



**COLORADO OFFICE
OF THE STATE
AUDITOR**

A REQUEST FOR PROPOSAL

**FOR AN AUDIT OF
Information Technology & Systems at the Colorado
Department of Public Health and Environment (CDPHE)**

September 30, 2016

TABLE OF CONTENTS

SECTION I: Administrative Information

SECTION II: Information That Must Be Included in Proposal

SECTION III: Proposal Evaluation Process

SECTION IV: Supplemental Information

SECTION I

ADMINISTRATIVE INFORMATION

A. ISSUING OFFICE

This request for proposal (RFP) is issued by the Office of the Colorado State Auditor (OSA). The terms State Auditor, OSA, State, and State of Colorado are used interchangeably. As an agency within the Legislative Branch, the OSA and this solicitation are exempt from the State Procurement Code and State Procurement Rules. *All communications regarding this RFP should take place directly with the OSA's assigned contract monitor listed in this RFP.*

B. BACKGROUND INFORMATION

Department of Public Health and Environment

The Colorado Department of Public Health and Environment (CDPHE or the Department) is responsible for improving and protecting the health of the people of Colorado, maintaining and protecting the quality of Colorado's environment, and ensuring the availability of health and medical care services to individuals and families.

The Department is composed of the following four Offices and ten Divisions:

- Office of Communications
- Office of Emergency Preparedness and Response
- Office of Health Equity
- Office of Planning, Partnerships and Improvements
- Operations Division
- Environmental Divisions
 - Air Pollution Control
 - Water Quality Control
 - Hazardous Materials and Waste Management
 - Environmental Health and Sustainability
- Health Programs Divisions
 - Disease Control and Environmental Epidemiology
 - Health Facilities and Emergency Medical Services
 - Prevention Services
 - Center for Health and Environmental Data
 - Laboratory Services

The Department was appropriated \$534.3 million and 1,289 full-time equivalent (FTE) staff for Fiscal Year 2016.

The Department has locations in Denver, Grand Junction, Pueblo, Buena Vista,

Steamboat Springs, and Fort Collins.

The audit will focus on three significant departmental systems that have been preselected for inclusion in the scope of this audit. These three systems will be disclosed to the selected vendor upon contract award. Other systems may also be included if determined to be appropriate and agree-upon by the OSA and selected contractor in order to support the completion of the audit objectives, which are noted later in this document.

Governor's Office of Information Technology

The Governor's Office of Information Technology (OIT or the Office) OIT oversees executive department technology initiatives and recommends strategies to maximize service delivery efficiency in a cost-effective manner through the application of enterprise technology solutions. The Office provides services to state agencies on a cost reimbursement basis with OIT acting as a vendor to State agencies. Services provided by OIT include enterprise application management and support, database management, network security and management, communication technology services, data center operations, information security, help desk services, public safety communications, procurement, project management, and IT economic development.

The State's Chief Information Officer (CIO) is the head of OIT. As part of the CIO's duties and responsibilities in overseeing OIT, statute [Section 24-37.5-106, C.R.S.] requires OIT to develop policies, standards, specifications, and guidelines for information technology and related procedures to effectively manage IT.

Services offered by OIT to state agencies have a mixture of costs (e.g. personal services, benefits, operating expenses, and contract expenses) associated with the service delivery. The costs are allocated to agencies based on the level of service consumed. For Fiscal Year 2016-17, OIT was appropriated 937.5 FTE employees and \$224.3 million. In Fiscal Year 2016, OIT spent approximately \$245.2 million on IT administration and services (including contracted professional services) to manage IT operations.

OIT maintains a list of Essential and Critical applications. Essential systems have been defined by OIT as systems so important that loss or unavailability is unacceptable due to life safety issues. Critical systems have been defined by OIT as systems that provide critical data to the public and serve a vital function to government but does not affect life safety. In addition, OIT also has a tertiary system classification level called Line of Business Priority (LBP). LBP systems have been defined by OIT as systems that do not affect life safety. Business owners determine whether a system is classified as essential, critical, or LBP based on system requirements.

Office of Information Security

The position of State Chief Information Security Officer (CISO) oversees the Colorado Information Security Program (the Program). The Program is organizationally structured

under OIT within the Office of Information Security (OIS). Statute [Section 24-37.5-403, C.R.S.] requires the CISO to develop and update information security policies, standards, and guidelines. Statute further requires the CISO to ensure the compliance with these policies. The CISO and OIS have developed and published the Colorado Information Security Policies (CISPs), which outline security requirements, standards and practices to be followed by Executive Branch agencies, including CDPHE, as well as any vendors or the service providers they use.

The following functional units are included under OIS:

Security Management: The OIS Security Management Program is responsible for security risk management across state departments. This group manages state information security policies, security standards, onsets with agencies on technical matters, and manages enterprise projects to meet security requirements.

Compliance: The OIS Compliance Program has oversight of applicable regulatory compliance to include compliance with federal and state laws, regulations, and Colorado Information Security Policy.

Application Security: The OIS Application Security Program is responsible for the creation of secure coding best practices to protect Colorado's information systems and mission critical applications.

C. **SERVICES REQUIRED – DELIVERABLES AND TIMELINES**

The OSA is seeking proposals from qualified contractors to conduct the planned audit work to gain sufficient, appropriate evidence necessary to conclude on the audit objectives and to develop related findings and recommendations. The OSA will provide the engaged contractor general guidance and oversight; however, the engaged contractor will be responsible for planning and conducting the audit work, developing complete written findings, and writing the audit report. Specific details regarding the project scope, audit objectives, and planned audit work are described later in this section.

The OSA prefers that the engaged contractor conduct this audit in accordance with generally accepted government auditing standards (GAGAS) issued by the U.S. Comptroller General. However, the OSA will consider proposals for conducting this project as a performance evaluation outside of generally accepted government auditing standards. The proposal must specify if the work will be under GAGAS.

Planning and Fieldwork

The engaged contractor will be required to:

- Hold a planning meeting with OSA staff prior to the entrance conference. This meeting could be in person or by conference call.

- Attend in person an entrance conference with the appropriate state departments/agencies and/or service organizations, which should include the Department of Public Health and Environment (CDPHE) and the Governor’s Office of Information Technology (OIT). The entrance conference should be held and fieldwork should begin on or about the week of **December 5, 2016**. **Note:** *This is an estimated start date. Work could begin sooner or later depending on how long it takes to route and execute the contract. No work can begin until the contract is approved and signed by the State Auditor or her designee.*
- Provide routine updates regarding the status of the engaged contractor’s work, noted problems, preliminary findings, etc. to the OSA’s assigned contract monitor throughout the duration of the engagement. This may include conference calls and/or written progress updates. The update format and schedule will be determined by the contract monitor and the engaged contractor.
- Conduct ongoing communications with CDPHE and OIT throughout fieldwork to gain a clear understanding of relevant operations, requirements, and criteria as well as to clear exceptions and preliminary findings.
- Complete fieldwork **on or about March 10, 2017**.

Findings and Report

The OSA has a very rigorous findings and report review process, which includes review and revisions at multiple levels of the organization. Prospective bidders should take this into consideration when preparing a proposed calendar and budget. The findings and final report should adhere to the OSA’s standards as described in “Exhibit G – Developing and Presenting Findings” and “Exhibit H – Reporting Requirements and Format for Separately Issued Reports” of the OSA’s standard contract, which is included in Section IV - Supplemental Information of this RFP. In addition, we have included a link in Section IV of this RFP to a recent report issued by the OSA. Prospective bidders should review that report to gain an understanding of the OSA’s expectations for written audit reports.

The engaged contractor will be required to:

- Prepare and submit detailed written findings to the OSA contract monitor during the **week of March 27, 2017**. The findings should adhere to the format outlined in “Exhibit G – Developing and Presenting Findings” of the OSA’s standard contract. The engaged contractor should allow a minimum of 3 weeks for the contract monitor’s review and for the engaged contractor to make revisions.

- Coordinate with contract monitor to submit written findings to the State Auditor (*week of April 17, 2017*). The engaged contractor should allow a minimum of 1 week for the State Auditor’s review and then plan on meeting with the contract monitor and State Auditor to discuss the findings. The engaged contractor could attend this meeting via conference call.
- Once the written findings are approved by the State Auditor, coordinate with the contract monitor to submit the findings to the CDPHE and OIT, as appropriate. Approximately 1 week later, hold a findings meeting with the CDPHE and OIT management to formally present and discuss the written findings. The engaged contractor should attend this meeting in person. The engaged contractor should also anticipate holding additional findings meetings to brief the audited agencies oversight bodies (e.g., Boards, Commissions, Committees, etc.), as necessary. The engaged contractor should attend these meetings in person.
- Prepare a draft audit report using the written findings and the requirements outlined in “Exhibit H – Reporting Requirements and Format for Separately Issued Reports” of the OSA’s standard contract. Due the nature of the audit, there could be two draft reports, one that will contain findings and recommendations that will be released by the LAC as a public report, and one that will remain confidential. The State Auditor and contract monitor will assist in making this determination. Any future reference to “audit report” will encompass the possibility of two reports.
- Submit the draft audit report to the contract monitor for review. Allow approximately 4 weeks for the contract monitor and State Auditor to review and for the engaged contractor to make revisions.
- Submit a draft audit report to CDPHE and OIT for review. Allow at least 2 weeks for CDPHE’s and OIT’s review—1 week prior to the exit conference, plus an additional week after the exit conference for revisions and to obtain CDPHE’s and OIT’s final written responses to any audit recommendations.
- Hold an exit conference with CDPHE and OIT approximately 1 week after submission to discuss the draft audit report and make revisions, as appropriate, to address comments or concerns raised by CDPHE and OIT. The engaged contractor should attend this meeting in person.
- Review the draft audit report and ensure the accuracy of all information contained in the report.
- Submit the final draft of the audit report to the OSA for final review and approval.
- Provide the contract monitor with an electronic copy of the final print-ready version of the report (in unprotected Word and PDF format) prior to printing.

