



STATE OF TENNESSEE
DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES

**REQUEST FOR PROPOSALS # 34401-00317
AMENDMENT # 1
FOR DURABLE MEDICAL EQUIPMENT AND RELATED
SUPPLIES REIMBURSABLE BY MEDICARE PART B
OR OTHER THIRD PARTY PAYORS**

DATE: December 6, 2011

RFP # 34401-00317 IS AMENDED AS FOLLOWS:

- 1. This RFP Schedule of Events updates and confirms scheduled RFP dates.**

	EVENT	TIME	DATE	UPDATED / CONFIRMED
1	State Issues RFP		November 18, 2011	Confirmed
2	Disability Accommodation Request Deadline		November 23, 2011	Confirmed
3	Notice of Intent to Propose Deadline		November 28, 2011	Confirmed
4	Written Comments Deadline		December 1, 2011	Confirmed
5	State Responds to Written Comments		December 6, 2011	Confirmed
6	Proposal Deadline	2:00 p.m.	December 13, 2011	Confirmed
7	State Completes Technical Proposal Evaluations		December 16, 2011	Confirmed
8	State Evaluation Notice Released and RFP Files Opened for Public Inspection	2:00 p.m.	December 21, 2011	Confirmed
9	Contract Signing		January 6, 2012	Confirmed
10	Contract Signature Deadline	2:00 p.m.	January 13, 2012	Confirmed
11	Contract Start Date		January 16, 2012	Confirmed

2. State responses to questions and comments in the table below amend and clarify this RFP.

Any restatement of RFP text in the Question/Comment column shall NOT be construed as a change in the actual wording of the RFP document.

QUESTION / COMMENT	STATE RESPONSE
1 We are currently dispensing all items in RFP except for enteral nutrients and supplies by medicare. Can I still submit my bid and get it enrolled in medicare. Please let me know how can I still bid in this scenerio.	The Contractor must be prepared to provide all services requested under this RFP on the beginning date of the contract.
2 We are a DME Company in Memphis with insurance fulfillment contracts and some large ongoing customers. We have the two larger accounts references in place. My question is what are you looking for with the 3 completed projects. We do not usually work on a project basis. We can provide references from individuals where we have provided equipment and service. Will that be sufficient; if not, what are your expectations?	References will be sufficient.



**STATE OF TENNESSEE
DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
WEST TENNESSEE HOMES
REQUEST FOR PROPOSALS
FOR
DURABLE MEDICAL EQUIPMENT AND RELATED SUPPLIES
REIMBURSABLE BY MEDICARE PART B OR OTHER THIRD PARTY
PAYORS**

RFP # 34401-00317

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- 6.2. Technical Proposal & Evaluation Guide
- 6.3. Reference Questionnaire
- 6.4. Proposal Score Summary Matrix
- 6.5. *Pro Forma* Contract

1. INTRODUCTION

The State of Tennessee, Department of Intellectual and Developmental Disabilities (DIDD) West Tennessee Homes (West TN Homes), hereinafter referred to as "the State," has issued this Request for Proposals (RFP) to define minimum service requirements; solicit proposals; detail proposal requirements; and, outline the State's process for evaluating proposals and selecting a contractor to provide the needed service.

Through this RFP, the State seeks to buy the best services at the most favorable, competitive prices and to give ALL qualified businesses, including those that are owned by minorities, women, persons with a handicap or disability, and small business enterprises, opportunity to do business with the state as contractors and sub-contractors.

1.1. Statement of Procurement Purpose

The State intends to secure a contract for a vendor to provide Durable Medical Equipment and related supplies and services that would normally be a covered service under the Medicare Part B regulations or by another third party payor to the individuals who live at West TN Homes. The vendor will be required to bill and accept assignment of Insurance, Medicare, and TennCare. The Services will result in no cost the State or to the Individuals provided the service.

West TN Homes is a State owned and operated Intermediate Care Facility for the Mentally Retarded (ICF-MR). West TN Homes is licensed in the State of Tennessee by the Department of Mental Health and Developmental Disabilities as a Mental Retardation Institutional Habilitation Facility. West TN Homes is comprised of twelve (12) four (4) bed homes (maximum of forty eight (48) individual beds) located within four (4) miles of the DIDD administrative offices located at 11437 Milton Wilson Rd. Arlington, Tennessee 38002.

Currently forty seven (47) individuals live in the West TN Homes, and seventy seven percent (77%) have Medicare coverage and all have TennCare coverage. This ratio will change as individuals are discharged and admitted to the facility. Each of these individuals is medically fragile so the need for equipment and supplies may be higher than the average community based individual.

West TN Homes is certified annually by the Tennessee Department of Health, Division of Health Care Facilities, to receive Medicaid ICF-MR funds. All equipment and supplies must be provided to the individuals served at no cost to West TN Homes or to the individuals served. All equipment and supplies must be new, no used or remanufactured or reconditioned equipment or supplies will be acceptable.

Vendors may submit a proposal for Durable Medical Equipment (DME) and all related supplies that are covered by Medicare Part B or other third party payor or for only a portion of the entire request, or durable medical equipment and related supplies such as feeding supplements that are billable to Medicare Part B or other third party payor.

1.2. Scope of Service, Contract Period, & Required Terms and Conditions

The RFP Attachment 6.5., *Pro Forma* Contract details the State's required:

- Scope of Services and Deliverables (Section A);
- Contract Period (Section B);
- Payment Terms (Section C);
- Standard Terms and Conditions (Section D); and,
- Special Terms and Conditions (Section E).

The *pro forma* contract substantially represents the contract document that the successful Proposer must sign.

1.3. **Nondiscrimination**

No person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of a Contract pursuant to this RFP or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Contractor pursuant to this RFP shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

1.4. **RFP Communications**

1.4.1. The State has assigned the following RFP identification number that must be referenced in all communications regarding this RFP:

RFP # 34401-00317

1.4.2. **Unauthorized contact about this RFP with employees or officials of the State of Tennessee except as detailed below may result in disqualification from consideration under this procurement process.**

1.4.2.1. Potential proposers must direct communications relating to this RFP to the following person designated as the RFP Coordinator.

Debra Dunn, Director of Contract Services
Department of Intellectual and Developmental Disabilities
Andrew Jackson Building
500 Deaderick Street, Suite 1500
Nashville, Tennessee 37243
Telephone # 615-253-6812
debra.dunn@tn.gov

1.4.2.2. Notwithstanding the foregoing, potential proposers may contact:

- a. staff of the Governor's Office of Diversity Business Enterprise for assistance available to minority-owned, women-owned, and small businesses as well as general, public information relating to this RFP; and
- b. the following individual designated by the State to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and associated federal regulations:

Brenda Clark, Director of Civil Rights
Department of Intellectual and Developmental Disabilities
Andrew Jackson Building
500 Deaderick Street, Suite 1500
Nashville, Tennessee 37243
Telephone # 615-231-5500
brenda.clark@tn.gov

1.4.3. Only the State's official, written responses and communications will be binding with regard to this RFP. The State will consider oral communications of any type to be unofficial and non-binding.

1.4.4. Potential proposers must ensure that the State receives all written comments, including questions and requests for clarification, no later than the Written Comments Deadline detailed in the RFP Section 2, Schedule of Events.

