



STATE OF TENNESSEE
PROCUREMENT COMMISSION

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- AGENDA -

PROCUREMENT COMMISSION MEETING #014
THURSDAY, JANUARY 15, 2015 – 2:00 P.M.
TN TOWER, 3RD FLOOR, MULTI-MEDIA ROOM

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LARRY B. MARTIN, Chairman
Commissioner of Finance & Administration

JUSTIN P. WILSON
Comptroller of the Treasury

ROBERT E. OGLESBY
Commissioner of General Services

MICHAEL F. PERRY
Chief Procurement Officer

**MINUTES OF NOVEMBER 14, 2014
MEETING**



STATE OF TENNESSEE
DEPARTMENT OF GENERAL SERVICES

BILL HASLAM
GOVERNOR

ROBERT E. OGLESBY, AIA
COMMISSIONER

MINUTES
PROCUREMENT COMMISSION MEETING #013
FRIDAY, NOVEMBER 14, 2014 – 10:00 A.M.
TN TOWER, 3RD FLOOR, NASHVILLE ROOM

Members in Attendance:

Larry B. Martin, Commissioner of the Department of Finance & Administration; Justin P. Wilson, Comptroller of the Treasury; Robert E. Oglesby, Commissioner of the Department of General Services; and Mike Perry, Chief Procurement Officer.

Others in Attendance:

Toni Stuart, John Bissell, Doug Whitcomb, Cameron Himes, Colleen Mallea, Shelia Simpson, Martha Nichols, Sandra Braber-Grove, Kathy Stickel, Buddy Lea, Sheila Ewing-Agnew, Jamil Moore, Keith West, Laura Kinard, John Dunn, Sam Edwards, Kaci Stewart, Paul Krivacka, Charlotte McKinney

I. Call to Order.

Commissioner Martin called the meeting to order and recognized that all Procurement Commission members were present.

II. Minutes from the August 21, 2014 Procurement Commission Meeting.

Commissioner Martin presented the August 21, 2014 minutes and asked if any changes or corrections were needed. Seeing none, Comptroller Wilson stated that his office had reviewed the minutes and that they had no changes or corrections. Comptroller Wilson then made a motion to approve the minutes from the August 21, 2014 Procurement Commission meeting as presented. The motion was seconded by Commissioner Oglesby; whereupon the minutes were unanimously approved.

III. New Business.

Proposed Changes to the following Central Procurement Office documents.

CENTRAL PROCUREMENT OFFICE

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Chief Procurement Officer Mike Perry stated that the Central Procurement Office had eight documents that were reviewed and recommended by the Advisory Council on State Procurement to present to the Procurement Commission ("Commission") for approval. Commissioner Martin then asked Paul Krivacka, Lead Attorney/Director of Category Management, Central Procurement Office, to present the New Business agenda items.

At this point, Commissioner Martin asked if the Commission had a preference for voting on the proposed document changes separately or collectively after they had all been heard. Comptroller Wilson stated that he had no preference but that there were some very important items on the agenda and he would like an explanation on the first item. The Commission members then agreed to vote on the documents collectively.

(1) Fee for Goods or Services Contract ("FA") Template

Mr. Krivacka stated that the FA template was a very important document and if approved would dramatically change the structure and look of contract documents, as well as reduce the State's exposure to contractual risk. Mr. Krivacka then summarized the following points with regard to the FA Template:

- When revising the FA Template, the Policy Review Subcommittee ("Subcommittee") had three primary goals: (1) to make the document easier to use; (2) to reduce risk to the State; and (3) to substitute plain English for "legalese."
- Revisions that promote ease of use include:
 - Moving the standard terms to the first half of the document and placing optional terms and instructions in the second half;
 - Improving instructional language; and
 - Moving all mandatory terms to Section D and reserving Section E for special terms.
- Revisions that reduce risk to the State include:
 - Adding or improving the "Limitation of State's Liability," "Warranty," "Force Majeure," "Maximum Liability," and "Confidentiality of Records" terms;
 - Moving the "Hold Harmless" term and other mandatory terms to Section D;
 - Adding instructions before Section E stating that in the event of a conflict between a Section E term and Section D, the Section E term is subordinate; and
 - Adding language that the contract does not grant the Contractor any exclusive rights or guarantee that the State will buy a minimum quantity of goods or services.

Mr. Krivacka then asked if there were any questions or comments regarding the FA template. Comptroller Wilson stated that he wanted to be clear that the FA template was not a model document but a template and that as such any modification to the provisions of the FA template would require a Rule Exception Request approved by

the Central Procurement Office, and in many cases approved by the Comptroller's Office. Mr. Krivacka confirmed that was correct. Comptroller Wilson stated that he wanted to make sure that was understood by everyone. Commissioner Martin and Comptroller Wilson agreed that the proposed FA template was clearly an improvement over the existing document.

Seeing no other questions or comments, Commissioner Martin asked Mr. Krivacka to proceed to the next agenda item.

(2) Governmental Grant ("GG") Template

Mr. Krivacka stated that many of the changes to the FA template were being rolled out to other documents, including the GG template. Mr. Krivacka explained that the GG template was the grant contract document between governmental entities. Mr. Krivacka then summarized the following points with regard to the GG Template:

- The Procurement Commission approved significant changes to the GG Template at the August 2014 meeting.
- This request involves refining the GG Template to better align it with the FA template and to respond to agency feedback.
- In order to match the FA template, this request moves all mandatory terms to Section D and reserves Section E for special terms only.
- Other proposed revisions include clarifying the instructional language to resolve ambiguities and detail when Rule Exception Requests are required.
- After further review of Tenn. Code Ann. § 12-3-309, this request deletes the "Prohibition of Illegal Immigrants" provision. Tenn. Code Ann. § 12-3-309 suggests that the attestation requirement applies to entities that are providing goods or services to the State. Even with deletion of this provision, a local government that knowingly hires an illegal immigrant is subject to civil, criminal, and tax consequences under federal law.

Comptroller Wilson noted that local governments were subject to federal law with regard to the use of illegal immigrants. Mr. Krivacka concurred with Comptroller Wilson. Commissioner Martin asked if federal law was the proper place for the penalties and Commissioner Oglesby asked if deletion of the "Prohibition of Illegal Immigrants" provision increased any risk to the State. Comptroller Wilson verified that there would be some risk to the state if the "Prohibition of Illegal Immigrants" provision remained in the GG template and Mr. Krivacka confirmed that there were some consequences under federal law.

Commissioner Martin asked if there were any additional questions or comments regarding the GG template. Seeing none, Commissioner Martin asked Mr. Krivacka to proceed to the next agenda item.

(3) Delegated Grant Authority ("DG") Template

Mr. Krivacka summarized the following points with regard to the DG Template:

- Since delegated grant authorities may involve multi-million dollar expenditures, many of the proposed changes to this document aim to reduce risk to the State.
- Proposed changes include: making the document a template and emphasizing that any modification of a template requires an approved Rule Exception Request; requiring the agency to submit examples of the grant contracts it will use under the delegated grant authority (previously, submission of the scope of services only was required); capping the maximum liability of any one grant contract executed under a delegated grant authority at five million dollars; and eliminating references to no longer applicable Finance and Administration rules and policies.

Commissioner Martin commented that the proposed changes to the DG template were similar to the proposed changes to the FA template in that they would create better disciplines. Mr. Krivacka agreed that the proposed changes would improve the standards set for contracts and improve grant document review.

Commissioner Martin asked if there were any questions or comments regarding the DG template. Commissioner Oglesby commented that the proposed changes would also help to highlight the Rule Exception Requests for review by the Central Procurement Office. Mr. Krivacka agreed. Seeing no other questions or comments, Commissioner Martin asked Mr. Krivacka to proceed to the next agenda item.

(4) Grant Contract cover sheet

Mr. Krivacka summarized the following points with regard to the Grant Contract cover sheet:

- The U.S. OMB issued new regulations on grants and subrecipient monitoring. These regulations take effect December 26, 2014 and some terms on the Grant Contract cover sheet must be changed for consistency with the new regulations.
- Other proposed changes include adding a section for the grantee's fiscal year end (which is important for subrecipient monitoring), replacing Office of Contract Review ("OCR") with Central Procurement Office ("CPO"), and eliminating references to American Recovery and Reinvestment Act funds because these funds were exhausted some time ago.

Commissioner Martin asked if these changes were basically just updating the Grant Contract cover sheet and Mr. Krivacka confirmed that he was correct.

Commissioner Martin asked if there were any questions or comments regarding the Grant Contract cover sheet. Seeing none, Commissioner Martin asked Mr. Krivacka to proceed to the next agenda item.

(5) Section 6.2.4, "Required Agency Documentation" of the *Procurement Procedures Manual of the Central Procurement Office* ("Manual")

Mr. Krivacka summarized the following points with regard to Section 6.2.4, "Required Agency Documentation" of the *Procurement Procedures Manual of the Central Procurement Office*:

- This request clarifies the section of the Manual on the documentation required for sole source procurements.
- The proposed language makes it clear that a letter verifying the vendor has exclusive rights to provide the goods or services is required only if the vendor's exclusive rights are the basis for the sole source procurement.
- This request should reduce agency confusion over sole source procurements and thus make the process more efficient because it better details what documentation is required. Mr. Krivacka stated that there are grounds for a sole source procurement other than a vendor's exclusive rights.

Commissioner Martin asked if there were any questions or comments regarding Section 6.2.4, "Required Agency Documentation" of the *Procurement Procedures Manual of the Central Procurement Office*. Comptroller Wilson stated that this revision would help to solve problems that may come up at the end of the contract process and would be a great improvement.

Commissioner Oglesby stated that it is always good to encourage competition but when we cannot and it is in the best interest of the State to use Sole Source, then it is good to ensure as much clarity as possible.

Seeing no additional questions or comments, Commissioner Martin asked Mr. Krivacka to proceed to the next agenda item.

(6) Section 10.8, "P-Card Purchases" of the *Procurement Procedures Manual of the Central Procurement Office*

Mr. Krivacka summarized the following points with regard to Section 10.8, "P-Card Purchases" of the *Procurement Procedures Manual of the Central Procurement Office*:

- This request modifies the P-Card Purchases section of the Manual to reflect the Procurement Commission's approval of a \$10,000 threshold for small purchases.
- Ensuring that the maximum amount for P-Card purchases matches the maximum amount for small purchases may encourage P-Card use.

Comptroller Wilson asked if the proposed revision would satisfy the issues raised by the Comptroller's Office at the last audit. Mr. Krivacka responded that it did not and that the issues raised during the last audit would be addressed with the revised P-Card manual that is currently under development. Mr. Krivacka further stated that when presented to the Procurement Commission, the revised P-Card manual will not only address the previous audit issues but would also reflect a streamlined policy, be easier to use, and should increase P-Card usage. Commissioner Martin agreed that the P-Card was a good tool but also emphasized that proper controls for P-Card usage

needed to be in place. Chief Procurement Officer Perry stated that he was comfortable in the current environment but as the program grows the CPO would continue to review associated risk and controls. Mr. Perry continued that one way to add control would be to utilize Edison to make payments against purchase orders, have an electronic reconciliation process, and also use the virtual or “ghost” card process so that users would not actually have a physical card in their possession. Mr. Krivacka stated that the revised P-Card manual would address these issues.

Commissioner Martin asked if there were any additional questions or comments regarding Section 10.8, “P-Card Purchases” of the *Procurement Procedures Manual of the Central Procurement Office*. Seeing none, Commissioner Martin asked Mr. Krivacka to proceed to the next agenda item.

(7) Addition of Section 6.7, “Purchase Order Exemptions” to the *Procurement Procedures Manual of the Central Procurement Office*

Mr. Krivacka summarized the following points with regard to Section 6.7, “Purchase Order Exemptions” of the *Procurement Procedures Manual of the Central Procurement Office*:

- This request proposes adding a new section to the *Procurement Procedures Manual of the Central Procurement Office* to identify certain purchases that agencies can make without submitting a purchase order.
- Purchases that are exempt from the purchase order requirement must be: unavailable on a statewide or agency term contract; supported by an invoice; and performed by the vendor in 90 days or less.
- This request also promotes use of the P-Card by reminding agencies that purchase orders are not required when using the P-Card in compliance with the P-Card policy.

Commissioner Martin asked if there were any questions or comments regarding Section 6.7, “Purchase Order Exemptions” of the *Procurement Procedures Manual of the Central Procurement Office*. Seeing none, Commissioner Martin asked Mr. Krivacka to proceed to the next agenda item.

(8) Terms and conditions for purchase orders issued under an agency’s local purchase authority

Mr. Krivacka summarized the following points with regard to terms and conditions for purchase orders issued under an agency’s local purchase authority:

- Currently, when agencies issue purchase orders under their small or local purchase authority, the purchase orders lack terms and conditions.
- Adding terms and conditions to this type of purchase order reduces risk to the State and better protects the State’s interests.

- Among the proposed terms and conditions for purchase orders issued under an agency's local purchase authority are: Inspection and Acceptance; Limitation of [the State's] Liability; Termination for Convenience; and Hold Harmless.

Commissioner Martin asked if there were any questions or comments about the proposed terms and conditions for purchase orders issued under an agency's local purchase authority.

Seeing none, Commissioner Martin asked if there were any questions or comments regarding any of the proposed changes to the eight Central Procurement Office documents on the agenda. Seeing none, the Commission members agreed that they were comfortable voting on all eight documents collectively. Comptroller Wilson stated that all the documents had been reviewed extensively by the Advisory Council Policy Review Subcommittee, as well as the Comptroller's office, and made a motion to approve documents one through eight as shown on the Procurement Commission agenda as presented. The motion was seconded by Commissioner Oglesby; whereupon all the changes were unanimously approved.

IV. Update on review/comparison of Higher Education and Central Procurement Office procurement practices.

Chief Procurement Officer Perry stated that at the May 2014 Commission meeting it was requested for the Central Procurement Office to review the most current procurement policies and procedures of the Tennessee Board of Regents ("TBR") and University of Tennessee ("UT") and compare those to the most recent version of the same policies and procedures for the Central Procurement Office. Mr. Perry stated that the second part of the request from the May 2014 Commission meeting was to identify any contracts that might be common to both general government and higher education for the purposes of benchmarking pricing and to identify any opportunities for collaboration and cost savings. Mr. Perry reported that work on the task had begun and that significant progress had been made.

Chief Procurement Officer Perry reported that the CPO had received 37 contracts from UT and two contracts from TBR that appeared to align with similar CPO contracts. As TBR had only two system wide contracts, Mr. Perry advised that the CPO requested that they review further and look for additional contracts with some of the larger institutions that might align with some statewide contracts and that information should be available soon. Of the 39 contracts submitted, 34 appeared to be good opportunities for collaboration. Of those 34, the eight most promising contracts in light of timing/expiration dates were: road salt, CISCO phone systems, industrial gases, office supplies, audio visual equipment, electrical maintenance and parts, medical testing, HVAC maintenance and parts. Mr. Perry stated that the Central Procurement Office had started review of these eight contracts and a presentation would be prepared for UT and TBR staff to determine what next steps would be. Mr. Perry continued that the office supplies contract was currently out for bid and UT and TBR had made provisions for the Central Procurement Office to be involved in the contract if it proved to be beneficial.

After the bids are received and evaluated, the CPO would be in a better position to determine what the next steps should be that would be the most beneficial to all parties.

Chief Procurement Officer Perry continued that one additional opportunity that will be discussed over the next year or so is the P-Card program. Mr. Perry stated that UT and TBR actually had higher spend on P-Cards than the State and that UT's contract was with Bank of America while the State contract was with Citibank. Mr. Perry stated that the goal would be to leverage the combined spend of all programs to get a higher tier rebate structure. Mr. Perry indicated that the P-Card program for the state of Georgia would be the model that Tennessee would be reviewing since a majority of their spend was for Georgia Tech and the University of Georgia. Mr. Perry stated that the next meeting with UT and TBR would be within the next two weeks.

Commissioner Martin asked Mr. Perry if he was correct that it appeared to be a common belief that this collaborative initiative would be beneficial to all parties. Mr. Perry responded that staff from UT and TBR were very cooperative and there was a spirit of collaboration. Mr. Perry advised that there was a little difficulty with the fact that UT's contracts that were considered system wide were contracts of convenience and not mandatory, as that gives department heads a great deal of authority on purchasing decisions. Nonetheless, Mr. Perry stated that there were ample opportunities to collaborate and ultimately the taxpayers of Tennessee would benefit.

Commissioner Martin asked if there were any questions or comments for Mr. Perry regarding the higher education report. Commissioner Oglesby asked if the CPO was certain if UT and TBR were already purchasing from statewide contracts. Chief Procurement Officer Perry thanked Commissioner Oglesby for asking the question and responded that UT was currently purchasing from 31 statewide contracts and although TBR was utilizing statewide contracts to a lesser degree, they had recently joined the multi-function device contract with Canon. Mr. Perry noted that the CPO had a great relationship with higher education staff.

Commissioner Martin and Comptroller Wilson agreed that there were real opportunities to be discovered with time and Comptroller Wilson suggested that having smaller, private meetings later would be helpful.

Commissioner Martin asked Chief Procurement Officer Perry that given how well it was going so far with the higher education collaboration, were there any other opportunities in the state where we could take advantage of the collective approach.

Chief Procurement Officer Perry responded that, yes, we were aggressively pursuing local government and higher education to piggyback off state contracts through TN SmartShop which provides increased visibility of our state contracts. Also, a couple of years ago a change in statute allowed private universities like Vanderbilt and Trevecca to purchase from state contracts. Mr. Perry stated that a presentation was given to their association a couple of months ago and that we hoped to continue to leverage volume that would allow the CPO to renegotiate lower prices. Mr. Perry continued that there were

two ways to accomplish that – one would be to capture the additional spend through TN SmartShop and then go back to the vendor for better pricing and the other way would be to form a partnership on the front end, as the CPO and local government did recently with road salt.

Mr. Perry noted that currently the CPO was competing against contracts that were never negotiated and that was why the CPO was averaging 10-12% cost savings/cost avoidance compared to the public sector average of 2-3%. Mr. Perry emphasized that sustainability of cost savings would depend on increasing volume.

Commissioner Martin noted that when he was with the City of Knoxville road salt was an expensive item and it was sometimes used when not needed.