- Provide the OSA with up to 100 hard copies of the bound printed report. The exact number of copies will be determined by the OSA at the time of report finalization. The OSA will be responsible for distributing the audit report to the Legislative Audit Committee, CDPHE, and OIT.
- Coordinate with the contract monitor regarding the format and content of the Legislative Audit Committee presentation. This may include providing a written script of the engaged contractor's presentation and/or conducting a dry run and incorporating revisions requested by the contract monitor.
- Conduct a dry run of the engaged contractor's presentation with the contract monitor and Deputy State Auditor and incorporate suggested revisions.
- Provide in-person oral testimony to the Legislative Audit Committee. The Legislative Audit Committee hearing is tentatively scheduled for *August 2017*. The engaged contractor may be required to testify for up to approximately 2 hours, providing an oral summary of the report and answering questions from Committee members.

Audit Purpose, Objectives & Scope

The purpose and objectives of this audit are to perform a departmental information technology and systems audit at CDPHE to determine whether information technology, systems, services, and information security governance, management and operational processes and controls are in place, and designed and operating effectively to:

1. Align with and support departmental business objectives and operations.
2. Ensure that data, information, and reports generated, processed, and maintained by a sample of significant departmental systems are reliable (i.e., accurate, complete, valid, authorized).
3. Ensure that a sample of significant departmental systems and the information and data they contain are secure (i.e., provide assurances over their confidentiality, integrity, and availability).
4. Ensure that relevant IT and information security processes and controls comply with applicable laws, rules, regulations, policies, procedures, standards, guidelines and industry best practices.

To achieve these objectives, the audit will focus on three significant departmental systems that have been preselected for inclusion in the scope of this audit. These three systems will be disclosed to the selected vendor upon award. Significant departmental systems include those that are deemed essential and critical to the department in supporting its business objectives. Other significant departmental systems may also be included in the scope of this audit if they are determined to be appropriate to support the completion of the audit objectives. Such additional systems may be identified after the start of the audit, during additional planning and risk assessment procedures performed

by the contractor. However, if this occurs, the selected contractor must work with the OSA to evaluate and agree upon whether to include such additional systems in the audit scope.

Departmental information technology, systems, services, and information security governance, management and operational processes and controls that are provided by third-party service providers (i.e., those not directly managed or operated by OIT or CDPHE) should not be included in the audit scope.

In performing this audit, and to achieve the audit objectives noted, the audit should include, but not be limited to, a review of the following:

1. IT and Information Security Governance and Management

- a. The effectiveness of the IT and information security governance structures to determine whether IT and information security decisions, directions and performance support the Department's business strategies and objectives.
- b. The IT and information security strategies, including the IT and information security direction, and the processes for the strategies' development, approval, implementation and maintenance for alignment with the Department's business strategies and objectives.
- c. IT and information security resource investment, use and allocation practices, including prioritization criteria, for alignment with the Department's business strategies and objectives.
- d. IT and information security contracting strategies and policies, and contract management practices to determine whether they support the Department's business strategies and objectives.
- e. Risk management practices to determine whether the Department's IT and information security related risks are properly managed.
- f. The Department's IT and information security policies, standards, and procedures, and the processes for their development, approval, implementation, maintenance, and monitoring, to determine whether they support the IT and information security strategy and comply with regulatory and legal requirements.
- g. IT and information security management and monitoring of controls (e.g., continuous monitoring, quality assurance [QA]) for compliance with the Department's policies, standards and procedures.
- h. Monitoring and assurance practices to determine whether executive management and appropriate oversight bodies receive sufficient and timely information about IT and information security performance.
- i. The Department's business continuity plan to determine the organization's ability to continue essential business operations during periods of an IT disruption and when and information security incidents occur.

2. IT Operations, Maintenance and Support (for the departmental systems sampled)

- a. Operations and end-user procedures to determine whether scheduled and nonscheduled processes are managed to completion.
- b. The processes of information systems maintenance to determine whether they are controlled effectively and continue to support the Department's business objectives.
- c. Data administration practices to determine the integrity and optimization of databases.
- d. The use of capacity and performance monitoring tools and techniques to determine whether IT services meet the Department's business objectives.
- e. Problem and incident management practices to determine whether incidents, problems or errors are recorded, analyzed and resolved in a timely manner.
- f. Change, configuration and release management practices to determine whether scheduled and nonscheduled changes made to the Department's production environment are adequately controlled and documented.
- g. The adequacy of backup and restore provisions to determine the availability of information required to resume processing.
- h. The Department's disaster recovery plan to determine whether it enables the recovery of IT processing capabilities in the event of a disaster.
- i. Service level management practices to determine whether the level of service from internal and external service providers is defined and managed.
- j. Third-party management practices to determine whether the levels of controls expected by the Department are being adhered to by the provider.

3. Protection of Information Assets and Resources (for the departmental systems sampled)

- a. The information security policies, standards and procedures for completeness and alignment with departmental or generally accepted practices and standards.
- b. The design, implementation and monitoring of all applicable information security policies, procedures, standards and controls which should include, but not be limited to, a review of:
 - i. Data classification processes and procedures for alignment with the Department's policies, standards, procedures and applicable external requirements;
 - ii. System and logical security controls to verify the confidentiality, integrity and availability of information;
 - iii. Physical access and environmental controls to determine whether information assets are adequately safeguarded;
 - iv. Processes and procedures used to store, retrieve, transport and dispose of information assets (e.g., backup media, offsite storage, hard copy/print data and softcopy media) to determine whether information assets and resources are adequately safeguarded.

- 4. Information Systems Acquisition, Development and Implementation** (For a sample of current or recent (i.e., those within the past three calendar years) departmental system acquisitions, developments or implementation projects)
- a. The business case for proposed investments in information systems acquisition, development, maintenance and retirements to determine whether they meet departmental business objectives.
 - b. The controls for information systems during the requirements, acquisition, development and testing phases for compliance with the Department's policies, standards, procedures and applicable external requirements.
 - c. The readiness of information systems for implementation and migration into production to determine whether project deliverables, controls and the departmental requirements are met.
 - d. Project management practices and controls to determine:
 - i. whether business requirements are achieved in a cost-effective manner while managing risks to the Department;
 - ii. whether projects progress in accordance with project plans;
 - iii. whether projects are adequately supported by documentation;
 - iv. whether project status reporting is accurate.
 - b. Post implementation reviews of systems to determine whether project deliverables, controls and the Department's requirements are met.

In reviewing the areas noted and any others as deemed necessary to achieve the audit objectives, the selected contract auditor should use, as criteria, applicable laws, rules, regulations, policies, procedures, and industry standards, guidelines, or best practice IT and information security process and control frameworks, as necessary (e.g., as selected, designed and implemented by the Department and its supporting IT and information security organizational units, etc.). This could include leveraging and applying one or more of the components under COSO, Green Book, COBIT, NIST, ISO 27000 series, FISMA, FISCAM, ITIL, and/or other industry standards, guidelines, or best practice IT and information security process and control frameworks.

D. INQUIRIES

Prospective bidders may make written inquiries concerning this RFP to obtain clarification of requirements. Please address all inquiries to **Matt Devlin, Contract Monitor**, matt.devlin@state.co.us. No inquiries will be accepted after **5:00 p.m. MDT on October 6, 2016**.

E. SUBMISSION

All proposals become the property of the State Auditor upon receipt and will not be returned to the bidder. The State Auditor shall have the right to use all ideas, or adaptations of these ideas, contained in any proposal received in response to this RFP. Selection or rejection of the proposal will not affect this right.

F. ACCEPTANCE OF PROPOSAL

This RFP does not commit the State Auditor to award a contract, to pay any costs incurred in the preparation of a bid submitted in response to this request, or to procure or contract for services or supplies. The State Auditor reserves the right to accept or reject, in part or in its entirety, any or all bids received as a result of this RFP if, in the opinion of the State Auditor, it is in the best interest of the State to do so. The lowest cost proposal will not necessarily be selected.

G. PROPOSALS - SCHEDULE

The following schedule will be followed:

1.	RFP available to prospective bidders	September 30, 2016
2.	Prospective bidder's inquiry deadline (5:00 p.m. MDT)	October 6, 2016
3.	OSA response to inquiry deadline	October 13, 2016
4.	Proposal submission deadline (5:00 p.m. MDT)	October 20, 2016
5.	Interviews with/Presentations by Top Candidates* <i>*Interviews Are Optional Based On State Auditor's Discretion</i>	November 3, 2016
6.	Approximate bid selection date	November 17, 2016
7.	Approximate contract date	November 24, 2016

Any proposal received after the submission deadline will not be considered. The proposal must be submitted via *email to Matt Devlin, Contract Monitor, matt.devlin@state.co.us*. The proposal must be signed by a person legally authorized to bind the bidder.