- 1.4.5. Proposers must assume the risk of the method of dispatching any communication or proposal to the State. The State assumes no responsibility for delays or delivery failures resulting from the method of dispatch. Actual or digital “postmarking” of a communication or proposal to the State by a specified deadline date will not substitute for the State’s actual receipt of a communication or proposal.
- 1.4.6. The State will convey all official responses and communications related to this RFP to the potential proposers from whom the State has received a Notice of Intent to Propose (refer to RFP Section 1.7).
- 1.4.7. The State reserves the right to determine, at its sole discretion, the method of conveying official, written responses and communications related to this RFP. Such written communications may be transmitted by mail, hand-delivery, facsimile, electronic mail, Internet posting, or any other means deemed reasonable by the State.
- 1.4.8. The State reserves the right to determine, at its sole discretion, the appropriate and adequate responses to written comments, questions, and requests related to this RFP. The State’s official, written responses will constitute an amendment of this RFP.
- 1.4.9. Any data or factual information provided by the State (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. The State will make reasonable efforts to ensure the accuracy of such data or information, however it is within the discretion of Proposers to independently verify any information before relying thereon.

1.5. **Assistance to Proposers With a Handicap or Disability**

Potential proposers with a handicap or disability may receive accommodation relating to the communication of this RFP and participating in the RFP process. Potential proposers may contact the RFP Coordinator to request such reasonable accommodation no later than the Disability Accommodation Request Deadline detailed in the RFP Section 2, Schedule of Events.

1.6. **Proposer Required Review & Waiver of Objections**

- 1.6.1. Each potential proposer must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.5., *Pro Forma* Contract, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called “questions and comments”).
- 1.6.2. Any potential proposer having questions and comments concerning this RFP must provide such in writing to the State no later than the Written Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.6.3. Protests based on any objection shall be considered waived and invalid if the objection has not been brought to the attention of the State, in writing, by the Written Comments Deadline.

1.7. **Notice of Intent to Propose**

Before the Notice of Intent to Propose Deadline detailed in the RFP Section 2, Schedule of Events, potential proposers should submit to the RFP Coordinator a Notice of Intent to Propose (in the form of a simple e-mail or other written communication). Such notice should include the following information:

- the business or individual’s name (as appropriate)
- a contact person’s name and title
- the contact person’s mailing address, telephone number, facsimile number, and e-mail address

A Notice of Intent to Propose creates no obligation and is not a prerequisite for making a proposal, however, it is necessary to ensure receipt of any RFP amendments or other notices and communications relating to this RFP.

1.8. **Proposal Deadline**

A Proposer must ensure that the State receives a proposal no later than the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events. A proposal must respond, as required, to this RFP (including its attachments) as may be amended. The State will not accept late proposals, and a Proposer's failure to submit a proposal before the deadline will result in disqualification of the proposal.

2. RFP SCHEDULE OF EVENTS

2.1. The following RFP Schedule of Events represents the State's best estimate for this RFP.

EVENT	TIME (central time zone)	DATE (all dates are state business days)
1. RFP Issued		November 18, 2011
2. Disability Accommodation Request Deadline	2:00 p.m.	November 23, 2011
3. Notice of Intent to Propose Deadline	2:00 p.m.	November 28, 2011
4. Written "Questions & Comments" Deadline	2:00 p.m.	December 1, 2011
5. State Response to Written "Questions & Comments"		December 6, 2011
6. Proposal Deadline	2:00 p.m.	December 13, 2011
7. State Completion of Technical Proposal Evaluations		December 16, 2011
8. State Evaluation Notice Released <u>and</u> RFP Files Opened for Public Inspection	2:00 p.m.	December 21, 2011
9. Contract Signing		January 6, 2012
10. Contractor Contract Signature Deadline	2:00 p.m.	January 13, 2012

2.2. **The State reserves the right, at its sole discretion, to adjust the RFP Schedule of Events as it deems necessary.** Any adjustment of the Schedule of Events shall constitute an RFP amendment, and the State will communicate such to potential proposers from whom the State has received a Notice of Intent to Propose (refer to section 1.7).

3. PROPOSAL REQUIREMENTS

3.1. Proposal Form

A response to this RFP must consist of a Technical Proposal.

- 3.1.1. **Technical Proposal.** The RFP Attachment 6.2., Technical Proposal & Evaluation Guide details specific requirements for making a Technical Proposal in response to this RFP. The guide includes mandatory requirement items, general qualifications and experience items, and technical qualifications, experience, and approach items all of which must be addressed with a written response and, in some instances, additional documentation.

NOTICE: A technical proposal must not include any pricing or cost information. If any pricing or cost information amounts of any type (even pricing relating to other projects) is included in any part of the technical proposal, the state will deem the proposal to be non-responsive and reject it.

- 3.1.1.1. A Proposer must use the RFP Attachment 6.2., Technical Proposal & Evaluation Guide to organize, reference, and draft the Technical Proposal by duplicating the attachment, adding appropriate proposal page numbers as required, and using the guide as a table of contents covering the Technical Proposal.
- 3.1.1.2. A proposal should be economically prepared, with emphasis on completeness and clarity. A proposal, as well as any reference material presented, must be written in English and must be written on standard 8 ½" x 11" pages (although oversized exhibits are permissible). All proposal pages must be numbered.
- 3.1.1.3. All information and documentation included in a Technical Proposal should respond to or address a specific requirement detailed in the RFP Attachment 6.2., Technical Proposal & Evaluation Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed extraneous and will not contribute to evaluations.
- 3.1.1.4. The State may determine a proposal to be non-responsive and reject it if:
- a. the Proposer fails to organize and properly reference the Technical Proposal as required by this RFP and the RFP Attachment 6.2., Technical Proposal & Evaluation Guide; or
 - b. the Technical Proposal document does not appropriately respond to, address, or meet all of the requirements and proposal items detailed in the RFP Attachment 6.2., Technical Proposal & Evaluation Guide.

3.2. Proposal Delivery

A Proposer must deliver a proposal in response to this RFP as detailed below. The State will not accept a proposal delivered by any other method.

- 3.2.1. A Proposer must ensure that the original Technical Proposal documents meet all form and content requirements detailed within this RFP for such proposals including but not limited to required signatures.
- 3.2.2. A Proposer must submit original Technical Proposal documents and copies as specified below.
- 3.2.2.1. One (1) original Technical Proposal paper document labeled:

“RFP # 34401-00317 TECHNICAL PROPOSAL ORIGINAL”

and three (3) copies of the Technical Proposal each in the form of one (1) digital document in “PDF” format properly recorded on its own otherwise blank, standard CD-R recordable disc labeled:

“RFP # 34401-00317 TECHNICAL PROPOSAL COPY”

The digital copies should not include copies of sealed customer references, however any other discrepancy between the paper Technical Proposal document and any digital copies may result in the State rejecting the proposal as non-responsive.

3.2.3. A Proposer must separate, seal, package, and label the documents and discs for delivery as follows.

3.2.3.1. The Technical Proposal original document and copy discs must be placed in a sealed package that is clearly labeled:

“DO NOT OPEN... RFP # 34401-00317 TECHNICAL PROPOSAL FROM [PROPOSER LEGAL ENTITY NAME]”

3.2.4. A Proposer must ensure that the State receives a proposal in response to this RFP no later than the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events at the following address.

Debra Dunn, Director of Contract Services
Department of Intellectual and Developmental Disabilities
Andrew Jackson Building
500 Deaderick Street, Suite 1500
Nashville, Tennessee 37243

3.3. Proposal & Proposer Prohibitions

3.3.1. A proposal must not include the Proposer’s own contract terms and conditions. If a proposal contains such terms and conditions, the State, at its sole discretion, may determine the proposal to be a non-responsive counteroffer and reject it.

3.3.2. A proposal must not restrict the rights of the State or otherwise qualify the offer to deliver services as required by this RFP. If a proposal restricts the rights of the State or otherwise qualifies the offer to deliver services as required by this RFP, the State, at its sole discretion, may determine the proposal to be a non-responsive counteroffer and reject it.

3.3.3. A proposal must not propose alternate services (*i.e.*, offer services different from those requested and required by this RFP). The State will consider a proposal of alternate services to be non-responsive and reject it.