Commissioner Oglesby stated that he was aware there would be other concerns when considering national contracts and leveraging the buy of other states/public entities to obtain cost savings, but was that worthy of consideration or would it result in too much risk. Chief Procurement Officer Perry stated that the CPO did have statutory authority to enter into cooperative agreements with other states or local governments and that the State of Tennessee had several agreements in place such as the Minnesota Multi-State Cooperative Alliance for Pharmacy (MMCAP) contract for pharmaceuticals. Mr. Perry explained that the MMCAP contract was a 46 state cooperative agreement without which the State of Tennessee would not be able to achieve the same level of discounts. Mr. Perry further stated that Tennessee had also participated in a multi-state agreement for industrial supplies with WW Grainger and recently entered into a cooperative agreement for playground equipment with the Tennessee Department of Environment and Conservation (TDEC) and US Communities for playground equipment.

Mr. Perry continued that there was an approved process in place for entering into a cooperative agreement that included the Comptroller's Office in order to reduce risk and ensure cost effectiveness for the State.

Commissioner Oglesby asked if there were any other departments that were not included such as Military or the Department of Transportation. Chief Procurement Officer Perry responded that statewide contracts were mandatory use contracts for all executive branch departments. Mr. Perry continued that UT, TBR, and the legislative and judicial branches were exempt; however, it was recently confirmed that the constitutional officers were utilizing a large percentage of statewide contracts. Commissioner Oglesby asked if this indicated that the spend for legislative and judicial branches would be possible additional opportunities for review and Mr. Perry confirmed that yes, the CPO would be performing an in-depth review of Edison data for the legislative branch, although their spend was relatively low, to see if there were opportunities to market State contracts to them. Mr. Perry indicated that no data for the judicial branch was currently available in Edison so the CPO had reached out to the Administrative Office of the Courts to see if they could provide some data so that it could be reviewed for possible education/marketing opportunities.

Comptroller Wilson commented that the Department of Transportation was exempt and Mr. Perry confirmed that was correct for highway and bridge construction, as well as capital projects through the State Building Commission.

Commissioner Martin asked if the Commission had any questions for Mr. Perry on his report. Seeing none, Commissioner Martin asked Mr. Perry to move to the next agenda item.

VI. Reports.

- Certification Related Items
- Correction of Errors Report

Chief Procurement Officer Perry stated that these reports were presented to the Commission for information purposes only and that no action was needed. Commissioner Martin acknowledged receipt of both reports on behalf of the Commission.

VII. Other Business.

Commissioner Martin asked if there was any other business. Chief Procurement Officer Perry requested that the Commission members give their consent to cancel the December 2014 Procurement Commission meeting due to the holidays and in order to allow more time for the Central Procurement Office and the CPO Policy Review Subcommittee to process documents that were in the pipeline.

All four Procurement Commission members gave their verbal consent to cancel the December 2014 meeting.

VIII. Adjournment.

A motion to adjourn was made by Comptroller Wilson and was seconded by Commissioner Oglesby; whereupon the November 14, 2014 Procurement Commission meeting was adjourned.

PROPOSED

**DELEGATED AUTHORITY (DA)
TEMPLATE**

(NEW)

DELEGATED AUTHORITY (DA) TEMPLATE

This template prescribes the format and content for a Delegated Authority ("DA") application. Procurement professionals should use this template to request authority either to: (1) purchase goods or services ("purchase order delegation"), or (2) execute contracts ("contract delegation") as specified without additional, individual, independent approval. Use of this template is appropriate when the DA's maximum liability is greater than fifty thousand dollars (\$50,000) or the goods or services being purchased are inappropriate for use of the Agency's local purchase authority. Procurement professionals shall use this template to facilitate approval of a DA for a maximum period of one (1) fiscal year. Any modifications to this template other than those identified in the instructions require an approved Rule Exception Request ("RER").

A purchase order delegation is appropriate only when the goods or services will be provided within ninety (90) days or less or represent a single transaction, as provided in CPO Policy 2013-004, Section 4.3.2. If a purchase order delegation is not appropriate, use this template for contract delegation authority. For a DA requesting contract delegation authority, the applicant State Agency shall attach the entire proposed contract or contracts. If the proposed contracts include modifications or additions to the Central Procurement Office's contract templates or models, the State Agency shall redline the modifications or additions, and include the redlined document as an attachment. An approved Rule Exception Request ("RER") is required when proposed contracts involve modifications or additions to a template.

Procurement professionals shall obtain all required signatures and submit the DA for Central Procurement Office ("CPO") approval no less than thirty (30) days before the Effective Date. If a signed DA is not submitted to the CPO at least thirty (30) days prior to the Effective Date, then the CPO may request that the DA be resubmitted with a new Effective Date or request that the procurement professional provide a written explanation as to why the DA was submitted less than thirty (30) days before the Effective Date. In no event shall the applicant State Agency submit a purchase order or execute a contract under this DA before the Effective Date.

Procurement professionals should complete form fields and follow, replace, or otherwise address red instructional text (e.g., State Agency Name, amount, will/will not) as indicated and with conforming font and color.

COVER SHEET

Complete summary cover sheet fields as indicated within the template.

<i>Agency Tracking #</i>	unique tracking number comprised of: 5-digit business unit # + unique, 5-digit # example: 31707-12345
<i>Funding</i>	amounts by fiscal year and funding source with row and column totals; contract maximum liability MUST equal the sum of the TOTAL Contract Amount column (i.e., the grand total amount for all fiscal years & all sources of funding)

APPROVALS

The DA must be signed by the State Agency head or an authorized designee. Procurement professionals should attach any supporting documentation in PDF format to the Edison record including:

- a PDF copy of the previously approved DA if a DA with the same or a similar purpose to the proposed DA was previously approved; and
- a PDF copy of any necessary RERs.



DELEGATED AUTHORITY

Agency Tracking #	Edison ID	Effective Date	End Date		
Edison ID of prior, similar document (if any)					
Service Caption					
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Maximum Liability
TOTAL:					
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.				CPO USE – DA	
Speed Chart (optional)		Account Code (optional)			

DELEGATED AUTHORITY

This Delegated Authority ("DA") application, if approved in accordance with Central Procurement Office ("CPO") rules, policies, and procedures, shall authorize the applicant state agency ("State Agency") to purchase goods or services or execute contracts for the specified program without individual, independent approval, PROVIDED THAT all purchases and executed contracts comply with CPO rules, policies and procedures, and are within the limits, guidelines, and conditions of this DA. All purchases under an approved DA shall be made using purchase orders in compliance with CPO Policy 2013-004, Section 4.3.2. Where a contract is required under Policy 2013-004, Section 4.3.2., the State Agency shall attach a copy of the proposed contract that will be used under the DA. If the proposed contract includes modifications or additions to the CPO's contract templates or models, the State Agency shall redline the modifications or additions and include the redlined document as an attachment. An approved RER is required when the proposed contract involves modifications or additions to a template.

Contracting Agency:	Agency Name	
Subject Program:	Program Identification	
A.	What is the purpose of this DA, and why is it necessary? Answer	
B.	What is the Maximum Liability of the DA? The Maximum Liability shall not exceed ten million dollars (\$10,000,000) without an approved RER.	\$ Amount
C.	A purchase order is appropriate when the goods or services will be provided within ninety (90) days or less or represent a single transaction, as provided in CPO Policy 2013-004, Section 4.3.2. What is the Maximum Liability of a purchase order to be submitted or contract to be executed under this DA? The Maximum Liability of a purchase order or contract shall not exceed five million dollars (\$5,000,000) without an approved RER.	\$ Amount
D.	What is the maximum number of individual contracts to be executed under this DA? If the proposed number of contracts is five (5) or fewer, provide a justification for why a DA is appropriate.	Number
E.	What is the maximum term of an individual contract to be executed under this DA?	Number months
F.	Under CPO Policy 2013-004, Section 4.3.2, a purchase order is appropriate when goods or services will be provided within ninety (90) days or less. The State Agency certification for contracts is in Section G. State Agency certification for purchases: 1. The requesting State Agency certifies that each of the following is true and applicable: a) The need for goods or services is sporadic, and an advance determination of the volume, delivery, or exact costs of goods or services needed is not possible; b) It is impractical to award one or more fee-for-service contracts for the category of goods or services needed with compensation based upon unit or milestone rates; c) The program needs and general categories of goods or services are such that adequate guidelines can be developed to direct the State Agency in competitively making each purchase; d) All goods or services purchased can be delivered or performed in ninety (90) days or fewer or represent a single transaction, as provided in CPO Policy 2013-004, Section 4.3.2; e) The procurement terms, conditions, and criteria to be followed by the agency in making each purchase will be of such uniformity that the Central Procurement Office's individual, independent, and prior approval of each purchase is unnecessary; f) The purchases involved will be of such uniformity, volume, and pressing need that the individual approval of each purchase by the Central Procurement Office is	

- impractical; and
- g) The State Agency staff has made appropriate and justified inquiries and assured the validity and justification of the maximum amounts in this DA application.
 2. The summary cover sheet correctly records the requested delegated authority period in which every purchase must be made. Delivery may occur after the period.
 3. The State Agency will limit purchases to the goods or services and associated maximum payment rates for each line item detailed in Attachment 1.
 4. The State Agency shall make each purchase:
 - a) In strict accordance with the pre-defined, competitive process detailed in Attachment 3; and
 - b) Using the purchase order document designated by the Central Procurement Office.
 5. The State Agency shall ensure that every purchase made under the DA:
 - a) Has sufficient funds budgeted and available;
 - b) Complies with: Tennessee laws and regulations; Central Procurement Office rules, policies and procedures; program rules, policies and procedures; and any federal laws, rules, regulations, or requirements;
 - c) Creates a "contractor" relationship as defined in the US O.M.B.'s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*;
 - d) Shall not create an employer/employee relationship as prohibited by Tenn. R. & Regs. § 0690-03-01-.17;
 - e) Shall not involve the procurement of goods, materials, supplies, equipment, or services EXCEPT as provided in this DA; and
 - f) Shall not provide for the payment of any amount directly or indirectly to an employee or official of the state of Tennessee.
 6. The State Agency will require the following documentation prior to payment for any purchase:
 - a) a copy of the CPO's designated purchase order document signed by the State Agency and the Vendor; and
 - b) A certification that the contractor selection process detailed in Attachment 3 was followed and the requested goods or services were delivered and accepted.
 7. The State Agency shall retain records to document that all purchases have been made in accordance with the limits, guidelines, and conditions specified in this DA.
 8. The State Agency shall provide all such reports and information relating to the purchases made under the approved DA as may be requested by state officials.

G. Under CPO Policy 2013-004, Section 4.3.2, a contract shall be executed if goods or services cannot be provided within ninety (90) days.

State Agency certification for contracts:

1. The requesting State Agency certifies that each of the following is true and applicable:
 - a) The program needs and general categories of services are such that adequate guidelines can be developed to direct the State Agency in competitively executing a number of similar contracts;
 - b) The individual contracts involved will be of such uniformity and standardization of processes, procedures, and contract terms that individual, independent, and prior approval is unnecessary and impractical; and
 - c) All individual contracts executed will create a "contractor" relationship as defined in Central Procurement Office Policy 2013-007.
2. The summary cover sheet correctly records the requested delegated authority period in which every contract must begin.
3. The State Agency will draft each contract either with the exact scope of services ("Scope") detailed in Attachment 2 or using a combination of the provisions detailed in Attachment 2. In no event shall the Scope contain provisions that do not appear in Attachment 2. The State agency will draft each contract in compliance with the appropriate contract templates and models in effect at the time that each contract is drafted. Each contract must include a completed summary cover sheet attached at the front of each copy.

4. The State Agency will select contractors in strict accordance with the pre-defined, competitive process detailed in Attachment 3.
5. The State Agency will ensure that every contract entered into under this DA:
 - a) Has sufficient funds budgeted and available;
 - b) Complies with: Tennessee laws and regulations; Central Procurement Office rules and policies; program policies, rules, and regulations; and any federal laws, rules, regulations, and requirements;
 - c) Shall not create an employer/employee relationship as prohibited by Tenn. R. & Regs. § 0690-03-01-.17;
 - d) Shall not procure goods, materials, supplies, equipment, or services EXCEPT as provided in this DA; and
 - e) Shall not provide for the payment of any amount directly or indirectly to an employee or official of the State.
6. The State Agency will retain records to document that every contract has been executed in accordance with the limits, guidelines, and conditions specified in this DA.
7. The State Agency will provide all such reports and information relating to the executed contracts under this DA as may be requested by state officials.
8. The State Agency shall attach a copy of the proposed contract(s) that will be used under the DA. If the proposed contract or contracts include modifications or additions to contract templates or models, redline the modifications or additions in the attachment(s) and include an approved Rule Exception Request ("RER").

IN WITNESS WHEREOF, and by signature below, I certify that all information in this DA is, to the best of my knowledge, accurate and represents the limits, guidelines, conditions, and procedures that the State Agency shall follow in making each purchase or executing each contract.

State Agency head name and title

Date

AUTHORIZED GOODS OR SERVICES & MAXIMUM RATE SCHEDULE

The rates below are maximum rates allowed, NOT standard or set rates (unless based upon federal government or TennCare set rates). The State Agency is encouraged to buy goods or services at lower rates than those below. All purchases under this DA shall comply with the vendor selection procedures specified in Attachment 3.

Good or Service	Maximum Rate
Travel Compensation/Reimbursement (relating to authorized service delivery)	<p>This Delegated Authority shall NOT authorize payment or reimbursement of a contractor's travel expenses to the site where goods are delivered or services are provided. If the State requires that the contractor travel somewhere other than the site where goods are delivered or services are performed, reimbursement shall be subject to amounts and limitations specified in the current "State Comprehensive Travel Regulations." Only necessary expenses incurred away from and back to the site where goods are delivered or services are performed shall be reimbursable.</p> <p><i>Note: This does NOT apply to any travel reimbursements paid to state clients (which may be provided for in this schedule).</i></p>
Service Definition	Maximum Rate (e.g., \$ Amount per Unit)
Repeat Service Lines as Necessary	Maximum Rate (e.g., \$ Amount per Unit)

EXACT CONTRACT SCOPE OF SERVICES TEXT

Insert the exact scope of services ("Scope") that will be used in executed contracts or identify all provisions that will possibly appear in the Scope. If all contracts will contain the same Scope, note that below and include the Scope in the pro forma contract attached to the DA application. There is no need to provide the Scope in this Attachment and in the pro forma contract. If there will be a menu of scopes, identify all provisions that will possibly appear in the Scope in this Attachment. Then leave the Scope and Section C.3.b of the pro forma contract blank.

The Scope describes the services and deliverables that contractors must provide. It must specify all associated functional and technical requirements. The State Agency may include payment terms outside of Section C with an approved Rule Exception Request.

The State Agency head or designee signifies by signing this DA that all information in this DA is, to the best of his or her knowledge, accurate and represents the limits, guidelines, conditions, and procedures that the State Agency shall follow in executing each contract.

Scope (Contract section A)	Cost (Contract section C.3.b)
Deliverable 1	\$ / unit
Deliverable 2	\$ / unit

PRE-DEFINED VENDOR OR CONTRACTOR SELECTION PROCESS AND CONTRACT MAXIMUM LIABILITY AMOUNT DETERMINATION PROCESS

The State Agency shall select vendors or contractors in strict accordance with the pre-defined, competitive or otherwise approved process described below. Any selection process authorized by CPO rules, policies, or manuals is acceptable, though some processes will require additional documentation or approvals. The State Agency shall retain records to show the basis of each purchase made or each contract executed under this Delegated Authority, including documentation that each purchase or contract was made in accordance with the processes below.

Describe the process for selecting vendors or contractors.

If requesting a contract delegation, describe the process for determining the contract Maximum Liability amount.

PROPOSED

**PURCHASE ORDER TERMS AND
CONDITIONS TEMPLATE**

(NEW)

REQUEST: Delete the Authorization to Vendor (DPAV) Model from the Central Procurement Office website and replace it with the template below.

PURCHASE ORDER TERMS AND CONDITIONS TEMPLATE

This template prescribes the format and content for terms and conditions attached to a purchase order issued under an approved purchase order delegation. Procurement professionals shall use this template only after a Delegated Authority application has been approved and attach this document to all purchase orders issued under the approved delegation. Procurement professionals shall adhere to this template with revisions only as instructions permit. Changes to the Standard Terms and Conditions, other than those identified in the instructions, require a Rule Exception as set forth in Tenn. Comp. R. & Regs. 0690-03-01-.17 and the *Procurement Procedures Manual of the Central Procurement Office*.

Procurement professionals should complete form fields and follow, replace, or otherwise address red instructional text (e.g., State Agency Name, amount, will/will not) as indicated and with conforming font and color.

Terms and Conditions

A. Standard Terms and Conditions

1. **Total Purchase Order Amount.** In no event shall the liability of the State under this Purchase Order exceed Written Dollar Amount (\$Number) (“Total Purchase Order Amount”).
2. **Inspection and Acceptance.** The State shall have the right to inspect all goods or services provided by Vendor under this Purchase Order. If, upon inspection, the State determines that the goods or services are defective, the State shall notify Vendor, and Vendor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any defects, the goods or services shall be deemed to have been accepted by the State.
3. **Modification, Amendment or Change Order.** This Purchase Order may be modified only by a written amendment or change order signed by the State and the Vendor.
4. **Limitation of Liability.** The State shall have no liability except as specifically provided in this Purchase Order. In no event shall the State be liable to the Vendor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise. The State’s total liability under this Purchase Order or otherwise shall under no circumstances exceed the Total Purchase Order Amount.
5. **Limitation of Vendor’s Liability.** The Vendor’s liability for all claims arising under this Purchase Order shall be limited to an amount equal to two (2) times the Total Purchase Order Amount. In no event shall this Section limit the Vendor’s liability for intentional torts, criminal acts, fraudulent conduct, or omissions that result in personal injuries or death.
6. **Termination for Convenience.** The State shall have the right to immediately terminate this Purchase Order, without cause and for any reason, upon written notice to the Vendor, delivered by mail or electronic means. The State’s notice of termination is effective upon the State’s issuance.

7. Subject to Funds Availability. The State's payment of this Purchase Order is subject to the appropriation and availability of State or federal funds. In the event that funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Purchase Order, effective immediately, upon written notice to the Vendor. If the State terminates this Purchase Order due to lack of funds availability, the Vendor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date.

8. Payment of Purchase Order. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.

9. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Vendor, under any contract between the Vendor and the State.

Delete the following term, "Hold Harmless," if the Vendor is a governmental entity. Re-number the subsequent terms accordingly.

10. Hold Harmless. The Vendor 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, omission, or negligence on the part of the Vendor, its employees, or any other person acting for or on its or their behalf relating to this Purchase Order. The Vendor further agrees it shall be liable for the reasonable costs of attorneys for the State to enforce the terms of this Purchase Order.