H. ADDENDUM OR SUPPLEMENT TO REQUEST FOR PROPOSAL

The State Auditor reserves the right to issue amendments to this RFP prior to the closing date for submission of proposals. In the event that it becomes necessary to revise any part of this RFP, an addendum to this RFP will be provided to each prospective bidder.

I. AWARD WITHOUT DISCUSSION

The State Auditor reserves the right to make an award without further discussion of proposals received. Therefore, it is important that the proposal be submitted in the most complete terms possible from both the technical and cost standpoint.

J. AWARD INFORMATION TO UNSUCCESSFUL FIRMS

The State Auditor will notify all unsuccessful bidders after the award. No information will be released after the proposal submission deadline until an award has been made.

K. JOINT VENTURES

No joint venture proposals will be accepted. However, this requirement does not preclude the use of outside special consultants if deemed necessary by the engaged contractor.

L. STATE AUDITOR LIAISON

The OSA's assigned contract monitor will be the liaison to the engaged contractor throughout the audit. This individual will attend entrance/exit conferences and assist the engaged contractor in understanding State Auditor requirements and reporting guidelines.

M. AWARD OF BID

The contract will be awarded to the bidder whose proposal will be most advantageous to the State of Colorado, price and other factors considered. The successful bidder will be awarded a contract for the scope detailed in this RFP. *The successful bidder is expected to execute and adhere to the terms and conditions in the OSA's standard contract and its related exhibits. A copy of the OSA's standard contract and its related exhibits is included in Section IV - Supplemental Information of this RFP.*

N. SUBMISSION OF INVOICES

The engaged contractor should submit monthly invoices for audit work completed. The State Auditor will withhold 10 percent of the total contract amount pending satisfactory completion of the audit.

SECTION II

INFORMATION THAT MUST BE INCLUDED IN PROPOSAL

All proposals *must* include the information requested in this section and be organized in the same manner as this section.

A. TITLE PAGE

The proposal will identify the RFP subject, contractor's name, address, telephone number, name of contact person, and date.

B. TABLE OF CONTENTS

The proposal will include a clear identification of the material included in the bid proposal by section and page number.

C. TRANSMITTAL LETTER

Please limit the transmittal letter to two or three pages. Provide the names of individuals authorized to make representations for the contractor and their titles, addresses, and telephone numbers.

D. PROFILE OF THE CONTRACTOR

The proposal must:

1. State whether the contractor is local, national, or international.
2. Give the location of the office from which the work would be done and number of partners, shareholders, and managers and other professional staff employed at that office.
3. Describe the range of activities performed by the office from which the work would be done.
4. Describe the proposed audit team's capabilities, including the number and classifications of personnel who will work on the audit.
5. Affirm that the contractor is independent for this audit engagement.
6. Describe any work performed for CDPHE, OIT, or the State of Colorado within the past 2 years (*September 2014-September 2016*), and any work planned for the CDPHE, OIT, or the State of Colorado, and explain why this work would not

impair the contractor's independence in performing this audit of CDPHE and OIT

7. Affirm that the contractor does not have any past history of substandard work (e.g., a prior engagement has been terminated for poor performance).
8. Provide information on any past, current, or anticipated claims (i.e., knowledge of pending claims) on respondent contracts; explain the litigation, the issue, and its outcome or anticipated outcome.
9. Provide a copy of the results of the contractor's most recent external peer review if the contractor will conduct an audit under generally accepted government auditing standards.

E. QUALIFICATIONS OF ASSIGNED PERSONNEL

The proposal must identify the principal staff (i.e., principals, managers, and supervisors/in-charges) who will work on the audit, including any specialists or subcontractors to be used. The proposal must include a resume of all principal staff highlighting their professional qualifications and similar audit work that they have performed. Resumes must be included in an appendix.

F. CONTRACTOR'S APPROACH TO THE AUDIT

The proposal must include a description of the methodology, approach, tools, and resources to be used to conduct the audit. The proposal should set forth the audit steps that the contractor will take to achieve each of the specific objectives outlined in this RFP as well as to develop all parts of a finding (as described in "Exhibit G – Developing and Presenting Findings" of the OSA's standard contract) for each problem identified. The proposal must indicate whether the contractor will conduct the project under generally accepted government auditing standards and, if not, indicate any other applicable professional standards to which the contractor will adhere.

G. COMPENSATION

1. The proposal must state the number of professional staff hours estimated to complete the audit work by staff level, the hourly rate, and the resulting total cost. The prospective bidder is advised that travel costs incurred in the performance of audits are reimbursable only as a part of the hourly rate and must be covered under said rate and will not be separately reimbursed.
2. The proposal should break out total hours estimated to: (1) complete each issue/objective/question and (2) write and revise findings and the final audit report.

3. The proposal must state the total inclusive maximum fee for which the work requested will be done.
4. The proposal should affirm that all prices, terms, and conditions will be held firm for at least 90 days after the bid opening.

H. DELIVERY SCHEDULE

The proposal must include a detailed proposed schedule of the audit work to be performed and deliverable due dates for the project milestones discussed in Section I, Part C of this RFP.

I. ADDITIONAL DATA

Since the preceding sections are to contain information that is specifically requested, the contractor may include any additional information considered essential to the proposal in this section. The contractor should not include general information publications, such as directories or client lists.

SECTION III

PROPOSAL EVALUATION PROCESS

A. GENERAL

An OSA evaluation team will judge the merits of proposals received in accordance with the general criteria defined below. The bidder is responsible for providing all information requested in this RFP. Failure to do so may result in disqualification of the proposal.

The evaluation team will select the bidder whose proposal is most responsive to the State Auditor's needs while being within available resources. The specifications within this RFP represent the minimum performance necessary for response.

During the evaluation process, the evaluation committee may, at its discretion, request any one or all bidders to make oral presentations or answer questions about their proposals. Not all bidders may be asked to make such oral presentations.

B. MANDATORY CRITERIA

1. The contractor is independent for the audit engagement.

C. GENERAL CRITERIA

1. Adequacy and completeness of the proposal with regard to the information specified in Section II of this RFP.
2. Experience and stability of the contractor.
3. Qualifications and experience of staff, including subcontractors, specialists, and consultants to be assigned to the audit.
4. Comprehensiveness and appropriateness of the proposed audit work plan.
5. Proposed costs (number of hours and hourly rate).
6. Proposed time frame for meeting project milestones and completing the audit.

TOTAL SCORE

The evaluation team will assign scores to the proposals based on the established criteria. The State Auditor will make the final decision on the contract award.

SECTION IV

SUPPLEMENTAL INFORMATION

Enclosed with this RFP are the following:

1. Standard OSA contract and related exhibits. *The successful bidder is expected to execute and adhere to the terms and conditions in the OSA's standard contract and its related exhibits.*

The following website links may provide additional relevant information in preparing proposals:

- Office of the State Auditor:
<http://leg.colorado.gov/agencies/office-of-the-state-auditor>
- State of Colorado Office of Information Technology (OIT):
<http://www.colorado.gov/oit>
- State of Colorado Office of Information Security (OIS):
<http://www.oit.state.co.us/ois>
- OIT Colorado Information Security Policies & Standards:
<http://www.oit.state.co.us/ois/policies>
- Systems Backup and Recovery, IT Performance Audit, October 2014, Governor's Office of Information Technology:
[http://www.leg.state.co.us/OSA/coauditor1.nsf/All/785591EC8A81E84987257D8100669340/\\$FILE/1403P%20-%20Systems%20Backup%20and%20Recovery,%20IT%20Performance%20Audit,%20October%202014%20REV.pdf](http://www.leg.state.co.us/OSA/coauditor1.nsf/All/785591EC8A81E84987257D8100669340/$FILE/1403P%20-%20Systems%20Backup%20and%20Recovery,%20IT%20Performance%20Audit,%20October%202014%20REV.pdf)

STATE OF COLORADO
State Auditor and
Legislative Audit Committee
Performance Audit Contract for the
Audit of the INSERT NAME OF ENTITY
With
INSERT NAME OF CONTRACTOR

TABLE OF CONTENTS

1. PARTIES.....	1
2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY	1
3. RECITALS	1
4. DEFINITIONS	1
5. TERM AND EARLY TERMINATION.....	2
6. STATEMENT OF WORK	3
7. PAYMENTS TO CONTRACTOR	3
8. REPORTING - NOTIFICATION	3
9. CONTRACTOR RECORDS.....	4
10. WORK PRODUCT - CONFIDENTIAL INFORMATION-STATE RECORDS	4
11. CONFLICTS OF INTEREST.....	5
12. REPRESENTATIONS AND WARRANTIES.....	5
13. INSURANCE	6
14. DISPUTE RESOLUTION.....	6
15. BREACH.....	6
16. REMEDIES	7
17. NOTICES AND REPRESENTATIVES	7
18. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE	8
19. GOVERNMENTAL IMMUNITY	8
20. GENERAL PROVISIONS	8
21. COLORADO SPECIAL PROVISIONS	11
22. SIGNATURE PAGE	13
23. EXHIBIT A - STATEMENT OF WORK.....	Exhibit A-i
24. EXHIBIT B - REQUEST FOR PROPOSAL.....	Exhibit B-i
25. EXHIBIT C - MODIFICATIONS TO CONTRACTOR’S PROPOSAL.....	Exhibit C-i
26. EXHIBIT D - CONTRACTOR’S PROPOSAL	Exhibit D-i
27. EXHIBIT E - INFORMATION SECURITY POLICY FOR CONTRACTORS	Exhibit E-i
28. EXHIBIT F - COMPENSATION AND PROCEDURES FOR BILLING.....	Exhibit F-i
29. EXHIBIT G - DEVELOPING AND PRESENTING PERFORMANCE AUDIT FINDINGS.....	Exhibit G-i
30. EXHIBIT H - REPORTING REQUIREMENTS AND FORMAT FOR SEPARATELY ISSUED REPORTS	Exhibit H-i

1. PARTIES

This Contract (“Contract”) is entered into by and between [REDACTED] (“Contractor”), and the STATE OF COLORADO acting by and through and for the use and benefit of the State Auditor and the Legislative Audit Committee (the “State”). Contractor and the State hereby agree to the following terms and conditions.