3.3.4. A Proposer must not provide, for consideration in this RFP process or subsequent contract negotiations, incorrect information that the Proposer knew or should have known was materially incorrect. If the State determines that a Proposer has provided such incorrect information, the State will deem the Proposer’s proposal non-responsive and reject it.

3.3.6. A Proposer must not submit more than one Technical Proposal in response to this RFP. If a Proposer submits more than one Technical Proposal, the State will deem all of the proposals non-responsive and reject them.

3.3.7. A Proposer must not submit a proposal as a prime contractor while also permitting one or more other Proposers to offer the Proposer as a subcontractor in their own proposals. Such may result in the disqualification of all Proposers knowingly involved. This restriction does not, however,

prohibit different Proposers from offering the same subcontractor as a part of their proposals (provided that the subcontractor does not also submit a proposal as a prime contractor).

3.3.8. A Proposer must not be (and the State will not award a contract to):

- a. an individual who is, or within the past six months has been, an employee of the State of Tennessee or who is a volunteer member of a State board or commission that votes for, lets out, overlooks, or any manner superintends the services being procured in this RFP;
- b. a company, corporation, or any other contracting entity in which an ownership of two percent (2%) or more is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee (this will not apply either to financial interests that have been placed into a "blind trust" arrangement pursuant to which the employee does not have knowledge of the retention or disposition of such interests or to the ownership of publicly traded stocks or bonds where such ownership constitutes less than 2% of the total outstanding amount of the stocks or bonds of the issuing entity);
- c. a company, corporation, or any other contracting entity which employs an individual who is, or within the past six months has been, an employee of the State of Tennessee in a position that would allow the direct or indirect use or disclosure of information, which was obtained through or in connection with his or her employment and not made available to the general public, for the purpose of furthering the private interest or personal profit of any person; or,
- d. any individual, company, or other entity involved in assisting the State in the development, formulation, or drafting of this RFP or its scope of services (such person or entity being deemed by the State as having information that would afford an unfair advantage over other Proposers).

For the purposes of applying the requirements of this RFP subsection 3.3.8., the State will deem an individual to be an employee of the State of Tennessee until such time as all compensation for salary, termination pay, and annual leave has been paid, but the term "employee of the State of Tennessee" shall not include individuals performing volunteer services for the State of Tennessee.

3.4. **Proposal Errors & Revisions**

A Proposer is liable for any and all proposal errors or omissions. A Proposer will not be allowed to alter or revise proposal documents after the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events unless such is formally requested, in writing, by the State.

3.5. **Proposal Withdrawal**

A Proposer may withdraw a submitted proposal at any time before the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events by submitting a written request signed by an authorized Proposer representative. After withdrawing a proposal, a Proposer may submit another proposal at any time before the Proposal Deadline.

3.6. **Proposal of Additional Services**

If a proposal offers services in addition to those required by and described in this RFP, the State, at its sole discretion, may add such services to the contract awarded as a result of this RFP. Notwithstanding the foregoing, a Proposer must not propose any additional cost amount(s) or rate(s) for additional services.

3.7. **Proposal Preparation Costs**

The State will not pay any costs associated with the preparation, submittal, or presentation of any proposal.

4. GENERAL CONTRACTING INFORMATION & REQUIREMENTS

4.1. RFP Amendment

The State reserves the right to amend this RFP at any time, provided that it is amended in writing. However, prior to any such amendment, the State will consider whether it would negatively impact the ability of potential proposers to meet the proposal deadline and revise the RFP Schedule of Events if deemed appropriate. If an RFP amendment is issued, the State will convey it to potential proposers who submitted a Notice of Intent to Propose (refer to RFP Section 1.7.). A proposal must respond, as required, to the final RFP (including its attachments) as may be amended.

4.2. RFP Cancellation

The State reserves the right, at its sole discretion, to cancel or to cancel and reissue this RFP in accordance with applicable laws and regulations.

4.3. State Right of Rejection

4.3.1. Subject to applicable laws and regulations, the State reserves the right to reject, at its sole discretion, any and all proposals.

4.3.2. The State may deem as non-responsive and reject any proposal that does not comply with all terms, conditions, and performance requirements of this RFP. Notwithstanding the foregoing, the State reserves the right to waive, at its sole discretion, a proposal's minor variances from full compliance with this RFP. If the State waives variances in a proposal, such waiver shall not modify the RFP requirements or excuse the Proposer from full compliance with such, and the State may hold any resulting Contractor to strict compliance with this RFP.

4.4. Assignment & Subcontracting

4.4.1. The Contractor may not subcontract, transfer, or assign any portion of the Contract awarded as a result of this RFP without prior approval of the State. The State reserves the right to refuse approval, at its sole discretion, of any subcontract, transfer, or assignment.

4.4.2. If a Proposer intends to use subcontractors, the proposal in response to this RFP must specifically identify the scope and portions of the work each subcontractor will perform (refer to RFP Attachment 6.2., Section B, General Qualifications & Experience Item B.14.).

4.4.3. Subcontractors identified within a proposal in response to this RFP will be deemed as approved by the State unless the State expressly disapproves one or more of the proposed subcontractors prior to signing the Contract.

4.4.4. The Contractor resulting from this RFP may only substitute another subcontractor for a proposed subcontractor at the discretion of the State and with the State's prior, written approval.

4.4.5. Notwithstanding any State approval relating to subcontracts, the Contractor resulting from this RFP will be the prime contractor and will be responsible for all work under the Contract.

4.5. Right to Refuse Personnel

The State reserves the right to refuse, at its sole discretion and notwithstanding any prior approval, any personnel of the prime contractor or a subcontractor providing service in the performance of a contract resulting from this RFP. The State will document in writing the reason(s) for any rejection of personnel.

4.6. Insurance

At any time, the State may require the Contractor resulting from this RFP to provide a valid, Certificate of

Insurance indicating current insurance coverage meeting minimum requirements as may be specified by this RFP. A failure to provide said documentation will be considered a material breach and grounds for contract termination.

4.7. **Licensure**

- 4.7.1. All persons, agencies, firms, or other entities that provide legal or financial opinions, which a Proposer provides for consideration and evaluation by the State as a part of a proposal in response to this RFP, shall be properly licensed to render such opinions.
- 4.7.2. Before the Contract resulting from this RFP is signed, the apparent successful Proposer (and Proposer employees and subcontractors, as applicable) must hold all necessary, appropriate business and professional licenses to provide service as required. The State may require any Proposer to submit evidence of proper licensure.

4.8. **Disclosure of Proposal Contents**

- 4.8.1. Each proposal and all materials submitted to the State in response to this RFP become the property of the State of Tennessee. Selection or rejection of a proposal does not affect this right. By submitting a proposal, a Proposer acknowledges and accepts that the full proposal contents and associated documents will become open to public inspection in accordance with the laws of the State of Tennessee.
- 4.8.2. The State will hold all proposal information in confidence during the evaluation process. Notwithstanding the foregoing, a list of actual Proposers submitting timely proposals may be available to the public, upon request, after technical proposals are opened.
- 4.8.3. Upon completion of proposal evaluations, indicated by public release of an Evaluation Notice, the proposals and associated materials will be open for review by the public in accordance with *Tennessee Code Annotated*, Section 10-7-504(a)(7).

