractor that the request has been made and provide the Contractor an opportunity to seek a court injunction against the requested disclosure. The Contractor will have five (5) business days to respond to the State Auditor's Office's notice with its intent to seek a court injunction against the requested disclosure. If the State Auditor's Office receives no response from the Contractor within five (5) business days, the materials and information will be released consistent with the State Auditor's Office policies and procedures under State law. Once notified of the contractor's intent to seek a court injunction, the contractor shall have ten (10) business days to obtain an injunction and provide a copy to the State Auditor's Office. If the State Auditor's Office does not receive a copy of an injunction within these ten (10) business day, it may release the requested documents.

Contractor shall exert all reasonable effort to advise the State Auditor's Office at the time of delivery of all known or potential copyright provisions or intellectual property or proprietary information protections applicable to any document or portion of any document produced in the performance of this contract. Contractor may mark any documents furnished to the State Auditor's Office as follows:

NOTICE: The information herein has been prepared for the use of the State Auditor's Office and no others. The information contains data that is copyrighted by © \_\_\_\_\_, all rights reserved, or may be subject to intellectual property or proprietary information protections.

Nothing contained in this section affects or modifies the State Auditor's Office obligation to disclose public records under Chapter 42.56 RCW or other applicable law.

The contractor shall exert all reasonable effort to advise the State Auditor's Office, at the time of delivery of materials furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document that was not produced in the performance of this contract.

The State Auditor's Office shall receive prompt written notice of each notice or claim of infringement received by the contractor with respect to any data delivered under this contract. The State Auditor's Office shall have the right to modify or remove any restrictive markings placed upon the data by the contractor.

#### **11. Covenant Against Contingent Fees**

The contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the contractor for securing business.

The State Auditor's Office shall have the right, in the event of breach of this clause by the contractor, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

#### **12. Disallowed Costs**

The contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

#### **13. Disputes**

Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved, either party may request a dispute hearing with a team of three (which shall

be comprised of one independent individual selected by the contractor, one independent individual selected by the State Auditor's Office Director of Audit, and one shall be a State Auditor's Office Director not responsible for the contract.) Disputes shall be resolved as quickly as possible.

The request for a dispute hearing must:

- A. Be in writing;
- B. State the disputed issue(s);
- C. State the relative positions of the parties;
- D. State the contractor's name, address, and contract number; and
- E. Be mailed or sent electronically to the State Auditor's Office Contract Manager within 3 working days after the parties agree that they cannot resolve the dispute.

The Contract Manager shall send a written answer to the contractor's statement to the contractor within 5 working days.

The panel shall review the written statements and reply in writing to both parties within 10 working days. The panel may extend this period if necessary by notifying the parties.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

The State Auditor's Office and contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this contract, which are not affected by the dispute. Both parties agree to exercise good faith in the dispute resolution and to settle disputes prior to using the dispute resolution panel whenever possible.

#### **14. Duplicate Payment**

The State Auditor's Office shall not pay the contractor, if the contractor has charged or will charge the State of Washington or any other party under any other contract or agreement, for the same services or expenses.

#### **15. Failure to Perform**

If the contractor fails to perform any substantial obligation under this contract, the State Auditor's Office shall give the contractor written notice of such failure to perform. If after 30 calendar days from the date of the written notice, contractor has still not performed, then the State Auditor's Office may withhold all monies due and payable without penalty to the State Auditor's Office, until such Failure to Perform is cured or otherwise resolved.

#### **16. Governing Law**

This contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

#### **17. Indemnification**

To the fullest extent permitted by law, the contractor shall indemnify, defend, and hold harmless state, agencies of state and all officials, agents and employees of state, from and against all claims for injuries or death arising out of or resulting from the performance of the contract.

"Claim," as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including loss of use resulting there from.

The contractors' obligations to indemnify, defend, and hold harmless includes any claim by the contractors' agents, employees, representatives, or any subcontractor or its employees.

The contractor expressly agrees to indemnify, defend and hold harmless the State for any claim arising out of or incident to the contractor's or any subcontractor's performance or failure to perform the contract. The contractor's obligation to indemnify, defend, and hold harmless the state shall not be eliminated or reduced by any actual or alleged concurrent negligence of the State or its agents, agencies, employees and officials.

The contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officials, agents or employees.

#### **18. Independent Capacity of the Contractor**

The parties intend that an independent contractor relationship will be created by this contract. The contractor and his or her employees or agents performing under this contract are not employees or agents of the State Auditor's Office. The contractor will not hold himself/herself out as or claim to be an officer or employee of the State Auditor's Office or of the State of Washington by reason hereof, nor will the contractor make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with the contractor.

#### **19. Industrial Insurance Coverage**

The contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees, as may be required by law, the State Auditor's Office may collect from the contractor the full amount payable to the Industrial Insurance accident fund. The State Auditor's Office may deduct the amount owed by the contractor to the accident fund from the amount payable to the contractor by the State Auditor's Office under this contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's right to collect from the contractor.

#### **20. LEGAL NOTIFICATION AND NOTICES**

Notices shall be effective upon receipt or five (5) Business Days after mailing, whichever is earlier. The notice address as provided herein may be changed by written notice given as provided above. In the event that a subpoena or other legal process commenced by a third party in any way concerning the Services provided pursuant to this contract is served upon contractor or the State Auditor's Office, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. The contractor and the State Auditor's Office further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

#### **21. Licensing, Accreditation and Registration**

The contractor shall comply with all applicable local, state and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this contract.

#### **22. Limitation of Authority**

Only the Agent or Agent's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the Agent.

**23. Noncompliance with Nondiscrimination Laws**

In the event of the contractor's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the contractor may be declared ineligible for further contracts with the State Auditor's Office. The contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

**24. Nondiscrimination**

During the performance of this contract, the contractor shall comply with all federal and state nondiscrimination laws, regulations and policies.

**25. Publicity**

The contractor agrees to submit to the State Auditor's Office all advertising and publicity matters relating to this contract wherein the State Auditor's Office's name is mentioned or language used from which the connection of the State Auditor's Office's name may, in the State Auditor's Office's judgment, be inferred or implied. The contractor agrees not to publish or use such advertising and publicity matters without the prior written consent of the State Auditor's Office.

**26. Records Maintenance**

The contractor shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the State Auditor's Office, personnel duly authorized by the State Auditor's Office, and federal and state officials so authorized by law, regulation or agreement. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

**27. Registration with Department of Revenue**

The contractor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this contract.

**28. Right of Inspection**

The contractor shall provide right of access to its facilities to the State Auditor's Office, or any of its officers, or to any other authorized agent or official of the State of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance of the work performed.

**29. Savings**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the State Auditor's Office may terminate the contract under the "Termination for Convenience" clause, without the ten day notice requirement, subject to renegotiation at the State Auditor's Office's discretion under those new funding limitations and conditions.

### **30. Severability**

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

### **31. Site Security**

While on the State Auditor's Office premises, contractor, its agents, employees or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

#### **Information Technology Security**

The State of Washington has defined common it security standards to help ensure that agencies have an effective and secure environment for it processing. The standards are defined by the office of the Chief Information Officer (OCIO) and are available at <http://ofm.wa.gov/ocio/policies/manual.asp>. As part of these security standards, agencies are to require contractor's compliance with the security standards relative to the services provided when the scope of work affects a state it resource or asset. Therefore, contractor agrees to provide security by a method and at a level that is in compliance with the OCIO securing information technology assets policy and securing information technology standards, as well as agency security policies, procedures, standards and requirements when any scope of work or service related to this work order affects a state it asset. For example, any access to agency systems will be allowed only through agency's standard VPN access process, and onsite access to agency systems will be controlled and/or supervised as agency deems necessary for security purposes.

### **32. Subcontracting**

Neither the contractor nor any subcontractor shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the State Auditor's Office. In no event shall the existence of the subcontract operate to release or reduce the liability of the contractor to the State Auditor's Office for any breach in the performance of the contractor's duties. This clause does not include contracts of employment between the contractor and personnel assigned to work under this contract.