2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY

This Contract shall be effective and enforceable once it is approved and signed by the State Auditor or designee (the “Effective Date”). The State shall not be liable to pay or reimburse Contractor for any performance hereunder including costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

3. RECITALS

A. Authority, Appropriation, And Approval

Authority to enter into this Contract exists in CRS §2-3-103(1) and funds have been budgeted, appropriated and otherwise made available pursuant to Fund 1000, Appropriation Code MGFCC4010, Contract Encumbrance Number 20[REDACTED]-[REDACTED], and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

B. Consideration

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Contract.

C. Purpose

The State desires to engage Contractor to render certain professional auditing services.

D. References

All references in this Contract to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

4. DEFINITIONS

The following terms as used herein shall be construed and interpreted as follows:

A. Audit Report

“Audit Report” means [REDACTED].

B. Audited Agency

“Audited Agency” means [REDACTED], hereinafter referred to as “[REDACTED]”, which **is/are** subject to audit under this Contract.

C. Contract

“Contract” means this Contract, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this Contract, and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to Colorado State law.

D. Contract Funds

“Contract Funds” means funds available for payment by the State to Contractor pursuant to this Contract as set forth in §7(A) (Maximum Amount).

E. Exhibits and other Attachments

The following are attached hereto and incorporated by reference herein: **Exhibit A** (Statement of Work), **Exhibit B** (Request for Proposal), **Exhibit C** (Modifications to Contractor’s Proposal), **Exhibit D** (Contractor’s Proposal), **Exhibit E** (Information Security Policy for Contractors), **Exhibit F** (Compensation and Procedures for Billing),

Exhibit G (Developing and Presenting Performance Audit Findings), and **Exhibit H** (Reporting Requirements and Format for Separately Issued Reports).

F. Modifications to Proposal

“Modifications to Proposal” means the modifications to Contractor’s Proposal, dated [REDACTED].

G. Party or Parties

“Party” means the State or Contractor and “Parties” means both the State and Contractor.

H. Proposal

“Proposal” means Contractor’s Proposal dated [REDACTED].

I. Request for Proposal or RFP

“Request for Proposal” or “RFP” means the State’s Request for Proposal, issued [REDACTED], including the supplement to the RFP, dated [REDACTED].

J. Services

“Services” means the required performance auditing services to be performed by Contractor pursuant to this Contract.

K. State Auditor

“State Auditor” means the Colorado State Auditor. The Office of the State Auditor may be referred to as “OSA.”

L. Subcontractor

“Subcontractor” means a third-party, if any, engaged by Contractor to aid in performance of its obligations.

M. Work

“Work” means the tasks and activities Contractor is required to perform to fulfill its obligations under this Contract and the **Exhibits**, including the performance of the Services and delivery of the Work Product.

N. Work Product

“Work Product” means the tangible or intangible results of Contractor’s Work, including the Audit Report, work papers subject to §18 herein, and reports, which are specified in Exhibit H.

5. TERM AND EARLY TERMINATION

A. Term-Work Commencement

The Parties’ respective performances under this Contract shall commence on the Effective Date. This Contract shall terminate thirty (30) days after the Audit Report has been released by the Legislative Audit Committee, but in no event later than [REDACTED], unless sooner terminated as specified herein. The State may terminate this Contract for any reason, without penalty to the State, upon thirty (30) days prior written notice to Contractor.

B. Early Termination

Upon early termination, Contractor shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding subcontracts with third parties. Contractor shall complete and deliver to the State all Work, Services, and Work Product to the extent completed as of the date of termination. Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor in which the State has an interest. All materials owned by the State in the possession of Contractor shall be immediately returned to the State. The State shall reimburse Contractor for accepted performance up to the date of termination.

6. STATEMENT OF WORK

A. Completion

Contractor shall complete the Work and its other obligations as described herein and in the **Exhibits** on or before _____.

B. Services and Work Product

Contractor shall provide the Services and deliver the Work Product necessary to complete the Work. Such procurement shall be accomplished using the Contract Funds and shall not increase the maximum amount payable hereunder by the State.

C. Employees

All persons employed by Contractor or Subcontractors to perform Work under this Contract shall be Contractor's or Subcontractors' personnel for all purposes hereunder and shall not be employees of the State for any purpose as a result of this Contract.

7. PAYMENTS TO CONTRACTOR

The State, in accordance with the provisions of this §7, shall pay Contractor in the amounts and using the methods set forth below:

A. Maximum Amount

The maximum amount payable under this Contract to Contractor by the State is \$_____, as determined by the State from available funds. Payments to Contractor are limited to the unpaid obligated balance of the Contract set forth in **Exhibit F** (Compensation and Procedures for Billing). The estimated amount payable by the State to Contractor during State Fiscal Year 20____-20____ shall be \$_____, and the estimated amount payable by the State to Contractor during State Fiscal Year 20____-20____ shall be \$_____. The exact funding split between fiscal years, if applicable, will be determined by the State based on amounts that have been budgeted, appropriated, or otherwise made available for this contract.

B. Payment

i. Interim and Final Payments

Contractor shall initiate any payment requests by submitting invoices to the State in the form and manner approved by the State.

ii. Interest

The State shall fully pay each invoice within 45 days of receipt thereof if the amount invoiced represents performance by Contractor previously accepted by the State. Uncontested amounts not paid by the State within 45 days shall bear interest on the unpaid balance beginning on the 46th day at a rate not to exceed one percent per month until paid in full; provided, however, that interest shall not accrue on unpaid amounts that are subject to a good faith dispute. Contractor shall invoice the State separately for accrued interest on delinquent amounts. The billing shall reference the delinquent payment, the number of day's interest to be paid, and the interest rate.

iii. Erroneous Payments

At the State's sole discretion, payments made to Contractor in error for any reason, including overpayments or improper payments, and unexpended or excess funds received by Contractor, may be recovered from Contractor by deduction from subsequent payments under this Contract or other contracts, grants or agreements between the State and Contractor or by other appropriate methods and collected as a debt due to the State. Such funds shall not be paid to any party other than the State.

C. Use of Funds

Contract Funds shall be used only for costs identified herein and in the **Exhibits**.

8. REPORTING - NOTIFICATION

Reports required under this §8 shall be in accordance with the procedures of and in such form as prescribed by the State.

A. Performance, Progress, Personnel, and Funds

Contractor shall comply with all reporting requirements, if any, set forth in the **Exhibits**.

B. Litigation Reporting

To the extent permitted by law, within ten (10) days after being served with any pleading in a legal action filed with a court or administrative agency, related to this Contract or which may affect Contractor's ability to perform its obligations hereunder, Contractor shall notify the State of such action and deliver copies of such pleadings to the State's principal representative as identified herein. If the State's principal representative is not then serving, such notice and copies shall be delivered to the State Auditor.

C. Noncompliance

Contractor's failure to provide reports and notify the State in a timely manner in accordance with this §8 may result in the delay of payment of funds, termination, or both, as provided under this Contract.

D. Subcontracts

Copies of any and all subcontracts entered into by Contractor to perform its obligations hereunder shall be submitted to the State or its principal representative upon request by the State. Any and all subcontracts entered into by Contractor related to its performance hereunder shall comply with all applicable federal and state laws and shall provide that such subcontracts be governed by the laws of the State of Colorado.

9. CONTRACTOR RECORDS

A. Maintenance

Contractor shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all audit work papers and reports pertaining in any manner to the Work or the delivery of Services or Work Product hereunder. Unless Contractor receives written notice of an extension from the State, the federal government or another duly authorized agent of a governmental agency, Contractor shall maintain such records for a period of at least five (5) years after (i) the date the Audit Report is accepted by the State or (ii) the sooner expiration or termination of this Contract (collectively, the "Record Retention Period").

B. Inspection

Contractor, at no additional charge, shall permit the State, the federal government and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and transcribe Contractor's work papers and reports related to this Contract during the Record Retention Period to assure compliance with the terms hereof, to evaluate performance hereunder, or for any other purpose required by the State. The State reserves the right to inspect the Work at all reasonable times and places during the term of this Contract, including any extensions or renewals.

C. Monitoring

Contractor shall permit the State, in its sole discretion, to monitor all activities and Work conducted by Contractor pursuant to the terms of this Contract using any reasonable procedure.

10. WORK PRODUCT-CONFIDENTIAL INFORMATION-STATE RECORDS

The Work Product developed by Contractor during the performance of the Services shall be confidential to Contractor and the State; except as otherwise may be required by law, regulation, judicial, or administrative process, or in accordance with applicable professional standards or rules, or in connection with litigation pertaining hereto, Contractor shall not provide the Work Product to parties other than the State without the written approval of the State as provided by CRS §2-3-103(3). Contractor shall forward immediately to the State any requests for Work Product the Contractor receives pursuant to CRS §24-72-201, et seq. (the Colorado Open Records Act).