4.9. **Contract Approval**

- 4.9.1. This RFP and its contractor selection processes do not obligate the State and do not create rights, interests, or claims of entitlement in either the Proposer with the apparent best-evaluated proposal or any other Proposer. State obligations pursuant to a contract award shall commence only after the contract is signed by the State agency head and the Contractor and after the Contract is approved by all other state officials as required by applicable laws and regulations.
- 4.9.2. No payment will be obligated or made until the relevant Contract is approved as required by applicable statutes and rules of the State of Tennessee.
 - 4.9.2.1. The State shall not be liable for payment of any type associated with the Contract resulting from this RFP (or any amendment thereof) or responsible for any work done by the Contractor, even work done in good faith and even if the Contractor is orally directed to proceed with the delivery of services.
 - 4.9.2.2. All payments relating to this procurement will be made in accordance with the Payment Terms and Conditions of the Contract resulting from this RFP (refer to RFP Attachment 6.5., *Pro Forma* Contract, Section C).
 - 4.9.2.3. If any provision of the Contract provides direct funding or reimbursement for the competitive purchase of services or items to be delivered to the State as a component of contract performance or otherwise provides for the reimbursement of specified, actual costs, the State will employ all reasonable means and will require all such documentation that it deems necessary to ensure that such purchases were competitive and costs were reasonable, necessary, and actual. The Contractor shall provide reasonable assistance and access related to such review. Further, the State shall not

remit, as funding or reimbursement pursuant to such provisions, any amount(s) which it determines did not result from a reasonably competitive purchase or do not represent reasonable, necessary, and actual costs.

4.10. Contractor Performance

The Contractor resulting from this RFP will be responsible for the completion of all service set out in this RFP (including attachments) as may be amended. All service is subject to inspection and evaluation by the State. The State will employ all reasonable means to ensure that service is progressing and being performed in compliance with the Contract, and the Contractor must cooperate with such efforts.

4.11. Contract Amendment

During the course of a Contract pursuant to this RFP, the State may request the Contractor to perform additional work within the general scope of the Contract and this RFP, but beyond the specified scope of service, and for which the Contractor may be compensated. In such instances, the State will provide the Contractor a written description of the additional work. The Contractor must respond to the State with a time schedule for accomplishing the additional work and a price for the additional work based on the rates included in the Contractor's proposal to this RFP. If the State and the Contractor reach an agreement regarding the work and associated compensation, such agreement must be effected by means of a Contract Amendment. Further, any such amendment requiring additional work must be signed by both the State agency head and the Contractor and must be approved by other state officials as required by applicable statutes and rules of the State of Tennessee. The Contractor must not commence additional work until the State has issued a written Contract Amendment with all required approvals.

4.12. Severability

If any provision of this RFP is declared by a court to be illegal or in conflict with any law, said decision will not affect the validity of the remaining RFP terms and provisions, and the rights and obligations of the State and Proposers will be construed and enforced as if the RFP did not contain the particular provision held to be invalid.

5. PROPOSAL EVALUATION & CONTRACT AWARD

5.1. Evaluation Categories & Maximum Points

The State will consider qualifications, experience, and technical approach, in the evaluation of proposals and award points in each of the categories detailed below (up to the maximum evaluation points indicated) to each apparently responsive proposal.

EVALUATION CATEGORY	MAXIMUM POINTS POSSIBLE
General Qualifications & Experience (refer to RFP Attachment 6.2., Section B)	50
Technical Qualifications, Experience & Approach (refer to RFP Attachment 6.2., Section C)	50

5.2. Evaluation Process

The proposal evaluation process is designed to award the contract resulting from this RFP to the responsive and responsible Proposer offering the best combination of attributes based upon the evaluation criteria. ("Responsive Proposer" is defined as a Proposer that has submitted a proposal that conforms in all material respects to the RFP. "Responsible Proposer" is defined as a Proposer that has the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.)

5.2.1. **Technical Proposal Evaluation.** The RFP Coordinator and the Proposal Evaluation Team (consisting of three or more State employees) will use the RFP Attachment 6.2., Technical Proposal & Evaluation Guide to manage the Technical Proposal Evaluation and maintain evaluation records.

- 5.2.1.1. The State reserves the right, at its sole discretion, to request Proposer clarification of a Technical Proposal or to conduct clarification discussions with any or all Proposers. Any such clarification or discussion will be limited to specific sections of the proposal identified by the State. The subject Proposer must put any resulting clarification in writing as may be required and in accordance with any deadline imposed by the State.
- 5.2.1.2. The RFP Coordinator will review each Technical Proposal to determine compliance with RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section A— Mandatory Requirements. If the RFP Coordinator determines that a proposal may have failed to meet one or more of the mandatory requirements, the Proposal Evaluation Team will review the proposal and document the team's determination of whether:
 - a. the proposal adequately meets requirements for further evaluation;
 - b. the State will request clarifications or corrections for consideration prior to further evaluation; or,
 - c. the State will determine the proposal non-responsive to the RFP and reject it.
- 5.2.1.3. Proposal Evaluation Team members will independently evaluate each Technical Proposal (that appears responsive to the RFP) against the evaluation criteria in this RFP, rather than against other proposals and will score each in accordance with the RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section B and Section C.
- 5.2.1.4. For each proposal evaluated, the RFP Coordinator will calculate the average of the Proposal Evaluation Team member scores for RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section B and for Section C, and record each average as the proposal score for the respective Technical Proposal section.

- 5.2.2. **Total Proposal Score.** The RFP Coordinator will calculate the sum of the Technical Proposal section scores and record the resulting number as the total score for the subject Proposal (refer to RFP Attachment 6.4., Proposal Score Summary Matrix).

5.3. **Contract Award Process**

- 5.3.1 The RFP Coordinator will submit the Proposal Evaluation Team determinations and proposal scores to the head of the contracting agency for consideration along with any other relevant information that might be available and pertinent to contract award.
- 5.3.2. The contracting agency head will determine the apparent best-evaluated proposal. (To effect a contract award to a Proposer other than the one receiving the highest evaluation process score, the head of the contracting agency must provide written justification and obtain the written approval of the Commissioner of Finance and Administration and the Comptroller of the Treasury.)
- 5.3.3. The State reserves the right to make an award without further discussion of any proposal.
- 5.3.4. The State will issue an Evaluation Notice identifying the apparent best-evaluated proposal and make the RFP files available for public inspection at the time and date specified in the RFP Section 2, Schedule of Events.

NOTICE: The Evaluation Notice shall not create rights, interests, or claims of entitlement in either the Proposer with apparent best-evaluated proposal or any other Proposer.

- 5.3.5. The Proposer identified as offering the apparent best-evaluated proposal must sign a contract drawn by the State pursuant to this RFP. The contract shall be substantially the same as the RFP Attachment 6.5., *Pro Forma* Contract. The Proposer must sign said contract no later than the Contract Signature by Contractor Deadline detailed in the RFP Section 2, Schedule of Events. If the Proposer fails to provide the signed contract by the deadline, the State may determine that the Proposer is non-responsive to this RFP and reject the proposal.
- 5.3.6. Notwithstanding the foregoing, the State may, at its sole discretion, entertain limited negotiation prior to contract signing and, as a result, revise the *pro forma* contract terms and conditions or performance requirements in the State's best interests, PROVIDED THAT such revision of terms and conditions or performance requirements shall NOT materially affect the basis of proposal evaluations or negatively impact the competitive nature of the RFP and contractor selection process.

RFP ATTACHMENT 6.1.**RFP # 34401-00317 PROPOSAL STATEMENT OF CERTIFICATIONS AND ASSURANCES**

The Proposer must sign and complete the Proposal Statement of Certifications and Assurances below as required, and it must be included in the Technical Proposal (as required by RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section A, Item A.1.).