The contractor is solely responsible and liable for ensuring that all of the terms, conditions, assurances and certifications set forth in this contract are incorporated into any partnering or subcontracting relationships with other entities for work related to this contract. Liability includes management responsibility and quality assurance for work performed and financial responsibility for payments to and by partner organizations or subcontractor to others. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to information obtained during performance of this contract without the express written consent of the State Auditor's Office or as provided by law.

### **33. Taxes**

All payments accrued because of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the contractor or its staff shall be the sole responsibility of the contractor.

### **34. Termination for Cause**

In the event the State Auditor's Office determines the contractor has failed to comply with the conditions of this contract in a timely manner, the State Auditor's Office has the right to suspend or terminate this contract. Before suspending or terminating the contract, the State Auditor's

Office shall notify the contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

The State Auditor's Office reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the contractor or a decision by the State Auditor's Office to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence. The rights and remedies of the State Auditor's Office provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

### **35. Termination for Convenience**

Except as otherwise provided in this contract, the State Auditor's Office may, by 10 calendar days written notice, beginning on the second day after the mailing, terminate this contract, in whole or in part. If this contract is so terminated, the State Auditor's Office shall be liable only for payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.

### **36. Termination Procedures**

Upon termination of this contract, the State Auditor's Office, in addition to any other rights provided in this contract, may require the contractor to deliver to the State Auditor's Office any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The State Auditor's Office shall pay to the contractor the agreed upon price, if separately stated, for completed work and services accepted by the State Auditor's Office, and the amount agreed upon by the contractor and the State Auditor's Office for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by the State Auditor's Office, and (iv) the protection and preservation of property, unless the termination is for default, in which case the agent shall determine the extent of the liability of the State Auditor's Office. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract.

The State Auditor's Office may withhold from any amounts due the contractor such sum as the agent determines to be necessary to protect the State Auditor's Office against potential loss or liability. The rights and remedies of the State Auditor's Office provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the agent, the contractor shall:

- A. Stop work under the contract on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;

- C. Assign to the State Auditor's Office, in the manner, at the times, and to the extent directed by the agent, all of the rights, title, and interest of the contractor under the orders and subcontracts so terminated, in which case the State Auditor's Office has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the agent to the extent agent may require, which approval or ratification shall be final for all the purposes of this clause;
- E. Transfer title to the State Auditor's Office and deliver in the manner, at the times, and to the extent directed by the agent any property which, if the contract had been completed, would have been required to be furnished to the State Auditor's Office;
- F. Complete performance of such part of the work as shall not have been terminated by the agent; and
- G. Take such action as may be necessary, or as the agent may direct, for the protection and preservation of the property related to this contract, which is in the possession of the contractor and in which the State Auditor's Office has or may acquire an interest.

### **37. Treatment of Assets**

- A. Title to all property furnished by the State Auditor's Office shall remain in the State Auditor's Office. Title to all property furnished by the contractor, for the cost of which the contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the State Auditor's Office upon delivery of such property by the contractor. Title to other property, the cost of which is reimbursable to the contractor under this contract, shall pass to and vest in the State Auditor's Office upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the State Auditor's Office in whole or in part, whichever first occurs.
- B. Any property of the State Auditor's Office furnished to the contractor shall, unless otherwise provided herein or approved by the State Auditor's Office, be used only for the performance of this contract.
- C. The contractor shall be responsible for any loss or damage to property of the State Auditor's Office that results from the negligence of the contractor or that results from the failure on the part of the contractor to maintain and administer that property in accordance with sound management practices.
- D. If any the State Auditor's Office's property is lost, destroyed or damaged, the contractor shall immediately notify the State Auditor's Office and shall take all reasonable steps to protect the property from further damage.
- E. The contractor shall surrender to the State Auditor's Office all property of the State Auditor's Office prior to settlement upon completion, termination or cancellation of this contract.
- F. All reference to the contractor under this clause shall also include contractor's employees, agents or subcontractors.

### **38. Waiver**

Waiver of any default or breach shall not be deemed a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this contract unless stated to be such in writing and signed by authorized representative of the State Auditor's Office.

### **39. Work Product, Source Code Ownership**

All delivered and accepted work products, source code, and related intellectual property are the sole property of the State Auditor's Office without limitations or infringements from Contractor or third party entities.

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