11. CONFLICTS OF INTEREST

A. Audited Agency

Contractor shall not discuss, arrange for, or accept auditing (financial or performance) or non-auditing work not identified in this Contract with the Audited Agency during the term of this Contract, without the express written approval of the State.

B. Other State Agencies

Contractor shall provide written notice to the State, in accordance with §17 (Notices and Representatives) of this Contract, before entering into a contract or engagement with another State agency, department, or division subject to audit by the State.

C. In General

Contractor shall comply with the current revision of *Government Auditing Standards* issued by the U.S. Comptroller General with respect to any conflicts of interest arising from the performance of this Contract.

12. REPRESENTATIONS AND WARRANTIES

Each Party has relied on the representations and warranties of the other Party set forth below in entering into this Contract.

A. Qualifications, Standards and Manner of Performance

Contractor warrants that it is qualified to perform the Services and the Work Product. Contractor shall perform its obligations hereunder in accordance with generally accepted government auditing standards contained in the current revision of *Government Auditing Standards* issued by the U.S. Comptroller General.

B. Legal Authority – Contractor Signatory

Contractor warrants that it possesses the legal authority to enter into this Contract and that it has taken all actions required by its procedures, by-laws, and applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Contract, or any part thereof, and to bind Contractor to its terms. If requested by the State, Contractor shall provide the State with proof of Contractor's authority to enter into this Contract within fifteen (15) days of receiving such request.

C. Licenses, Permits, Etc.

Contractor represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have and maintain, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorizations required by law to perform its obligations hereunder. Contractor warrants that it shall maintain all necessary licenses, certifications, approvals, insurance, permits, and other authorizations required to properly perform this Contract, without reimbursement by the State or other adjustment in Contract Funds. Additionally, all employees, agents, and Subcontractors of Contractor performing Services under this Contract shall hold all required licenses or certifications, if any, to perform their responsibilities. Contractor, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain any applicable certificate of authority to transact business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any such similar requirements necessary for Contractor to properly perform the terms of this Contract is a material breach by Contractor and constitutes grounds for termination of this Contract.

D. Contractor Independence

Contractor should be independent in performing the audit engagement. The State represents and warrants that it shall not request or require Contractor to surrender Contractor's "independence" as such term is professionally understood.

E. Disclaimer

Except for the representations and warranties expressly stated in this Contract, the Parties disclaim all representations and warranties, written or oral, express or implied.

13. INSURANCE

Contractor and its Subcontractors shall obtain and maintain, at all times during the term of this Contract, insurance policies issued by insurance companies satisfactory to Contractor and the State, in form and amount reasonably acceptable to the State, providing coverage for Worker's Compensation Insurance as required by State statute, Employer's Liability Insurance covering all of their respective employees acting within the course and scope of their employment, Commercial General Liability Insurance, and Professional Liability/Errors & Omissions. Upon request of the State, Contractor and all Subcontractors shall provide to the State certificates showing insurance coverage required hereunder.

14. DISPUTE RESOLUTION

Disputes concerning the performance of this Contract, which cannot be resolved by the designated Contract representatives, shall be referred in writing to the State Auditor and the Contractor's [corresponding executive level (i.e. "managing partner at the xx office")] for resolution. The State Auditor and the Contractor's [corresponding executive level (i.e. "managing partner at the xx office")] shall discuss the problem without the necessity of a formal proceeding and attempt to resolve the matter in dispute. In the event the State Auditor and the Contractor's [corresponding executive level (i.e. "managing partner at the xx office")] are able to agree to a mutual resolution of the dispute, such resolution will be formalized in writing in accordance with this Contract. Either Party may find, at any time, that the attempted resolution of the dispute has failed, at which time each Party shall be free to pursue any and all remedies available to such Party, including without limitation, those available under this Contract, at law or in equity.

15. BREACH

A. Defined

In addition to any breaches specified in other sections of this Contract, the following shall constitute a breach of this Contract:

i. Material Obligations

The failure of Contractor to perform any of its material obligations hereunder, to the satisfaction of the State, in whole or in part or in a timely or satisfactory manner; or

ii. Satisfactory Performance

The State, in its reasonable discretion, determines that satisfactory performance of Contractor's obligations under this Contract is substantially endangered; or

iii. Bankruptcy

The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within twenty (20) days after the institution or occurrence thereof; or

iv. Material Misrepresentation

Any statement, representation, or certification furnished by Contractor in connection with the RFP, Contractor's Proposal, Modifications to Contractor's Proposal or this Contract is false, deceptive, incorrect or incomplete in any material respects; or

v. Failure to Timely Deliver Reports

Failure by Contractor to complete and deliver the Audit Report or Work Product by the date specified in §6(A) (Statement of Work), unless Contractor can show that the delinquency resulted from causes beyond its control such as failure of the Audited

Agency to provide, by the date specified in a written request from Contractor: requested documentation, records, or information; records that are auditable; audit schedules; or responses to Contractor's findings and recommendations. Contractor shall allow a reasonable amount of time for the Audited Agency to provide the requested information and responses.

B. Notice and Cure Period

In the event of a breach, notice specifying the nature of such breach shall be given in writing by the aggrieved Party to the other Party in the manner provided in §17 (Notices and Representatives). If such breach is not cured within twenty (20) days of receipt of written notice, or if a cure cannot be completed within twenty (20) days and such cure has not begun within twenty (20) days and pursued with due diligence, the State may exercise any of the remedies set forth in §16 (Remedies). Notwithstanding anything to the contrary herein, the State, in its sole discretion, need not provide advance notice of a cure period and may immediately terminate this Contract in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

16. REMEDIES

If Contractor fails to cure a breach under any provision of this Contract in accordance with §15(B) (Breach), the State may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

A. Termination for Breach

The State may terminate this Contract upon written notice to Contractor. Exercise by the State of this right shall not be a breach of its obligations hereunder.

B. Liquidated Damages

Failure by Contractor to complete and deliver the Audit Report by the date specified in Exhibit A (Statement of Work) shall result in liquidated damages of \$100 per day for each day delinquent. To the extent Contractor's failure is excused under §15(A)(v) (Breach), liquidated damages shall not be due to the State. The Parties agree that the damages from Contractor's failure to timely deliver the Audit Report is difficult to provide or estimate, and the amount of liquidated damages specified herein represents a reasonable estimation of damages that will be suffered by the State from late performance. Assessment of liquidated damages shall not be exclusive or in any way limit the remedies available to the State, at law or in equity, for other breaches by Contractor under this Contract.

C. Withhold Payment

Withhold payment to Contractor until corrections in Contractor's performance are satisfactorily made and completed.

D. Deny Payment

Deny payment for obligations not performed, that due to Contractor's actions or inactions, cannot be performed or, if performed, would be of no value to the State; provided, that any denial of payment shall be reasonably related to the value to the State of the obligations not performed.

17. NOTICES AND REPRESENTATIVES

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

A. State:

Kerri Hunter Deputy State Auditor
Office of the State Auditor
1525 Sherman St., 7 th Floor
Denver, Colorado 80203-1700
kerri.hunter@state.co.us

B. Contractor:

Name
Address
City, State Zip
Email

C. Media

The State shall be the official spokesperson to the news media pertaining to the engagement, Work Product, and Audit Report. Contractor shall forward immediately to the State any inquiries from the news media pertaining to the engagement, Work Product, or Audit Report.

18. RIGHTS IN DATA AND DOCUMENTS

The audit work papers developed by Contractor during the performance of the Services shall be the exclusive property of Contractor. The State shall have the right to copy the audit work papers. Except as provided in §9B and §10, Contractor shall not provide the work papers to third-parties or permit third parties to review, access or use the work papers, without the prior written consent of the State as provided by CRS §2-3-103(3). Contractor shall forward immediately to the State any requests for work papers the Contractor receives pursuant to CRS §24-72-201, et seq. (the Colorado Open Records Act).

19. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the Governmental Immunity Act §24-10-101, et seq., and the risk management statutes, CRS §24-30-1501, et seq., as amended.

20. GENERAL PROVISIONS

A. Assignment and Subcontracts

Contractor’s rights and obligations hereunder are personal and may not be transferred, assigned or subcontracted without the prior, written consent of the State. Any subcontract entered into subsequent to the Effective Date must be approved by the State in writing before it is reimbursable. Any attempt at assignment, transfer, subcontracting without such consent shall be void. All assignments, subcontracts, or subcontractors approved by Contractor or the State are subject to all of the provisions hereof. Contractor shall be solely responsible for all aspects of subcontracting arrangements and performance, including compliance with all applicable federal and state laws.

B. Binding Effect

Except as otherwise provided in §20(A) (Assignment and Subcontracts), all provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties’ respective heirs, legal representatives, successors, and assigns.

C. Captions

The captions and headings in this Contract are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

D. Counterparts

This Contract may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

E. Entire Understanding

This Contract represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or affect whatsoever, unless embodied herein.

F. Jurisdiction and Venue

All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. Modification

i. By the Parties

Except as specifically provided in this Contract, modifications of this Contract shall not be effective unless agreed to in writing by both Parties in an amendment to this Contract, properly executed and approved in accordance with applicable Colorado State law.

ii. By Operation of Law

This Contract is subject to such modifications as may be required by changes in federal or Colorado state law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Contract on the effective date of such change, as if fully set forth herein. If any such modification materially and adversely affects Contractor, Contractor may terminate this Contract upon 30 days prior notice without incurring liability, penalty, or recourse related thereto.