The Proposer does, hereby, expressly affirm, declare, confirm, certify, and assure ALL of the following:

1. The Proposer will comply with all of the provisions and requirements of the RFP.
2. The Proposer will provide all services as defined in the Scope of Services of the RFP Attachment 6.5., *Pro Forma Contract* for the total contract period.
3. The Proposer accepts and agrees to all terms and conditions set out in the RFP Attachment 6.5., *Pro Forma Contract*.
4. The Proposer acknowledges and agrees that a contract resulting from the RFP shall incorporate, by reference, all proposal responses as a part of the contract.
5. The Proposer will comply with:
 - (a) the laws of the State of Tennessee;
 - (b) Title VI of the federal Civil Rights Act of 1964;
 - (c) Title IX of the federal Education Amendments Act of 1972;
 - (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
 - (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
6. To the knowledge of the undersigned, the information detailed within the proposal submitted in response to the RFP is accurate.
7. The proposal submitted in response to the RFP was independently prepared, without collusion, under penalty of perjury.
8. No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Proposer in connection with the RFP or any resulting contract.
9. The Technical Proposal submitted in response to the RFP shall remain valid for at least 120 days subsequent to the date Proposal opening and thereafter in accordance with any contract pursuant to the RFP.

By signing this Proposal Statement of Certifications and Assurances, below, the signatory also certifies legal authority to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If the signatory is not the Proposer (if an individual) or the Proposer's company *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to bind the proposing entity.

DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO BIND THE PROPOSING ENTITY

SIGNATURE:

PRINTED NAME & TITLE:

DATE:

PROPOSER LEGAL ENTITY NAME:

PROPOSER FEDERAL EMPLOYER IDENTIFICATION NUMBER (or SSN):

RFP ATTACHMENT 6.2. — Section A

TECHNICAL PROPOSAL & EVALUATION GUIDE

SECTION A: MANDATORY REQUIREMENTS. The Proposer must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Proposer must also detail the proposal page number for each item in the appropriate space below.

The RFP Coordinator will review the proposal to determine if the Mandatory Requirement Items are addressed as required and mark each with pass or fail. For each item that is not addressed as required, the Proposal Evaluation Team must review the proposal and attach a written determination. In addition to the Mandatory Requirement Items, the RFP Coordinator will review each proposal for compliance with all RFP requirements.

PROPOSER LEGAL ENTITY NAME:			
Proposal Page # (Proposer completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		The Proposal must be delivered to the State no later than the Proposal Deadline specified in the RFP Section 2, Schedule of Events.	
		The Technical Proposal must NOT contain cost or pricing information of any type.	
		The Technical Proposal must NOT contain any restrictions of the rights of the State or other qualification of the proposal.	
		A Proposer must NOT submit alternate proposals.	
		A Proposer must NOT submit multiple proposals in different forms (as a prime and a sub-contractor).	
	A.1.	Provide the Proposal Statement of Certifications and Assurances (RFP Attachment 6.1.) completed and signed by an individual empowered to bind the Proposer to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification.	
	A.2.	Provide a statement, based upon reasonable inquiry, of whether the Proposer or any individual who shall perform work under the contract has a possible conflict of interest (<i>e.g.</i> , employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	A.3.	Provide a current bank reference indicating that the Proposer's business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.	
	A.4.	Provide two current positive credit references from vendors with which the Proposer has done business written in the form of standard business letters, signed, and dated within the past three (3) months.	
	A.5.	Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a positive credit rating for the Proposer (NOTE: A credit bureau report number without the full report is insufficient and will <u>not</u> be considered responsive.)	
	A.6.	Provide a valid, Certificate of Insurance that is verified and dated within the last six (6) months and which details <u>all</u> of the following:	

PROPOSER LEGAL ENTITY NAME:			
Proposal Page # (Proposer completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		<ul style="list-style-type: none"> (a) Insurance Company (b) Proposer's Name and Address as the Insured (c) Policy Number (d) The following minimum insurance coverage: <ul style="list-style-type: none"> (i) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) aggregate; (e) The following information applicable to each type of insurance coverage: <ul style="list-style-type: none"> (i) Coverage Description, (ii) Exceptions and Exclusions, (iii) Policy Effective Date, (iv) Policy Expiration Date, and (v) Limit(s) of Liability. 	
<i>State Use – RFP Coordinator Signature, Printed Name & Date:</i>			

RFP ATTACHMENT 6.2. — SECTION B

TECHNICAL PROPOSAL & EVALUATION GUIDE

SECTION B: GENERAL QUALIFICATIONS & EXPERIENCE. The Proposer must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Proposer must also detail the proposal page number for each item in the appropriate space below. Proposal Evaluation Team members will independently evaluate and assign one score for all responses to Section B— General Qualifications & Experience Items.

PROPOSER LEGAL ENTITY NAME:		
Proposal Page # (Proposer completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.1.	Detail the name, e-mail address, mailing address, telephone number, and facsimile number of the person the State should contact regarding the proposal.
	B.2.	Describe the Proposer's form of business (<i>i.e.</i> , individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company) and business location (physical location or domicile).
	B.3.	Detail the number of years the Proposer has been in business.
	B.4.	Briefly describe how long the Proposer has been performing the services required by this RFP.
	B.5.	Describe the Proposer's number of employees, client base, and location of offices.
	B.6.	Provide a statement of whether there have been any mergers, acquisitions, or sales of the Proposer within the last ten years. If so, include an explanation providing relevant details.
	B.7.	Provide a statement of whether the Proposer or, to the Proposer's knowledge, any of the Proposer's employees, agents, independent contractors, or subcontractors, proposed to provide work on a contract pursuant to this RFP, have been convicted of, pled guilty to, or pled <i>nolo contendere</i> to any felony. If so, include an explanation providing relevant details.
	B.8.	Provide a statement of whether, in the last ten years, the Proposer has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors. If so, include an explanation providing relevant details.
	B.9.	Provide a statement of whether there is any material, pending litigation against the Proposer that the Proposer should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this RFP or is likely to have a material adverse effect on the Proposer's financial condition. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it would impair the Proposer's performance in a contract pursuant to this RFP. NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Proposer must be properly licensed to render such opinions. The State may require the Proposer to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders such opinions.
	B.10.	Provide a statement of whether there are any pending or in progress Securities Exchange Commission investigations involving the Proposer. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it will impair the Proposer's performance in a contract pursuant to this RFP. NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Proposer must be properly licensed to render such opinions. The State may require the Proposer to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders such opinions.

RFP ATTACHMENT 6.2. — SECTION B (continued)

PROPOSER LEGAL ENTITY NAME:		
Proposal Page # (Proposer completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.11.	Provide a brief, descriptive statement detailing evidence of the Proposer's ability to deliver the services sought under this RFP (<i>e.g.</i> , prior experience, training, certifications, resources, program and quality management systems, <i>etc.</i>).
	B.12.	Provide a narrative description of the proposed project team, its members, and organizational structure along with an organizational chart identifying the key people who will be assigned to accomplish the work required by this RFP, illustrating the lines of authority, and designating the individual responsible for the completion of each service component and deliverable of the RFP.
	B.13.	Provide a personnel roster listing the names of key people who the Proposer will assign to perform duties or services required by this RFP along with the estimated number of hours that each individual will devote to that performance. Follow the personnel roster with a resume for each of the people listed. The resumes must detail the individual's title, education, current position with the Proposer, and employment history.
	B.14.	Provide a statement of whether the Proposer intends to use subcontractors to accomplish the work required by this RFP, and if so, detail: <ul style="list-style-type: none"> (a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each; (b) a description of the scope and portions of the work each subcontractor will perform; <u>and</u> (c) a statement specifying that each proposed subcontractor has expressly assented to being proposed as a subcontractor in the Proposer's response to this RFP.
	B.15.	Provide documentation of the Proposer's commitment to diversity as represented by its business strategy, business relationships, and workforce— this documentation should detail <u>all</u> of the following: <ul style="list-style-type: none"> (a) a description of the Proposer's existing programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities, women, persons with a handicap or disability and small business enterprises; (b) a listing of the Proposer's current contracts with business enterprises owned by minorities, women, persons with a handicap or disability and small business enterprises, including the following information: <ul style="list-style-type: none"> (i) contract description and total value (ii) contractor name and ownership characteristics (<i>i.e.</i>, ethnicity, sex, disability) (iii) contractor contact and telephone number; (c) an estimate of the level of participation by business enterprises owned by minorities, women, persons with a handicap or disability and small business enterprises in a contract awarded to the Proposer pursuant to this RFP, including the following information: <ul style="list-style-type: none"> (i) participation estimate (expressed as a percent of the total contract value that will be dedicated to business with subcontractors and supply contractors having such ownership characteristics — PERCENTAGES ONLY — DO NOT INCLUDE DOLLAR AMOUNTS) (ii) descriptions of anticipated contracts (iii) names and ownership characteristics (<i>i.e.</i>, ethnicity, sex, disability) of anticipated subcontractors and supply contractors anticipated; and (d) the percent of the Proposer's total current employees by ethnicity, sex, and handicap or disability. <p>NOTE: Proposers that demonstrate a commitment to diversity will advance State efforts to expand opportunity to do business with the State as contractors and sub-contractors. Proposal evaluations will recognize the positive qualifications and experience of a Proposer that does business with enterprises owned by minorities, women, persons with a handicap or disability and small business enterprises and that offers a diverse workforce to meet service needs.</p>