In the event of any suit or claim, the State and Vendor shall give each other immediate notice and provide all necessary assistance to respond. The State's failure to give notice shall only relieve the Vendor of its obligations under this Section to the extent that the Vendor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Vendor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

11. State and Federal Compliance. The Vendor shall comply with all applicable state and federal laws and regulations in the provision of goods or services under this Purchase Order.

12. Governing Law. This Purchase Order shall be governed by and construed in accordance with the laws of the State of Tennessee. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Purchase Order. The Vendor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Purchase Order shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 through 9-8-407.

13. Entire Agreement. This Purchase Order contains the entire understanding between the State and the Vendor relating to its subject matter, including all terms and conditions of the parties' agreement. This Purchase Order supersedes any and all prior understandings, representations, negotiations, and agreements between the State and the Vendor, whether written or oral.

B. Special Terms and Conditions

14. Conflicting Terms and Conditions. Should any of these Special Terms and Conditions in Section B conflict with the Standard Terms and Conditions in Section A, the Standard Terms and Conditions shall control.

Add clear, non-conflicting terms and conditions as appropriate.

PROPOSED

GR TEMPLATE

GR TEMPLATE

This template prescribes the format and content for a cost-reimbursement grant contract with an individual, business, non-profit, or a government entity of another state or country.

Procurement professionals shall adhere to this template with revisions only as instructions permit. Changes to this template require a Rule Exception Request as set forth in Tenn. Comp. R. & Regs. 0690-03-01-.17 and the *Procurement Procedures Manual of the Central Procurement Office*.

Procurement professionals should complete text fields and follow, replace, or otherwise address red instructional text (*e.g.*, State Agency Name, amount, will/will not) as indicated with appropriate font and color. The standard GR Template begins on the following page. Additional GR instructions, considerations, and options follow the standard GR Template.



GRANT CONTRACT

(cost reimbursement grant contract with an individual, business, non-profit, or governmental entity of another state or country)

Begin Date	End Date	Agency Tracking #	Edison ID
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Grantee Legal Entity Name	Edison Vendor ID
----------------------------------	-------------------------

Subrecipient or Contractor <input type="checkbox"/> Subrecipient <input type="checkbox"/> Contractor	CFDA #
Grantee's fiscal year end	

Service Caption (one line only)

Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Grant Contract Amount
TOTAL:					

Ownership/Control

African American
 Asian
 Hispanic
 Native American
 Female
 Person w/Disability
 Small Business
 Government
 NOT Minority/Disadvantaged
 Other:

Grantee Selection Process Summary

Competitive Selection Describe the competitive selection process used.
 Non-competitive Selection Describe the reasons for a non-competitive grantee selection process.

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

CPO USE - GR

Speed Chart (optional)

Account Code (optional)

**GRANT CONTRACT
BETWEEN THE STATE OF TENNESSEE,
STATE AGENCY NAME
AND
GRANTEE NAME**

This Grant Contract, by and between the State of Tennessee, **State Agency Name**, hereinafter referred to as the "State" and **Contractor Legal Entity Name**, hereinafter referred to as the "Grantee," is for the provision of **Scope of Service Caption**, as further defined in the "SCOPE OF SERVICES."

The Grantee is **a/an Individual, For-Profit Corporation, Non-Profit Corporation, Special Purpose Corporation Or Association, Partnership, Joint Venture, Or Limited Liability Company.**

Grantee Place of Incorporation or Organization: **Location**

Grantee Edison Vendor ID # **Number**

A. SCOPE OF SERVICES AND DELIVERABLES:

A.1. The Grantee shall provide all services and deliverables ("Scope") as required, described, and detailed in this Grant Contract.

A.#. **Specify the services & deliverables that the Grantee must provide as well as the technical specifications & delivery requirements that must be met (include sufficient detail to ensure accountability & definitive results). Do NOT include payment terms in the Scope.**

B. TERM OF GRANT CONTRACT:

This Grant Contract shall be effective on **DATE** ("Effective Date") and extend for a period of **number (#) months** after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Grantee prior to the Effective Date.

C. PAYMENT TERMS AND CONDITIONS:

C.1. **Maximum Liability.** In no event shall the maximum liability of the State under this Grant Contract exceed **Written Dollar Amount (\$Number)** ("Maximum Liability"). The Grant Budget, attached and incorporated hereto as Attachment **Reference**, shall constitute the maximum amount due the Grantee under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.

C.2. **Compensation Firm.** The Maximum Liability of the State is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the Term and are not subject to escalation for any reason unless amended, except as provided in Section C.6.

C.3. **Payment Methodology.** The Grantee shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Grantee shall submit invoices prior to any reimbursement of allowable costs.

C.4. **Travel Compensation.** Reimbursement to the Grantee for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.

- C.5. Invoice Requirements. The Grantee shall invoice the State no more often than monthly, with all necessary supporting documentation, and present such to:

State Agency Billing Address

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice/Reference Number (assigned by the Grantee).
 - (2) Invoice Date.
 - (3) Invoice Period (to which the reimbursement request is applicable).
 - (4) Grant Contract Number (assigned by the State).
 - (5) Grantor: State Agency & Division Name.
 - (6) Grantor Number (assigned by the Grantee to the above-referenced Grantor).
 - (7) Grantee Name.
 - (8) Grantee Tennessee Edison Registration ID Number Referenced in Preamble of this Grant Contract.
 - (9) Grantee Remittance Address.
 - (10) Grantee Contact for Invoice Questions (name, phone, or fax).
 - (11) Itemization of Reimbursement Requested for the Invoice Period— it must detail, at minimum, all of the following:
 - i. The amount requested by Grant Budget line-item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by "State Comprehensive Travel Regulations," are attached to the invoice).
 - ii. The amount reimbursed by Grant Budget line-item to date.
 - iii. The total amount reimbursed under the Grant Contract to date.
 - iv. The total amount requested (all line-items) for the Invoice Period.
- b. The Grantee understands and agrees to all of the following.
- (1) An invoice under this Grant Contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by this Grant Contract and shall be subject to the Grant Budget and any other provision of this Grant Contract relating to allowable reimbursements.
 - (2) An invoice under this Grant Contract shall not include any reimbursement request for future expenditures.
 - (3) An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

- C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may vary from a Grant Budget line-item amount by up to one percent (1%) of the line-item amount, provided that any increase is off-set by an equal reduction of other line-item amount(s) such that the net result of variances shall not increase the total Grant Contract amount detailed by the Grant Budget. Any increase in the Grant Budget, grand total amounts shall require an amendment of this Grant Contract.

- C.7. Disbursement Reconciliation and Close Out. The Grantee shall submit any final invoice and a grant disbursement reconciliation report within sixty (60) days of the Grant Contract end date, in form and substance acceptable to the State.

- a. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by Section C of this Grant Contract, the Grantee shall refund the difference to

- the State. The Grantee shall submit said refund with the final grant disbursement reconciliation report.
- b. The State shall not be responsible for the payment of any invoice submitted to the state after the grant disbursement reconciliation report. The State will not deem any Grantee costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the State, and such invoices will NOT be paid.
 - c. The Grantee's failure to provide a final grant disbursement reconciliation report to the state as required shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the state pursuant to this Grant Contract.
 - d. The Grantee must close out its accounting records at the end of the contract period in such a way that reimbursable expenditures and revenue collections are NOT carried forward.
- C.8. Indirect Cost. Should the Grantee request reimbursement for indirect costs, the Grantee must submit to the State a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Grantee will be reimbursed for indirect costs in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Grantee makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the Term. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency or the cognizant state agency, as applicable. If the indirect cost rate is provisional during the Term, once the rate becomes final, the Grantee agrees to remit any overpayment of funds to the State, and subject to the availability of funds the State agrees to remit any underpayment to the Grantee.
- C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of Department of Finance and Administration Policy Statement 03 or any amendments or revisions made to this policy statement during the Term.
- C.10. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any reimbursement, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.
- C.11. Non-allowable Costs. Any amounts payable to the Grantee shall be subject to reduction for amounts included in any invoice or payment that are determined by the State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute non-allowable costs.
- C.12. State's Right to Set Off. The State reserves the right to deduct from amounts that are or shall become due and payable to the Grantee under this Grant Contract or any other contract between the Grantee and the State of Tennessee under which the Grantee has a right to receive payment from the State.
- C.13. Prerequisite Documentation. The Grantee shall not invoice the State under this Grant Contract until the State has received the following documentation properly completed.
- a. The Grantee shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. The State will pay via ACH Credits.

- b. The Grantee shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The Grantee taxpayer identification number must agree with the Federal Employer Identification Number or Social Security Number referenced in this Grant Contract or the Grantee's Tennessee Edison Registration.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this Grant Contract, the 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 Grant Contract may be modified only by a written amendment signed by all parties and approved by the officials who approved the Grant Contract and, depending upon the specifics of the Grant 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 Grant Contract without cause for any reason. A termination for convenience shall not be a breach of this Grant Contract by the State. The State shall give the Grantee at least thirty (30) days written notice before the effective termination date. The Grantee shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the State be liable to the Grantee for compensation for any service that has not been rendered. The final decision as to the amount for which the State is liable shall be determined by the State. The Grantee shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the State's exercise of its right to terminate for convenience.
- D.4. Termination for Cause. If the Grantee fails to properly perform its obligations under this Grant Contract in a timely or proper manner, or if the Grantee violates any terms of this Grant Contract ("Breach Condition"), the State shall have the right to immediately terminate the Grant Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Grant Contract.
- D.5. Subcontracting. The Grantee shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant 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 Grant Contract pertaining to "Conflicts of Interest," "Lobbying," "Nondiscrimination," "Public Accountability," "Public Notice," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall remain responsible for all work performed.
- D.6. Conflicts of Interest. The Grantee warrants that no part of the total Grant Contract 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 Grantee in connection with any work contemplated or performed relative to this Grant Contract.

The Grantee acknowledges, understands, and agrees that this Grant Contract shall be null and void if the Grantee is, or within the past six months has been, an employee of the State of

Tennessee or if the Grantee is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee.

D.7. Lobbying. The Grantee certifies, to the best of its knowledge and belief, that:

- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

D.8. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant 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. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:
The State:

State Contact Name & Title
State Agency Name
Address
Email Address
Telephone # Number
FAX # Number

The Grantee:

Grantee Contact Name & Title
Grantee Name
Address
Email Address
Telephone # Number
FAX # Number

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

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

- D.9. Subject to Funds Availability. This Grant Contract is subject to the appropriation and availability of State or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Grant Contract upon written notice to the Grantee. The State's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the State. Upon receipt of the written notice, the Grantee shall cease all work associated with the Grant Contract. Should such an event occur, the Grantee shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Grantee shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.10. Nondiscrimination. The Grantee agrees that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee 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 Grantee shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.11. HIPAA Compliance. The State and the Grantee shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Grant Contract.
- a. The Grantee warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Grant Contract.
 - b. The Grantee warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Grant Contract so that both parties will be in compliance with the Privacy Rules.
 - c. The State and the Grantee will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and the Grantee in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.
 - d. The Grantee will indemnify the State and hold it harmless for any violation by the Grantee or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.
- D.12. Public Accountability. If the Grantee is subject to Tenn. Code Ann. § 8-4-401 *et seq.*, or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a

prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.

- D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a Grant Contract with the State of Tennessee." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.
- D.14. Licensure. The Grantee and its employees and all sub-grantees shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.
- D.15. Records. The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.

The records shall be maintained in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification, Public Company Accounting Oversight Board (PCAOB) Accounting Standards Codification, or Governmental Accounting Standards Board (GASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Audit Requirements, and Cost Principles for Federal Awards*.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Grantee shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

- D.16. Monitoring. The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.17. Progress Reports. The Grantee shall submit brief, periodic, progress reports to the State as requested.

- D.18. Annual and Final Reports. The Grantee shall submit, within three (3) months of the conclusion of each year of the Term, an annual report. For grant contracts with a term of less than one (1) year, the Grantee shall submit a final report within three (3) months of the conclusion of the Term. For grant contracts with multiyear terms, the final report will take the place of the annual report for the final year of the Term. The Grantee shall submit annual and final reports to the Grantor State Agency and the Department of Finance and Administration ("F&A"). Send electronic copies of annual and final reports to F&A at faaudit@tn.gov. At minimum, annual and final reports shall include: (a) the Grantee's name; (b) the Grant Contract's Edison identification number, Term, and total amount; (c) a narrative section that describes the program's goals, outcomes, successes and setbacks, whether the Grantee used benchmarks or indicators to determine progress, and whether any proposed activities were not completed; and (d) other relevant details requested by the Grantor State Agency. Annual and final report documents to be completed by the Grantee shall appear on the Grantor State Agency's website or as an attachment to the Grant Contract.
- D.19. Audit Report. When the Grantee has received seven hundred fifty thousand dollars (\$750,000.00) or more in aggregate federal and state funding for all of its programs within the Grantee's fiscal year, the Grantee shall provide audited financial statements to the Tennessee Comptroller of the Treasury. The Grantee may, with the prior approval of the Comptroller of the Treasury, engage a licensed independent public accountant to perform the audit. The audit contract between the Grantee and the licensed independent public accountant shall be on a contract form prescribed by the Tennessee Comptroller of the Treasury. When an audit is required under this Section, the audit shall be performed in accordance with *U.S. Office of Management and Budget's Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards*.
- The Grantee shall be responsible for reimbursing the Tennessee Comptroller of the Treasury for any costs of an audit prepared by the Tennessee Comptroller of the Treasury.
- The Grantee shall be responsible for payment of fees for an audit prepared by a licensed independent public accountant. Payment of the audit fees for the licensed independent public accountant by the Grantee shall be subject to the provision relating to such fees contained within this Grant Contract. Copies of such audit reports shall be provided to the designated cognizant state agency, the Grantor State Agency, the Tennessee Comptroller of the Treasury, the Central Procurement Office, and the Commissioner of Finance and Administration.
- Audit reports shall be made available to the public.
- D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, and/or contracted services, such procurement(s) shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.318—300.326 when procuring property and services under a federal award.
- The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.
- D.21. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this agreement shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

- D.22. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract shall be construed to create a principal/agent 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 Grantee, 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 Grantee's employees, and to pay all applicable taxes incident to this Grant Contract.
- D.23. State Liability. The State shall have no liability except as specifically provided in this Grant Contract.
- D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Grant Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Grantee's representatives, suppliers, subcontractors, customers or business apart from this Grant Contract is not a Force Majeure Event under this Grant Contract. Grantee will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Grantee's performance longer than forty-eight (48) hours, the State may, upon notice to Grantee: (a) cease payment of the fees until Grantee resumes performance of the affected obligations; or (b) immediately terminate this Grant Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Grantee will not increase its charges under this Grant Contract or charge the State any fees other than those provided for in this Grant Contract as the result of a Force Majeure Event.
- D.25. Tennessee Department of Revenue Registration. The Grantee shall be registered with the Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this Grant Contract.
- D.26. Charges to Service Recipients Prohibited. The Grantee shall not collect any amount in the form of fees or reimbursements from the recipients of any service provided pursuant to this Grant Contract.
- D.27. No Acquisition of Equipment or Motor Vehicles. This Grant Contract does not involve the acquisition and disposition of equipment or motor vehicles acquired with funds provided under this Grant Contract.
- D.28. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract.

- D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Grantee 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 Grant Contract. The Grantee acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. §§ 9-8-101 through 9-8-407.
- D.30. Completeness. This Grant 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 Grant Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.31. Severability. If any terms and conditions of this Grant 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 Grant Contract are declared severable.
- D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant 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 Grant Contract, the special terms and conditions shall be subordinate to the Grant Contract's other terms and conditions.

IN WITNESS WHEREOF,

GRANTEE LEGAL ENTITY NAME:

GRANTEE SIGNATURE	DATE
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PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)

GRANTOR STATE AGENCY NAME:

NAME & TITLE	DATE
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ATTACHMENT REFERENCE

GRANT BUDGET LINE-ITEM DETAIL:

PROFESSIONAL FEE, GRANT & AWARD	AMOUNT
Specific, Descriptive, Detail (Repeat Row As Necessary)	Amount
TOTAL	Amount

INTEREST	AMOUNT
Specific, Descriptive, Detail (Repeat Row As Necessary)	Amount
TOTAL	Amount

DEPRECIATION	AMOUNT
Specific, Descriptive, Detail (Repeat Row As Necessary)	Amount
TOTAL	Amount

OTHER NON-PERSONNEL	AMOUNT
Specific, Descriptive, Detail (Repeat Row As Necessary)	Amount
TOTAL	Amount

CAPITAL PURCHASE	AMOUNT
Specific, Descriptive, Detail (Repeat Row As Necessary)	Amount
TOTAL	Amount

GR INSTRUCTIONS, CONSIDERATIONS, and OPTIONS

The following pages contain additional GR instructions, considerations, and options. Replace or modify the standard GR Template by including the following content as appropriate. Content included with a box around it is intended to be inserted into the standard GR Template as appropriate.

Complete form fields and follow, replace, or otherwise address red instructional text (e.g., State Agency Name, amount, will/will not) as indicated and with conforming font and color.

COVER SHEET

A summary cover sheet properly completed and in accordance with the template is required. Complete summary cover fields as indicated within the template and the following field directions.

<i>Agency Tracking #</i>	a unique number comprised of: 5-digit business unit # + unique, 5-digit # example: 31707-12345
<i>Subrecipient or Contractor</i>	Subrecipient or Contractor in accordance with the OMB's <i>Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards</i>
<i>Funding</i>	Amounts by fiscal year and funding source and with row and column totals; the Maximum Liability MUST equal the sum of the TOTAL Grant Contract Amount column
<i>Grantee Ownership/Control</i>	<p>African American if the contractor is \geq 51% owned or controlled by descendants of the black peoples of Africa</p> <p>Asian if the contractor is \geq 51% owned or controlled by descendants of the original peoples of the Far East, Asia, Southeast Asia, the subcontinent, or the Pacific Islands</p> <p>Government if the contractor is any governmental entity</p> <p>Hispanic if the contractor is \geq 51% owned or controlled by persons of Cuban, Mexican, Puerto Rican, Central or South American, or other Spanish or Portuguese origin, culture, or descent, regardless of race, or having a Spanish surname</p> <p>Native American if the contractor is \geq 51% owned or controlled by descendants of the peoples of the first nations of North America</p> <p>NOT Minority/Disadvantaged if the contractor is <u>not</u> \geq 51% owned or controlled by minority or disadvantaged persons & is <u>not</u> a small business</p> <p>Other if the contractor is \geq 51% owned or controlled by persons of a minority or disadvantaged ethnic background, national origin, etc. other than previously described</p> <p>Person w/Disability if the contractor is \geq 51% owned or controlled by persons with a physical or mental impairment that substantially limits one or more major life activities (i.e., caring for oneself, writing, walking, seeing, hearing, speaking and breathing)</p> <p>Small Business if the contractor is independently owned and operated, has total gross receipts of \leq \$2 million for the last federal tax year, and has \leq 30 full-time employees</p>

PREAMBLE

Add additional information only if necessary.