H. Order of Precedence

The provisions of this Contract shall govern the relationship of the State and Contractor. In the event of conflicts or inconsistencies between this Contract and its exhibits and attachments, including those provided by Contractor, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i.** Colorado Special Provisions,
- ii.** The remaining provisions of the main body of this Contract,
- iii.** **Exhibit A** (Statement of Work),
- iv.** **Exhibit B** (Request for Proposal),
- v.** **Exhibit C** (Modifications to Contractor's Proposal),
- vi.** **Exhibit D** (Contractor's Proposal),
- vii.** **Exhibit E** (Information Security Policy for Contractors),
- viii.** **Exhibit F** (Compensation and Procedures for Billing),
- ix.** **Exhibit G** (Developing and Presenting Performance Audit Findings),
- x.** **Exhibit H** (Reporting Requirements and Format for Separately Issued Reports).

I. Severability

Provided this Contract can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof, provided that the Parties can continue to perform their obligations under this Contract in accordance with its intent.

J. Survival of Certain Contract Terms

Notwithstanding anything herein to the contrary, provisions of this Contract requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State if Contractor fails to perform or comply as required.

K. Taxes

- i.** The State is exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under CRS §§39-26-101 and 201 et seq. Such exemptions apply when materials are purchased or services are rendered to benefit the State; provided however, that certain political subdivisions (e.g., City of Denver) may require payment of sales or use taxes even though the product or service is provided to the State. Contractor shall be solely liable for paying such taxes as the State is prohibited from paying or reimbursing Contractor for such taxes.
- ii.** Contractor shall be responsible for all withholding taxes, social security, unemployment, workers' compensation, or other taxes incidental to its employees, and shall hold the State harmless for any claims for the same.

L. Third Party Beneficiaries

Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to the Contract, and do not create any rights for such third parties.

M. Waiver

Waiver of any breach under a term, provision, or requirement of this Contract, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK

21. COLORADO SPECIAL PROVISIONS

A. FUND AVAILABILITY. CRS §24-30-202(5.5).

Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

B. GOVERNMENTAL IMMUNITY.

No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

C. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits shall be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall not have authorization, express or implied, to bind the State to any contract, liability or understanding, except as expressly set forth herein. Contractor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

D. COMPLIANCE WITH LAW.

Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

E. CHOICE OF LAW.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Contract, to the extent capable of execution.

F. BINDING ARBITRATION PROHIBITED.

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.

G. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the

State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

H. EMPLOYEE FINANCIAL INTEREST. CRS §§24-18-201 and 24-50-507.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

I. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4.

Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

J. PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101.

Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who shall perform work under this Contract and shall confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program or the State program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor (a) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this Contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the State program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this Contract for breach and, if so terminated, Contractor shall be liable for damages.

K. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101.

Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this Contract.

SPs Effective 1/1/09

22.SIGNATURE PAGE

Contract Routing Number 20XX-XX

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

*** Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect.**

<p style="text-align: center;">CONTRACTOR</p> <p style="text-align: center;">_____</p> <p>By: _____ Title: _____</p> <p>_____</p> <p style="text-align: center;">*Signature</p> <p>Date: _____</p>	<p style="text-align: center;">STATE OF COLORADO John W. Hickenlooper, GOVERNOR <i>Colorado Office of the State Auditor</i> Dianne E. Ray, State Auditor</p> <p>_____</p> <p style="text-align: center;">By: Dianne E. Ray, State Auditor</p> <p style="text-align: center;">Signatory avers that Contractor has not begun performance or that a Statutory Violation waiver has been requested</p> <p>Date: _____</p> <p>_____</p> <p style="text-align: center;">Legislative Audit Committee Chair</p> <p style="text-align: center;">LEGAL REVIEW Dan L. Cartin, Director Office of Legislative Legal Services</p> <p>By: _____</p> <p style="text-align: center;">Signature – Deputy State Auditor</p> <p>Date: _____</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

23. EXHIBIT A – STATEMENT OF WORK

1. GENERAL DESCRIPTION

Contractor shall conduct a performance audit of the Audited Agency in a manner consistent with the terms and conditions of the Contract and the Exhibits and in accordance with (insert applicable auditing standards here – generally accepted government auditing standards).

2. CONTRACTOR’S OBLIGATIONS

The Work to be performed by Contractor shall include the following:

A. Scope

Contractor’s audit of the Audited Agency shall include the following, as provided herein and in the Contract:

1. [ADD detailed description of work to be completed.]
2. Contractor shall maintain an awareness of any areas outside of the Services in which the Audited Agency may not be carrying out the Audited Agency’s programs in an effective and efficient manner. Contractor shall discuss any such areas with the State to determine whether the State desires Contractor to undertake additional performance audit services that are outside the scope of this Contract. The cost of such performance audit services are not included within the scope of this Contract, and any additional performance audit services shall be subject to negotiation and set forth in a separate agreement among Contractor, the State Auditor, and the Legislative Audit Committee.

B. Review by State

The State shall have access to and the right to review Contractor’s Audit Report, audit findings and recommendations, and audit work papers during the drafting stage of the Audit Report and prior to completion of the Audit Report in final form. Contractor may not submit the Audit Report to the Audited Agency until the Audit Report is deemed acceptable and approved by the State.

C. Availability

Contractor, upon the request of the State, shall furnish copies of Contractor’s audit programs developed pursuant to this Contract and make all other audit work papers available to the State for review or use in future audits, at no additional charge to the State.

D. Reports

Contractor shall prepare and deliver the Audit Report to the State no later than (Month) (Day), (Year), unless an extension of time has been approved by the State. In the event Contractor becomes aware that the due date for the Audit Report cannot be met, for any reason, Contractor shall notify the State Auditor in writing of the reasons therefor and a specific date when the Audit Report will be delivered. For a separately issued Audit Report, Contractor shall deliver to the State up to 100 copies of the bound report. The exact number of copies will be determined by the State at the time of report finalization. Acceptable binding formats are limited to spiral, comb, or glued bindings; 3-ring bindings are not acceptable. Contractor shall also deliver to the State an electronic copy of the Audit Report in unprotected Adobe PDF format or other format prescribed by the State.

E. Oral Presentations

The Contractor shall make an oral presentation of Audit Report findings and recommendations to the Legislative Audit Committee and, if applicable, one other legislative committee selected by the State.

F. Entrance/Exit Conferences

The State shall participate in all entrance and exit conferences between the Audited Agency and Contractor, as well as all major conferences dealing with auditing exceptions, audit findings, and recommendations.

G. Fraud

Should Contractor become aware of fraud or indications of fraud affecting the Audited Agency, Contractor shall notify the State Auditor immediately. Contractor should follow guidance contained in the current revision of *Government Auditing Standards* issued by the U.S. Comptroller General, regarding the reporting of such fraud or indications of fraud.

3. PERSONNEL

A. Contract Monitor

Contractor’s performance hereunder shall be monitored by [REDACTED], an employee or agent of the State, who is hereby designated as the contract monitor(s) of this Contract.

B. Other Key Personnel

The key personnel identified by Contractor in the Contractor’s Proposal are deemed to be essential to the Work being performed under the Contract.

C. Replacement

Contractor shall immediately notify the State if any key personnel cease to be employed by Contractor. Prior to diverting any key personnel to other programs, Contractor shall give to the State fifteen (15) days advance notice and shall submit to the State justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact on the audit by the State. No diversion shall be made by Contractor without consent of the State, which shall not be unreasonably withheld. Replacement of any key personnel shall be with personnel of substantially equal ability and qualifications to perform work under this Contract.

4. ACCEPTANCE CRITERIA

If the State determines that the Audit Report is unacceptable (either before or after a draft or a final Report is issued) for failure to comply with auditing standards or any of the requirements included in the Contract, Contractor, at the State’s direction, shall be required to re-audit at its own expense and submit a revised report. The State’s right to reject Contractor’s drafts or final report because of the failure to comply and Contractor’s obligation to re-audit or revise shall extend throughout the term of this Contract and continue for one (1) full year after the termination of this Contract.

5. PAYMENTS

Payments shall be made in accordance with the provisions set forth in the Contract and **Exhibit F** (Compensation and Procedures for Billing).

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK

24. EXHIBIT B – REQUEST FOR PROPOSAL

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK

25. EXHIBIT C – MODIFICATIONS TO CONTRACTOR’S PROPOSAL

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK

26. EXHIBIT D –CONTRACTOR’S PROPOSAL

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK

27. EXHIBIT E - INFORMATION SECURITY POLICY FOR CONTRACTORS

Applicability

This policy applies to all OSA Contractors at all locations who are conducting audits or professional services on behalf of the OSA using State of Colorado information, electronic or otherwise.

Definitions

Confidential information assets – are defined in paragraph 5. below.

OSA Contractor(s) or Contractor(s) – any business, company, corporation, partnership, or individual conducting business on behalf of or in cooperation with the OSA, whether via contract, purchase order, or other purchasing agreement. OSA Contractors include sub-contractors and their employees.

Protected information assets - are defined in paragraph 4. below.

State of Colorado information, information or audit information – any information, whether in electronic or hard copy form, obtained, utilized, or generated by an OSA Contractor while performing work on behalf of the OSA.