RFP ATTACHMENT 6.2. — SECTION B (continued)

PROPOSER LEGAL ENTITY NAME:		
Proposal Page # (Proposer completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.16.	<p>Provide a statement of whether or not the Proposer has any current contracts with the State of Tennessee or has completed any contracts with the State of Tennessee within the previous 5-year period. If so, provide the following information for all of the current and completed contracts:</p> <ul style="list-style-type: none"> (a) the name, title, telephone number and e-mail address of the State contact knowledgeable about the contract; (b) the procuring State agency name; (c) a brief description of the contract's scope of services; (d) the contract term; and (e) the contract number. <p>NOTES:</p> <ul style="list-style-type: none"> ▪ Current or prior contracts with the State are <u>not</u> a prerequisite and are <u>not</u> required for the maximum evaluation score, and the existence of such contracts with the State will <u>not</u> automatically result in the addition or deduction of evaluation points. ▪ Each evaluator will generally consider the results of inquiries by the State regarding all contracts noted.
	B.17.	<p>Provide customer references from individuals (who are <u>not</u> current or former officials or staff of the State of Tennessee) for projects similar to the services sought under this RFP and which represent:</p> <ul style="list-style-type: none"> ▪ two (2) of the larger accounts currently serviced by the Proposer, <u>and</u> ▪ three (3) completed projects. <p>All references must be provided in the form of standard reference questionnaires that have been fully completed by the individual providing the reference as required. The standard reference questionnaire, which <u>must</u> be used and completed as required, is detailed at RFP Attachment 6.3. References that are not completed as required will be considered non-responsive and will not be considered.</p> <p>The Proposer will be <u>solely</u> responsible for obtaining the fully completed reference questionnaires, and for including them within the Proposer's sealed Technical Proposal. In order to obtain and submit the completed reference questionnaires, as required, follow the process detailed below.</p> <ul style="list-style-type: none"> (a) "Customize" the standard reference questionnaire at RFP Attachment 6.3. by adding the subject Proposer's name, and make exact duplicates for completion by references. (b) Send the customized reference questionnaires to each individual chosen to provide a reference along with a new standard #10 envelope. (c) Instruct the person that will provide a reference for the Proposer to: <ul style="list-style-type: none"> (i) complete the reference questionnaire (on the form provided or prepared, completed, and printed using an exact duplicate of the document); (ii) sign <u>and</u> date the completed, reference questionnaire; (iii) seal the completed, signed, and dated, reference questionnaire within the envelope provided; (iv) sign his or her name in ink across the sealed portion of the envelope; and (v) return the sealed envelope containing the completed reference questionnaire directly to the Proposer (the Proposer may wish to give each reference a deadline, such that the Proposer will be able to collect all required references in time to include them within the sealed Technical Proposal). (d) <u>Do NOT open the sealed references upon receipt.</u> (e) Enclose all <u>sealed</u> reference envelopes within a larger, labeled envelope for inclusion in the Technical Proposal as required.

RFP ATTACHMENT 6.2. — SECTION B (continued)

PROPOSER LEGAL ENTITY NAME:		
Proposal Page # (Proposer completes)	Item Ref.	Section B— General Qualifications & Experience Items
		<p>NOTES:</p> <ul style="list-style-type: none"> ▪ The State will not accept late references or references submitted by any means other than that which is described above, and each reference questionnaire submitted must be completed as required. ▪ The State will not review more than the number of required references indicated above. ▪ While the State will base its reference check on the contents of the sealed reference envelopes included in the Technical Proposal package, the State reserves the right to confirm and clarify information detailed in the completed reference questionnaires, and may consider clarification responses in the evaluation of references. ▪ The State is under <u>no</u> obligation to clarify any reference information.
	B.18.	The Contractor will provide documentation showing the Proposer has a warehouse capable of holding a monthly order of supplies and that the warehouse is in a location that will allow it the Proposer to respond in a timely manner to contract requests.
SCORE (for <u>all</u> Section B—Qualifications & Experience Items above): <i>(maximum possible score = 50)</i>		
<i>State Use – Evaluator Identification:</i>		

RFP ATTACHMENT 6.2. — SECTION C

TECHNICAL PROPOSAL & EVALUATION GUIDE

SECTION C: TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH. The Proposer must address all items (below) and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Proposer must also detail the proposal page number for each item in the appropriate space below.

A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate and score the proposal's response to each item. Each evaluator will use the following whole number, raw point scale for scoring each item:

0 = little value 1 = poor 2 = fair 3 = satisfactory 4 = good 5 = excellent

The RFP Coordinator will multiply the Item Score by the associated Evaluation Factor (indicating the relative emphasis of the item in the overall evaluation). The resulting product will be the item's raw, weighted score for purposes of calculating the section score as indicated.

PROPOSER LEGAL ENTITY NAME:					
Proposal Page # (Proposer completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
	C.1.	Provide a narrative that illustrates the Proposer's understanding of the State's requirements and project schedule.		30	
	C.2.	Provide a narrative that illustrates how the Proposer will complete the scope of services, accomplish required objectives, and meet the State's project schedule.		40	
	C.3.	Provide a narrative that illustrates how the Proposer will manage the project, ensure completion of the scope of services, and accomplish required objectives within the State's project schedule.		30	
<i>The RFP Coordinator will use this sum and the formula below to calculate the section score. All calculations will use and result in numbers rounded to two (2) places to the right of the decimal point.</i>					Total Raw Weighted Score: <i>(sum of Raw Weighted Scores above)</i>
Total Raw Weighted Score <hr style="width: 50%; margin: 0 auto;"/> Maximum Possible Raw Weighted Score <i>(i.e., 5 x the sum of item weights above)</i>			X 50 <i>(maximum possible score)</i>	= SCORE:	
<i>State Use – Evaluator Identification:</i>					
<i>State Use – RFP Coordinator Signature, Printed Name & Date:</i>					

REFERENCE QUESTIONNAIRE

The standard reference questionnaire provided on the following pages of this attachment MUST be completed by all individuals offering a reference for the Proposer.

The Proposer will be solely responsible for obtaining completed reference questionnaires as required (refer to RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section B, Item B.17.), and for enclosing the sealed reference envelopes within the Proposer's Technical Proposal.

RFP # NUMBER PROPOSAL REFERENCE QUESTIONNAIRE

REFERENCE SUBJECT: PROPOSER NAME (completed by proposer before reference is requested)

The "reference subject" specified above, intends to submit a proposal to the State of Tennessee in response to the Request for Proposals (RFP) indicated. As a part of such proposal, the reference subject must include a number of completed and sealed reference questionnaires (using this form).