In a grant contract with an individual, delete the preamble phrase, "Place of Incorporation or Organization: Location."

A. SCOPE OF SERVICES

It is the Grantor State Agency's responsibility to adequately draft a scope of services and deliverables ("Scope"). Oversight examiners will rely on the authorized signature of the Grantor State Agency on the

Grant Contract as certification and assurance that the proposed Scope is clear and correct, adequate for all legal and enforcement purposes, and sufficiently detailed to ensure Grantee accountability and results. Do NOT include payment terms in the Scope.

Draft the Scope to clearly, specifically, and definitively detail Grantee duties, responsibilities, and associated performance requirements. Describe, in detail, the service and deliverable requirements and all related specifications.

Option: Grant Proposal Attachment

It is NOT acceptable to attach the associated grant proposal to the Grant Contract in lieu of a properly drafted Scope. Proposals for funding are NOT adequately definitive to stand alone as the description of Grantee duties and responsibilities or performance requirements.

To attach an associated grant proposal to the Grant Contract in support of a properly drafted Scope, use the following optional section.

- A.#. Incorporation of Additional Documents. Each of the following documents is included as a part of this Grant Contract by reference or attachment. In the event of a discrepancy or ambiguity regarding the Grantee's duties, responsibilities, and performance hereunder, these items shall govern in order of precedence below.
- a. this Grant Contract document with any attachments or exhibits (excluding the items listed at subsections b. and c., below);
 - b. the State grant proposal solicitation as may be amended, if any;
 - c. the Grantee's proposal (Attachment Reference) incorporated to elaborate supplementary scope of services specifications.

Option: Federal Award Identification Worksheet

If the Grantee is a subrecipient and the Grant Contract involves any federal funds, the Grantor must complete the federal award identification worksheet on the following page and reference the worksheet by adding the following section Include the worksheet as an attachment to the Grant Contract. If some federal award identification information is not available, provide as much information as is available. Agencies should update the worksheet no more than once every six (6) months to reflect any changes. Send the updated worksheet to the Grantee and upload a copy into Edison.

- A.#. Incorporation of Federal Award Identification Worksheet. The federal award identification worksheet, which appears as Attachment #, is incorporated in this Grant Contract.

ATTACHMENT REFERENCE**Federal Award Identification Worksheet**

Subrecipient's name (must match registered name in DUNS)	
Subrecipient's DUNS number	
Federal Award Identification Number (FAIN)	
Federal award date	
CFDA number and name	
Grant contract's begin date	
Grant contract's end date	
Amount of federal funds obligated by this grant contract	
Total amount of federal funds obligated to the subrecipient	
Total amount of the federal award to the pass-through entity (Grantor State Agency)	
Name of federal awarding agency	
Name and contact information for the federal awarding official	
Is the federal award for research and development?	
Indirect cost rate for the federal award (See 2 C.F.R. §200.331 for information on type of indirect cost rate)	

B. GRANT CONTRACT TERM

Procurement professionals should obtain the Grantee's signature first before submitting the Grant Contract for State signatures or approvals. Procurement professionals shall obtain all required approvals prior to the Effective Date written in the Grant Contract and submit it for Central Procurement Office approval no less than thirty (30) days before the Effective Date.

If a signed Grant Contract is not submitted to the Central Procurement Office at least thirty (30) days prior to the Effective Date, then the CPO may require that the Grant Contract be resubmitted with a new Effective Date or require a Rule Exception Request that explains why the Grant Contract was submitted less than thirty (30) days before the Effective Date. In no event shall the Grantee deliver goods or perform services prior to the Effective Date.

Draft the Grant Contract with an appropriate, definitive, and complete Term. Note that no Grant Contract with a Term exceeding sixty (60) months shall be awarded unless approved by the Central Procurement Officer as being in the best interests of the State. (Tenn. Comp. R. & Regs. 0690-03-01-.14(2)(c)). Comptroller of the Treasury approval will also be required.

Option: Term Renewal or Extension

To reserve the right to extend the Grant Contract's Term beyond the original period, change the designation of the paragraph under B. to B.1. and add one or both of the following sections, revising the length of the extension period(s) as appropriate.

B.#. Renewal Options. This Grant Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to number (#) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.

B.#. Term Extension. It is understood and agreed that the State may extend the Term an additional period of time, not to exceed one hundred-eighty (180) days beyond the expiration date of this Grant Contract, under the same terms and conditions. In no event, however, shall the maximum Term, including all extensions or renewals, exceed a total of sixty (60) months.

C. PAYMENT TERMS AND CONDITIONS

Revise Payment Terms and Conditions sections only as provided in the instructions.

Payment Methodology

Pursuant to Central Procurement Office Policy 2013-007, any Grantor State Agency seeking to effect a partial, periodic, or total advance payment shall submit a Rule Exception Request to justify the advance payment.

Option: Partial Advance Payment

To effect a partial advance payment, replace the section with the following.

C.3. Payment Methodology – Partial Advance Payment. The Grantee shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. The amount of Written Dollar Amount (\$Number) shall be paid to the Grantee in advance upon approval of this Grant Contract. Then, upon progress

toward the completion of the work, as described in Section A of this Grant Contract, the Grantee shall submit invoices for payment prior to any additional reimbursement of allowable costs. The total of all payments to the Grantee shall not exceed the Maximum Liability of this Grant Contract.

Option: Periodic Advance Payment

To effect periodic advance payments: (1) Replace the section with the following.

C.3. Payment Methodology – Periodic Advance Payment. The Grantee shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. The amount of Written Dollar Amount (\$Number) shall be paid to the Grantee in advance upon approval of this Grant Contract and on Date(s) on which the state will make advance payment(s). The total of said payments shall not exceed the Maximum Liability of this Grant Contract.

- (2) Delete the Invoice Requirements section (renumbering any subsequent sections accordingly).
- (3) Replace the first paragraph of the Disbursement Reconciliation and Close Out section with the following (which may be further revised to require more frequent grant disbursement reconciliation reports).

C.#. Disbursement Reconciliation and Close Out. The Grantee shall submit a grant disbursement reconciliation report within sixty (60) days of the Grant Contract end date and in form and substance acceptable to the State (and include, as applicable, documentation and receipts as required by the above-referenced "State Comprehensive Travel Regulations").

Option: Total Advance Payment

To effect a total advance payment: (1) Replace the section with the following.

C.3. Payment Methodology – Total Advance Payment. The Grantee shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Payment to the Grantee shall be a lump sum made in advance upon approval of this Grant Contract.

- (2) Delete the Invoice Requirements section (renumbering any subsequent sections accordingly).
- (3) Replace the first paragraph of the Disbursement Reconciliation and Close Out section with the following.

C.#. Disbursement Reconciliation and Close Out. The Grantee shall submit a grant disbursement reconciliation report within sixty (60) days of the Grant Contract end date and in form and substance acceptable to the State (and include, as applicable, documentation and receipts as required by the above-referenced "State Comprehensive Travel Regulations").

Invoice Requirements

Add clear, non-conflicting, invoice requirements to the section as appropriate (revising the first sentence "no more often than monthly" requirement as necessary).

Delete the Section (and renumber subsequent sections appropriately) if the Payment Methodology Section provides for a total advance payment or periodic advance payments.

Option: Late Invoices Prohibition

Add the following as C.5.b.(4) when appropriate and revise the maximum number of days to thirty (30) or more.

- (4) An invoice under this Grant Contract shall be presented to the State within sixty (60) days after the end of the calendar month in which the subject costs were incurred or services were rendered by the Grantee. An invoice submitted more than sixty (60) days after such date will NOT be paid. The State will not deem such Grantee costs to be allowable and reimbursable by the State unless, at the sole discretion of the State, the failure to submit a timely invoice is warranted. The Grantee shall submit a special, written request for reimbursement with any such untimely invoice. The request must detail the reason the invoice is untimely as well as the Grantee's plan for submitting future invoices as required, and it must be signed by a Grantee agent that would be authorized to sign this Grant Contract.

Budget Line-Items

Option 1: Revise line-item variance amount as appropriate and up to the maximum of twenty percent (20%). Budget line-item variation of more than the specified percentage will require an amendment. The Budget Line-Items provision should NOT be amended after Grant Contract approval.

Option 2: Grantee may Request Budget Line-Item Variance Exceeding Twenty Percent (20%) Per Line-Item

Replace the Section with the following:

- C.6. Grant Budget and Revisions to Grant Budget Line-Items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget.
- a. The Grantee may vary from a Grant Budget line-item amount by up to twenty percent (20%) of the line-item amount, provided that any increase is off-set by an equal reduction of other line-item amounts. The net result of any changes to Grant Budget line-item amounts shall not result in funding for a line-item that was previously funded at zero dollars (\$0.00) or increase the total Grant Contract amount detailed by the Grant Budget.
 - b. The Grantee may request in writing Grant Budget line-item revisions exceeding the limitation set forth in section C.6.a., above, giving full details supporting the Grantee's request, provided that such revisions do not result in funding for a line-item that was previously funded at zero dollars (\$0.00) and do not increase the total Grant Contract amount. Grant Budget line-item revisions may not be made without prior, written approval of the State in which the terms of the approved revisions are detailed. Any approval of a revision to a Grant Budget line-item greater than twenty percent (20%) shall be superseded by a subsequent revision of the Grant Budget by Grant Contract amendment.
 - c. Any increase in the total Grant Contract amount shall require a Grant Contract Amendment.

Option 3: NO Line-Item Variance

Replace the Section with the following:

- C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. Reimbursable expenditures may NOT vary from the Grant Budget line-item amount(s) detailed.

Disbursement Reconciliation and Close Out

To require additional grant disbursement and reconciliation reports, revise the first paragraph of the standard C.7. Disbursement Reconciliation and Close Out language, as necessary.

Option: Grantee Match Requirement

If the Grant Budget details a grantee match requirement (in which the maximum total amount reimbursable by the State under the Grant Contract will be reduced by the amount of any Grantee failure to meet the match requirement), replace the Disbursement Reconciliation and Close Out Section with the following and revise the maximum number of days to thirty (30) or more.

- C.#. Disbursement Reconciliation and Close Out. The Grantee shall submit any final invoice and a grant disbursement reconciliation report within sixty (60) days of the Grant Contract end date and in form and substance acceptable to the State.
- a. The Grant Budget specifies a Grantee Match Requirement and the final grant disbursement reconciliation report shall detail all Grantee expenditures recorded to meet said requirement.
 - i. No Grantee expenditure shall be recorded and reported toward meeting a Grantee Match Requirement of more than one grant contract with the state of Tennessee.
 - ii. The final grant disbursement reconciliation report shall specifically detail the exact amount of any Grantee failure to meet a Match Requirement, and the maximum total amount reimbursable by the State pursuant to this Grant Contract, as detailed by the Grant Budget column "Grant Contract," shall be reduced by the amount that the Grantee failed to contribute to the Total Project as budgeted.
 - b. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by Section C of this Grant Contract (including any adjustment pursuant to subsection a.ii. above), the Grantee shall refund the difference to the State. The Grantee shall submit the refund with the final grant disbursement reconciliation report.
 - c. The State shall not be responsible for the payment of any invoice submitted to the State after the grant disbursement reconciliation report. The State will not deem any Grantee costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the State, and such invoices will NOT be paid.
 - d. The Grantee's failure to provide a final grant disbursement reconciliation report to the state as required shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the State pursuant to this Grant Contract.
 - e. The Grantee must close out its accounting records at the end of the Term in such a way that reimbursable expenditures and revenue collections are NOT carried forward.

D. STANDARD TERMS AND CONDITIONS

Do NOT add terms and conditions to section D. Any additional, necessary terms and conditions may be added to the section E, Special Terms and Conditions.

Termination for Convenience

Increase the thirty (30) days written notice requirement as appropriate.

Option: Bilateral Termination

Replace the Section with the following bilateral termination provision only if the Grantor State Agency can justify that the bilateral provision is in the best interest of the State.

D. #. Termination for Convenience. The Grant Contract may be terminated by either party by giving written notice to the other, at least thirty (30) days before the effective date of termination. Should either party exercise this provision, the Grantee shall be entitled to reimbursement for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the State be liable to the Grantee for any service which has not been rendered. The final decision as to the amount, for which the State is liable, shall be determined by the State. In the event of disagreement, the Grantee may file a claim with the Tennessee Claims Commission to seek redress.

Nondiscrimination

Replace the Section with the following ONLY if the Grantee is a religious organization.

D.8. Nondiscrimination. The Grantee 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 Grant Contract or in the employment practices of the Grantee on the basis of any classification protected by Federal, Tennessee State constitutional, or statutory law. The Grantee shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

HIPAA Compliance

A Grantee must execute a Business Associate Agreement (BAA) if: (a) the Grantee is a "covered entity" as defined in the Privacy Rules; (b) the Grantee engages another person or entity outside of its workforce to perform activities on its behalf; and (c) those activities involve access to protected health information.

If the Grantor State Agency obtains an approved Rule Exception Request to delete the HIPAA Compliance provision, add the following Section:

D.11. **Reserved.**

Charges to Service Recipients Prohibited

If the Grantor State Agency obtains an approved Rule Exception to delete the Charges to Service Recipients Prohibited provision, add the following Section:

D.26. **Reserved.**

No Acquisition of Equipment or Motor Vehicles

Delete the Section if the Grant Budget provides funding for the acquisition of equipment or motor vehicles and insert the State Interest In Equipment or Motor Vehicles Section below.

State Interest in Equipment or Motor Vehicles

Attorney General staff have advised that the Grantor State Agency must file a UCC-1 or perfect in accordance with applicable law to the extent that it wishes to secure a security agreement and priority.

Add the following Section if the Grant Contract provides for the reimbursement of expenditures for equipment or motor vehicles (revising the second to last sentence of the first paragraph as necessary to establish a lower dollar threshold for the definition of "equipment or motor vehicles").

D.27. State Interest in Equipment or Motor Vehicles. The Grantee shall take legal title to all equipment or motor vehicles purchased totally or in part with funds provided under this Grant Contract, subject to the State's equitable interest therein, to the extent of its *pro rata* share, based upon the State's contribution to the purchase price. The term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds five thousand dollars (\$5,000.00). The term "motor vehicle" shall include any article of tangible personal property that is required to be registered under the "Tennessee Motor Vehicle Title and Registration Law", Tenn. Code Ann. Title 55, Chapters 1-6.

As authorized by the Tennessee Uniform Commercial Code, Tenn. Code Ann. Title 47, Chapter 9 and the "Tennessee Motor Vehicle Title and Registration Law," Tenn. Code Ann. Title 55, Chapters 1-6, the parties intend this Grant Contract to create a security interest in favor of the State in the equipment or motor vehicles acquired by the Grantee pursuant to the provisions of this Grant Contract. A further intent of this Grant Contract is to acknowledge and continue the security interest in favor of the State in the equipment or motor vehicles acquired by the Grantee pursuant to the provisions of this program's prior year Grant Contracts between the State and the Grantee.

The Grantee grants the State a security interest in all equipment or motor vehicles acquired in whole or in part by the Grantee under this Grant Contract. This Grant Contract is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the equipment or motor vehicles herein specified which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and the Grantee hereby grants the State a security interest in said equipment or motor vehicles. The Grantee agrees that the State may file this Grant Contract or a reproduction thereof, in any appropriate office, as a financing statement for any of the equipment or motor vehicles herein specified. Any reproduction of this or any other security agreement or financing statement shall be sufficient as a financing statement. In addition, the Grantee agrees to execute and deliver to the State, upon the State's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproduction of this Grant Contract in such form as the State may require to perfect a security interest with respect to said equipment or motor vehicles. The Grantee shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements the State may reasonably require. Without the prior written consent of the State, the Grantee shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said equipment or motor vehicles, including replacements and additions thereto. Upon the Grantee's breach of any covenant or agreement contained in this Grant Contract, including the covenants to pay when due all sums secured by this Grant Contract, the State shall have the remedies of a secured party under the Uniform Commercial Code and, at the State's option, may also invoke the remedies herein provided.

The Grantee agrees to be responsible for the accountability, maintenance, management, and inventory of all property purchased totally or in part with funds provided under this Grant Contract. The Grantee shall maintain a perpetual inventory system for all equipment or motor vehicles purchased with funds provided under this Grant Contract and shall submit an inventory control report which must include, at a minimum, the following:

- a. Description of the equipment or motor vehicles;

- b. Manufacturer's serial number or other identification number, when applicable;
- c. Consecutive inventory equipment or motor vehicles tag identification;
- d. Acquisition date, cost, and check number;
- e. Fund source, State Grant number, or other applicable fund source identification;
- f. Percentage of state funds applied to the purchase;
- g. Location within the Grantee's operations where the equipment or motor vehicles is used;
- h. Condition of the property or disposition date if Grantee no longer has possession;
- i. Depreciation method, if applicable; and
- j. Monthly depreciation amount, if applicable.

The Grantee shall tag equipment or motor vehicles with an identification number which is cross referenced to the equipment or motor vehicle item on the inventory control report. The Grantee shall inventory equipment or motor vehicles annually. The Grantee must compare the results of the inventory with the inventory control report and investigate any differences. The Grantee must then adjust the inventory control report to reflect the results of the physical inventory and subsequent investigation.

The Grantee shall submit its inventory control report of all equipment or motor vehicles purchased with funding through this Grant Contract within thirty (30) days of its end date and in form and substance acceptable to the State. This inventory control report shall contain, at a minimum, the requirements specified above for inventory control. The Grantee shall notify the State, in writing, of any equipment or motor vehicle loss describing the reasons for the loss. Should the equipment or motor vehicles be destroyed, lost, or stolen, the Grantee shall be responsible to the State for the *pro rata* amount of the residual value at the time of loss based upon the State's original contribution to the purchase price.

Upon termination of the Grant Contract, where a further contractual relationship is not entered into, or at another time during the term of the Grant Contract, the Grantee shall request written approval from the State for any proposed disposition of equipment or motor vehicles purchased with Grant funds. All equipment or motor vehicles shall be disposed of in such a manner as the parties may agree from among alternatives approved by the Tennessee Department of General Services as appropriate and in accordance with any applicable federal laws or regulations.

Prevailing Wage Rates

Add the following Section if the Grant Contract involves a construction project for the purpose of building, repairing, locating, relocating or repairing any Tennessee streets, highways, or bridges.

D.#. Prevailing Wage Rates. All State contracts for highway construction projects that are for the purpose of building, rebuilding, locating, relocating or repairing any streets, highways or bridges require compliance with the prevailing wage laws provided in Tenn. Code Ann. §§ 12-4-401--415.

Audit Report

Add the following text just prior to the final sentence of the Section as appropriate.

The State may reimburse the Grantee for a reasonably proportionate share of the costs of audits required by and performed in accordance with the "Single Audit Act Amendments of 1996" as provided in 2 C.F.R. § 200.425.

Procurement

Replace the Section with the following if Grantor State Agency head approval is required for non-competitive procurements under the grant.

D.17. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, and/or contracted services, such procurement(s) shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification, approved by the State Agency Head Title, for such decision and non-competitive procurement. Further and notwithstanding the foregoing, if such reimbursement is to be made with funds derived wholly or partially from federal sources, the determination of cost shall be governed by and reimbursement shall be subject to the Grantee's compliance with applicable federal procurement requirements.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.

E. SPECIAL TERMS AND CONDITIONS

Add the following sections as appropriate and in the order below. An approved Rule Exception Request is required to add any Section E provisions that are not among the options below. Should any of these special terms and conditions conflict with any other terms and condition of this Grant Contract, the special terms and conditions shall be subordinate to the Grant Contract's other terms and conditions.

Insurance

Add the following Section as appropriate. Revise minimum coverage amounts and deleting any unneeded subsections. If unsure whether the Section is applicable, consult the CPO legal team.

E.#. Insurance. The Grantee shall carry adequate liability and other appropriate forms of insurance.

- a. The Grantee shall maintain, at minimum, the following insurance coverage:
- (1) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars (\$1,000,000) per occurrence for employers' liability whichever is greater;
 - (2) 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) per occurrence and two million dollars (\$2,000,000) aggregate;
 - (3) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence; and
 - (4) Professional Malpractice Liability with a limit of not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) aggregate.
- b. The Grantee shall provide a valid Certificate of Insurance naming the State as an additional insured and detailing Coverage Description; Insurance Company and Policy Number; Exceptions and Exclusions; Policy Effective Date; Policy Expiration Date;

Limit(s) of Liability; and Name and Address of Insured. Grantee shall obtain from Grantee's insurance carrier(s) and will deliver to the State waivers of the subrogation rights under the respective policies. Failure to provide required evidence of insurance coverage shall be a material breach of this Grant Contract.

Debarment and Suspension

Add the following Section as appropriate.

- E.#. Debarment and Suspension. The Grantee certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Grantee shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

Confidentiality of Records

Add the following Section as appropriate. If unsure whether the Section is applicable, consult the CPO legal team.

- E.#. 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 Grantee by the State or acquired by the Grantee on behalf of the State that is regarded as confidential information under state or federal law shall be considered "Confidential Information." Nothing in this Section shall permit Grantee to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Grantee due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Grantee shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law. The obligations set forth in this Section shall survive the termination of this Grant Contract.

Patient Protection and Affordable Care Act

Add the following Section as appropriate. If unsure whether the Section is applicable, contact the CPO legal team.

- E. #. Patient Protection and Affordable Care Act. The Grantee agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Grantee shall indemnify the State and hold it harmless for any costs to the State arising from Grantee's failure to fulfill its PPACA responsibilities for itself or its employees.

Printing Authorization

Add the following Section as appropriate.

- E.#. Printing Authorization. The Grantee agrees that no publication coming within the jurisdiction of Tenn. Code Ann. §§ 12-7-101, *et seq.*, shall be printed pursuant to this Grant Contract unless a printing authorization number has been obtained and affixed as required by Tenn. Code Ann. § 12-7-103(d).

State Furnished Property

Add the following Section as appropriate.

- E.#. State Furnished Property. The Grantee shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Grantee's temporary use under this Grant Contract. Upon termination of this Grant Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Grantee shall be responsible to the State for the residual value of the property at the time of loss.

Work Papers Subject To Review

Add the following Section only if the Grant Contract requires the performance of audit, accounting or financial analysis services.

- E.#. Work Papers Subject to Review. The Grantee shall make all audit, accounting, or financial analysis work papers, notes, and other documents available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Grant Contract.

Prohibited Advertising

Add the following Section as appropriate.

- E.#. Prohibited Advertising. The Grantee shall not refer to this Grant Contract or the Grantee's relationship with the State under this Grant Contract in commercial advertising in such a manner as to state or imply that the Grantee or the Grantee's goods or services are endorsed. The obligations set forth in this Section shall survive the termination of this Grant Contract.

Environmental Tobacco Smoke

Add the following Section as appropriate.

- E.#. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the "Children's Act for Clean Indoor Air of 1995," Tenn. Code Ann. §§ 39-17-1601

through 1606, the Grantee shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The Grantee shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Grant Contract.

Performance Bond

This Section is optional unless the Grant Contract involves construction in excess of one hundred thousand dollars (\$100,000). In which case, the Grantee must execute a performance bond for twenty-five percent (25%) of the Maximum Liability. A performance bond requirement is generally not recommended for several reasons. A performance bond can be very expensive and difficult for any business to obtain, and the requirement makes it virtually impossible for small and minority businesses to serve as grantees. A performance bond is not a usual cost of doing business, and the cost associated with meeting the requirement will most certainly be passed directly to the State. Finally, the benefit purported to result from a performance bond is highly questionable. This type of bond can be difficult to enforce, and the State has little or no experience in enforcing such obligations. A performance bond is a poor insurance policy. There are much better methods for the State to ensure Grantee performance (e.g., the Scope is sufficiently detailed to ensure Grantee accountability and results; payment methodology involves contingent, incremental payments; a retention of final payment provision; a liquidated damages provision; and sound contract management).

Add the following Section only as appropriate, and provided that the Grantor State Agency legal counsel: (1) drafts the referenced, state-prescribed, bond form; and (2) makes a determination that the bond requirement will be reasonably and legally enforceable under the Grant Contract.

E.#. Performance Bond. The Grantee shall provide to the State a performance bond guaranteeing full and faithful performance of all undertakings and obligations under this Grant Contract and in the amount equal to **Written Dollar Amount (\$Number)**. The Grantee shall submit the bond no later than the day immediately preceding the contract start date and in the manner and form prescribed by the State (at Attachment **Reference** hereto), and the bond shall be issued through a company licensed to issue such a bond in the state of Tennessee. The performance bond shall guarantee full and faithful performance of all undertakings and obligations under this Grant Contract for:

- a. the initial contract term and all extensions thereof; or
- b. the first, annual period of the Grant Contract (ending December 31st following the Grant Contract start date) in the amount of **Written Dollar Amount (\$Number)** and, thereafter, a new performance bond in the amount of **Written Dollar Amount (\$Number)** covering each subsequent annual period of the Grant Contract. In which case, the Grantee shall provide annual performance bonds to the State no later than each December 10th preceding the annual covered period beginning on January 1st of each year.

Failure to provide the performance bond(s) as required herein prior to the Grant Contract start date and, as applicable in the case of an annual performance bond, no later than December 10th preceding each annual covered period beginning on January 1st of each year, shall result in contract termination. The Grantee understands and agrees that the stated amount of the performance bond required hereunder shall not be reduced during the contract period for any reason.

Intellectual Property

Add the following Section as appropriate. If unsure whether the Section is applicable, consult the CPO legal team.

E.#. Intellectual Property. The Grantee 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 or suits which may be brought against the State concerning or arising out of any claim of an alleged patent, copyright, trade secret or other intellectual property infringement. In any such claim or action brought against the State, the Grantee shall satisfy and indemnify the State for the amount of any settlement or final judgment, and the Grantee shall be responsible for all legal or other fees or expenses incurred by the State arising from any such claim. The State shall give the Grantee notice of any such claim or suit and full right and opportunity to conduct the Grantee's own defense thereof, however, the failure of the State to give such notice shall only relieve the Grantee of its obligations under this Section to the extent Grantee can demonstrate actual prejudice arising from the State's failure to give notice. This Section shall not grant the Grantee, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106.

Hold Harmless

Inclusion of this requirement should be carefully considered. The requirement is likely to chill interest in seeking the contract award, and so, it may reduce competition and increase cost (for a contractor to take on the additional risk).

Add the following Section if recommended by the Grantor State Agency's legal counsel.

E.#. Hold Harmless. The Grantee 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 Grantee, its employees, or any person acting for or on its or their behalf relating to this Grant Contract. The Grantee further agrees it shall be liable for the reasonable cost of attorneys for the State to enforce the terms of this Grant Contract.

In the event of any such suit or claim, the parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Grantee of its obligations under this Section to the extent that the Grantee can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Grantee, through its attorney(s), the right to represent the State of Tennessee in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

Grantee Participation

Add the following Section as appropriate.

E.#. Grantee Participation. Grantee Participation amount(s) detailed in the Grant Budget are intended as a goal for the total project, and the amount of actual Grantee Participation expenditures will not impact the maximum amounts reimbursable to the Grantee as detailed by the Grant Budget column, "Grant Contract."

Disclosure of Personally Identifiable Information

Add the following Section as appropriate.

E.#. Disclosure of Personal Identity Information. The Grantee shall report to the State any instances of unauthorized disclosure of personally identifiable information that comes to the Grantee's attention. The Grantee shall make any such report within twenty-four (24) hours after the instance has come to the Grantee's attention. The Grantee, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals that are deemed to be part of a potential disclosure. The Grantee shall bear the cost of notification to individuals having

personally identifiable information involved in a potential disclosure event, including individual letters or public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to the State under this Grant Contract or otherwise available at law.

Federal Funding Accountability and Transparency Act

Add the following Section if the Grant Contract will be funded in whole or part by a federal grant or contract of twenty-five thousand dollars (\$25,000) or more (excluding grants subject to section 1512 of the American Recovery and Reinvestment Act of 2009), and the grant will provide for the expenditure of twenty-five thousand dollars (\$25,000) or more in federal funds.

E.#. Federal Funding Accountability and Transparency Act (FFATA). This Grant requires the Grantee to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Grantee is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Grantee provides information to the State as required.

The Grantee shall comply with the following:

a. Reporting of Total Compensation of the Grantee's Executives.

- (1) The Grantee shall report the names and total compensation of each of its five most highly compensated executives for the Grantee's preceding completed fiscal year, if in the Grantee's preceding fiscal year it received:
 - i. 80 percent or more of the Grantee's annual gross revenues from federal procurement contracts and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and sub awards); and
 - ii. \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and sub awards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), 78o(d)) or § 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).

As defined in 2 C.F.R. § 170.315, "Executive" means officers, managing partners, or any other employees in management positions.
- (2) Total compensation means the cash and noncash dollar value earned by the executive during the Grantee's preceding fiscal year and includes the following (for more information see 17 § C.F.R. 229.402(c)(2)):
 - i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. Earnings for services under non-equity incentive plans. This does not

- include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax qualified.
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

- b. The Grantee must report executive total compensation described above to the State by the end of the month during which this Grant Contract is established.
- c. If this Grant is amended to extend the Term, the Grantee must submit an executive total compensation report to the State by the end of the month in which the amendment to this Grant becomes effective.
- d. The Grantee will obtain a Data Universal Numbering System (DUNS) number and maintain its DUNS number for the term of this Grant. More information about obtaining a DUNS Number can be found at: <http://fedgov.dnb.com/webform/>

The Grantee's failure to comply with the above requirements is a material breach of this Grant for which the State may terminate this Grant Contract for cause. The State will not be obligated to pay any outstanding invoice received from the Grantee unless and until the Grantee is in full compliance with the above requirements.

Transfer of Grantee's Obligations

Add the following Section as appropriate.

E.#. Transfer of Grantee's Obligations.

The Grantee shall not transfer or restructure its operations related to this Grant Contract without the prior written approval of the State. The Grantee shall immediately notify the State in writing of a proposed transfer or restructuring of its operations related to this Grant Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving a proposed transfer or restructuring.

SIGNATURES

By signature, the Grantor State Agency head or authorized designee assures that:

1. there is a balance in the appropriation from which obligations under the Grant Contract are required to be paid that is not already encumbered to pay other obligations;
2. the Grantor State Agency maintains documentation of the Grantee process indicated on the summary cover sheet; and,
3. the proposed Scope is clear and correct, adequate for all legal and enforcement purposes, and sufficiently detailed to ensure Grantee accountability and results.

Draft the Grant Contract so that the signature section immediately follows the previous section text separated by only one blank line. Do NOT insert an arbitrary page break prior to the signature section.

GRANT BUDGET

ALL Grant Budgets must be type-written and mathematically correct in every aspect.

Each Grant Budget page must be numbered consecutively.

The Grant Contract column total must equal the Maximum Liability of the Grant Contract.

Line-Item funding must comply with the Expense Object Line-Item Category Definitions provided by F&A Accounts Policy 03, Appendix A (which is posted on the Internet at:

<http://www.state.tn.us/finance/act/documents/policy3.pdf>). Budget line-items and the definitions above have legal, audit, and federal funding implications, and contracting agency staff are solely responsible for whether appropriate line-items are funded in accordance with the scope of service and the definitions set out by F&A Accounts Policy 03.

In line-items that WILL BE FUNDED, replace the zeros ("0.00") associated with each line-item as appropriate. If a line-item will NOT be funded, leave the associated, "0.00" dollar amount.

Grant Budget Line-Item Detail.

These instructions do NOT preclude adding Line-Item Detail (and associated requirements) for other line-items, provided that the additional detail is clear and mathematically correct.

Delete the entire Grant Budget Line-Item Detail page if NONE of the following five line-items, which requires detail, is funded: Professional Fee, Grant & Award; Interest; Depreciation; Other Non-Personnel; Capital Purchase.

For each line-item requiring detail that is funded by the Grant Budget, complete the appropriate line-item detail box.

Delete the line-item detail box for each of the line-items that is NOT funded.

Do NOT draft the Grant Budget Line-Item Detail to describe a line-item only as "contracts," "contracted services," "other," "professional services," or "miscellaneous."

Multiple Grant Budget Periods.

If a multi-year grant contract is to be written such that funding is restricted on an annual basis, such must be reflected in the Grant Budget by means of repeated use of the grant budget pages, numbered consecutively, detailing funding information for consecutive period of applicability. If a grant budget attachment does include multiple pages respectively applicable consecutive periods of applicability, a "roll-up" budget page totaling all lines for all periods is NOT required. However, the sum of all totals must agree with the Grant Contract's Maximum Liability and any other relevant provisions of this Grant Contract.

Option: Grant Budget Grantee Match Requirement

Replace the Grant Budget table with the table on the following page if a grantee match is required.

GRANT BUDGET				
Additional Identification Information As Necessary				
The Grant Budget line-item amounts below shall be applicable only to expenses incurred during the following applicable period:				
BEGIN: DATE		END: DATE		
POLICY 03 Object Line-item Reference	EXPENSE OBJECT LINE-ITEM CATEGORY ¹	GRANT CONTRACT	GRANTEE MATCH	TOTAL PROJECT
1. 2	Salaries, Benefits & Taxes	0.00	0.00	0.00
4. 15	Professional Fee, Grant & Award ²	0.00	0.00	0.00
5, 6, 7, 8, 9, 10	Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications	0.00	0.00	0.00
11. 12	Travel, Conferences & Meetings	0.00	0.00	0.00
13	Interest ²	0.00	0.00	0.00
14	Insurance	0.00	0.00	0.00
16	Specific Assistance To Individuals	0.00	0.00	0.00
17	Depreciation ²	0.00	0.00	0.00
18	Other Non-Personnel ²	0.00	0.00	0.00
20	Capital Purchase ²	0.00	0.00	0.00
22	Indirect Cost	0.00	0.00	0.00
24	In-Kind Expense	0.00	0.00	0.00
n/a	Grantee Match Requirement (for any amount of the required Grantee Match that is <u>not</u> specifically delineated by budget line-items above)	0.00	0.00	0.00
25	GRAND TOTAL	0.00	0.00	0.00

¹ Each expense object line-item shall be defined by the Department of Finance and Administration Policy 03, *Uniform Reporting Requirements and Cost Allocation Plans for Subrecipients of Federal and State Grant Monies, Appendix A*. (posted on the Internet at: <http://www.state.tn.us/finance/act/documents/policy3.pdf>).

² Applicable detail follows this page if line-item is funded.

³ A Grantee Match Requirement is detailed by this Grant Budget, and the maximum total amount reimbursable by the State pursuant to this Grant Contract, as detailed by the "Grant Contract" column above, shall be reduced by the amount of any Grantee failure to meet the Match Requirement.

PROPOSED

GOVERNMENTAL GRANT (GG)

TEMPLATE

REQUEST:

(1) Make the following changes to the “Force Majeure” and “Records” terms in the GG Template.

~~Force Majeure. The obligations of the parties to this Grant Contract are relieved to the extent the parties’ non-performance is beyond the parties’ control despite the exercise of due care due to, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.~~

Force Majeure. “Force Majeure Event” means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor’s representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor’s performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.

~~Records. The Grantee (and any approved subcontractor) shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee (and any approved subcontractor), insofar as they relate to work performed or money received under this Grant Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or duly appointed representatives.~~

~~The records shall be maintained in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification, Public Company Accounting Oversight Board (PCAOB) Accounting Standards Codification or Governmental Accounting Standards Board (GASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.~~

~~In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.~~

~~The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.~~

~~The Grantee shall establish a system of internal controls that utilize the COSO Internal Control – Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.~~

~~Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.~~

Records. The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with Tenn. Code Ann. §§ 10-7-404 or 10-7-702, as appropriate. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.

The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Grantee shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

(2) Move the "Federal Award Identification" option to Section A of the optional terms portion of the GG Template and make the following changes to the instructional language.

FEDERAL AWARD IDENTIFICATION

If the Grantee is a subrecipient and the Grant Contract involves any federal funds, ~~the Grantor must~~ complete the ~~f~~Federal ~~a~~Award ~~i~~dentification worksheet ~~on the following page and reference the worksheet by adding the following section.~~ ~~Reference the worksheet in Section A and~~ include ~~the worksheet as an it as the first~~ attachment to the Grant Contract. If some federal award identification information is not available, provide as much information as is available. ~~Agencies should update the worksheet no more than once every six (6) months to reflect any changes.~~ ~~If any of the data elements in the worksheet change, complete another worksheet containing the updated information.~~ Send the updated worksheet to the Grantee and upload a copy into Edison.