State Auditor Authority and Responsibility

The State Auditor's authority and responsibility for accessing and handling confidential information is set forth in the Colorado Revised Statutes. §2-3-107 (2) (a), C.R.S., provides that the State Auditor or his or her designated representative "shall have access at all times . . . to all of the books, accounts, reports, vouchers, or other records or information in any department, institution, or agency, including records or information required to be kept confidential or exempt from public disclosure upon subpoena, search warrant, discovery proceedings, or otherwise." Additionally, §2-3-103 (3), C.R.S., provides that "work papers of the office of the State Auditor shall be open to public inspection only upon approval of the majority of the members of the audit committee" and that "work papers that have not been specifically approved for disclosure by a majority vote of the committee shall remain confidential." Finally, §2-3-103.7 and §2-3-107 (2) (b), C.R.S., prescribe penalties for willful or unlawful release of confidential information and prohibit the release of information required to be kept confidential pursuant to any law. The volume and availability of confidential information in electronic and hardcopy format, along with the risk to the OSA should confidential information be inadvertently released or breached, heightens the need for rigorous procedures governing the receipt, storage, and destruction of confidential data.

Policy Compliance

1. All OSA Contractors and their personnel who are performing the Services or the Work are required to understand and abide by this policy.
2. By signing an OSA contract or purchase order, OSA Contractors agree to abide by this policy and require its personnel performing the Services or the Work under such OSA contract, including sub-contractors and their employees, understand and abide by this policy.

Data Classification

3. All State of Colorado information assets whether in hardcopy or electronic form (e.g., data, databases, reports, communications, manuals, documentation for systems, procedures, and plans) and used in the course of an audit on behalf of the OSA is considered either “Protected” or “Confidential,” unless expressly stated otherwise in writing by the State Auditor.
4. Protected information assets are defined as information that is required by federal, state, or local laws and statutes to be protected, or in the event of a breach of confidentiality, loss of integrity, or lack of availability, would have serious impact to the OSA or the State up to and including physical harm to individuals, or that which would cause significant hardship to the OSA, the State, or commercial entities that have entrusted this data to the OSA.
5. All OSA Contractor audit information assets not categorized as “Protected” are automatically classified as “Confidential”.

Use and Protection of Information Assets

6. Contractors are responsible for taking reasonable and prudent measures in the protection of all OSA audit information and the systems which process, store, and transmit such information from unauthorized disclosure and modification regardless of location.
7. All State of Colorado information systems (e.g., networks, intranets, internet connections, telephones, fax, etc.) are the property of the State of Colorado and are for State of Colorado business use only. Contractors must never use them to knowingly access, store, or distribute offensive material, such as pornography. Contractors may not use State of Colorado systems to knowingly compromise other systems, networks or safeguards.
8. Any unauthorized attempt to access information that is outside Contractor’s “need-to-know” for his/her operational purposes is prohibited.
9. Contractors must encrypt all “Protected” and “Confidential” information when stored on portable computers or removable media (e.g., laptops, external hard drives, CDs, USB drives.)
10. Contractors must, at all times, physically secure portable computers used in storing and processing audit information on behalf of the OSA through the use of cable locks or other security measures.
11. Contractors shall not leave any portable computers, removable media (e.g., laptops, external hard drives, CDs, USB drives), or hard copy information containing “Protected” and “Confidential” information unattended, such as in vehicles or in checked airport luggage.

Viruses and Malicious Code

12. Contractors must effectively deploy personal firewall security and up-to-date malicious code/virus protection software for all systems and devices used in carrying out official OSA business.

Telecommunications Security and Information Transmission

13. Contractors are responsible for being aware of and protecting against current and potential telecommunications (e.g., telephones, voice mail, mobile phones, conference calls, instant messaging, and facsimile machines) security risks in their given environment.

14. Contractors are prohibited from connecting to any state networks in connection with the Services hereunder without prior authorization from the OSA and the information security officer of the Audited Agency. In the case of executive branch agencies, Contractors should submit a request with their agency liaison to obtain permission through the Governor's Office of Information Technology access management team.
15. Contractors shall make every effort to ensure that all State of Colorado information is protected from inadvertent disclosure when being sent over the Internet or other non-State of Colorado networks.
16. Contractors shall not connect portable computers containing "Protected" or "Confidential" data to any public WiFi networks (e.g., internet cafes) without adequately protecting such information through the use of hard drive encryption and the use of an encrypted VPN tunnel.
17. Contractors must always consider information sensitivity and transmission security issues when selecting a transmission medium. "Protected" and "Confidential" data must only be transported or transmitted over a public network when protected by encryption.
18. When data is stored on electronic media or a mobile computing device, the data must be encrypted at all times during physical transport.
19. Transmission of Protected or Confidential data over a public network by unencrypted email is prohibited.

Information Storage and Disposal

20. Media or hard copy documents containing Protected or Confidential information are to be appropriately labeled and protected in accordance with this **Exhibit E**.
21. Contractors must maintain physical media security by using locking filing cabinets or drawers and locking them when left unattended. Media security may also be achieved through locking the door of a private office.
22. Personal computers, laptops, USB drives, mobile phones, personal digital assistants (PDAs), and other devices and media containing State of Colorado information must be secured by their users from loss, theft, and unauthorized use.
23. Contractors shall not leave unattended any device containing State of Colorado information unless a password-engaged screensaver is used. The screen saver must engage after 2 minutes of inactivity.
24. Contractors must ensure that once portable storage devices (e.g., external hard drives, CDs, USB drives) are no longer under their direct control all Protected or Confidential data will be cleaned and sanitized (i.e., cleared, purged, and destroyed) in conformance with NIST Special Publication 800-88 and/or other standard procedures and requirements set by the U.S. Department of Defense, such as DoD 5220.22-M.
25. Hard copy documents containing Protected or Confidential information must be shredded prior to disposal.
26. Data storage devices (CDs, DVDs, and floppy disks) containing Protected data must be physically destroyed at the end of the audit. For thumb drives and portable hard drives Contractor must either use an electronic shredding program to destroy the data or destroy the device at the end of the audit.

A record of disposal is to be maintained in the workpapers by the OSA Contractors. A record of disposal must contain the name of the individual disposing of the data, the method used to dispose of the data, identifying qualities of the data (such as the serial number of the media on which it was stored, if applicable), and the date of disposal.

Incident Reporting

27. All suspected loss or compromise of OSA audit information as a result of the loss of a desktop, portable, or mobile computing device or removable storage device by any means (e.g., theft, loss) used to store State of Colorado data shall be reported to the OSA Contract Manager within 24 hours of discovery.
28. In the event of the suspected loss or compromise of OSA audit information under control of Contractor, Contractor is responsible for working with the State Auditor and the Audited Agency with respect to recovery and remediation. Contractor is also responsible for working with the OSA and the Audited Agency to notify all Colorado residents and other affected parties whose sensitive data may have been compromised as a result of the breach. Contractor will bear all reasonable associated costs.

Personnel Security

29. Contractor is responsible for performing background checks consistent with Contractor's standard employment practices for Contractor personnel completing work on behalf of the OSA.

Policy Enforcement

30. If Contractor is deemed to be in noncompliance of this policy by the State Auditor, the State Auditor shall have the unilateral right to terminate the Contract.
31. Upon request by the State Auditor, Contractor agrees that it shall make available qualified individuals and a member of senior management responsible for security and data protection, for the purposes of discussing information technology controls, including those policies, procedures, and controls relevant to the provision of services and security obligations under this Contract.

28. EXHIBIT F - COMPENSATION AND PROCEDURES FOR BILLING

1. Contractor shall submit all invoices for services to the OSA. Payment will be made from the State Auditor’s appropriation.
2. Contractor may render monthly interim bills to the State until completion of the Work; provided that the aggregate amount of all bill shall not exceed the maximum compensation set forth in Section 3 below. The interim bills shall be promptly paid by the State except that the State reserves the right to withhold 10 percent of the total Contract amount until delivery and acceptance of the Audit Report. Release of the Audit Report by the Legislative Audit Committee constitutes acceptance of the Audit Report.
3. Total maximum compensation for the Work shall be \$XX,XXX.XX, with estimated funding split between fiscal years expected to be:

	<u>Total</u>	<u>Paid From State’s Budget Period</u>	
		<u>XXXX-XXXX</u>	<u>XXXX-XXXX</u>
Contractor	\$XX,XXX.XX	\$XX,XXX.XX	\$XX,XXX.XX
Total Fee	\$XX,XXX.XX	\$XX,XXX.XX	\$XX,XXX.XX

4. The OSA shall not be required to provide staff time in connection with the audit of the Audited Agency, except that OSA shall assign one (1) or more member(s) of the OSA staff to serve as a contract monitor and coordinator between the OSA and Contractor. The OSA contract monitor shall attend entrance and exit conferences and act as a liaison to Contractor for purposes of monitoring the contract and coordinating the audit engagement. In accordance with §10, §17C, and §18 of the Contract, all requests for Work Product or work papers pursuant to the Colorado Open Records Act or news media inquiries pertaining to the engagement shall be forwarded immediately to the OSA contract monitor.

29. EXHIBIT G - DEVELOPING AND PRESENTING PERFORMANCE AUDIT FINDINGS

Title of Finding

Provide brief background information about the program in one or two paragraphs. Do not include criteria, condition, cause, or effect in this background section.

What audit work was performed and what was the purpose?

Briefly describe the audit testwork that was performed using bullets and/or one to two paragraphs. (i.e., describe the data and documents reviewed, individuals interviewed, and the sample selected and sample methodology).