Each individual responding to this reference questionnaire is asked to follow these instructions:

- complete this questionnaire (either using the form provided or an exact duplicate of this document);
- sign and date the completed questionnaire;
- seal the completed, signed, and dated questionnaire in a new standard #10 envelope;
- sign in ink across the sealed portion of the envelope; and
- return the sealed envelope containing the completed questionnaire directly to the reference subject.

(1) **What is the name of the individual, company, organization, or entity responding to this reference questionnaire?**

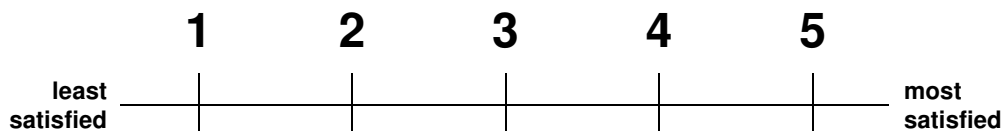
(2) **Please provide the following information about the individual completing this reference questionnaire on behalf of the above-named individual, company, organization, or entity.**

NAME:	
TITLE:	
TELEPHONE #	
E-MAIL ADDRESS:	

(3) **What services does /did the reference subject provide to your company or organization?**

(4) **What is the level of your overall satisfaction with the reference subject as a vendor of the services described above?**

Please respond by circling the appropriate number on the scale below.

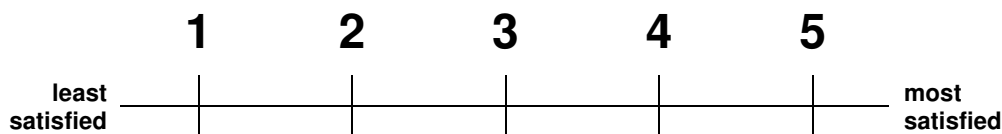


RFP # NUMBER PROPOSAL REFERENCE QUESTIONNAIRE — PAGE 2

If you circled 3 or less above, what could the reference subject have done to improve that rating?

- (5) If the services that the reference subject provided to your company or organization are completed, were the services completed in compliance with the terms of the contract, on time, and within budget? If not, please explain.
- (6) If the reference subject is still providing services to your company or organization, are these services being provided in compliance with the terms of the contract, on time, and within budget? If not, please explain.
- (7) How satisfied are you with the reference subject's ability to perform based on your expectations and according to the contractual arrangements?
- (8) In what areas of service delivery does /did the reference subject excel?
- (9) In what areas of service delivery does /did the reference subject fall short?
- (10) What is the level of your satisfaction with the reference subject's project management structures, processes, and personnel?

Please respond by circling the appropriate number on the scale below.

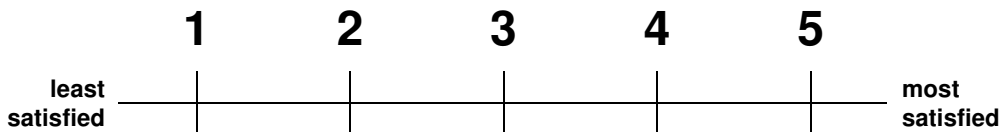


What, if any, comments do you have regarding the score selected above?

RFP # NUMBER PROPOSAL REFERENCE QUESTIONNAIRE — PAGE 3

- (11) Considering the staff assigned by the reference subject to deliver the services described in response to question 3 above, how satisfied are you with the technical abilities, professionalism, and interpersonal skills of the individuals assigned?

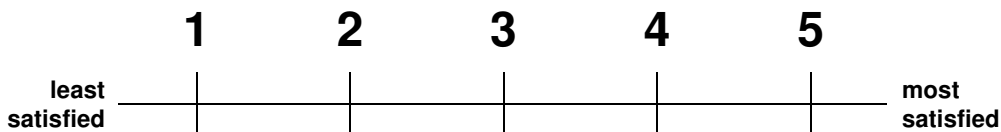
Please respond by circling the appropriate number on the scale below.



What, if any, comments do you have regarding the score selected above?

- (12) Would you contract again with the reference subject for the same or similar services?

Please respond by circling the appropriate number on the scale below.



What, if any, comments do you have regarding the score selected above?

REFERENCE SIGNATURE:

(by the individual completing this request for reference information)

_____ (must be the same as the signature across the envelope seal)

DATE:

RFP ATTACHMENT 6.4.

PROPOSAL SCORE SUMMARY MATRIX

	<i>PROPOSER NAME</i>		<i>PROPOSER NAME</i>		<i>PROPOSER NAME</i>	
GENERAL QUALIFICATIONS & EXPERIENCE (maximum: 50)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>REPEAT AS NECESSARY</i>						
	AVERAGE:		AVERAGE:		AVERAGE:	
TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH (maximum: 50)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>REPEAT AS NECESSARY</i>						
	AVERAGE:		AVERAGE:		AVERAGE:	
TOTAL PROPOSAL EVALUATION SCORE: (maximum: NUMBER)						
<i>RFP Coordinator Signature, Printed Name & Date:</i>						

RFP # 34401-00317 PRO FORMA CONTRACT

The *pro forma* contract detailed in following pages of this exhibit contains some “blanks” (signified by descriptions in capital letters) that will be completed with appropriate information in the final contract resulting from the RFP.

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES,
WEST TENNESSEE HOMES
AND
CONTRACTOR NAME**

This Contract, by and between the State of Tennessee, Department of Intellectual and Developmental Disabilities (DIDD), West Tennessee Homes (West TN Homes), hereinafter referred to as the "State" and Contractor Legal Entity Name, hereinafter referred to as the "Contractor," is for the provision of Durable Medical Equipment (DME) and related supplies reimbursable by Medicare Part B or other third party payors, as further defined in the "SCOPE OF SERVICES."

The Contractor is a/an Individual, For-Profit Corporation, Non-Profit Corporation, Special Purpose Corporation Or Association, Partnership, Joint Venture, Or Limited Liability Company.
Contractor Place of Incorporation or Organization: Location

A. SCOPE OF SERVICES:

- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.
- A.2. The Contractor shall provide Durable Medical Equipment (DME) and related supplies (services) that would normally be a covered service under Medicare Part B regulations or by another third party payor to the individuals who live at West TN Homes. This contract does not create a purchasing method for the services or supplies not covered under Medicare Part B regulations or by another third party payor.
- A.3. The Contractor shall (in performance of all services and delivery of products under this contract) render professional services and products in accordance with all operational standards and guidelines of West TN Homes, the Department of Intellectual and Developmental Disabilities, Center for Medicare and Medicaid Services, Bureau of TennCare, TennCare MCOs, and other private insurance companies as applicable.
- A.4. The Contractor will provide products and services that are eligible products and services under the Medicare Part B Rules and Regulations and the TennCare Rules and Regulations. Only the Medicare Part B and TennCare products requested by the facility shall be provided. No other products may be added by the Contractor or the State. These products and services will be provided to all individuals who live at West TN Homes who have any type of third party coverage that will pay for the cost of the products and services and result in no cost being paid by the Individual or the State.
- A.5. The Contractor shall deliver only the brand name products specified by West TN Homes, exceptions can be made if agreed to by the West TN Homes' Medical Director or Family Nurse Practitioner in the event that a specified brand is not available and the substitution will not endanger the health and well being of the Individuals. All products delivered shall be new; no reconditioned equipment or products that are close (90 days or less) to their expiration date will be accepted.
- A.6. The Contractor will maintain a stocked warehouse that will permit the vendor to respond within twenty-four (24) hours to contract requests. The State will not provide warehouse space for contractor.
- A.7. The Contractor will provide newly ordered products and emergency ordered products within twenty-four (24) hours of receiving the order.
- A.8. The Contractor shall deliver products separated individually into packages for each resident

within the West TN Home.