A.#. <u>Incorporation of Federal Award Identification Worksheet. The federal award identification worksheet, which appears as Attachment #, is incorporated in this Grant Contract.</u>

PROPOSED REVISIONS TO:

POLICY NO. 2013-007:

**CENTRAL PROCUREMENT OFFICE
GRANT MANAGEMENT AND
SUBRECIPIENT MONITORING POLICY
AND PROCEDURES**

Policy Number 2013-007
Central Procurement Office
Grant Management and Subrecipient Monitoring Policy and Procedures

Effective: May 28, 2013
Last Amended: DATE
Prepared by: The Central Procurement Office of the State of Tennessee

1. Purposes.

To provide uniformity in the reporting of, and controls over, the expenditure of awards in connection with the delivery of services by subrecipients of federal and state awards.

To establish guidelines for subrecipient monitoring by Grantor State Agencies.

2. Scope.

This Policy applies to all State Agencies that award state or federal funds or non-cash assistance to Subrecipients. Direct Appropriation Grants are exempt from this Policy.

3. Definitions.

For purposes of this Policy, the following terms have the meanings described below:

“Agency” - means each State board, commission, committee, department, officer, or any other unit of State government.

“Award” - means any money, loans, non-cash assistance, granted to the State, or granted by the State to a person or legal entity, for the furnishing by the State of assistance, whether financial or otherwise, to any person or entity to support a program authorized by law.

“Central Procurement Office” - means the State office established and empowered by Tenn. Code Ann. § 4-56-104.

“Chief Procurement Officer” - means the official as defined by Tenn. Code Ann. § 4-56-104.

“Cognizant State Agency” - means the State Agency whose funds comprise the greatest percentage of Awards received by a Subrecipient as determined by Department of Finance and Administration (F&A) Policy 3.

“Contractor” – means an entity that receives a contract as defined in the U.S. OMB’s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

“Cost Allocation Plan” - means the method of distributing to various programs the costs

which benefit more than one program and are not directly assigned as approved by the Department of Finance and Administration.

“Direct Appropriation Grant” - means a grant listed on the Department of Finance and Administration Division of Budget’s annual direct appropriation list.

“Endowment Grant” - means a limited Grant Contract that originates from a specific appropriation, effecting an award and conveyance of funds or property to a Grantee for a particular purpose to benefit the general public as a whole or some population of the general public. An Endowment Grant is used to transfer funds to a Grantee pursuant to an appropriation.

“Grant” - means any grant of money awarded to the State, or awarded by the State to a person or legal entity, for the furnishing by the State of assistance, whether financial or otherwise, to any person or entity to support a program authorized by law. A Grant cannot be used for the primary purpose of procuring an end product, whether in the form of supplies, services, or construction, or any contract resulting from such an award that should otherwise be provided on a competitive basis.

“Grant Budget” - means a budget itemizing one or more specific activities or purposes under the grant and the maximum amounts a Grantee, a grant recipient or grant subrecipient may be reimbursed.

“Grant Contract” - means a written contract between the federal government, the State, a Grantee, or a Subrecipient that contains the terms and conditions governing the parties’ duties and responsibilities with respect to an Award.

“Grantee” - means the person or entity receiving an Award.

“Grantor State Agency” - means a State Agency that provides an Award to a person or entity.

“State” - means the State of Tennessee, including its departments, agencies, and entities that fall under its purview.

“State Agency” - means the departments, agencies, and entities of the State of Tennessee.

“Subrecipient” - means a non-federal entity that receives an Award from a pass-through entity to carry out part of a federal or state program; but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

4. Grantee Selection Process.

Competition is encouraged with all Grantee selections. On the Grant Contract’s cover sheet, the Grantor State Agency shall identify whether the Grantee selection process was competitive or non-competitive. For a non-competitive selection, the Grantor State Agency

shall provide reasons for the non-competitive selection. For a competitive selection, the Grantor State Agency shall provide a summary of the Grantee selection process to the Central Procurement Office.

5. Advance Payments.

The State discourages advance payments. However, in extraordinary circumstances, advance payments may be authorized if doing so is in the best interests of the State. The Grantor State Agency must provide a Rule Exception Request to justify an advance payment.

6. Cognizant Agency Determination Process.

The Cognizant State Agency shall be responsible for approving the Grantee's Cost Allocation Plan. Other State Agencies that grant funds to the Grantee must abide by the Cost Allocation Plan approved by the Cognizant State Agency. Determination of the Cognizant State Agency shall be made according to Department of Finance and Administration (F&A) Policy 3. Once assigned, the term of responsibility shall continue until the Department of Finance and Administration makes a new determination. Responsibility may be reassigned upon written request and justification to the Department of Finance and Administration by either the Cognizant State Agency or a Grantor State Agency.

7. Cost Allocation Plans.

Cost Allocation Plans shall comply with the applicable accounting and financial standards, either Financial Accounting Standards Board ("FASB") standards or Governmental Accounting Standards Board ("GASB") standards. Subrecipients shall submit any proposed Cost Allocation Plans to the Cognizant State Agency for approval. Methods used for allocating costs may differ between Subrecipients. Once a Subrecipient receives approval for its Cost Allocation Plan, all other Grantor State Agencies shall accept the approved Cost Allocation Plan. However, Grantor State Agencies are not required to fully fund the costs that are charged to a particular program under an approved Cost Allocation Plan if such costs are not allowable under the Grantor State Agency's agreement with the Subrecipient or exceed the prescribed funding percentage or budgets.

7.1 Types of Costs.

7.1.1 *Allowable Costs*

The total cost of an Award is the sum of the allowable direct and allocable indirect costs less any applicable credits. There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the award or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect cost in order to avoid possible double-charging of awards.

Allowable costs must be reasonable for the performance of the award and allocable. Unallowable costs include:

- Alcoholic beverages
- Bad debts
- Contingencies
- Contributions and donations
- Entertainment
- Fines and penalties
- Fundraising and investment management
- Legal services related to claims against the federal government

7.1.2 *Allocable Costs*

A cost is allocable to a particular Award or other cost objective if the goods or services involved are chargeable or assignable to that award or cost objective in accordance with relative benefits received. This standard is met if the cost:

- (1) Is incurred specifically for the Award;
- (2) Benefits both the Award and other work of the Subrecipient and can be distributed in proportions that may be approximated using reasonable methods; and
- (3) Is necessary to the overall operation of the Subrecipient and is assignable in part to the Award.

7.1.3. *Direct Costs*

Direct costs are those costs that can be identified specifically with a particular final cost objective, such as an Award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. Such costs include:

- Salaries of persons who provide direct services to program beneficiaries and work on only one program (e.g. aging director, transportation program director);
- Travel costs that can be specifically identified to benefit a particular program;
- Equipment purchased for use in only one program;
- Maintenance or insurance for purchased equipment;
- Supplies which are utilized in only one program;
- A contract for professional services which benefits a single program; and
- Printing which benefits a single program.

7.1.4. *Allocable Direct Costs*

Allocable direct costs are those that benefit more than one program, but do not fall under the criteria of indirect costs. Such costs also include:

- Salaries and benefits of program employees whose work benefits more than one program (e.g. nurses, eligibility workers, etc.);

- Travel costs of employees whose work benefits more than one program;
- Occupancy costs of programs;
- Telephone costs of programs;
- Supplies utilized by more than one program;
- Rental and maintenance of equipment used by more than one program;
- Audit costs; and
- Contracted services that benefit more than one program.

7.1.5. *Indirect Costs (facilities & administrative costs)*

Indirect costs are overhead or administrative costs incurred for joint purposes that cannot easily be allocated to a single use. Such costs include:

- Executive director's salary and benefits (or the administrative portion thereof if the executive director spends time on program-related activities);
- Fiscal officer's salary and benefits;
- Secretarial support of administrative employees;
- Supplies of administrative employees;
- Travel of administrative employees;
- Occupancy costs (e.g. rent and utilities) of administrative employees;
- Postage and telephone costs of administrative employees; and

The salaries of administrative and clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:

- (1) Administrative or clerical services are integral to a project or activity;
- (2) Individuals involved can be specifically identified with the project or activity;
- (3) Such costs are explicitly included in the budget or have the prior written approval of the federal awarding agency; and
- (4) The costs are not also recovered as indirect costs.

7.2 Cost Allocation.

7.2.1. *Allocation Methods*

Requirements for developing and submitting indirect cost rate proposals and Cost Allocation Plans are contained in Appendices III-VII of the *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards* as follows below. In the event that a federal requirement for cost rate proposals or Cost Allocation Plans conflicts with a state requirement, the federal requirement shall control.

- (1) Appendix III to Part 200—Indirect Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs)

(2) Appendix IV to Part 200—Indirect Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations;

(3) Appendix V to Part 200—State/Local Government and Indian Tribe Central Service Cost Allocation Plans;

(4) Appendix VI to Part 200—Public Assistance Cost Allocation Plans; and

(5) Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals.

The appendices can be found at the following web address: http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

7.2.2. Instructions for Cost Allocation Plans

Each Subrecipient shall prepare a narrative describing in detail the methods used to allocate costs to the various programs. The plan should include an organizational chart and documents and schedules to support the allocation methods.

The following guidelines should be used when preparing the Cost Allocation Plan:

- The nature of the charges to be allocated will depend on the sophistication of the accounting system. The more sophisticated the system, the fewer the types of charges will be treated as allocable direct expense and included for distribution. For example, if each employee keeps a detailed time report, the payroll expenditures might be charged directly to each program, and cost allocation per se would not be involved.
- The Cost Allocation Plan must include plans for allocation of allocable direct costs as well as indirect costs. Allocable direct costs will be included with other direct costs of the program in reports to the Grantor State Agency. Allocations that are reported in separate line items on the grantor reports should involve the indirect cost pool only. An entity may wish to have more than one cost allocation pool so that certain types of costs are allocated on different bases.
- The Cognizant State Agency shall review proposed Cost Allocation Plans.
- Once the cost allocation plan has been approved by the Cognizant State Agency, all other funding state agencies must accept the approved plans. Where a contracting state agency has reason to believe that special factors affecting its awards necessitate special consideration, the contracting State Agency should communicate this to the Cognizant State Agency.
- If a dispute arises between the Cognizant State Agency and a Grantor State Agency, the dispute shall be resolved through an appeals process headed by the Commissioner of the Department of Finance and Administration or his or her designee.

8. How to Distinguish Between a Subrecipient and a Contractor.

The non-federal entity may concurrently receive federal awards as a recipient, Subrecipient, and a Contractor, depending on the substance of its agreement with federal awarding agencies and pass-through entities. Therefore, a State Agency must make case-by-case determinations whether each agreement it makes for the disbursement of federal or state program funds casts the party receiving funds in the role of a Subrecipient or Contractor.

If the agreement between the State and the non-federal entity creates a contractor relationship, the State Agency must ensure that the procurement, receipt, and payment for goods and services complies with applicable state and federal laws, regulations, and policies. If the agreement between the State and the non-federal entity creates a subrecipient relationship, the State Agency must comply with the subrecipient monitoring requirements in Section 10.

When determining whether an agreement creates a subrecipient or contractor relationship, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed below may not be present in all cases, and the State Agency must use judgment in classifying each agreement as creating a subrecipient or contractor relationship. The U.S. OMB's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* provides guidance on how to distinguish between a Subrecipient and a Contractor in § 200.330:

8.1 Subrecipient. Characteristics which support the classification of an entity as a Subrecipient include when the entity:

- Determines who is eligible to receive state or federal financial assistance;
- Has its performance measured in relation to whether objectives of a state or federal program were met;
- Has responsibility for programmatic decision making;
- Is responsible for adherence to applicable state or federal program requirements specified in the Award; and
- In accordance with the agreement, uses the state or federal financial assistance to carry out a program for a public purpose specified in the authorizing statute, as opposed to providing goods or services for the benefit of the State Agency.

8.2 Contractor. A contract is for the purpose of obtaining goods or services for the State Agency's own use and creates a procurement relationship with the Contractor. Characteristics which support the classification of the entity as a Contractor, when the entity receiving state or federal funds:

- Provides the goods or services within normal business operations;
- Provides similar goods or services to many different purchasers;
- Normally operates in a competitive environment;
- Provides goods or services that are ancillary to the operation of a state or federal program; and
- Is not subject to compliance requirements of the state or federal program as a result of the agreement, though similar requirements may apply for other reasons.

9. State Subrecipient Monitoring Requirements.

9.1 General Requirements for all Subrecipient Contracts

All subrecipient contracts must be monitored by the Grantor State Agency at least once every three years. This does not mean that all subrecipient contracts for a term of one year must be monitored. To determine whether subrecipient contracts with a one-year term will be monitored, Agencies should consider risk factors, e.g., the program's complexity, the Subrecipient's prior experience with the same or similar programs, whether the Subrecipient has new personnel or substantially changed systems, and the extent and results of any federal awarding agency monitoring. The Grantor State Agency shall perform more frequent monitoring if previous monitoring cycles revealed serious deficiencies. If federal subrecipient monitoring requirements on monitoring frequency are more stringent than those under this Policy, the Grantor State Agency shall comply with the federal requirements.

The Grantor State Agency should assign risk to all Subrecipients. At minimum, the Grantor State Agency's risk assignment process shall include the considerations identified in Section 9.2.2 below.

9.2 Annual Subrecipient Monitoring

Each year, all State Agencies governed by this Policy shall develop and submit an annual monitoring plan for review and approval to the Central Procurement Office by October 1.

9.2.1. *Monitoring Plan Components*

The monitoring plan is a summary of the Grantor State Agency's planned monitoring activities for the upcoming annual monitoring cycle and shall include:

- The total subrecipient contracts population;
- The Agency's monitoring cycle, e.g., the state or federal fiscal year;
- All subrecipient contracts the Agency will monitor during its monitoring cycle;
- A description of each state or federal program to be monitored;
- Sample monitoring guides to be utilized for each monitored program;
- Full-time equivalents and personnel classifications for all staff dedicated to monitoring activities;
- A risk assessment for each Subrecipient and its related contracts;
- An explanation of the criteria used to assign risk to Subrecipients and their related contracts;
- An explanation of each finding from the previous monitoring cycle; and
- An explanation of the Agency's corrective action process for each finding.

9.2.2. *Determining the Population to be Monitored*

When selecting the population of subrecipient contracts to be included in its annual monitoring plan, Grantor State Agencies shall consider:

- The Subrecipient's risk of noncompliance with federal statutes, regulations,

- and the federal award's terms;
- The level of programmatic or financial risk to the State;
- Whether the subrecipient contract has been monitored in the past three years; and
- Whether the subrecipient contract has had prior findings indicating serious deficiencies.

9.2.3 *Monitoring Activities*

The Grantor State Agency's monitoring of the Subrecipients identified in its annual monitoring plan shall include:

- Any program-specific monitoring requirements;
- All applicable requirements of Title VI of the *Civil Rights Act of 1964*, as defined in the Title VI Compliance Commission Advisory Memorandum No. 3, April 14, 2004;
- Reviewing any reports required by 2 C.F.R. §§ 200.238 – 200.239;
- Reviewing financial and programmatic reports required by the Grant Contract; and
- Ensuring that the Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Award that the Grantor State Agency detected and communicated to the Subrecipient.

To the extent possible, there should be a separation of duties between monitoring staff and program operations staff to allow for independence and objectivity. Possible conflicts of interest should be disclosed in agency monitoring plans.

9.2.4 *Changes to Monitoring Plans*

Agencies shall submit any proposed changes to an approved monitoring plan and an explanation for each proposed change to the Central Procurement Office for review and approval. The Agency shall document any approved changes to an existing plan.

9.2.5 *Monitoring Reports and Corrective Action Plans*

Grantor State Agencies shall issue reports summarizing any findings or observations identified during monitoring activities within thirty (30) business days of completing all field work. The Agency shall retain a copy of the monitoring report and distribute copies to the Subrecipient and the Comptroller of the Treasury, Division of State Audit.

Upon receipt of a monitoring report with findings, the Subrecipient shall prepare a corrective action plan detailing the actions to be taken to correct such findings. The corrective action plan shall include:

- The name of the contact person responsible for the corrective action plan;

- The corrective actions to be taken; and
- The anticipated completion date.

The corrective action plan shall be submitted to the Grantor State Agency for review and approval. The Grantor State Agency shall have thirty (30) business days to approve, reject, or request additional information about the Subrecipient's plan. If a corrective action plan is not approved, the Grantor State Agency and the Subrecipient shall work together to develop solutions for addressing the monitoring report's findings.

10. Compliance Reviews.

Agency records obtained under this Policy are subject to evaluation by the Chief Procurement Officer, the Comptroller of the Treasury, or their duly appointed representatives.

Related Statutes, Rules and Policies

Tenn. Code Ann. §§ 4-56-101, *et seq.*

Tenn. Code Ann. §§ 12-3-101, *et seq.*

Tenn. Code Ann. §§ 12-4-101, *et seq.*

PROPOSED REVISIONS TO:

**SECTIONS 5.15 – 5.17 OF THE
*PROCUREMENT PROCEDURES MANUAL
OF THE CENTRAL PROCUREMENT
OFFICE***

5.15. *Activities Required Before the Contract Effective Date*

All activities in this Section must be completed before a contract's effective date. A contract is not effective until all of the activities in this Section have been completed. If the activities in this Section are not completed before a contract's effective date, then the CPO may request that the contract be resubmitted with a new effective date. In no event shall the procuring State Agency request goods or services before the contract's effective date.

5.15.1. *Contract Award.*

Once the open file period has passed and no protests have been received, the solicitation coordinator may begin the award process in Edison with respect to an ITB. Awards of contracts pursuant to other procurement methods shall be conducted outside of Edison in accordance with the Rules, Central Procurement Office Policy and this Manual.

5.15.2. *Edison.*

The solicitation coordinator is responsible for all necessary uploading of contracts to be routed for approvals in Edison. For specifics as to Edison requirements relating to contract awards, the solicitation coordinator should consult the appropriate Edison manuals for procurement of goods or services.

5.15.3. *Contract Approval.*

5.15.3.1. *Approval by State Officials.*

The solicitation coordinator is responsible for obtaining all necessary approvals prior to a contract's effective date. (A) Statewide Contracts must be approved by the following: (i) awarded respondent; (ii) solicitation coordinator; and (iii) Chief Procurement Officer or designee. (B) Agency Term Contracts must be approved by the following: (i) awarded respondent; (ii) Agency budget officer or designee; and (iii) Agency head or designee. The Central Procurement Office ("CPO") does not review Agency Term Contracts for fifty thousand dollars or less (\$50,000) unless the contract involves a Rule Exception Request or Special Contract Request. Agency Term Contracts that are not subject to Central Procurement Office review will still be set to approved in Edison by authorized CPO personnel. Certain types of procurements and contracts require additional approvals, as specified in the chart below.

Contract Subject Matter	Required Approval or Endorsement
<ul style="list-style-type: none"> • Information technology 	OIR Endorsement
<ul style="list-style-type: none"> • Medical/mental health-related professional, pharmaceutical, laboratory, or imaging 	F&A eHealth Initiative Endorsement
<ul style="list-style-type: none"> • Contract between State Agencies that includes provisions for cooperative programs; • Provision for State legal consultation services 	Governor
<ul style="list-style-type: none"> • Provision for State legal consultation services 	Attorney General ¹
<ul style="list-style-type: none"> • Contract with an individual; • Contract that involves training State employees (except training pursuant to an information technology system procurement); • Services relating to the employment of current or prospective State employees 	Human Resources Commissioner
<ul style="list-style-type: none"> • Contract that involves engineering or architectural services relating to an improvement (including demolition) to real property in which the State of Tennessee has an interest 	State Architect
<ul style="list-style-type: none"> • Delegation of procurement or contract authority by the Chief Procurement Officer; • Procurements and contracts for goods and services where authority exists under both the SBC and CPO to procure and contract; • Procurements and contracts for auditing services; 	Comptroller of the Treasury ²

¹ See Tenn. Code Ann. § 8-6-106.

² Pursuant to Tenn. Code Ann. § 4-56-108(b), without limitation of the audit authority of the comptroller of the treasury, the comptroller is authorized to examine any documents under the authority of the chief procurement officer.

Contract Subject Matter	Required Approval or Endorsement
<ul style="list-style-type: none"> • Cooperative agreements as provided in Tenn. Code Ann. § 12-3-512; • Fee-For-Service procurements or contracts with a maximum liability > \$5,000,000; • Grant contracts with a maximum liability > \$5,000,000; • Fee-For-Service procurements or contracts for new or replacement information systems and technical infrastructure projects for goods and services > \$500,000; • Procurements or contracts utilizing competitive or non-competitive negotiations with a maximum liability > \$250,000; • Revenue procurements or contracts; • No-Cost procurements or contracts; • Procurements or contracts with a term > 60 months (5 years); • Procurements or contracts that propose to limit liability to < 2 times the maximum liability; • Procurements or contracts that propose to change the Records, Annual Report, Audit, or Monitoring clauses; • Procurements or contracts that allow for the negotiation of a necessary, mandatory, or standard contract clause; • Procurements allowing evaluation of the cost proposal prior to or contemporaneously with evaluation of the technical proposal; • Procurements or contracts containing an automatic price escalator; and • Such other procurements, contracts or other items as may be directed by the Commissioner of Finance and Administration or by the Commission. 	

Contract Subject Matter	Required Approval or Endorsement
<ul style="list-style-type: none"> • All requests to procure goods or services by negotiation with a single service provider having a term of more than one (1) year or which contain term extension language authorizing a term of greater than one (1) year AND a cumulative value of \$250,000 or more; and • All amendments to a contract, whether competitively or noncompetitively procured, meeting the above term and dollar threshold requirements where the amendment: 1) increases or decreases the maximum liability, 2) extends or shortens the contract term, 3) changes the entity or name of the entity with which the State is contracting, or 4) otherwise changes an original contract or amended contract in a substantive manner. 	Fiscal Review Committee ³

5.15.3.2. *Fiscal Review.*

Certain contracts or amendments to certain contracts must be contemporaneously filed with the Central Procurement Office, Office of the Comptroller, and the Fiscal Review Committee of the General Assembly for review. This includes, but is not limited to, the following:

- All proposed noncompetitive contracts with a term of greater than one year or containing a provision authorizing a contract renewal beyond one year, and having a cumulative value of \$250,000 or more;
- Any amendment to a contract described above, whether originally procured competitively or noncompetitively which:

³ Under Tenn. Code Ann. § 4-56-107(b)(4), the Fiscal Review Committee, pursuant to its jurisdiction under § 3-7-103(a), is authorized to review any other State contract or contract amendment regardless of whether the contract or contract amendment meets the requirements of § 4-56-107(b)(1).

- Increases or decreases funding;
- Extends or shortens the contract term;
- Changes the entity or name of the entity with which the State is contracting; or
- Otherwise changes an original or amended contract in a substantive manner.

5.16 *Contract Amendments, Renewals, and Cancellations.*

Amendments and renewals must follow the same approval process as that of the original, or base, contract. The termination of a contract, for any reason, must be approved by the Chief Procurement Officer (or designee) and filed with the Office of the Comptroller.

5.17. *The Procurement File.*

A procurement file shall be maintained for every solicitation. Such file shall include, but is not limited to, the following documentation, if applicable:

- A copy of the solicitation and any amendments or clarifications thereof;
- A copy of any approved Rule Exception Request;
- Any Conflict of Interest Disclosure documentation;
- Any evaluator attestations;
- A list of all vendors solicited to participate in the procurement;

**PROPOSED
AMENDMENT REQUEST FORM**

Amendment Request

This request form is not required for amendments to grant contracts. Route a completed request, as one file in PDF format, via e-mail attachment sent to: Agsprs.Agsprs@tn.gov

APPROVED

CHIEF PROCUREMENT OFFICER

DATE

Agency request tracking #	
1. Procuring Agency	
2. Contractor	
3. Edison contract ID #	
4. Proposed amendment #	
5. Contract's Effective Date	
6. Current end date	
7. Proposed end date	
8. Current Maximum Liability or Estimated Liability	\$
9. Proposed Maximum Liability or Estimated Liability	\$
10. Office for Information Resources Pre-Approval Endorsement Request <i>– information technology service (N/A to THDA)</i>	<input type="checkbox"/> Not Applicable <input type="checkbox"/> Attached
11. eHealth Pre-Approval Endorsement Request <i>– health-related professional, pharmaceutical, laboratory, or imaging</i>	<input type="checkbox"/> Not Applicable <input type="checkbox"/> Attached
12. Human Resources Pre-Approval Endorsement Request <i>– state employee training service</i>	<input type="checkbox"/> Not Applicable <input type="checkbox"/> Attached
13. Explain why the proposed amendment is needed	
14. If the amendment involves a change in Scope, describe efforts to identify reasonable, competitive, procurement alternatives to amending the contract.	

Agency request tracking #	
Signature of agency head or designee and date	

PROPOSED

TERMS AND CONDITIONS FOR PURCHASE ORDERS ISSUED UNDER AN AGENCY'S LOCAL PURCHASE AUTHORITY

REQUEST:

(1) Make the following changes to the “Total Purchase Order Amount” term in the terms and conditions for purchase orders issued under an Agency’s local purchase authority:

~~Total Purchase Order Amount. In no event shall the liability of the State under this Purchase Order exceed Written Dollar Amount (\$Number) (“Total Purchase Order Amount”).~~

Total Purchase Order Amount. In no event shall the liability of the State under this Purchase Order exceed the Total Purchase Order Amount.

(2) Add the following language to all purchase orders generated in Edison:

The terms and conditions that apply to this purchase order are: (a) the terms and conditions of the contract under which the purchase order is issued as identified on this document’s face; (b) the terms and conditions attached to this purchase order; or (c) the terms and conditions found at: [insert URL].

CERTIFICATION RELATED DOCUMENTATION



STATE OF TENNESSEE
PROCUREMENT COMMISSION

3rd Floor, William R. Snodgrass TN Tower, 312 Rosa L. Parks Avenue
Nashville, Tennessee 37243-1102
1. 741-1035 Fax (615) 741-0684

RE-CERTIFICATION

1. Item No. 763.A98
Service: Janitorial Services
Agency/Location: Tennessee Department of Transportation
Region IV Boswell Help Building, Boswell Complex, 5336 Boswell Ave, Memphis, TN
Annual Price: \$3,813.96 or \$2.98 per square foot, no price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 12/01/2014 – 11/30/2015

2. Item No. 763.A100
Service: Janitorial Services
Agency/Location: Tennessee Department of Transportation
Region IV Regional Transportation Management Center, 5344 Boswell Complex,
Boswell Ave, Memphis, TN
Annual Price: \$21,799.32 or \$1.66 per square foot per year, no price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 12/01/2014 – 11/30/2015

3. Item No. 763.A99
Service: Janitorial Services
Agency/Location: Tennessee Department of Transportation Region IV Engineering
Building, Boswell Complex, 5334 Boswell Avenue, Memphis, TN
Annual Price: \$8,373.48 or \$0.97 per vehicle, no price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 12/01/2014 – 11/30/2015

LARRY MARTIN, Chairman
Commissioner of Finance & Administration

JUSTIN P. WILSON
Comptroller of the Treasury

ROBERT E. OGLESBY
Commissioner of General Services

MIKE BERRY
Chief Procurement Officer

4. Item No. 763.63
Service: Janitorial Services
Agency/Location: Tennessee Department of Military
Tennessee Army National Guard, Armed Forces Reserve Center, Volunteer Training Site, Building 686, Smyrna, TN
Annual Price: \$69,135.12 or \$0.81 per square foot, no price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 12/01/2014 – 11/30/2015
5. Item No. 763.A97
Service: Tea & Coffee Beverages
Agency/Location: Statewide
Annual Spend: \$50,387.51, no price increase requested
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 12/01/2014 – 11/30/2015
6. Item No. 763.A100
Service: Grounds Maintenance Services
Agency/Location: Tennessee Department of Transportation
Region IV, Boswell Complex 5344 Boswell Avenue Memphis, TN
Annual Price: \$7,008.84 or \$194.69 per cycle, no price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 12/01/2014 – 11/30/2015
7. Item No. 763.71a-763.72c (artificially sweetened) and (sugar sweetened)
Service: Beverage Mixes
Agency/Location: Statewide
Annual Spend: \$9,241.10, no price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 12/01/2014 – 11/30/2015
8. Item No. 763.38c
Service: Continuous Forms & Snap Out Forms
Agency/Location: Statewide
Annual Spend: \$2,048,448.15, no price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 12/01/2014 – 11/30/2015
9. Item No. 763.19c
Service: Janitorial Services
Agency/Location: Tennessee Department of Military
Tennessee Army National Guard
117th Regional Training Institute, Bldg 603 Smyrna, TN
Annual Price: \$15,265.92 or \$1.827816 per square foot, no price increase requested.
Satisfaction: No complaints have been filed.

Re-Certification Requested for Period of 01/01/2015 – 12/31/2015

10. Item No. 763.A164
Service: Janitorial Services
Agency/Location: Tennessee Emergency Management Agency
1510 R.E. Bailey Bypass Jackson, TN
Satisfaction: No complaints have been filed.
Annual Price: \$6,674.40 or \$1.0303 per square foot, no price increase requested
Re-Certification Requested for Period of 1/01/15 – 12/31/15

DE-CERTIFICATION

11. Item No. 763.A156
Service: Vehicle Prep & Inspection Services
Agency/Location: Tennessee Department of Transportation TDOT Region III
Headquarters 6601 Centennial Blvd. Nashville, TN
Annual Price: \$71,996.40 or \$11.54 per vehicle.
Satisfaction: No complaints have been filed.
De-Certification Effective for Period of 11/30/2014

NEW CERTIFICATION

12. Item No. 763.A168
Service: Premium Coffee
Agency/Location: Statewide
Headquarters 6601 Centennial Blvd. Nashville, TN
Annual Price: \$9.02 per pound.
Certification Requested for Period of 12/01/2014 – 11/30/2015
13. Item No. 763.A169
Service: Grease Trap Services
Agency/Location: Statewide
Annual Price: Pricing by location per gallon pumped.
Certification Requested for Period of 10/01/2014 – 09/30/2015
14. Item No. 763.A170
Service: Used Cooking Oil
Agency/Location: Statewide
Annual Rebate: This is a Revenue Contract whose rebate to a state agency is based per gallon of used cooking oil collected.
Certification Requested for Period of 10/01/2014 – 09/30/2015

ADDENDUM TO CERTIFIED CONTRACT

15. Item No. 763.38d
Service: Custom Continuous Forms and Warehousing

Agency/Location: Statewide

Annual Spend: \$1,223,479.07, no price increase requested.

Satisfaction: No complaints have been filed.

Re-Certification Requested for Period of 1/01/2014 – 12/31/2014

Addendum: This addendum added Custom Continuous Forms and Warehousing to the Snap Out Forms certification.

LIMITATION OF LIABILITY REPORT

**Approved Limitation of Liability Requests
for the Time Period July 18, 2014 to December 11, 2014**

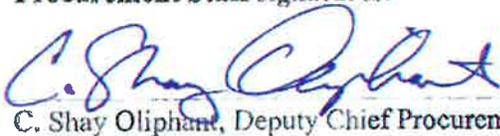
TRACKING	CALENDAR YEAR	ID	LOGGED	STATUS	STATUS DATE	SERVICE	CONTRACTING AGENCY	BASIS FOR REQUEST	COT APPROVAL OF REQUEST
31701-03125	14	4340	11/20/2014	APPROVED	11/20/2014	MOBILE DEVICE MANAGEMENT SERVICES	DEPARTMENT OF FINANCE & ADMINISTRATION	2x - TO HAVE CONTRACTOR AGREE TO LIABILITY OF 2x CONTRACT VALUE	YES

CORRECTION OF ERRORS REPORT

Request to correct a clerical error: Replace Tenn. Code Ann. §§ 6-6-601 – 608 with Tenn. Code Ann. §§ 67-6-601 – 608 in paragraph D.22. of the FA Template.

Explanation of clerical error: The incorrect section of the Tennessee Code is cited in the Tennessee Department of Revenue Registration term of the FA Template.

Procurement Staff signatures:



C. Shay Oliphant, Deputy Chief Procurement Officer

12/15/19
Date

Buddy Lea, Assistant Commissioner of the Department of Finance & Administration

Date


Donald J. Ivancic, Legislative Procurement Compliance Manager

11/9/19
Date

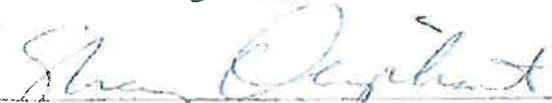
(1) Request to correct contact information: Replace Jane Chittenden's contact information with Mark Rampey's on the OIR Pre-Approval Endorsement Request document.

Explanation of the correction: Jane Chittenden will retire from State employment on November 17, 2014. Mark Rampey will assume Jane's role as OIR Endorsement Facilitator.

(2) Request to correct clerical and typographical errors: Label and number each of the three options on page xvi of the GG Template. In the first option's instructional language, correct the typographical error in the third sentence by deleting "after."

Explanation of the corrections: One of the three budget line-item options was not labeled. Labeling and number all three options will improve the document's organization and ease-of-use. Any typographical errors should be corrected.

Procurement Staff signatures:


C. Shay Oliphant, Deputy Chief Procurement Officer 11/4/14
Date


Buddy Lea, Assistant Commissioner of the Department of Finance & Administration 11-3-14
Date


Donald J. Ivancic, Legislative Procurement Compliance Manager 11/3/14
Date

Request to correct clerical error: Replace "Grantor State Agency" with "Grantee" on page 5 of the interagency grant agreement model ("IG model").

Explanation of clerical error: Grantees are required to sign the IG model on the grantee signature line of the grant contract. Grantees are to print their name and title beneath the signature line, however, the current model asks for the "Grantor State Agency" printed name and title. This correction would properly label the printed name and title line beneath the Grantee signature. The correction would read as:

IN WITNESS WHEREOF,

GRANTEE STATE AGENCY:

GRANTEE SIGNATURE

DATE

PRINTED NAME AND TITLE OF GRANTOR STATE AGENCY GRANTEE SIGNATORY (above)

Procurement Staff signatures:



C. Shay Oliphant, Deputy Chief Procurement Officer

12/15/14
Date



Buddy Lea, Assistant Commissioner of the Department of Finance & Administration

12/2/14
Date



Donald J. Ivancic, Legislative Procurement Compliance Manager

12/2/14
Date

**MINUTES OF NOVEMBER 14, 2014
MEETING**

**REDLINE VERSION WITH COT EDITS
TO PAGES 3 AND 8**



STATE OF TENNESSEE
DEPARTMENT OF GENERAL SERVICES

BILL HASLAM
GOVERNOR

ROBERT E. OGLESBY, AIA
COMMISSIONER

MINUTES
PROCUREMENT COMMISSION MEETING #013
FRIDAY, NOVEMBER 14, 2014 – 10:00 A.M.
TN TOWER, 3RD FLOOR, NASHVILLE ROOM

Members in Attendance:

Larry B. Martin, Commissioner of the Department of Finance & Administration; Justin P. Wilson, Comptroller of the Treasury; Robert E. Oglesby, Commissioner of the Department of General Services; and Mike Perry, Chief Procurement Officer.

Others in Attendance:

Toni Stuart, John Bissell, Doug Whitcomb, Cameron Himes, Colleen Mallea, Shelia Simpson, Martha Nichols, Sandra Braber-Grove, Kathy Stickel, Buddy Lea, Sheila Ewing-Agnew, Jamil Moore, Keith West, Laura Kinard, John Dunn, Sam Edwards, Kaci Stewart, Paul Krivacka, Charlotte McKinney

I. Call to Order.

Commissioner Martin called the meeting to order and recognized that all Procurement Commission members were present.

II. Minutes from the August 21, 2014 Procurement Commission Meeting.

Commissioner Martin presented the August 21, 2014 minutes and asked if any changes or corrections were needed. Seeing none, Comptroller Wilson stated that his office had reviewed the minutes and that they had no changes or corrections. Comptroller Wilson then made a motion to approve the minutes from the August 21, 2014 Procurement Commission meeting as presented. The motion was seconded by Commissioner Oglesby; whereupon the minutes were unanimously approved.

III. New Business.

Proposed Changes to the following Central Procurement Office documents.

CENTRAL PROCUREMENT OFFICE

312 ROSA L. PARKS AVENUE, 3RD FLOOR • NASHVILLE, TENNESSEE 37243
(615) 741-1035 • FAX: (615) 741-0684 • WWW.TN.GOV/GENERALSERV/

Chief Procurement Officer Mike Perry stated that the Central Procurement Office had eight documents that were reviewed and recommended by the Advisory Council on State Procurement to present to the Procurement Commission (“Commission”) for approval. Commissioner Martin then asked Paul Krivacka, Lead Attorney/Director of Category Management, Central Procurement Office, to present the New Business agenda items.

At this point, Commissioner Martin asked if the Commission had a preference for voting on the proposed document changes separately or collectively after they had all been heard. Comptroller Wilson stated that he had no preference but that there were some very important items on the agenda and he would like an explanation on the first item. The Commission members then agreed to vote on the documents collectively.

(1) Fee for Goods or Services Contract (“FA”) Template

Mr. Krivacka stated that the FA template was a very important document and if approved would dramatically change the structure and look of contract documents, as well as reduce the State’s exposure to contractual risk. Mr. Krivacka then summarized the following points with regard to the FA Template:

- When revising the FA Template, the Policy Review Subcommittee (“Subcommittee”) had three primary goals: (1) to make the document easier to use; (2) to reduce risk to the State; and (3) to substitute plain English for “legalese.”
- Revisions that promote ease of use include:
 - Moving the standard terms to the first half of the document and placing optional terms and instructions in the second half;
 - Improving instructional language; and
 - Moving all mandatory terms to Section D and reserving Section E for special terms.
- Revisions that reduce risk to the State include:
 - Adding or improving the “Limitation of State’s Liability,” “Warranty,” “Force Majeure,” “Maximum Liability,” and “Confidentiality of Records” terms;
 - Moving the “Hold Harmless” term and other mandatory terms to Section D;
 - Adding instructions before Section E stating that in the event of a conflict between a Section E term and Section D, the Section E term is subordinate; and
 - Adding language that the contract does not grant the Contractor any exclusive rights or guarantee that the State will buy a minimum quantity of goods or services.

Mr. Krivacka then asked if there were any questions or comments regarding the FA template. Comptroller Wilson stated that he wanted to be clear that the FA template was not a model document but a template and that as such any modification to the provisions of the FA template would require a Rule Exception Request approved by

the Central Procurement Office, and in many cases approved by the Comptroller's Office. Mr. Krivacka confirmed that was correct. Comptroller Wilson stated that he wanted to make sure that was understood by everyone. Commissioner Martin and Comptroller Wilson agreed that the proposed FA template was clearly an improvement over the existing document.

Seeing no other questions or comments, Commissioner Martin asked Mr. Krivacka to proceed to the next agenda item.

(2) Governmental Grant ("GG") Template

Mr. Krivacka stated that many of the changes to the FA template were being rolled out to other documents, including the GG template. Mr. Krivacka explained that the GG template was the grant contract document between governmental entities. Mr. Krivacka then summarized the following points with regard to the GG Template:

- The Procurement Commission approved significant changes to the GG Template at the August 2014 meeting.
- This request involves refining the GG Template to better align it with the FA template and to respond to agency feedback.
- In order to match the FA template, this request moves all mandatory terms to Section D and reserves Section E for special terms only.
- Other proposed revisions include clarifying the instructional language to resolve ambiguities and detail when Rule Exception Requests are required.
- After further review of Tenn. Code Ann. § 12-3-309, this request deletes the "Prohibition of Illegal Immigrants" provision. Tenn. Code Ann. § 12-3-309 suggests that the attestation requirement applies to entities that are providing goods or services to the State. Even with deletion of this provision, a local government that knowingly hires an illegal immigrant is subject to civil, criminal, and tax consequences under federal law.

Comptroller Wilson noted that local governments were subject to federal law with regard to the use of illegal immigrants. Mr. Krivacka concurred with Comptroller Wilson. Commissioner Martin asked if federal law was the proper place for the penalties and Commissioner Oglesby asked if deletion of the "Prohibition of Illegal Immigrants" provision increased any risk to the State. Comptroller Wilson ~~verified~~ stated that there would be some risk to the state if the "Prohibition of Illegal Immigrants" provision remained in the GG template, such as the possibility of conflicting laws. ~~and~~ Mr. Krivacka confirmed that there were some consequences under federal law and stated that deleting the provision would not increase the risk to the state.

Commissioner Martin asked if there were any additional questions or comments regarding the GG template. Seeing none, Commissioner Martin asked Mr. Krivacka to proceed to the next agenda item.

(3) Delegated Grant Authority ("DG") Template

Mr. Krivacka summarized the following points with regard to the DG Template:

- Since delegated grant authorities may involve multi-million dollar expenditures, many of the proposed changes to this document aim to reduce risk to the State.
- Proposed changes include: making the document a template and emphasizing that any modification of a template requires an approved Rule Exception Request; requiring the agency to submit examples of the grant contracts it will use under the delegated grant authority (previously, submission of the scope of services only was required); capping the maximum liability of any one grant contract executed under a delegated grant authority at five million dollars; and eliminating references to no longer applicable Finance and Administration rules and policies.

Commissioner Martin commented that the proposed changes to the DG template were similar to the proposed changes to the FA template in that they would create better disciplines. Mr. Krivacka agreed that the proposed changes would improve the standards set for contracts and improve grant document review.

Commissioner Martin asked if there were any questions or comments regarding the DG template. Commissioner Oglesby commented that the proposed changes would also help to highlight the Rule Exception Requests for review by the Central Procurement Office. Mr. Krivacka agreed. Seeing no other questions or comments, Commissioner Martin asked Mr. Krivacka to proceed to the next agenda item.

(4) Grant Contract cover sheet

Mr. Krivacka summarized the following points with regard to the Grant Contract cover sheet:

- The U.S. OMB issued new regulations on grants and subrecipient monitoring. These regulations take effect December 26, 2014 and some terms on the Grant Contract cover sheet must be changed for consistency with the new regulations.
- Other proposed changes include adding a section for the grantee's fiscal year end (which is important for subrecipient monitoring), replacing Office of Contract Review ("OCR") with Central Procurement Office ("CPO"), and eliminating references to American Recovery and Reinvestment Act funds because these funds were exhausted some time ago.

Commissioner Martin asked if these changes were basically just updating the Grant Contract cover sheet and Mr. Krivacka confirmed that he was correct.

Commissioner Martin asked if there were any questions or comments regarding the Grant Contract cover sheet. Seeing none, Commissioner Martin asked Mr. Krivacka to proceed to the next agenda item.

(5) Section 6.2.4, "Required Agency Documentation" of the *Procurement Procedures Manual of the Central Procurement Office* ("Manual")

Mr. Krivacka summarized the following points with regard to Section 6.2.4, “Required Agency Documentation” of the *Procurement Procedures Manual of the Central Procurement Office*:

- This request clarifies the section of the Manual on the documentation required for sole source procurements.
- The proposed language makes it clear that a letter verifying the vendor has exclusive rights to provide the goods or services is required only if the vendor’s exclusive rights are the basis for the sole source procurement.
- This request should reduce agency confusion over sole source procurements and thus make the process more efficient because it better details what documentation is required. Mr. Krivacka stated that there are grounds for a sole source procurement other than a vendor’s exclusive rights.

Commissioner Martin asked if there were any questions or comments regarding Section 6.2.4, “Required Agency Documentation” of the *Procurement Procedures Manual of the Central Procurement Office*. Comptroller Wilson stated that this revision would help to solve problems that may come up at the end of the contract process and would be a great improvement.

Commissioner Oglesby stated that it is always good to encourage competition but when we cannot and it is in the best interest of the State to use Sole Source, then it is good to ensure as much clarity as possible.

Seeing no additional questions or comments, Commissioner Martin asked Mr. Krivacka to proceed to the next agenda item.

(6) Section 10.8, “P-Card Purchases” of the *Procurement Procedures Manual of the Central Procurement Office*

Mr. Krivacka summarized the following points with regard to Section 10.8, “P-Card Purchases” of the *Procurement Procedures Manual of the Central Procurement Office*:

- This request modifies the P-Card Purchases section of the Manual to reflect the Procurement Commission’s approval of a \$10,000 threshold for small purchases.
- Ensuring that the maximum amount for P-Card purchases matches the maximum amount for small purchases may encourage P-Card use.

Comptroller Wilson asked if the proposed revision would satisfy the issues raised by the Comptroller’s Office at the last audit. Mr. Krivacka responded that it did not and that the issues raised during the last audit would be addressed with the revised P-Card manual that is currently under development. Mr. Krivacka further stated that when presented to the Procurement Commission, the revised P-Card manual will not only address the previous audit issues but would also reflect a streamlined policy, be easier to use, and should increase P-Card usage. Commissioner Martin agreed that the P-Card was a good tool but also emphasized that proper controls for P-Card usage

needed to be in place. Chief Procurement Officer Perry stated that he was comfortable in the current environment but as the program grows the CPO would continue to review associated risk and controls. Mr. Perry continued that one way to add control would be to utilize Edison to make payments against purchase orders, have an electronic reconciliation process, and also use the virtual or “ghost” card process so that users would not actually have a physical card in their possession. Mr. Krivacka stated that the revised P-Card manual would address these issues.

Commissioner Martin asked if there were any additional questions or comments regarding Section 10.8, “P-Card Purchases” of the *Procurement Procedures Manual of the Central Procurement Office*. Seeing none, Commissioner Martin asked Mr. Krivacka to proceed to the next agenda item.

(7) Addition of Section 6.7, “Purchase Order Exemptions” to the *Procurement Procedures Manual of the Central Procurement Office*

Mr. Krivacka summarized the following points with regard to Section 6.7, “Purchase Order Exemptions” of the *Procurement Procedures Manual of the Central Procurement Office*:

- This request proposes adding a new section to the *Procurement Procedures Manual of the Central Procurement Office* to identify certain purchases that agencies can make without submitting a purchase order.
- Purchases that are exempt from the purchase order requirement must be: unavailable on a statewide or agency term contract; supported by an invoice; and performed by the vendor in 90 days or less.
- This request also promotes use of the P-Card by reminding agencies that purchase orders are not required when using the P-Card in compliance with the P-Card policy.

Commissioner Martin asked if there were any questions or comments regarding Section 6.7, “Purchase Order Exemptions” of the *Procurement Procedures Manual of the Central Procurement Office*. Seeing none, Commissioner Martin asked Mr. Krivacka to proceed to the next agenda item.

(8) Terms and conditions for purchase orders issued under an agency’s local purchase authority

Mr. Krivacka summarized the following points with regard to terms and conditions for purchase orders issued under an agency’s local purchase authority:

- Currently, when agencies issue purchase orders under their small or local purchase authority, the purchase orders lack terms and conditions.
- Adding terms and conditions to this type of purchase order reduces risk to the State and better protects the State’s interests.

- Among the proposed terms and conditions for purchase orders issued under an agency's local purchase authority are: Inspection and Acceptance; Limitation of [the State's] Liability; Termination for Convenience; and Hold Harmless.

Commissioner Martin asked if there were any questions or comments about the proposed terms and conditions for purchase orders issued under an agency's local purchase authority.

Seeing none, Commissioner Martin asked if there were any questions or comments regarding any of the proposed changes to the eight Central Procurement Office documents on the agenda. Seeing none, the Commission members agreed that they were comfortable voting on all eight documents collectively. Comptroller Wilson stated that all the documents had been reviewed extensively by the Advisory Council Policy Review Subcommittee, as well as the Comptroller's office, and made a motion to approve documents one through eight as shown on the Procurement Commission agenda as presented. The motion was seconded by Commissioner Oglesby; whereupon all the changes were unanimously approved.

IV. Update on review/comparison of Higher Education and Central Procurement Office procurement practices.

Chief Procurement Officer Perry stated that at the May 2014 Commission meeting it was requested for the Central Procurement Office to review the most current procurement policies and procedures of the Tennessee Board of Regents ("TBR") and University of Tennessee ("UT") and compare those to the most recent version of the same policies and procedures for the Central Procurement Office. Mr. Perry stated that the second part of the request from the May 2014 Commission meeting was to identify any contracts that might be common to both general government and higher education for the purposes of benchmarking pricing and to identify any opportunities for collaboration and cost savings. Mr. Perry reported that work on the task had begun and that significant progress had been made.

Chief Procurement Officer Perry reported that the CPO had received 37 contracts from UT and two contracts from TBR that appeared to align with similar CPO contracts. As TBR had only two system wide contracts, Mr. Perry advised that the CPO requested that they review further and look for additional contracts with some of the larger institutions that might align with some statewide contracts and that information should be available soon. Of the 39 contracts submitted, 34 appeared to be good opportunities for collaboration. Of those 34, the eight most promising contracts in light of timing/expiration dates were: road salt, CISCO phone systems, industrial gases, office supplies, audio visual equipment, electrical maintenance and parts, medical testing, HVAC maintenance and parts. Mr. Perry stated that the Central Procurement Office had started review of these eight contracts and a presentation would be prepared for UT and TBR staff to determine what next steps would be. Mr. Perry continued that the office supplies contract was currently out for bid and UT and TBR had made provisions for the Central Procurement Office to be involved in the contract if it proved to be beneficial.

After the bids are received and evaluated, the CPO would be in a better position to determine what the next steps should be that would be the most beneficial to all parties.

Chief Procurement Officer Perry continued that one additional opportunity that will be discussed over the next year or so is the P-Card program. Mr. Perry stated that UT and TBR actually had higher spend on P-Cards than the State and that UT's contract was with Bank of America while the State contract was with Citibank. Mr. Perry stated that the goal would be to leverage the combined spend of all programs to get a higher tier rebate structure. Mr. Perry indicated that the P-Card program for the state of Georgia would be the model that Tennessee would be reviewing since a majority of their spend was for Georgia Tech and the University of Georgia. Mr. Perry stated that the next meeting with UT and TBR would be within the next two weeks.

Commissioner Martin asked Mr. Perry if he was correct that it appeared to be a common belief that this collaborative initiative would be beneficial to all parties. Mr. Perry responded that staff from UT and TBR were very cooperative and there was a spirit of collaboration. Mr. Perry advised that there was a little difficulty with the fact that UT's contracts that were considered system wide were contracts of convenience and not mandatory, as that gives department heads a great deal of authority on purchasing decisions. Nonetheless, Mr. Perry stated that there were ample opportunities to collaborate and ultimately the taxpayers of Tennessee would benefit.

Commissioner Martin asked if there were any questions or comments for Mr. Perry regarding the higher education report. Commissioner Oglesby asked if the CPO was certain if UT and TBR were already purchasing from statewide contracts. Chief Procurement Officer Perry thanked Commissioner Oglesby for asking the question and responded that UT was currently purchasing from 31 statewide contracts and although TBR was utilizing statewide contracts to a lesser degree, they had recently joined the multi-function device contract with Canon. Mr. Perry noted that the CPO had a great relationship with higher education staff.

Commissioner Martin and Comptroller Wilson agreed that there were real opportunities to be discovered with time and Comptroller Wilson suggested that having smaller, private meetings later would be helpful.

Commissioner Martin asked Chief Procurement Officer Perry that given how well it was going so far with the higher education collaboration, were there any other opportunities in the state where we could take advantage of the collective approach.

Chief Procurement Officer Perry responded that, yes, we were aggressively pursuing local government and higher education to piggyback off state contracts through TN SmartShop which provides increased visibility of our state contracts. Also, a couple of years ago a change in statute allowed private universities like Vanderbilt and Trevecca to purchase from state contracts. Mr. Perry stated that a presentation was given to their association a couple of months ago and that we hoped to continue to leverage volume that would allow the CPO to renegotiate lower prices. Mr. Perry continued that there were

two ways to accomplish that – one would be to capture the additional spend through TN SmartShop and then go back to the vendor for better pricing and the other way would be to form a partnership on the front end, as the CPO and local government did recently with road salt.

Mr. Perry noted that currently the CPO was competing against contracts that were never negotiated and that was why the CPO was averaging 10-12% cost savings/cost avoidance compared to the public sector average of 2-3%. Mr. Perry emphasized that sustainability of cost savings would depend on increasing volume.

Commissioner Martin noted that when he was with the City of Knoxville road salt was an expensive item and it was sometimes used when not needed.

Commissioner Oglesby stated that he was aware there would be other concerns when considering national contracts and leveraging the buy of other states/public entities to obtain cost savings, but was that worthy of consideration or would it result in too much risk. Chief Procurement Officer Perry stated that the CPO did have statutory authority to enter into cooperative agreements with other states or local governments and that the State of Tennessee had several agreements in place such as the Minnesota Multi-State Cooperative Alliance for Pharmacy (MMCAP) contract for pharmaceuticals. Mr. Perry explained that the MMCAP contract was a 46 state cooperative agreement without which the State of Tennessee would not be able to achieve the same level of discounts. Mr. Perry further stated that Tennessee had also participated in a multi-state agreement for industrial supplies with WW Grainger and recently entered into a cooperative agreement for playground equipment with the Tennessee Department of Environment and Conservation (TDEC) and US Communities for playground equipment.

Mr. Perry continued that there was an approved process in place for entering into a cooperative agreement that included the Comptroller's Office in order to reduce risk and ensure cost effectiveness for the State.

Commissioner Oglesby asked if there were any other departments that were not included such as Military or the Department of Transportation. Chief Procurement Officer Perry responded that statewide contracts were mandatory use contracts for all executive branch departments. Mr. Perry continued that UT, TBR, and the legislative and judicial branches were exempt; however, it was recently confirmed that the constitutional officers were utilizing a large percentage of statewide contracts. Commissioner Oglesby asked if this indicated that the spend for legislative and judicial branches would be possible additional opportunities for review and Mr. Perry confirmed that yes, the CPO would be performing an in-depth review of Edison data for the legislative branch, although their spend was relatively low, to see if there were opportunities to market State contracts to them. Mr. Perry indicated that no data for the judicial branch was currently available in Edison so the CPO had reached out to the Administrative Office of the Courts to see if they could provide some data so that it could be reviewed for possible education/marketing opportunities.

Comptroller Wilson commented that the Department of Transportation was exempt and Mr. Perry confirmed that was correct for highway and bridge construction, as well as capital projects through the State Building Commission.

Commissioner Martin asked if the Commission had any questions for Mr. Perry on his report. Seeing none, Commissioner Martin asked Mr. Perry to move to the next agenda item.

VI. Reports.

- Certification Related Items
- Correction of Errors Report

Chief Procurement Officer Perry stated that these reports were presented to the Commission for information purposes only and that no action was needed. Commissioner Martin acknowledged receipt of both reports on behalf of the Commission.

VII. Other Business.

Commissioner Martin asked if there was any other business. Chief Procurement Officer Perry requested that the Commission members give their consent to cancel the December 2014 Procurement Commission meeting due to the holidays and in order to allow more time for the Central Procurement Office and the CPO Policy Review Subcommittee to process documents that were in the pipeline.

All four Procurement Commission members gave their verbal consent to cancel the December 2014 meeting.

VIII. Adjournment.

A motion to adjourn was made by Comptroller Wilson and was seconded by Commissioner Oglesby; whereupon the November 14, 2014 Procurement Commission meeting was adjourned.