Describe the purpose of the audit work in one sentence. (i.e., “The purpose of the audit work was to XXXX.”)

How were the results of the audit work measured? (*Criteria*)

The criteria are the standards against which the condition is measured. They are standards used by the auditors to evaluate a particular event or process and describe “what should be.” Some examples of criteria include:

- Colorado Constitution
- Colorado Revised Statutes
- Colorado state agency rules and regulations
- federal laws and regulations
- State Fiscal Rules and Fiscal Procedures Manual
- Generally Accepted Accounting Principles
- program-specific written policies and procedures
- program-specific written goals and objectives
- good business practices
- unwritten policies, procedures, goals, and objectives as explained by the Audited Agency’s personnel

If the criteria are not already set forth in writing, it may be necessary to find information to serve as evidence of criteria. When common sense or expert opinion is used as criteria, the development of the finding must be logical and convincing to the reader, who may not possess the same level of expertise. This is also important because such criteria are less authoritative than other types of criteria.

This section should briefly describe the criteria of the finding. Strive to provide the essential information in one or two short paragraphs, bullets, or in a table.

What problem did the audit work identify? (*Condition*)

The first step in developing a finding is to identify the statement of condition. This occurs during the “fact-finding” process when the Contractor’s audit staff (“auditors”) compares “what is” with “what should be.” When there is a difference between “what is happening” with “what should be happening,” the first element (condition) of an audit finding is identified. The condition should be a factual statement of what was found and be free of value judgments.

This section should describe the overall problem (the condition of the finding) in one or two sentences. Then provide specific examples that support the condition (e.g., exceptions identified during the audit test work). Use bullets and tables to describe the types of exceptions identified.

Why did the problem occur? (*Cause*)

The cause is the element of the audit finding which explains why the “condition” exists. The cause represents what must be corrected to prevent the recurrence of the existing condition. As such, auditors must correctly identify the cause before a proper course of action can be devised. Developing the cause frequently requires a fairly extensive analysis of the problem. Often, there are multiple factors causing the problem. The human behavior aspect, which increases the difficulty in identifying the proper cause, is always present. Nevertheless, auditors should make a reasonable effort to determine as closely as possible the real cause of the problem. Examples of cause include:

- negligence
- inadequate resources
- inadequate training
- poor communication
- inadequate guidelines or standards
- absence of good management techniques
- failure to follow established policies and procedures

This section should describe the cause of the finding in one or two paragraphs or in bullets that correspond to the bullets used in the condition section above.

Why does this problem matter? (*Effect*)

The effect represents the end result of the activity being measured. It is the impact of the difference between the statement of condition and the criteria. The attention given to an audit finding depends largely upon its significance, and significance is judged by effect. What is the result if nothing is done about the problem identified? Auditors frequently use materiality to measure the potential significance of findings. The effect of an adverse audit finding is what motivates management to take needed action to correct the condition. When the effect is insignificant, audit staff should consider eliminating the finding from the report or grouping it with other minor findings. Some examples of effect include:

- violation of law or regulation
- noncompliance with legislative intent
- loss of potential income
- program goals and objectives not being met
- increased costs
- poor service quality
- inefficient service delivery
- increased risk of fraud and abuse
- reduced effectiveness

When determining the effect of an audit finding, auditors should look at outcomes such as impacts on citizens, services, or public safety. In addition, the fiscal impact of the finding (e.g., increase or decrease in revenue or costs) should be quantified where possible. The estimated fiscal impact should be discussed with the Audited Agency and reported as an estimate (e.g., we estimate this change will eliminate one administrative support position with an estimated annual cost of \$26,000).

This section should describe the effect of the finding in one or two paragraphs or bullets. Quantify the effect to the extent possible.

Recommendation No. X:

The recommendation is the action believed necessary to correct the adverse situation. Generally, each finding will result in one or more recommendations. The following are guidelines for developing recommendations:

- Write recommendations that address or solve the “cause” of the problem.
- Write recommendations as realistically and specifically as possible so they are more likely to be understood by and prove useful to the Audited Agency.
- Present recommendations in a constructive tone and emphasize improvement rather than criticism of past activities. Auditors should keep in mind that their objective is to motivate the Audited Agency to take action. This can best be done by avoiding language that unnecessarily generates defensiveness and opposition.
- Write your recommendation so that it can be understood by itself (e.g., the reader will not have to refer to the finding to understand the recommendation).
- Avoid introducing new information in the recommendation that was not presented in the body of the finding. The recommendation should follow logically from what was presented in the finding.
- Avoid extreme language such as “immediately,” “without delay,” or “as soon as possible.” These phrases do not add to the substance of the recommendation. In situations where there is an urgency to correct a problem, include in the recommendation the consequence of delay (e.g., continued loss or waste of money).

The Department of XXXX should XXXX by:

- a.

b.

The written Audit Report, which contains all audit findings and recommendations, is issued to legislators and other state and federal officials who have limited time to read reports. Therefore, the Contractor should present findings as concisely as possible, but with enough clarity to be understood by the reader. In addition to being clear and concise, audit findings should be logical, convincing, and constructive. The findings should be presented in a way that will convince the reader of their significance and motivate the Audited Agency to take action. This is accomplished by clearly presenting the five elements of an audit finding—condition, criteria, effect, cause, and recommendation.

For additional guidance regarding developing audit findings, please consult the current revision of *Government Auditing Standards* issued by the U.S. Comptroller General, which is available online at <http://www.gao.gov/>.

30. EXHIBIT H - REPORTING REQUIREMENTS AND FORMAT FOR SEPARATELY ISSUED REPORTS

The final written Audit Report is required at the completion of the audit work. This Report will contain findings, conclusions, and results from the audit. It will also provide recommendations for changes or modifications to improve the efficiency and effectiveness of the Audited Agency. Contractor shall deliver to the State up to 100 copies of the bound report. The exact number of copies will be determined by the State at the time of report finalization. Contractor shall also deliver to the State an electronic copy of the Audit Report in unprotected Adobe PDF format or other format prescribed by the State.

The final Audit Report is due (Month) (Day), (Year) and will be prepared in the format delineated below.

REQUIRED REPORTING FORMAT

1. Addressee of Report

Each Audit Report should be addressed to “Members of the Legislative Audit Committee.”

2. Report Format

Contractor’s Audit Report will include all of the following sections bound together as a single report and shall be prepared using the OSA format to the extent possible. Acceptable binding formats are limited to spiral, comb, or glued bindings; 3-ring bindings are not acceptable.

Major sections of the Audit Report and their required order within the report are:

- Report Cover
- LAC, Staff, and Distribution Page
- Report Transmittal Letter
- Table of Contents
- Report Highlights
- Description of the Audited Agency
- Findings and Recommendations (Including Audited Agency’s Responses)

a. Report Cover

The report cover should contain the title and date of the Audit Report, including the name of the Contractor conducting the audit.

b. LAC, Staff, and Distribution Page

The reverse side of the report cover should contain a listing of the current members of the Legislative Audit Committee, OSA staff, and Contractor staff conducting the audit. The list of current Legislative Audit Committee members will be provided by the OSA. This page also contains information on how to obtain both electronic and bound versions of the report. The distribution information should include the Audit Report number. Contractor must contact the OSA for specific requirements of the distribution information before printing the report.

c. Report Transmittal Letter

A letter to the Legislative Audit Committee signifying transmission of the Audit Report and signed by the Contractor.

d. Table of Contents

This page is an index to the report, by topic and page number.

e. Report Highlights

The highlight sheet is a one-page overview of the important comments in the report. A template will be provided by the OSA.

g. Description of the Audited Agency

A section of the Audit Report, typically presented as a separate chapter, intended to familiarize the reader with the Audited Agency, including its statutory authority and purpose, key functions, organization, descriptive financial and non-financial statistics, etc. This section does not necessarily contain the specific background information necessary to establish the audit's findings, conclusions, and recommendations.

h. Findings and Recommendations

The report must contain this section reporting the auditor's findings and recommendations relative to the Scope of Work (Exhibit A). The findings and recommendations are typically presented as one or more separate chapters.

The findings and recommendations included in the report should contain sufficient background to inform a lay reader of the facts and circumstances surrounding the finding. In addition, the finding should identify and emphasize the business effects resulting from the deficiency or instance of non-compliance. Finally, recommendations should focus on workable solutions which the Audited Agency can effectively implement.

Audit recommendations are presented after the development section for each audit finding. Recommendations must be separately stated from the discussion of the audit finding. Recommendations are consecutively numbered in the report (i.e., 1, 2, 3, 4, etc).

i. Audited Agency Responses

The Audited Agency's officials will be given the opportunity to include the Audited Agency's position regarding audit findings and recommendations in the report text. The OSA will provide the parameters for the Audited Agency's responses; this could include a limit on the number of words or characters, which the Contractor will communicate to the Audited Agency when requesting their responses. The Audited Agency's responses will be included in the report after each recommendation. The Contractor is responsible for reviewing the Audited Agency's responses for accuracy, responsiveness to the recommendations, and adherence to the OSA's established parameters. This review should include working with the Audited Agency and the OSA to ensure the responses meet established requirements and are approved for inclusion in the Audit Report. Any "Partially Agree" or "Disagree" responses must include an Auditor's Addendum, which is a rebuttal to the Audited Agency's response. The language for all Auditor's Addenda must be reviewed and approved by the OSA.