- A.9. The Contractor shall be responsible for delivering a one (1) month supply of products for each individual to the home address of the individual. The Contractor is to provide direct delivery from its warehouse, with no drop deliveries from other vendors.
- A.10. The Contractor will provide enteral products specified by a physician's order and in packaging form required by West TN Homes, i.e. can or bottle, size of unit requested, etc. The contractor will provide nutritional assessments, when requested by the State, for eligible residents using enteral products provided by the contractor that include but may not be limited to, estimated calorie, protein, and fluid requirements of the resident and an analysis of how well the enteral product is meeting these requirements. The Contractor will supply enteral feeding pumps and supplies needed for the pumps at no cost to the state or the individuals. All pumps provided will be the same model and training will be provided to all units in the use of the pumps.
- A.11. The Contractor shall be responsible for supplying and initiating the following list of forms which must be approved by the State before use:
- a. Waiver Letter – Waiver of Medicare Part B coinsurance/deductible payment based on determination of financial hardship of the individual listing the type of financial hardship. This form is to be completed before shipment of any products. The Contractor shall complete and obtain the approval for of the waiver letter based on the current Medicare Part B guidelines (either by shipment / monthly / annually/ or other periodic method). The Contractor shall deliver the completed form to the West TN Home's Director of Nursing by fax or US Mail. The West TN Home's Director of Nursing shall maintain a copy of the form.
 - b. Resident Information – A signed resident information form releasing assignment of benefits used to bill Medicare Part B, TennCare, or other third party payor. This form is to be completed before shipment of any products. The Contractor shall complete and obtain this assignment form based on the most current Medicare Part B guidelines (either by shipment / monthly / annually/ or other periodic method). The Contractor shall deliver the completed form to the West TN Home's Director of Nursing by fax or US Mail. The West TN Home's Director of Nursing shall maintain a copy of the form.
 - c. Certificate of Medical Necessity – A certificate verifying medical necessity of each item used. The form is to be signed by the attending physician and is to be completed before shipment of any products. The Contractor shall complete this form based on the most current Medicare Part B guidelines (either by shipment / monthly / annually/ or other periodic method) and deliver the form by fax or US Mail to the West TN Home's attending physician for signature and will be returned to the Contractor by the State by fax or US Mail. The West TN Home's Director of Nursing shall maintain a copy of the form.
 - d. Delivery Ticket – A delivery ticket listing all items delivered to the home is to be included with each shipment of products. This list shall have an individual listing of products delivered for each resident. The Contractor shall complete this form and send the delivery ticket with all items each time there is a delivery. This document will be included in the order. The West TN Home's Director of Nursing shall maintain a copy of the form.
 - e. Monthly Order List – A listing of all residents receiving products that includes that indicates the number of each product sent to the West TN Home will be sent to the State each month. The Contractor shall complete this form and send it to the West TN Homes Director of Nursing by fax or US Mail.
 - f. Statement – A monthly Statement of the total amount billed to Medicare, TennCare, or other third party payor for products/services provided that month will be sent to the State each month. The Contractor shall complete this form and send it to the West TN Homes

Director of Nursing by fax or US Mail.

- A.12. The Contractor shall provide any medical equipment or supplies that are covered by Medicare Part B, TennCare, or other third party payor, including at minimum, the following:
- a. Oxygen, oxygen equipment, and supplies
 - b. Diabetic supplies
 - c. Enteral nutrients, equipment, and supplies
 - d. Continuous Positive Airway Pressure (CPAP) devices and Respiratory Assist Devices (RADs), and related supplies and accessories
 - e. Durable Medical Equipment
- A.13. A service representative will meet with the West TN Homes Family Nurse Practitioner or visit West TN Homes within one week (7 days) of any request for an on site visit by the State to clear up any problems or concerns.
- A.14. The Contractor shall contact the designated person(s) at the facility weekly to review the individuals' requirements and adjust order quantities to meet those requirements. By mutual consent of the West TN Homes' Family Nurse Practitioner and the Contractor, ordering may be adjusted to meet operational needs of that area.
- A.15. The Contractor will honor all warranties, express or implied. The contractor shall provide a sufficient supply of loaner Durable Medical Equipment (DME) to replace any defective equipment while the defective equipment is being repaired or replaced by the manufacture. The Contractor will make arrangements with the facility to pick up any defective equipment.
- A.16. The Contractor will be responsible for qualifying all individuals, completing all paperwork, and monitoring the inventory of equipment and products. The Contractor shall inventory products periodically.
- A.17. The Contractor will evaluate all individuals receiving products/services from the Contractor for eligibility, necessity, and determination of financial hardship and said Contractor will be held accountable for meeting all standards required by Medicare Part B and other statutory or policy directions. If a physician changes the orders for an individual, a re-evaluation is to be completed before the individual receives any new products/services.
- A.18. The Contractor shall be responsible for any calibration, maintenance or repairs / replacement of any medical equipment provided through this contract. Documentation of calibration and maintenance must be provided.
- A.19. The Contractor will provide a technician every ninety (90) days for the service of oxygen concentrators to check for any malfunction. This service will be provided sooner if the State suspects a malfunction.
- A.20. The Contractor shall provide all registrations, certifications, and/or filings required by Tennessee State Law, Rules, and Regulations as required by the Secretary of State, Division of Business Services. The Contractor shall provide documentation of compliance with this requirement prior to providing services under this Contract and shall continue to provide documentation of any annual filings to the West TN Homes for the duration of this Contract.

B. CONTRACT PERIOD:

This Contract shall be effective for the period beginning January 16, 2012, and ending on December 31, 2016.

C. PAYMENT TERMS AND CONDITIONS:

There shall be no cost to the State for the performance of services under this contract.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of *Tennessee Code Annotated*, Section 12-4-124, *et seq.*, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment 1, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.
 - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request.
 - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of *Tennessee Code Annotated*, Section 12-4-124, *et seq.* for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.
- D.9. Records. The Contractor shall maintain documentation of services rendered under this Contract. The books, records and documents of the Contractor, insofar as they relate to work performed under this Contract, shall be maintained for a period of three (3) full years from the final date of this Contract and shall be subject to audit, at any reasonable time and upon reasonable notice, by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business

affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

- D.13. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.14. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.15. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.17. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.18. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.19. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Katherine Marshall, Deputy Regional Director
 Administrative Services
 Department of Intellectual and Developmental Disabilities
 West TN Homes

11437 Milton Wilson Road
 P. O. Box 949
 Arlington, Tennessee 38002
 kaye.marshall@tn.gov
 Telephone # 901-745-7307
 FAX # 901-745-7251

The Contractor:

Contractor Contact Name & Title

Contractor Name

Address

Email Address

Telephone # Number

FAX # Number

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.4. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.
- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.
 - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if

information received by the State under this Contract is NOT “protected health information” as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.

E.5. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor’s duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below.

- a. this Contract document with any attachments or exhibits (excluding the items listed at subsections b. through e., below);
- b. any clarifications of or addenda to the Contractor’s proposal seeking this Contract;
- c. the State solicitation, as may be amended, requesting proposals in competition for this Contract;
- d. any technical specifications provided to proposers during the procurement process to award this Contract;
- e. the Contractor’s proposal seeking this Contract.

E.6. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor’s relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor’s services are endorsed. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.

E.7. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor’s proposal responding to RFP-34401-00317 (Attachment 6.2.B.15.) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor’s performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and persons with a disability. Such reports shall be provided to the state of Tennessee Governor’s Office of Diversity Business Enterprise in form and substance as required by said office.

E.8. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State’s defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor’s own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by *Tennessee Code Annotated*, Section 8-6-106.

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES:

JAMES M. HENRY, COMMISSIONER

DATE

ATTACHMENT 1

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION