



STATE OF TENNESSEE
PROCUREMENT COMMISSION
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- AGENDA -

PROCUREMENT COMMISSION MEETING #019
THURSDAY, JANUARY 21, 2016 – 2:00 P.M.
TN TOWER, 3RD FLOOR, NASHVILLE 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

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**MINUTES OF SEPTEMBER 14, 2015
MEETING**



MINUTES
PROCUREMENT COMMISSION MEETING #018
MONDAY, SEPTEMBER 14, 2015 – 2:00 P.M.
TN TOWER, 3RD FLOOR, NASHVILLE ROOM

Members in Attendance:

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

Others in Attendance:

Angela Flynn, Wayne Pugh, Don Ivancic, Colleen Mallea, Shannon Howell, Bryan Chriske, Thad Watkins, Buddy Lea, Laura Kinard, David Roberson, Paul Krivacka, Kyle Hunter, Douglas Whitcomb, Kaci Stewart, Charlotte McKinney

I. Call to Order.

Commissioner Martin called the meeting to order and recognized that a quorum of Procurement Commission members was present.

II. Minutes from the July 16, 2015 Procurement Commission Meeting.

Commissioner Martin presented the July 16, 2015 minutes for approval. Comptroller Wilson stated the minutes appeared to be in order and made a motion to approve the minutes from the July 16, 2015 Procurement Commission meeting as presented. The motion was seconded by Commissioner Oglesby; whereupon the minutes were unanimously approved.

New Business:

III. Proposed Changes to the following Central Procurement Office documents.

Commissioner Martin asked Paul Krivacka, Lead Attorney/Director of Category Management, Central Procurement Office, to present the New Business agenda items.

- (1) DA Template – Delegation periods in excess of 12 months

Mr. Krivacka summarized the following points with regard to the DA Template – Delegation periods in excess of 12 months:

- The DA Template is a primary document that is used to grant authority to Agencies to procure goods and services without approval by the Central Procurement Office.
- The Policy Review Subcommittee ("Subcommittee") made two revisions to this document.
- The first clarifies the Subcommittee's intent regarding the delegation period – the delegation period may be one year regardless of whether the twelve month period matches the state or federal government's fiscal year.
- The second revision identifies the process for requesting a delegation period in excess of one year. Procurement professionals should use a Rule Exception Request designed specifically for the DA or DG templates.

Mr. Krivacka asked if there were any comments or questions regarding the DA Template – delegation periods in excess of 12 months. Comptroller Wilson asked for confirmation that a delegation period in excess of one year would require a Rule Exception Request and Mr. Krivacka confirmed that Comptroller Wilson was correct.

A motion was made by Comptroller Wilson to approve the DA Template – delegation periods in excess of 12 months as presented. The motion was seconded by Commissioner Oglesby; whereupon the item was unanimously approved.

(2) DG Template – Delegation periods in excess of 12 months

Mr. Krivacka summarized the following points with regard to the DG Template – Delegation periods in excess of 12 months:

- The DG Template is the primary vehicle that is used by the CPO to authorize Agencies to enter into grant contracts or make grant awards.
- The Subcommittee made two revisions to this document.
- The first clarifies the Subcommittee's intent regarding the delegation period – the delegation period may be one year regardless of whether the twelve month period matches the state or federal government's fiscal year.
- The second revision identifies the process for requesting a delegation period in excess of one year. Procurement professionals should use a Rule Exception Request designed specifically for the DA or DG templates.

Comptroller Wilson made a motion to approve the DG Template – Delegation periods in excess of 12 months as presented. The motion was seconded by Commissioner Oglesby; whereupon the item was unanimously approved.

(3) Central Procurement Office Policy 2013-006, *Delegation of Authority*

Mr. Krivacka summarized the following points with regard to Central Procurement Office Policy 2013-006, *Delegation of Authority*:

- The Subcommittee revised this policy to reflect the changes to the DA and DG templates.

- The policy now instructs users that the delegation period may be up to twelve months unless an approved Rule Exception Request is obtained.

Mr. Krivacka asked if there were any questions or comments regarding Central Procurement Office Policy 2013-006, *Delegation of Authority*. Comptroller Wilson stated that this change had the effect of making back-dating much more difficult and he thought that was a good idea. Comptroller Wilson made a motion to approve Central Procurement Office Policy 2013-006, *Delegation of Authority* as presented. The motion was seconded by Commissioner Oglesby; whereupon the item was unanimously approved.

(4) Rule Exception Request for the DA or DG templates

Mr. Krivacka summarized the following points with regard to the Rule Exception Request for the DA or DG templates:

- This is a new document that procurement professionals will use to request changes to the DA or DG templates.
- The most common anticipated use of this document is to request a delegation period of more than one year.

Comptroller Wilson asked Mr. Krivacka to please discuss Section 10.b of the Rule Exception Request for the DA or DG templates.

Mr. Krivacka stated that Section 10.b asks the Agency to explain how the Agency will track spend and avoid exceeding the Maximum Liability if a delegation period of more than 12 months is granted. Mr. Krivacka further stated that the longer the delegation period, the higher the risk level.

Comptroller Wilson made a motion to approve the Rule Exception Request for the DA and DG templates as presented. The motion was seconded by Commissioner Oglesby; whereupon the item was unanimously approved.

Commissioner Oglesby asked how long it typically takes to get a Rule Exception Request approved. Mr. Krivacka responded that approval for Rule Exception Requests usually takes about three business days. Comptroller Wilson added that it may take longer if it has to be approved by COT. Mr. Krivacka agreed and added that the COT has done an excellent job of processing approvals in a timely manner.

(5) Rule Exception Request

Mr. Krivacka summarized the following points with regard to the Rule Exception Request:

- This document is used for requesting the vast majority of changes to procurement templates.
- The Subcommittee revised this document to:
 - More clearly identify when a Rule Exception Request should be used;

- Update the language to conform with defined terms in contract and grant templates; and
- Eliminate duplicative or unnecessary fields to make the document more user-friendly.

Seeing no questions or comments, Comptroller Wilson made a motion to approve the Rule Exception Request as presented. Commissioner Oglesby seconded the motion; whereupon the item was unanimously approved.

(6) Revisions and additions to grant templates and models

Mr. Krivacka summarized the following points with regard to Revisions and additions to grant templates and models:

- Based on feedback from Agencies, the Subcommittee revised the “Department of Revenue Registration” provision to direct grantees to the Tennessee Code’s registration requirements. The revised provision will appear in all grant templates and models. There was some confusion by Agencies as to whether compliance with the Tennessee Department of Revenue Registration requirements applied to grant contracts or grant awards.
- The Subcommittee made two additions to the “Instructions, Considerations, and Options” section of grant templates and models.
 - The first was an optional provision requiring grantee compliance with the Federal Educational Rights and Privacy Act (“FERPA”) and Tennessee’s Data Accessibility, Transparency and Accountability Act.
 - The second addition is to the GR Template only – the Subcommittee added instructions on when the grantee or the grantee’s subcontractors must execute a Business Associate Agreement to comply with HIPAA.

Seeing no questions or comments, Comptroller Wilson made a motion to approve the revisions and additions to grant templates and models as presented. Commissioner Oglesby seconded the motion; whereupon the item was unanimously approved.

(7) 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:

- The Subcommittee added instructions to this document and made revisions to improve its organization.
- The document now has two sections – Standard Terms and Conditions, which must appear in all purchase orders, and Special Terms and Conditions.
- Agencies have discretion to add appropriate provisions to the Special Terms and Conditions section. However, to best protect the State, an order of

precedence clause provides that the Standard Terms and Conditions shall control over any conflicting special terms.

Comptroller Wilson asked Mr. Krivacka to explain click-wrap agreements. Mr. Krivacka responded that click-wrap agreements are agreements that would typically be encountered online with respect to software procurements and include terms and conditions that must be agreed to prior to being able to download the software or application.

Comptroller Wilson asked if the click-wrap agreements basically give all rights to the seller and no rights to the buyer. Mr. Krivacka stated that can be the case and that is why the CPO is recommending an addition to the Procurement Procedures Manual of the Central Procurement Office stating that no State employee has the authority to enter into any click-wrap agreement on behalf of the State without the approval of the Central Procurement Office. Mr. Krivacka stated that Tennessee is far ahead of other states that he has been in contact with in regard to its click-wrap agreement policy. Tennessee's policy states that no employee can modify or amend an underlying contract by agreeing to a click-wrap agreement and if an employee does seek to enter a click-wrap agreement (e.g., in the case where there is no underlying State contract) the new Click-wrap Agreement Approval Request must first be approved by the Central Procurement Office and the Office for Information Resources ("OIR"). Mr. Krivacka continued that the review by CPO and OIR will ensure that the State does not enter into click-wrap agreements with improper terms and conditions.

Comptroller Wilson stated that he was glad this click-wrap agreement policy was now in place and made a motion to approve the Terms and Conditions for purchase orders issued under an Agency's local purchase authority as presented.

Commissioner Oglesby thanked Mr. Krivacka for the timeliness of presenting the click-wrap agreement policy and seconded the motion; whereupon the item was unanimously approved.

(8) Protest Procedures

Mr. Krivacka summarized the following points with regard to the Protest Procedures:

- The Subcommittee revised the document for consistency with legislative changes to the protest statute.
- The new instructions contain the new legislatively mandated process and grounds for submitting a protest, the amount of the protest bond, and a sample protest bond.
- The Subcommittee made extensive revisions to this document to describe the protest process and requirements in plain English; previously, the document contained large blocks of text from the Tennessee Code and the CPO's rules.

Comptroller Wilson made a motion to approve the Protest Procedures as presented. Commissioner Oglesby asked if the revised Protest Procedures had been discussed with the Office of the Attorney General ("AG"). Mr. Krivacka stated that the AG had

been involved on the front end of the statute itself, which resulted in the revisions to the CPO Protest Procedures. Commissioner Oglesby seconded the motion.

Chief Procurement Officer Perry added that if there are any statutory changes, the CPO would consult with Janie Porter or someone from the AG's office before any legislation would be introduced by the administration. Comptroller Wilson asked for confirmation that this item had been discussed with the AG and Mr. Perry indicated that it had. Seeing no further discussion, the item was unanimously approved.

(9) Click-wrap Agreement Approval Request

Mr. Krivacka stated that the Click-wrap Agreement Approval Request is the form to be used by Agency procurement professionals to seek approval to enter into a click-wrap agreement associated with a one-time purchase of \$50,000 or less and when there is no underlying State contract, as discussed previously with agenda item #7.

Comptroller Wilson asked who would approve the Click-wrap Agreement Approval Request and Mr. Krivacka responded that the CPO and OIR must approve it. Commissioner Oglesby asked if the term "click-wrap agreement" would be commonly recognized in the industry and Mr. Krivacka responded that it would.

Comptroller Wilson made a motion to approve the Click-wrap Agreement Approval Request as presented. Commissioner Oglesby seconded the motion, whereupon the item was unanimously approved.

(10) Sections 4 and 5.1 – Electronic Signatures and Approvals, *Procurement Procedures Manual of the Central Procurement Office*

Mr. Krivacka summarized the following points with regard to Sections 4 and 5.1 – Electronic Signatures and Approvals, *Procurement Procedures Manual of the Central Procurement Office*:

- Electronic signatures and approvals represent an opportunity to make state procurement more efficient and simultaneously reduce its costs.
- The Subcommittee added information to the *Procurement Procedures Manual of the Central Procurement Office* ("Procurement Manual") to establish a uniform approach to electronic signatures and approvals.
- The new sections on electronic signatures and approvals identify:
 - Who may use an electronic signature or approval;
 - When electronic approvals are acceptable; and
 - Who may electronically approve on behalf of someone else.

Commissioner Oglesby asked what sources were used in development of these procedures and definitions. Mr. Krivacka stated that he and other legal team staff participated in a webinar on electronic signatures and approvals and many of the documents from the webinar were used as a reference. Mr. Krivacka also stated that the legal team researched the procedures used by other states to develop the proposed procedures.

Commissioner Martin asked Mr. Krivacka to please explain the Levels 1, 2, and 3 that are referenced in the Procurement Manual. Mr. Krivacka explained that Levels 1, 2, and 3 are used to designate the approval level authority of various Central Procurement Office staff, i.e., Category Specialist approval level is up to \$5,000,000; Category Team Lead approval level is between \$5,000,000 and \$10,000,000; Director approval level is between \$10,000,000 and \$20,000,000 and above \$20,000,000 requires Deputy or Chief Procurement Officer approval.

Seeing no further discussion, Comptroller Wilson made a motion to approve Sections 4 and 5.1 – Electronic Signatures and Approvals, *Procurement Procedures Manual of the Central Procurement Office*, as presented. Commissioner Oglesby seconded the motion, whereupon the item was unanimously approved.

(11) Sections 4 and 5.11 – Adequate Financial Resources, *Procurement Procedures Manual of the Central Procurement Office*

Mr. Krivacka summarized the following points with regard to Sections 4 and 5.11 – Adequate Financial Resources, *Procurement Procedures Manual of the Central Procurement Office*:

- There are two ways for respondents to qualify for evaluation – to be considered “responsive” or “responsible.”
- In an effort to promote competition, the Subcommittee added information to the “Evaluation of Responses” section of the Procurement Procedures Manual.
- In consideration of being “responsible,” if traditional sources of information such as a credit report raise questions about a respondent’s financial ability to perform, the evaluation committee may now consider a broad range of information to determine whether the respondent has adequate financial resources. Providing a performance bond is one such option.
- Furthermore, a respondent may be considered “responsible” if it shows the ability to obtain adequate financial resources prior to the effective date of the contract.

In addition to increasing competition, Comptroller Wilson added that this process protects the State from doing business with companies that are not financially responsible, which had been one of his concerns for some time. Commissioner Oglesby asked how much Mr. Krivacka thought this process would be utilized. Mr. Krivacka responded that it would be fairly episodic – maybe once every two months.

Commissioner Martin asked who actually reviews the financial information provided to decide if the respondent has financial ability to perform or not. Mr. Krivacka indicated the Central Procurement Office Risk Manager would be responsible for performing the financial ability to perform review. Comptroller Wilson stated that this change was sorely needed. Chief Procurement Officer Perry added that through the evaluation and risk assessment processes, the Central Procurement Office would never allow someone to be considered

“responsible” without clearly demonstrating the financial ability to perform. Mr. Perry continued that this policy allows the CPO to have other options to keep a respondent in play that might otherwise be eliminated, which is very important in cases where there is limited competition. Commissioner Martin asked how many years of financial statements were required. Mr. Krivacka responded that the State would likely request financial statements for three years at the most. Commissioner Martin responded that he believed the State should request statements for at least three years. Commissioner Oglesby stated that he understood that this policy would help to increase the bidding pool, but asked if the policy would expedite or slow down the evaluation process. Mr. Krivacka stated that he believed the policy would speed up the process. Commissioner Oglesby asked if in the past the respondents would be eliminated if they did not provide all the mandatory financial information. Mr. Krivacka responded that the State would typically work very hard to get comfortable with their ability to perform financially. Commissioner Martin asked if the State required audited financial statements. Mr. Krivacka responded that audited financial statements were not required in every case and that it was dependent on the contract’s risk profile, e.g., type, amount of the contract, etc.

Seeing no further discussion, Comptroller Wilson made a motion to approve Sections 4 and 5.11 – Adequate Financial Resources, *Procurement Procedures Manual of the Central Procurement Office* as presented. Commissioner Oglesby seconded the motion, whereupon the item was unanimously approved.

(12) Sections 4 and 5.15.3.3 – Click-wrap Agreements, *Procurement Procedures Manual of the Central Procurement Office*

Mr. Krivacka summarized the following points with regard to Sections 4 and 5.15.3.3 – Click-wrap Agreements, *Procurement Procedures Manual of the Central Procurement Office*:

- The Subcommittee added a new section to the Procurement Manual to minimize risk to the State arising from click-wrap agreements, a type of online contract widely used with software.
- This section provides that no State employee has the authority to enter into a click-wrap agreement without the prior approval of the Central Procurement Office and Office for Information Resources. If a State employee were to enter into a click-wrap agreement, this policy indicates that it would be considered random and unauthorized behavior that is against State policy.
- This section also instructs that no click-wrap agreement can amend or modify an existing contract. Currently, contracts can only be amended or modified through a written amendment approved in accordance with Central Procurement Office rules, policies, and procedures.

Comptroller Wilson asked if legislation was needed to affirm that the State would not be bound by any click-wrap agreement that might be entered into by a State employee. Mr. Krivacka indicated that he believed the proposed procedure would be sufficient. Commissioner Oglesby asked if the procedure could be extended to

State employees for personal items. Mr. Krivacka responded the procedure would apply if a State employee entered into a click-wrap agreement on behalf of the State. Under the proposed policy, the employee would not have the authority to do so.

Seeing no further discussion, Comptroller Wilson made a motion to approve Sections 4 and 5.15.3.3 – Click-wrap Agreements, *Procurement Procedures Manual of the Central Procurement Office*, as presented. Commissioner Oglesby seconded the motion, whereupon the item was unanimously approved.

(13) Sections 4, 10.9, and 10.10 – Subscriptions and Software as a Service (SaaS), *Procurement Procedures Manual of the Central Procurement Office*

Mr. Krivacka summarized the following points with regard to Sections 4, 10.9, and 10.10 – Subscriptions and Software as a Service (SaaS), *Procurement Procedures Manual of the Central Procurement Office*:

- The quickly-changing technology marketplace prompted the Subcommittee to add information to the Procurement Manual on subscriptions and software as a service (SaaS).
- The additions to the Procurement Manual:
 - Include detailed definitions of subscriptions and software as a service (SaaS); and
 - Provide guidance to Agencies on when something is a subscription and when it is not.
- Also important, these additions to the Procurement Manual will curb Agency attempts to classify high technology procurements as “subscriptions” in order to avoid proper contract review.

Mr. Perry asked if there were any questions or comments regarding Sections 4, 10.9, and 10.10 – Subscriptions and Software as a Service (SaaS), *Procurement Procedures Manual of the Central Procurement Office*.

Seeing no questions or comments, Comptroller Wilson made a motion to approve Sections 4, 10.9, and 10.10 – Subscriptions and Software as a Service (SaaS), *Procurement Procedures Manual of the Central Procurement Office*, as presented. Commissioner Oglesby seconded the motion; whereupon the item was unanimously approved.

(14) Section 11.1 – Document Versions, *Procurement Procedures Manual of the Central Procurement Office*

Mr. Krivacka summarized the following points with regard to Section 11.1 – Document Versions, *Procurement Procedures Manual of the Central Procurement Office*:

- Representatives from the Central Procurement Office, Comptroller of the Treasury, and Department of Finance & Administration met to decide on an approach to grandfathering in older versions of documents.
- Proposed Section 11.1 of the Procurement Manual reflects the result of this meeting – Agencies may use the previous version of a procurement document provided that the current version has been in place for six months or less. This will ease concerns from Agency users and reduce the amount of rework needed due to Agencies submitting older versions of documents for approval. Currently, the Procurement Manual states that Agencies may use the previous version of a procurement document provided the current version has been in place for 30 days or less.
- Adding this grandfathering in approach to the Procurement Manual helps ensure that Agencies receive consistent information about when procurement documents must be updated.

Chief Procurement Officer Perry stated that this was identified as a problem in meetings with Agencies during the end-to-end process improvement project. Agencies stated that frequent changes to procurement policies, models, and templates had resulted in rework and had unintentionally lengthened the procurement process. Mr. Perry continued that this grandfathering approach will prevent the need for rework and will also allow the CPO to continually make improvements to templates and models.

Seeing no other questions or comments, Comptroller Wilson made a motion to approve Section 11.1 – Document Versions, *Procurement Procedures Manual of the Central Procurement Office*, as presented. Commissioner Oglesby seconded the motion; whereupon the item was unanimously approved.

Commissioner Martin thanked Mr. Krivacka for presenting the New Business items and moved to the next agenda item.

IV. Reports:

Chief Procurement Officer Perry presented the following standard reports:

1) Certification Related Items

Mr. Perry stated the Certification report contained a list of contracts from CMRA that had been certified since the last Procurement Commission meeting.

2) Limitation of Liability

Mr. Perry stated that the Limitation of Liability Report listed the two deviations granted since the last report.

The first item on the report is for grant writing services and poses no risk to the State and the second item is for a computer aided dispatch system for the Department of Safety that clarified what the liability extended to but did not change the liability amount.

3) Correction of Errors

Mr. Perry stated the Correction of Errors report showed the correction of clerical errors that had been approved by the Procurement Commission Staff since the last Procurement Commission meeting.

Chief Procurement Officer Perry stated that these standard reports were being presented for acknowledgement only by the Procurement Commission and that no action was needed.

Commissioner Martin acknowledged receipt of all three reports and thanked Mr. Perry for the information.

V. Other Business.

Commissioner Martin asked if there was any other business that needed to be heard by the Procurement Commission.

Chief Procurement Officer Perry stated that he would like to recommend that the October 2015 meeting of the Procurement Commission be cancelled and asked Procurement Commission members to please give their consent if they agreed. Commissioner Oglesby asked if cancelling the October meeting would cause any delay in the functioning of business and Mr. Perry responded that it would not. Mr. Perry stated that in an effort not to burden the Commission members, an attempt would be made to conduct meetings every other month, but meeting frequency would ultimately depend on business need. All members consented to cancel the October 2015 meeting and resume with the November 2015 meeting. Commissioner Martin asked if the Procurement Commission should consider formally changing the meeting schedule to every other month. Chief Procurement Officer Perry indicated that it would be preferable to keep the meeting schedule as is and simply give consent to cancel any meetings not required, as the meeting schedule would always be determined by business need.

VII. Adjournment.

Seeing no other business to be heard, a motion to adjourn was made by Comptroller Wilson and seconded by Commissioner Oglesby; whereupon the September 14, 2015 Procurement Commission meeting was adjourned.

**SOLICITATION FOR EDISON-
GENERATED CONTRACTS**

(NEW DOCUMENT)

Solicitation for Edison-generated contracts

Section 1

In one paragraph, provide a brief, high-level explanation of the goods or services sought or a summary of the problem to be addressed. Include a summary of the scope or specifications and reference the portion of the document that contains a detailed scope or specifications.

Statewide Contract. The purpose of this Invitation to Bid is to establish a source or sources of supply for all Tennessee State Agencies, Tennessee local governmental entities, members of the University of Tennessee or Tennessee board of regents systems, and the nonprofit entities identified in Tenn. Code Ann. § 33-2-1001.

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Section 2 – Schedule of Events

Section 3

Refer to the Scope or Specifications for a description of how this Contract will be awarded.

Single Award – Lowest Cost. A single contract will be awarded for all line items to the respondent whose response meets the requirements and criteria set forth in this ITB at the lowest cost.

Multiple Awards – Constant Compete. The State will award separate contracts to each respondent that meets the mandatory requirements of this ITB. After award of the contract, the State will seek quotes and issue purchase orders as described in this ITB.

Single Award – Lowest Cost, Pricing For All Line Items Required. A single contract will be awarded for all line items to the respondent whose response meets the requirements and criteria set forth in this ITB at the lowest cost. Line item totals shall be calculated by multiplying the unit price by the line item quantity. If a response contains more than one line item, each line item total shall be added together for a total price for all line items included in the response. To be considered for award, a respondent must submit pricing for all line items.

Single Award – Lowest Composite Score. The State is seeking pricing for three different contract terms: a one (1) year term, a three (3) year term, and a five (5) year term. The State will determine the lowest cost respondent by calculating the lowest composite score for all three contract terms. Line item totals shall be calculated by multiplying the unit price by the line item quantity. If a response contains more than one line item, each line item total shall be added together for a total price for all line items contained in the response. The response must include a price for all line items in each contract term to be considered for an award. The respondent's composite score will be determined by summing the average yearly cost for each contract term option: $\text{One (1) year term cost} + (\text{three (3) year term cost}/3) + (\text{five (5) year term cost}/5) = \text{composite score}$. The State will award the contract to the respondent whose response meets the requirements and criteria set forth in this ITB with the lowest composite score. The State reserves the right to award a one-year, a three-year, or a five-year contract to the respondent that has the lowest composite score.

Option to Award by Grouped Lines. The State may award a single contract for all line items to the respondent whose response meets the requirements and criteria in this ITB at the lowest cost. Alternatively, the State may award separate contracts for each group of line items using the following method: Grouped Lines: %%TN_DGS_T405B_GROUPED_LINES%% If the State awards contracts by group of line items, total group price shall be calculated by summing the line items totals in the group. Line item totals shall be calculated by multiplying the unit price by the line item quantity. Respondents must bid all line items in a group to be considered for an award for that group unless otherwise specified.

Option to Award by Line. The State may award a single contract for all line items to the respondent whose response meets the requirements and criteria in this ITB at the lowest cost. Alternatively, the State may award a separate contract for each line item. Line item totals shall be calculated by multiplying the unit price by the line item quantity.

Section 4 – Standard Terms and Conditions

If section 8, contract terms and conditions, does not contain the contract's Maximum Liability or Estimated Liability, add one of the following:

The total estimated purchase amount for State Agency Name during the contract's Term is number dollars (\$ #).

The total estimated purchase amount for all Tennessee State Agencies during the contract's Term is number dollars (\$ #).

Respondent Registration. Pursuant to Tenn. Code Ann. § 4-56-105 all respondents must be registered prior to the issuance of a contract or a purchase order. Respondents can register online at the State of Tennessee Supplier Portal: <https://supplier.edison.tn.gov>.

Respondent's Ability to Perform. The State shall have the right to require evidence of the Respondent's ability to perform the services or deliver the goods required pursuant to the terms and conditions of this ITB.

Quality of Workmanship and Materials. Unit price responses are requested on products or services that equal or exceed the specifications, unless the specifications limit the dimensions, brands, or model of goods or services. The absence of detailed specifications or the omission of detailed descriptions shall mean that only the best commercial practices and only first quality goods and workmanship shall be supplied.

Performance. The respondent who is awarded a contract will be responsible for delivering the goods or providing the services set out in this ITB. All goods or services are subject to inspection and evaluation by the State.

Clarifications. The State reserves the right to conduct clarifications or negotiations with one or more respondents. All communications, clarifications, and negotiations shall be conducted in a manner that is fair and transparent.

Response Cancellation and Rejection. The State may cancel this ITB in its entirety and reissue it in whole or in part.

The State may reject any or all responses in its sole discretion. Additionally, the State may reject a response that: (a) qualifies the offer to provide goods or services as required by this ITB; (b) proposes alternative goods or services unless expressly requested by this ITB; (c) involves collusion, consultation, communication, or agreement among respondents; (d) includes information the respondent knew or should have known was materially incorrect; or (e) does not comply with the terms, conditions, specifications, or performance requirements of this ITB.

After the State opens the responses, no price changes shall be permitted except pursuant to target pricing or best and final offer negotiations as specified in this ITB.

Responses Due. The response must be received by the State on or before the date and hour designated for the response opening. Responses that are submitted untimely shall be rejected.

Communications and Contacts. Prospective respondents must direct communications concerning this ITB to the following person designated as the Solicitation Coordinator:

NAME
STATE AGENCY NAME
STREET ADDRESS
TELEPHONE NUMBER
E-MAIL ADDRESS
OTHER APPROPRIATE INFORMATION IF ANY

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

Notwithstanding the foregoing, Respondents may alternatively contact:

1. Staff of the Governor's Office of Diversity Business Enterprise for assistance available to minority-owned, woman-owned, Tennessee service-disabled veteran owned, and small businesses as well as general, public information relating to this RFP (visit www.tn.gov/businessopp/ for contact information); and
2. The following individual designated by the State to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and associated federal regulations:

NAME
STATE AGENCY NAME
STREET ADDRESS
TELEPHONE NUMBER
E-MAIL ADDRESS
OTHER APPROPRIATE INFORMATION IF ANY

Add the following if a pre-response conference will be held.

Questions. Respondents may submit written questions about this ITB to the Solicitation Coordinator. All questions must be submitted no later than number (#) business days after the pre-response conference.

Questions. Respondents may submit written questions about this ITB to the Solicitation Coordinator. All questions must be submitted no later than number (#) business days before the response opening date.

Responses Submitted by Mail. If submitting a response by mail: (1) all prices must be typed or written in ink on the "Line Details" portion of this ITB; (2) any corrections, erasures, or other alterations to prices must be initialed by the respondent; and (3) the response shall be manually signed by the respondent in ink. Each individual response must be returned in a separate envelope package or container and must be properly labeled on the outside referencing the applicable event number and the response opening date. Responses should be mailed in a properly labeled sealed envelope to the following address: Department of General Services, Central Procurement Office Attn: Bidder Services 3rd Floor, William R Snodgrass, Tennessee Tower 312 Rosa L. Parks Avenue Nashville, TN 37243-1102. Failure to comply with these requirements may result in rejection of the response.

Responses Submitted by Mail. If submitting a response by mail: (1) all prices must be typed or written in ink on the "Line Details" portion of this ITB; (2) any corrections, erasures, or other alterations to prices must be initialed by the respondent; and (3) the response shall be manually signed by the respondent in ink. Each individual response must be returned in a separate envelope package or container and must be properly labeled on the outside referencing the applicable event number and the response opening date. Responses should be mailed in a properly labeled sealed envelope to the following address: **State Agency name and address**. Failure to comply with these requirements may result in rejection of the response.

Models Included in Response. All goods or services identified in the response must be new, of current manufacturer production, and must have been formally announced by the manufacturer or provider of services as being commercially available as of the date of response opening. Goods may include internal refurbished or reconditioned components normally used in the manufacturing process and deemed and warranted and sold as new equipment by the manufacturer.

F.O.B. Destination. Respondent's prices shall include delivery of all items F.O.B. destination or as otherwise specified by the State.

Firm Offer. The response constitutes a firm offer that is irrevocable for ninety (90) days. An award of a contract shall, subject to necessary State approvals, be binding on the respondent without any further action by the respondent.

Respondent Certification. By signing or electronically submitting the response, the respondent agrees to the terms and conditions of this ITB and certifies that all goods or services included in the response meet or exceed the Scope or Specifications of this ITB. The respondent agrees that, if it is awarded a contract, it will deliver goods or services that meet or exceed the specifications in this ITB.

Accommodation for People with Disabilities. Any individuals with disabilities who wish to participate in public meetings such as a scheduled pre-response conference or other scheduled function should contact the Solicitation Coordinator to discuss any auxiliary aids or services needed. Such contact should be

made no less than ten (10) business days prior to the public meeting to allow time for the Solicitation Coordinator to provide needed aids or services.

Exceptions or New Terms or Conditions. Exceptions to terms and conditions or new terms and conditions proposed by the respondent that vary from this ITB may, in the discretion of the State, render the response nonresponsive. A response deemed nonresponsive will not be considered for an award of a contract.

Conflict of Interest. The State shall not consider a response from an individual who is, or within the past six (6) months has been, a State employee. For purposes of this ITB:

1. An individual shall be deemed a State employee until such time as all compensation for salary, termination pay, and annual leave has been paid;
2. A contract with or a response from a company, corporation, or any other contracting entity in which a controlling interest is held by any State employee shall be considered to be a contract with or proposal from the employee; and
3. A contract with or a response from a company, corporation, or any other contracting entity that employs an individual who is, or within the past six (6) months has been, a State employee shall not be considered a contract with or a proposal from the employee and shall not constitute a prohibited conflict of interest.

Registration with the Secretary of State. Prior to award and during the contract's term, a corporation must be registered and in good standing with the Tennessee Secretary of State. If a respondent is not registered with the Tennessee Secretary of State, it will have seven (7) business days after the response submission date to register; otherwise, the response may be rejected.

Tax Exemption. The State of Tennessee is exempt from local, state, and federal excise taxes. These taxes shall not be included in respondent's prices. The successful respondent shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this ITB.

Specifications Govern. Brands or model numbers identified in the specifications of this ITB are deemed to meet all written specifications. In the event of a conflict between specified brands and models and the written specifications, the conflict shall be resolved in favor of the written specifications.

Disclosure of Response Contents. All materials submitted to the State in response to this ITB shall become the State's property. By submitting a response, a respondent acknowledges that the response and associated documents will become open to public inspection in accordance with Tennessee law.

Efforts to Achieve Diversity Business Participation. The Governor's Office of Diversity Business Enterprise ("Go-DBE") is the State's central point of contact to attract and assist minority-owned, woman-owned, Tennessee service-disabled veteran owned, and small business enterprises interested in competing in the State of Tennessee's procurement and contracting activities. These diversity business enterprises are defined as follows:

Minority Business Enterprise (MBE) and Woman Business Enterprise (WBE)

Businesses that are a continuing, independent, for profit business which performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one (1) or more individuals in

the minority or woman category who were impeded from normal entry into the economic mainstream because of past practices of discrimination based on race, ethnic background, or gender.

Service-Disabled Veteran Business Enterprise (SDVBE)

“Tennessee service-disabled veteran owned business” means a service-disabled veteran owned business located in the State of Tennessee that satisfies the criteria in Tenn. Code Ann. § 12-3-1102(8). “Service-disabled veteran” means any person who served honorably in active duty in the armed forces of the United States with at least a twenty percent (20%) disability that is service-connected, i.e., the disability was incurred or aggravated in the line of duty in the active military, naval or air service.

Small Business Enterprise (SBE)

"Tennessee small business" means a business that is a continuing, independent, for profit business which performs a commercially useful function with residence in Tennessee and has total gross receipts of no more than ten million dollars (\$10,000,000) averaged over a three-year period or employs no more than ninety-nine (99) persons on a full-time basis."

For additional program eligibility information, visit:

<http://www.tennessee.gov/generalservices/article/godbe-program-eligibility>.

Instructions

As part of this Invitation to Bid, the respondent should complete the Diversity Utilization Plan below. To assist in your effort to seek and solicit the participation of diversity businesses on this solicitation, a directory of certified Diversity Business Enterprise firms may be found on the State's website at: <http://www.tennessee.gov/generalservices/article/godbe-enterprise-directory> or by calling Go-DBE toll free at 866-894-5026.

RESPONDENT'S DIVERSITY UTILIZATION PLAN

Respondent's Company Name:		
Solicitation Event Name:		Event Number:
Respondent's Contact Name:	Phone: ()	Email:
Does the Respondent qualify as the diversity business enterprise? <input type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, which designation does the Respondent qualify? <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVBE <input type="checkbox"/> SBE		
Certifying Agency:		

Estimated level of participation by diversity businesses if awarded a contract pursuant to this ITB:

Diversity Business Information (List all subcontractors, joint-ventures, and suppliers)	% of Contract	Estimated Amount	MBE/ WBE/ SDVBE/ SBE	Currently Certified (Yes or No)
---	---------------	------------------	----------------------	---------------------------------

			Designation	
Business Name:				
Contact Name:				
Contact Phone:				
Business Name:				
Contact Name:				
Contact Phone:				

If awarded a contract pursuant to this ITB, we confirm our commitment to make reasonable business efforts to meet or exceed the commitment to diversity as represented in our Diversity Utilization Plan. We shall assist the State in monitoring our performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and Tennessee service-disabled veterans. Such reports shall be provided to the state of Tennessee Governor's Office of Diversity Business Enterprise (Go-DBE) in form and substance as required by said office. We further agree to request in writing and receive prior approval from the Central Procurement Office for any changes to the use of the above listed diversity businesses.

Authorized Signature: _____ Date: _____

Printed Name and Title of Signatory _____

Section 5 – Special Terms and Conditions

Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this ITB, the special terms and conditions shall be subordinate to the ITB's other terms and conditions.

Pre-response Conference Notification. The Central Procurement Office will hold a pre-response conference for this solicitation at the date, time, and location specified below: Date/Time: %%TN_DGS_T10_PRE-BID_DATE/TIME%% Location: %%TN_DGS_T10_PRE-BID_LOCATION%% Room: %%TN_DGS_T10_PRE-BID_ROOM%% Prospective respondents are encouraged to attend this pre-response conference; however attendance is not mandatory in order to submit a response. The Central Procurement Office conducts pre-response conferences to discuss and answer questions prior to response due date. The pre-response conference is for informational purposes only. Nothing stated at the pre-response conference shall change the solicitation unless the change is reflected in writing and disseminated to all prospective respondents that attended the pre-response conference.

Mandatory Pre-response Conference. The Central Procurement Office will hold a mandatory pre-response conference for this solicitation at the date, time and location specified below: Date/Time: %%TN_DGS_T11_PRE-BID_MAND_D/T%% Location: %%TN_DGS_T11_PRE-BID_MAND_SITE%% Room: %%TN_DGS_T11_PRE-BID_ROOM%% The Central Procurement

Office conducts pre-response conferences to discuss the draft solicitation, gather information, and give prospective respondents an opportunity to ask questions about the draft solicitation and the State's procurement process. The pre-response conference is for informational purposes only. Nothing stated at the pre-response conference shall change the solicitation unless the change is reflected in writing in the formal Invitation to Bid. Attendance at the pre-response conference is required in order to submit a response. If you do not attend the pre-response conference, your response will not be evaluated for contract award.

Unit Prices Requested on Qualified Products List. The response shall contain unit prices for the brands and model numbers identified in the Qualified Products List ("QPL") below: Reference Line(s): %%TN_DGS_T65_REF_LINES%% Qualified Products List: %%TN_DGS_T65_QPL_SOURCE%% The products included in the response must be on the referenced QPL. All respondents shall submit a certification that the product they propose to provide is of the same formulation as the product provided for State examination, testing, and approval for placement on the QPL. Any change in formulation will require submission of a sample for re-evaluation. The State will not test, evaluate, or place new products on the QPL.

On-site Inspection. All respondents should visit the site to take exact measurements and examine the premises to become familiar with any problems or unusual circumstances. No allowances will be made by the State for errors in quotations due to any respondent not visiting the site prior to submitting their response. Respondents shall be responsible for their own measurements.

Samples. The State may request samples of the products listed below for evaluation and testing: Reference Line(s): %%TN_DGS_T240_REF_LINES%% Samples provided shall be identical to the products identified in the response. If the State requests samples, respondents must provide the samples, at no cost to the State, to the Central Procurement Office within ten (10) calendar days of the request. The Central Procurement Office will not accept any samples unless all transportation charges have been prepaid. Samples must be clearly labeled as follows:

State of Tennessee Department of General Services, Central Procurement Office

312 Rosa L Parks Avenue

William R. Snodgrass Tennessee Tower, 3rd floor

Nashville, TN 37243-1102

Attn: (Solicitation Coordinator)

Name of Respondent:

Address:

ITB Number:

Item Number(s)

Bid Closing Date:

If requested samples are not provided or are improperly labeled, the State may consider the response non-responsive.

Upon the respondent's written request at the time samples are submitted, the State will return samples. Samples not destroyed in the evaluation and testing processes will be returned at the respondent's expense. If the State does not receive a written request for return of samples, the State will utilize or

dispose of samples at its discretion. The State may retain samples from the successful respondent for the contract's term. The State assumes no liability for samples.

Samples. The State may request samples of the products listed below for evaluation and testing:

Reference Line(s): %%TN_DGS_T240_REF_LINES%% Samples provided shall be identical to the products identified in the response. If the State requests samples, respondents must provide the samples, at no cost to the State, within ten (10) calendar days of the request. The State will not accept any samples unless all transportation charges have been prepaid. Samples must be clearly labeled as follows:

Agency name

Agency address

Attn: (Solicitation Coordinator)

Name of Respondent:

Address:

ITB Number:

Item Number(s)

Bid Closing Date:

If requested samples are not provided or are improperly labeled, the State may consider the response non-responsive.

Upon the respondent's written request at the time samples are submitted, the State will return samples. Samples not destroyed in the evaluation and testing processes will be returned at the respondent's expense. If the State does not receive a written request for return of samples, the State will utilize or dispose of samples at its discretion. The State may retain samples from the successful respondent for the contract's term. The State assumes no liability for samples.

Used Equipment. When this ITB authorizes offers of used items, no used item is acceptable if serial numbers or any other manufacturer's identifying label or markings have been removed, obliterated, or changed in any way.

Authorized Service Centers. Respondents must include a list of all authorized factory service centers in their responses.

Prompt Pay Discount. Any prompt pay discounts offered by respondents shall be extended to all authorized users of the contract.

Tennessee Contractor License. Respondents shall comply with Tenn. Code Ann. § 62-6-119 in providing the specified information within this ITB. Any response that does not comply with Tenn. Code Ann. § 62-6-119 shall be rejected.

Purchase of Materials for Highways or Roadways. Respondents must comply with Tenn. Code Ann. § 54-5-135.

Energy Star Products. Any goods ordered by the State must be Energy Star certified and meet applicable Energy Star specifications for energy efficiency.

Response Requested for Software Products. Unit prices are requested for software products that meet the State's requirements. Alternative software products will not be accepted and, if included, may result in rejection of the response. Respondent must submit and supply throughout the contract term the most recent version or release available unless otherwise specified in this ITB. All responses must include full use license rights for the term of the contract or as otherwise specified in the contract. The State will not accept or make payment for outdated software versions or releases. Responses shall include software maintenance and support services when required in the specifications.

Licensed Software. Respondent shall submit an End User License Agreement ("EULA") to be attached to and incorporated into this contract. Nothing contained in the terms and conditions of the EULA shall be contrary to this ITB, the law, rules, regulations, or policies of the State. To the extent of a conflict between any EULA and the contract, the law, rules, regulations, or policies of the State, the terms of the EULA shall be null, void, and unenforceable to the extent of a conflict. The EULA shall contain the following statement, "This EULA is incorporated by reference into the contract as **Attachment Reference** and is subject to its terms and conditions. In the event of any conflict between the terms and conditions of this EULA and the contract, the terms and conditions of the contract shall prevail."

Fixed Discount or Surcharge. The percent discount or surcharge per line item must be fixed for the contract's term.

Percent Discount or Surcharge by Line. Reference Line(s): %%TN_DGS_T75_REF_LINES%% Respondents are required to quote a single percentage (%) offered as a discount or surcharge applying to the products listed in all the published catalogs, price lists, or price schedules and any supplements on which the response is based. Respondents shall use the most current catalogs, price lists, or price schedules as of the response opening date. Any catalog, price list, or price schedule identified or referenced in a response shall be published by the response opening date. Any industry-wide price change by the manufacturer's catalogs, price lists, or price schedules may be submitted with the response. Respondents shall attach the manufacturer's notice of any price changes to the applicable catalogs, price lists, or price schedules. No published, printed prices or items as shown in any manufacturer's catalogs, price lists, or price schedules submitted as part of any response shall be altered, amended, or limited within the product line or lines bid. All product lines subject to the single percentage (%) ITB shall be clearly defined by the respondent. If any items requested in this ITB are not available at the time of the response in any published catalogs, price lists, or price schedules, all such items must be listed with prices and all applicable ordering information. Catalogs, price lists, or price schedules will be evaluated and may be accepted in whole or acceptance may be limited to specific items or groups of items or to a specified dollar amount.

Single Percent Discount or Surcharge. Respondents are required to quote a single percentage (%) offered as a discount or surcharge applying to the products requested and listed in the specified catalog, price list, or price schedule identified on the price sheet. A single percentage for the specified catalog, price list, or price schedule is required.

Safety of Chemical Products. All respondents awarded a contract must be capable of maintaining, for all of its chemical products available under this Contract, a material safety data sheet ("MSDS") on the national MSDS search repository or on the chemical manufacturer's website. A site operated by or on behalf of the manufacturer or a relevant trade association is acceptable so long as the information is

accessible to the public, free of charge. In lieu of posting a MSDS on MSDSSEARCH, the respondent that receives a contract award must include the manufacturer's universal resource locator (URL) for its MSDS. For purposes of this MSDS requirement, the State recognizes the following URL for national MSDS search repository: MSDS-SEARCH, which can be accessed on the internet at: <http://www.msdssearch.com>.

Price Adjustment for Bituminous Material. The monthly average bituminous adjustment factor ("MABAF") shall be applied to the contract unit price provided the increase or decrease differs five percent (5%) or more from the basic bituminous material index dated $%%TN_DGS_T190_INDEX_DATE%%$ AT \$ $%%TN_DGS_T190_PER_TON%%$ (PER TON). The basic bituminous material index is taken from the Tennessee Department of Transportation's construction index. The monthly bituminous price index can be obtained from the regional Tennessee Department of Transportation ("TDOT") office closest to the respondent's location. This index is used for all asphalt projects in Tennessee and is distributed to all TDOT field offices and contractors statewide.

The monthly average adjustment will be based on TDOT special provision 109B, "Regarding Price Adjustment for Bituminous Material" as per TDOT's standard specifications for road and bridge construction. The adjustment will be based on the asphalt content and will be calculated in accordance with the following formula only when the percent of price indexes is five percent (5%) or greater/less. $PA = (IC - IB) \times (T \times AC\%)$ where: PA = price adjustment for adjustment month; IB = basic bituminous material index; IC = monthly average bituminous material index; T = tons of bituminous material for adjustment month; and AC% = asphalt content percent used. The following is an example of a price adjustment of over five percent (5%). PA = price adjustment for adjustment month: \$870.00 IB = basic bituminous material index: \$150.00 DATE: $%%TN_DGS_T190_IB_DATE%%$ IC = monthly average bituminous material index: \$180.00 DATE: $%%TN_DGS_T190_IC_DATE%%$ (month asphalt was picked up) T = tons bituminous material for adjustment month: 500 tons AC% = asphalt content percent used: 5.8% $500 \text{ tons} @ 5.8\% = 29 \text{ tons}$ adjustment $\$180.00 - \$150.00 = \$30.00 \times 29 \text{ tons} = \870.00 (price adjustment)

The awarded contractor must submit adjustment calculations on a separate invoice at the same time the original invoice is submitted. Failure to submit both invoices together will result in forfeiture of any recompense for the bituminous material index amount greater than five percent (5%). Awarded contracts will include a line which will allow the State to pay contractor for bituminous material price adjustment increases.

Section 6 – Specifications

Procurement professionals draft the specifications outside of Edison and then upload them into Edison.

Section 7

Professional Licensure. All persons, agencies, firms, or other entities that provide legal or financial opinions, which a respondent provides for consideration and evaluation by the State as a part of a response to this ITB, shall be properly licensed to render such opinions. Upon submitting the response, the respondent (and respondent employees and subcontractors, as applicable) must hold all necessary or appropriate business or professional licenses to provide the goods or services as required by the contract. The State may require any respondent to submit evidence of proper licensure.

Department of Revenue Registration. Respondent must be registered with the Tennessee Department of Revenue for the collection of Tennessee sales and use tax. The State shall not award a contract unless the respondent provides proof of such registration or provides documentation from the Department of Revenue that the Contractor is exempt from this registration requirement. The foregoing is a mandatory requirement of an award of a contract pursuant to this ITB. For purposes of this registration requirement, the Department of Revenue may be contacted at: <http://www.tn.gov/revenue/topic/revenue-contacts>.

Prohibition of Illegal Immigrants. Any respondent awarded a contract shall comply with Tenn. Code Ann. § 12-3-309 and submit semi-annual attestations to the State.

Section 8 – Contract Terms and Conditions

This document will be generated independently of the solicitation and then incorporated into the solicitation.

REQUEST FOR PROPOSALS (RFP) TEMPLATE

REQUEST: Replace section 4.9 of the “Instructions, Considerations, and Options” portion of the RFP Template with the following.

4.9. Contract Approval and Contract Payments

Option: Awarded Respondent shall accept the State’s Purchasing Card as a form of payment

Add the following to the end of subsection 4.9.3. only after performing market research and determining that requiring vendors to accept payments via purchasing card and providing level III data reporting is generally accepted in the marketplace..

The Respondent awarded the Contract resulting from this RFP shall accept the State’s Purchasing Card (“P-Card”) as a form of payment at no cost to the State and provide level III data reporting information.

PAYMENT BOND TEMPLATE

(NEW DOCUMENT)

PAYMENT BOND TEMPLATE

This template prescribes the format and content for a payment bond. Under Tenn. Code Ann. § 12-4-201, a payment bond is required for all public works projects with a contract price exceeding one hundred thousand dollars (\$ 100,000). The bond amount in paragraph two below shall be twenty-five percent (25%) of the contract price, as established by Tenn. Code Ann. § 12-4-201(a)(1).

Procurement professionals shall adhere to this template and follow, replace, or otherwise address red instructional text. Changes to this document 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*.

PAYMENT BOND FOR LABOR AND MATERIALS

This bond (the “Bond”) made **date**, by **contractor name** (“Principal”), a corporation organized under the laws of **name of state**, having its principal office at **contractor’s address**, as principal, and **surety name** (“Surety”), a corporation organized under the laws of **name of state**, and licensed to transact a surety business in the State of Tennessee, having its principal office at **surety’s address**, as surety.

OBLIGATION

WHEREAS, the parties are obligated to the State of Tennessee Department of General Services Central Procurement Office (“State”), whose principal address is 312 Rosa L. Parks Avenue, 3rd Floor, Nashville, TN 37243, as obligee, for the benefit of Claimants as defined below, in the amount of **written amount** (\$ **number**), for the payment of which Principal and Surety bind themselves, their heirs, representatives, successors and assigns, jointly and severally, firmly by this Bond.

WHEREAS, Principal has by written agreement, dated **date of agreement**, entered into a contract with State for **description of work** in accordance with the drawings and specifications prepared by **name of architect or engineer**, which contract is made a part of this Bond by this reference, and is referred to as the “Contract.”

CONDITION

The condition of this obligation is such that if the Principal shall promptly make payment to all Claimants as defined in SECTION ONE of this Bond for all labor and materials used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect.

AGREEMENT

For the reasons recited above, and in consideration of the parties’ mutual covenants, the parties agree as follows:

SECTION ONE. CLAIMANT DEFINED

“Claimant” is defined as one having a direct contract with Principal or with a subcontractor of Principal for labor, materials, or both, used or reasonably required for use in the performance of the Contract, “labor and material” including that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

SECTION TWO. ACTION ON SUMS DUE CLAIMANT

Principal and Surety jointly and severally agree with State that every Claimant who has not been paid in full before

the expiration of a period of ninety (90) days after the date on which the last of such Claimant's work or labor was done or performed, or on which the last of such materials were furnished by Claimant, may sue on this Bond for the use of Claimant in the name of State, prosecute the suit to final judgment for such amount as may be justly due Claimant, and have execution, provided, however, that State shall not be liable for the payment of any costs or expenses of any such suit.

SECTION THREE. LIMITATIONS ON SUIT BY CLAIMANT

Any suit or action commenced under this Bond shall comply with Tenn. Code Ann. § 12-4-205. Claimant shall give written notice to any two of the following: Principal, State, or Surety, above named, within ninety (90) days after completion of the public work. The claim shall state with substantial accuracy the amount claimed and the name of the party to whom materials were furnished, or for whom the work or labor was done or performed. Such notice shall be personally served or sent by certified mail, return receipt requested, in an envelope addressed to Principal, State, or Surety, at any place where an office is regularly maintained for the transaction of business.

SECTION FOUR. PAYMENTS MADE

The amount of this Bond shall be reduced by and to the extent of any payment or payments made in good faith under this Bond, inclusive of the payment by Surety of mechanics' liens which may be filed of record against the improvement, whether or not claim for the amount of such lien be presented under and against this Bond.

The parties have executed this Bond at **place of execution** the day and year first above written.

PRINCIPAL:

Contractor name

By: _____
Contractor's authorized signatory

Printed name and title

SURETY:

Surety Name

By: _____
Surety's authorized signatory

Printed name and title

**NOTICE OF INTENT TO AWARD
MODEL**

For all solicitation types, procurement professionals should complete this document and send it to respondents after the State has completed evaluation of responses. 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. This paragraph should be deleted before sending the document to respondents.

Appropriate letterhead

Date:

Dear Respondents:

Thank you for your responses to **Solicitation Number or Event Number**. The State has completed its evaluation of all responses, and the subject procurement records are open for public inspection by appointment only from **date** through **date** between 8:00AM Central Time and 4:30PM Central Time. To set up an appointment or ask any questions, contact **name** at **email address** or **phone number**.

The following respondent is recommended for contract award:

Name

This notification by the State of intent to award **shall NOT create rights, interests, or claims of entitlement in** any respondent. This notification is not an acceptance of any offer, and the State retains the right to reject any response.

I appreciate your interest in doing business with the State of Tennessee and hope that you will respond to future solicitations.

Appropriate signature

Name and title of signatory

GOVERNMENTAL GRANT (GG) TEMPLATE

GOVERNMENTAL GRANT (GG) TEMPLATE

This template prescribes the format and content for a cost-reimbursement grant contract with a federal or Tennessee local governmental entities and their agents or instrumentalities.

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 GG Template begins on the following page. Additional GG instructions, considerations, and options follow the standard GG Template.



GOVERNMENTAL GRANT CONTRACT

(cost reimbursement grant contract with a federal or Tennessee local governmental entity or their agents and instrumentalities)

Begin Date	End Date	Agency Tracking #	Edison ID
-------------------	-----------------	--------------------------	------------------

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:					

Grantee Selection Process Summary

<input type="checkbox"/> Competitive Selection	Describe the competitive selection process used.
<input type="checkbox"/> 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.	<i>CPO USE - GG</i>

Speed Chart (optional)	Account Code (optional)
-------------------------------	--------------------------------

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

This grant contract ("Grant Contract"), by and between the State of Tennessee, **State Agency Name**, hereinafter referred to as the "State" or the "Grantor State Agency" and Grantee **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 AND DELIVERABLES."

Grantee Edison Vendor ID # **Number**

A. SCOPE OF SERVICES AND DELIVERABLES:

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

A.#. **Specify the Scope that the Grantee must provide under this Grant Contract. Do NOT include payment terms in the Scope.**

B. TERM OF 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 to the Grantee for fulfillment of the Scope outside the Term.

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 as Attachment **Reference** is 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 duration of the Grant Contract 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 the section C, payment terms and conditions of this Grant Contract, the Grantee shall refund the difference to the State. The Grantee shall submit the 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 by this Grant Contract 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 Term 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 related matter. 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 unallowable costs.
- C.12. State's Right to Set Off. The State reserves the right to set off or deduct from amounts that are or shall become due and payable to the Grantee under this Grant Contract or under any other agreement 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, properly completed documentation.
- a. The Grantee shall complete, sign, and return to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Grantee acknowledges and agrees that, once this form is received by the State, all payments to the Grantee under this or any other grant contract will be made by automated clearing house ("ACH").
 - b. The Grantee shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Grantee's Federal Employer Identification Number or Social Security Number referenced in the Grantee's Edison registration information.

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 (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.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, or if the Grantee violates any terms of this Grant Contract, the State shall have the right to immediately terminate this Grant Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the exercise of the State's right to terminate this Grant Contract for cause, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Grant Contract by the Grantee.
- 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.
- 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 hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this 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 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 Act (HITECH) 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 HIPAA 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 by the State under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the State to receive such information without entering into a business associate agreement or signing another such document.
- 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, its employees, and any approved subcontractor 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 in accordance with applicable Tennessee law. 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.

- 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 fa.audit@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.

The following red text is instructional language for D.19 and should be deleted from the contract. Tennessee law provides specific audit requirements based upon the classification of the Grantee. In those circumstances, the Grantee must be audited in compliance with Tennessee statutory requirements. These instances include, without limitation, the following when the Grantee is considered a:

1. State government and county government under Tenn. Code Ann. § 4-3-301;
2. TNInvestco under Tenn. Code Ann. § 4-28-110(a)(4);
3. Municipality under Tenn. Code Ann. § 6-56-105;
4. Tourism development authority under Tenn. Code Ann. § 7-69-105;
5. Utility district under Tenn. Code Ann. § 7-82-401;
6. Emergency communication district under Tenn. Code Ann. § 7-86-113;
7. Public building authority under Tenn. Code Ann. § 12-10-109;
8. Insurance pool under Tenn. Code Ann. § 29-20-401(g)(1)(A);
9. Community corrections fund under Tenn. Code Ann. § 40-36-303(d);
10. School under Tenn. Code Ann. § 49-2-112;
11. Charter school under Tenn. Code Ann. § 49-13-111;
12. Medicaid provider under Tenn. Code Ann. § 71-5-130;
13. Contractor with the Department of Intellectual and Developmental Disabilities under the Medicaid waiver program;
14. Human resource agency under Tenn. Code Ann. § 13-26-106; or
15. Developmental district under Tenn. Code Ann. § 13-14-112.

If the Grantee is not statutorily subject to an audit, insert the Audit Report provision in the "Instructions, Considerations, and Options" section of the template.

D.19. Audit Report. The Grantee shall be audited in accordance with applicable Tennessee law.

If the Grantee is subject to an audit under this provision, then the Grantee shall complete Attachment [reference the Parent Child Information document].

When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. 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, motor vehicles, or contracted services, procurements by the Grantee shall be competitive where practicable. For any procurement for which reimbursement is paid under this Grant Contract, the Grantee shall document the competitive procurement method. In each instance where it is determined that use of a competitive procurement method is not practicable, supporting documentation shall include a written justification for the decision and for the use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.318—200.326 when procuring property and services under a federal award.

The Grantee shall obtain prior approval from the State before purchasing any equipment or motor vehicles 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 Grant

Contract is not a waiver or relinquishment of any 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.

- 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.
- 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 comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements 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. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal

Awards is available here: http://www.ecfr.gov/cgi-bin/text-id?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

- 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 agreed to by the parties. This Grant Contract supersedes any and all prior understandings, representations, negotiations, or agreements between the parties, 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 shall not be affected 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.

Add ALL Necessary or Contingently Required Special Terms & Conditions

IN WITNESS WHEREOF,

GRANTEE LEGAL ENTITY NAME:

GRANTEE SIGNATURE **DATE**

PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)

GRANTOR STATE AGENCY NAME:

NAME & TITLE **DATE**

ATTACHMENT REFERENCE

GRANT BUDGET				
Additional Identification Information As Necessary				
The Grant Budget line-item amounts below shall be applicable only to expense 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 PARTICIPATION	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
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.

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

ATTACHMENT REFERENCE**Parent Child Information**

The Grantee should complete this form and submit it with the Grant Contract. The Grantee should submit only one, completed "Parent Child Information" document to the State during the Grantee's fiscal year.

"Parent" means an entity whose IRS filing contains the information of at least one other entity.

"Child" means an entity whose information is contained in another entity's IRS filing.

Grantee's Edison Vendor ID number:

Is **Grantee Legal Entity Name** a parent? Yes No

If yes, provide the name and Edison Vendor ID number, if applicable, of any child entities.

Is **Grantee Legal Entity Name** a child? Yes No

If yes, complete the fields below.

Parent entity's name: _____

Parent entity's tax identification number: _____

Note: If the parent entity's tax identification number is a social security number, this form must be submitted via US mail to:

Central Procurement Office, Grants Program Manager
3rd Floor, WRS Tennessee Tower
312 Rosa L Parks Avenue
Nashville, TN 37243

Parent entity's contact information

Name of primary contact person: _____

Address: _____

Phone number: _____

Email address: _____

Parent entity's Edison Vendor ID number, if applicable: _____

GG INSTRUCTIONS, CONSIDERATIONS, and OPTIONS

The following pages contain additional GG instructions, considerations, and options. Replace or modify the standard GG Template by including the following content as appropriate.

Complete the 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 sheet fields as indicated within the template and the following field directions.

<i>Agency Tracking #</i>	unique tracking 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 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
<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 Grant Contract Amount column (i.e., the grand total amount for all fiscal years & all sources of funding)

PREAMBLE

Add additional information only if necessary.

A. SCOPE OF SERVICES

It is the responsibility of the Grantor State Agency to adequately draft a scope of services. 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 of services 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 of services.

Draft the scope of services to clearly, specifically, and definitively detail Grantee duties, responsibilities, and the 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 of services. 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 of service, 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.

When the Grant Contract is required to be obligated by a certain date because of a federal award, the Grantor State Agency is exempt from this requirement if the Grantor State Agency obtains a rule exception request. The rule exception request must include supporting documentation for the Grant Contract's effective date, which may include a hyperlink to federal award information.

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. 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 new subsection 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 amounts.

Option 4:

The Department of Health may add the following Section as appropriate:

- C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may move up to one percent (1%) of a line-item amount to another line item category provided that any increase is off-set by an equal reduction of other line-item amount(s) and the total Grant Contract amount detailed by the Grant Budget does not increase. An increase of any line item funded at zero dollars (\$0.00) shall require prior approval of the Grantor State Agency.

Option 5:

The Department of Transportation may add the following Section as appropriate:

- C.6. Budget Line-item: Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may request revisions of Grant Budget line-items by letter, giving full details supporting such request, provided that such revisions do not increase total Grant Budget 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 explicitly set forth. Any increase in the total Grant Budget amount shall require a Grant Contract amendment.

Disbursement Reconciliation and Close Out

To require additional grant disbursement 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 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 (revising the maximum number of days to no less than thirty (30)).

- 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 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 this 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.
 - 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 the section C, payment terms and conditions 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 contract period 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 contracting agency can justify that the bilateral provision is in the best interest of the state.

- D. #.** Bilateral 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.

Termination for Cause

The Department of Environment and Conservation may add the following Section as appropriate:

- D.4.** Termination for Cause. If the Grantee fails to properly perform its obligations under the Grant Contract in a timely or proper manner, or if the Grantee violates any term(s) of this Grant Contract, the State shall have the right to immediately terminate the Grant Contract and withhold payment in excess of fair compensation for completed services. Notwithstanding the above, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Grant Contract by the Grantee. Specifically, the Grantee shall be liable to the State for the full amount paid by the State to the Grantee under this Grant Contract if the Grantee fails to fully meet the requirements of the Scope of Services.

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.****Audit Report**

If the Grantee is not statutorily subject to an audit, insert the following **and** add the Notice of Audit Report and Parent Child Information documents as attachment.

- D.19. **Audit Report.** For purposes of this Section, pass-through entity means a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program.

The Grantee shall provide audited financial statements to the Tennessee Comptroller of the Treasury ("Comptroller") if during the Grantee's fiscal year, the Grantee: (1) expends seven hundred fifty thousand dollars (\$750,000) or more in direct and indirect federal financial assistance and the State is a pass-through entity; (2) expends seven hundred fifty thousand dollars (\$750,000) or more in state funds from the State; or (3) expends seven hundred fifty thousand dollars (\$750,000) or more in federal financial assistance and state funds from the State, and the State is a pass-through entity. At least ninety (90) days before the end of its fiscal year, the Grantee shall complete Attachment [reference the Notice of Audit Report document] to notify the State whether or not Grantee is subject to an audit. The Grantee should submit only one, completed Notice of Audit Report document during the Grantee's fiscal year. Any Grantee that is subject to an audit and so indicates on Attachment [reference the Notice of Audit Report document] shall complete Attachment [reference the Parent Child Information document]. If the Grantee is subject to an audit, Grantee shall obtain the Comptroller's approval before engaging a licensed, independent public accountant to perform the audit. The Grantee may contact the Comptroller for assistance identifying auditors.

All audits shall be performed in accordance with the Comptroller's requirements, as posted on its web site. When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.

The audit contract between the Grantee and the Auditor shall be on a contract form prescribed by the Comptroller. The Grantee shall be responsible for payment of fees for an audit prepared by a licensed, independent public accountant. Payment of the audit fees by the Grantee shall be subject to the provision relating to such fees contained within this Grant Contract. The Grantee shall be responsible for reimbursing the Comptroller for any costs of an audit prepared by the Comptroller.

ATTACHMENT REFERENCE**Notice of Audit Report**

Check one of the two boxes below and complete the remainder of this document as instructed. Send completed documents as a PDF file to cpo.auditnotice@tn.gov. ***The Grantee should submit only one, completed "Notice of Audit Report" document to the State ninety (90) days prior to the Grantee's fiscal year.***

- Grantee Legal Entity Name** is subject to an audit for fiscal year #.
- Grantee Legal Entity Name** is not subject to an audit for fiscal year #.

Grantee's Edison Vendor ID Number:

Grantee's fiscal year end:

Any Grantee that is subject to an audit must complete the information below.

Type of funds expended	Estimated amount of funds expended by end of Grantee's fiscal year
Federal pass-through funds	
a. Funds passed through the State of Tennessee	a.
b. Funds passed through any other entity	b.
Funds received directly from the federal government	
Non-federal funds received directly from the State of Tennessee	

Independent Contractor

Replace this provision with the following if the grantee is an entity of the federal government.

- D.22. Independent Contractor. The parties, in the performance of this Grant Contract, shall be acting in their individual capacities and not as employees, partners, joint venturers, or associates of one another. 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 a federal agency, shall be considered to be self-insured for the purposes of public liability. The Grantee is also subject to the Federal Torts Claims Act.

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. The Department of Transportation Division of Multimodal Resources, Department of Human Services, and Department of Environment and Conservation may use the following section as needed.

- D.26. **Reserved.**

Charges to Service Recipients Prohibited

The Department of Health may use the following term as applicable:

- 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, with the exception of:
- (a) patient liability amounts (including copay, coinsurance, and deductibles) established by insurance plans and assigned to the patient,
 - (b) charges based on patients' income and family size, and
 - (c) other fees as established by the State.

The Grantee shall be allowed to bill the patient's insurance, including governmental insurers such as TennCare, where appropriate. The parties shall comply with all applicable governmental and insurance plan reimbursement rules, including but not limited to Medicaid/TennCare or Medicare. The parties further agree that benefits provided or received under this Grant Contract are not contingent on referrals nor are they paid under arrangement to provide healthcare services reimbursed by Medicare or Medicaid/TennCare.

Charges to Service Recipients Prohibited

The Department of Health may use the following term as applicable:

- 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, with the exception of co-pays paid by the recipient and reimbursement from the recipient's third party insurance provider. The Grantee shall be allowed to bill the recipients' insurance, including governmental insurers such as TennCare, where appropriate. The parties shall comply with all TennCare reimbursement rules. The parties further agree that benefits provided or received under this Grant Contract are not contingent on referrals nor are they paid under arrangement to provide healthcare services reimbursed by Medicare or Medicaid/TennCare. This grant award plus the co-pays paid by the recipients and payment from the recipients' third party insurance provided received by the Grantee shall not exceed the Grantee's total program cost.

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 contracting agency head approval is required for non-competitive procurements under the grant.

- D.#.** Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, motor vehicles, or contracted services, such procurement(s) shall be made on a competitive basis, including the use of competitive bidding procedures, where practicable. 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 practicable, 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 or motor vehicles 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.

Debarment and Suspension

Add the following Section if required by federal law and the Grant Contract involves federal funds.

- 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 offense 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.

Federal Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency and Accountability Act

Add the following section only if the Grantee will have access to personally identifiable student information or student information that is confidential pursuant to federal or state law.

- E. #. Federal Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency and Accountability Act. The Grantee shall comply with the Federal Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232(g)) and its accompanying regulations (34 C.F.R. § 99) ("FERPA"). The Grantee warrants that the Grantee is familiar with FERPA requirements and that it will comply with these requirements in the performance of its duties under this Grant Contract. The Grantee agrees to cooperate with the State, as required by FERPA, in the performance of its duties under this Grant Contract. The Grantee agrees to maintain the confidentiality of all education records and student information. The Grantee shall only use such records and information for the exclusive purpose of performing its duties under this Grant Contract.

The Grantee shall also comply with Tenn. Code Ann. § 49-1-701, *et seq.*, known as the "Data Accessibility, Transparency and Accountability Act," and any accompanying administrative rules or regulations (collectively "DATAA"). The Grantee agrees to maintain the confidentiality of all records containing student and de-identified data, as this term is defined in DATAA, in any databases, to which the State has granted the Grantee access, and to only use such data for the exclusive purpose of performing its duties under this Grant Contract.

Any instances of unauthorized disclosure of data containing personally identifiable information in violation of FERPA or DATAA that come to the attention of the Grantee shall be reported to the State within twenty-four (24) hours. Grantee shall indemnify and hold harmless State, its employees, agents and representatives, from and against any and all claims, liabilities, losses, or causes of action that may arise, accrue, or result to any person or entity that is injured or damaged as a result of Grantee's failure to comply with this section.

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 under state or federal law shall be regarded as "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.

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.

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.

Drug Free Workplace

Add the following Section as appropriate.

- E.#. The Grantee shall provide a drug-free workplace pursuant to the "Drug-Free Workplace Act," 41 U.S.C. §§ 8101 through 8106, and its accompanying regulations.

Grantee Participation

Add the following Section as appropriate.

- E.#. Grantee Participation. Grantee Participation amounts 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 Personally Identifiable Information. The Grantee shall report to the State any instances of unauthorized disclosure of personally identifiable information that come to the attention of the Grantee. Any such report shall be made by the Grantee within twenty-four (24) hours after the instance has come to the attention of the Grantee. 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 federal contract of \$25,000 or more (excluding federal grants subject to section 1512 of the American Recovery and Reinvestment Act of 2009)), and the federal grant will provide for the expenditure of \$25,000 or more in federal funds.

E.#. Federal Funding Accountability and Transparency Act (FFATA).

This Grant Contract 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 FFATA requirements, including but not limited to those below, 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 CFR 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 CFR § 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 Contract is amended to extend its 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 Contract 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 Contract. 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 Contract 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.

Tennessee Department of Children Services

The Department of Children of Services may add the following Section(s) as appropriate:

- E. #.** Supplemental Conflict of Interest. The Grantee shall not have as any owner, member of the board of directors, or member of the board of trustees, a person who also holds any other position that may influence the placements provided to children in the plaintiff class of Brian A. v. Haslam. Such positions include, but are not limited to juvenile court judges, referees, or other court officers involved in the individual cases of children in foster care.
- E. #.** Title VI of the Civil Rights Act of 1964. The Grantee shall develop and deliver to the State on or before July 31st of each fiscal year an implementation plan that describes the Grantee's long-range goals and objectives that will guide the Grantee's efforts to ensure compliance with Title VI of the Civil Rights Act of 1964 pursuant to the guidelines established by the Tennessee Title VI Compliance Commission. Title VI plans must be submitted no later than July 31st of each year to: Tennessee Department of children's Services, Director of the Division of Diversity Initiatives, Division for Diversity Initiatives.
- E. #.** Supplemental Subcontracting. In accordance with the Brian A. Settlement Agreement (specifically, the Racial Disparities Study conducted by Dr. Ruth McRoy) the State is actively working toward decreasing the racial disparity between service providers and target service populations. To help correct this disparity, the State strongly recommends, in situations where

subcontracts are necessary, that the Grantee subcontract for services with minority owned or operated subcontractors that can assist the Grantee in meeting the needs of the children and families that are served. The State requires the Grantee to support the State's commitment to achieving diversity and developing programs that reflect the diversity of the population served.

- E. #. Monitoring Sub-Contractors. The Grantee shall develop written procedures for monitoring all of its State-approved subcontractors. The procedures must clearly outline the process for assuring that all subcontractors are in compliance with the DCS and Provider Policy Manuals and the subcontracting guidelines detailed at the following web site:
http://www.state.tn.us/youth/providers/prov_policies.htm

The Grantee shall have an established quality assurance/quality improvement plan for all subcontractors.

The Grantee shall also maintain an internal quality improvement process that assesses the overall quality and performance of its subcontractors.

- E. #. Working Capital. The Grantee must have a minimum of sixty (60) days working capital in the event payment to the Grantee is interrupted by an emergency or for reasons beyond the Grantee's control to ensure continuity of operations. Working capital must be documented by a review of the Grantee's balance sheet and income statement. Working capital is defined as current assets minus current liabilities. Current assets may include marketable securities as long as they have not been legally pledged against a long term equity interest. Credit lines are not working capital.

Working capital requirements shall be met at the time of initial contracting and maintained during subsequent contracting periods. In the event working capital declines below the sixty (60) day requirement, the Grantee shall be placed on probation and the Contract will be subject to cancellation at the discretion of the State.

- E. #. Financial Statements. The Grantee shall submit to the State independently audited financial statements containing an auditor's report reflecting the auditor's opinion that the statements are presented fairly and found to be in conformity with generally accepted accounting principles. The independent audit must have been performed by a certified public accounting firm in good standing with the American Institute of Certified Public Accountants (AICPA). The financial statements must be complete, and include all statements and notes to the statements as contained within the audit report. The financial statements and audit report shall be submitted within nine (9) months of the Grantee's reporting period to: Department of Children's Services, Finance & Budget Division. Division

The financial statements must represent the Contracting entity. Where the financial statements are for a parent company of the entity providing the service, the Contract must be in the name of the parent company and signed by an authorized representative of the parent company. The entity providing the service may be identified within the Contract as the service provider; however, financial responsibility will belong to the parent company.

- E. #. Grantee Gatekeeper Contact. The Grantee shall provide information to the Child Placement & Private Provider's Division (CPPP) relative to the Grantee's gatekeeper or representative empowered to make placement decisions on behalf of the Grantee to allow access to placement 24 hours a day seven days a week to the State. The information to be provided is as follows: gatekeeper/representative name(s); title; direct telephone number(s), cell phone number and/or pager number(s).

- E. #. Performance Standards. The Grantee hereby acknowledges and agrees that its performance under this Grant Contract shall meet the standards set forth in Section A of this Grant Contract, the DCS Provider Policy Manual (PPM), DCS Policy, the Brian A. Settlement Agreement, and the conditions set forth in this Contract. If the Grantee fails to meet these standards, the State, at its exclusive option, may allow up to six (6) months for the provider to achieve compliance with the standards. If performance deficiencies are not resolved to the satisfaction of the State within the

prescribed time, and if no extenuating circumstances can be documented by the Grantee to the State's satisfaction, the State may cancel the Grant Contract at the State's discretion.

- E. #. Notification of Closure. The Grantee shall notify the State of the closure of its agency or facility no less than thirty (30) days prior to the actual date of closure. Failure to provide the State thirty (30) days written notice of the Grantee's intent to close its operations or any part of its operation shall be considered a breach of this Contract.
- E. #. Closure Transition. Within thirty (30) days from the closure notification date, the Grantee shall work with the State to transition all custodial youth placed with the Grantee, shall reconcile all records, transfer case files to DCS, and complete the Contract transition.
- E. #. State Ownership of Case Files. The State shall have ownership, right, title, and interest in all case files created, designed, developed, derived, documented, installed, or maintained on behalf of the State pursuant to this Contract. The State shall have unlimited rights to all said case files. The Grantee shall furnish such information and data upon the request of the State, in accordance with this Contract and applicable State law.
- E. #. Permanent Education Records. The Grantee shall maintain educational records permanently. These records shall be cut off at discharge or graduation. If the Grantee's school ceases operation, or the State ceases to contract with the Grantee, the permanent educational records for students who have been in State custody shall be forwarded to the State by the Grantee. The Grantee shall bear all costs for the transfer of all records.

Both paper and electronic media shall be included. Records include, but are not limited to: institution academic transcripts, grade reports, records of grade changes, copies of GED Certificates or State issued diplomas/certificates of any kind, standardized examination reports, birth records, grade point average (GPA), class rank, letters of recommendation and related documentation and correspondence.

Records from closed Grantee schools shall be forwarded at least five (5) business days prior to closure to: DCS Records Management, Records Officer.

- E. #. Mergers, Dissolutions, Partnerships & Joint Ventures. As would be the case with any agency dissolution, merger, or acquisition, the agency and the State have financial responsibilities requiring resolution. The Grantee is required to provide ninety (90) days notification prior to any dissolution, merger, or acquisition.

In the event an agency is dissolved, the State maintains rights to assets (representing accounts payable/reinvestment due to the State) as may be distributed voluntarily or by court action. Additionally, the State acknowledges its responsibility for its liabilities (representing accounts payable/reinvestment due to the Grantee).

In the event an agency is merged or acquired by another agency/entity then the due to/from financial responsibilities shall be commensurate with the Articles to the Merger or Acquisition.

- E. #. Ownership of Software. Pursuant to 45 C.F.R. § 95.617(a), the State shall have all ownership rights to all software, modifications and associated documentation thereof prepared by the Grantee in connection with the performance of the services under this Grant Contract. The Grantee waives any authorship rights and similar retained interests in the software, modifications, and associated documentation prepared in connection with the performance of the services under this Grant Contract.

Pursuant to 45 C.F.R. § 95.617(b), the federal government reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for federal government purposes, such software, modifications, and associated documentation prepared by the Grantee in connection with the performance of the services under this federal financial participation contract.

- E. #. Not a DCS Employee. The Grantee shall inform the client in writing that the Grantee is a private provider and not an employee of the State.
- E. #. Violation of Security and Facility Policies. Violation of security and facility policies or practices, or possession of contraband items will result in the Grantee being immediately escorted from campus and arrested/criminally prosecuted as warranted.
- E. #. Employee Background Checks. Prior to the provision of any services, all personnel that have direct contact with children shall comply with DCS Policy 4.1. Employee Background checks.
- E. #. Criminal Background Check. Prior to the provision of any services for this Grant Contract, all Grantee personnel performing work under this Grant Contract shall provide fingerprint samples to effect a criminal history records check conducted by the Tennessee Bureau of Investigation. Fingerprints may only be submitted at DCS approved sites where they can be processed electronically. The Grantee shall be responsible for the payment of all fee(s) for Grantee personnel providing their fingerprint samples and submitting to a criminal history review.
- E. #. Prison Rape Elimination Act (PREA). The Grantee shall comply with the Prison Rape Elimination Act of 2003 (42 U.S.C. § 15601 *et seq.*), and with all applicable PREA standards and DCS policies related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse in facilities owned, operated or subcontracted by the Grantee. Grantee acknowledges that, in addition to self-monitoring requirements, DCS will conduct announced and unannounced on-site compliance monitoring. Failure to comply with PREA, PREA Standards, or relevant DCS policies may result in termination of the contract.
- E. #. Title VI of the Civil Rights Act of 1964. The Grantee shall adhere to the requirements of Title VI of the Civil Rights Act of 1964, as codified in 42 U.S.C. 2000d, which states that "No person in the United States shall, on the ground of race, color or national origin be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance." The Grantee shall have in place or available a process to assist qualified persons of the provided service who may be limited in their English proficiency (LEP).

The Grantee shall deliver to the State on or before July 31st of each fiscal year an implementation plan that describes the Grantee's long-range goals and objectives that will guide the Grantee's efforts to ensure compliance with Title VI of the Civil Rights Act of 1964 pursuant to the guidelines established by the Tennessee Human Rights Commission's Title VI Compliance Program. Title VI plans must be submitted no later than July 31st of each year to the Tennessee Department of Children's Services, Division of Diversity Initiatives.

- E. #. Evidence-Based Programs. Pursuant to Tenn. Code Ann. § 37-5-121, the Department of Children's Services is prohibited from expending state funds on any juvenile justice program or program related to the prevention, treatment or care of delinquent juveniles, including any service model or delivery system in any form or by any name, unless the program is evidence-based. "Evidence-based" means a program or practice that is governed by a program manual or protocol that specifies the nature, quality, and amount of service that constitutes the program; and scientific research using methods that meet high scientific standards for evaluating the effects of such programs must have demonstrated with two (2) or more separate client samples that the program improves client outcomes central to the purpose of the program.

The Grantee and any of the Grantee's subcontractors shall cooperate with the State in evaluating whether its services are evidence-based or otherwise, and will provide program and service details, efficacy data and any information required or requested by the State, consistent with State and federal law regarding confidentiality, for the purpose of complying with this statute for monitoring and quality control. The Grantee further acknowledges and understands that the intent of the law is to discontinue programs and services that are not supported by the evidence of impartial scientific investigation as outlined by statute, rules and regulations which have been, or may be, promulgated by the Department of Children's Services. By affixing its signature below, the Grantee understands and agrees that the Department of Children's Services is

compelled by law to terminate this Grant instrument if services with any Grantee or the Grantee's subcontractor(s) are not proven to be evidence-based and if continuation of this Grant shall cause the Department of Children's Services not to be in compliance with such statute within the timetable set forth in Tenn. Code Ann. § 37-5-121.

- 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 shall be regarded as confidential information in accordance with the provisions of applicable State and federal law, State and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Grantee to safeguard the confidentiality of such material or information in conformance with applicable State and federal law, State and federal rules and regulations, departmental policy, and ethical standards.

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

The State acknowledges that the Grantee may use data generated through work under this Contract for educational, patient care, and research purposes, including academic publication. All such research activities shall preserve the confidentiality of DCS client and family records at each level of research and data usage. All privacy preservation safeguard procedures must be approved by the Grantee's Institutional Review Board (IRB) and the DCS Research Committee, which provide separate Grantee and State oversight for research activities using de-identified and/or limited data sets that do not maintain links to identifying information about individual children. These data sets will be used to conduct statistical analyses on the cross sectional and longitudinal assessment of the mental health needs, strengths, service utilizations and outcomes of children in state custody.

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

Tennessee Department of Health

The Tennessee Department of Health may add the following Section(s) as appropriate:

- E. #. Healthy Eating Requirements. Grant recipients who purchase or serve snacks or meals in conjunction with their performance under this Grant Contract shall provide only healthy foods. No high sugar beverage shall be served at any time. Fruits and vegetables shall be given preference in menu selections.
- E. #. CFDA Number(s) When applicable, the Grantee shall inform its licensed independent public accountant of the federal regulations that are to be complied within the performance of an audit. This information shall consist of the following Catalog of Federal Domestic Assistance Numbers: (Specific CFDA# is given and it's name)
- E. #. Health Care Data. Grantee shall provide data reports about health care services provided under this Grant using the Department of Health's Patient Tracking and Billing Management Information System (or its successor). Data regarding health care services provided by the Grantee shall be coded and entered into the Patient Tracking and Billing Management Information System (PTBMIS), using the PTBMIS Codes Manual. The PTBMIS Codes manual is available electronically at <http://hsaintranet.health.tn.gov/> and e-mail notices shall be sent to the Grantee

regarding new revisions and/or updates, which can be accessed through the above-referenced website.

On a schedule defined by the State, the Grantee shall submit Central Office Database Report (CODB) files, as defined in PTBMIS, electronically to the State. The Grantee shall also submit other health care data reports, as requested by the State, and in a format acceptable to the State.

- E. #.** Security Audit. The State may conduct audits of Grantee's compliance with the State's Enterprise Information Security Policy ("The Policy") or under this Grant Contract, including those obligations imposed by Federal or State law, regulation or policy. The Policy, as may be periodically revised, can be located at the following link: <http://www.tn.gov/finance/oir/security/secpolicy.html>. The State's right to conduct security audits is independent of any other audit or monitoring required by this Grant Contract. The timing and frequency of such audits shall be at the State's discretion and may, but not necessarily shall, be in response to a security incident.
- a. A security audit may include the following: (i) review of access logs, screen shots and other paper or electronic documentation relating to Grantee's compliance with the Policy. This may include review of documentation relevant to subcontractors or suppliers of security equipment and services used with respect to State data; (ii) physical inspection of controls such as door locks, file storage, communications systems, and employee identification procedures; and (iii) interviews of responsible technical and management personnel regarding security procedures.
- b. Grantee shall provide reports or additional information upon request of the state and access by the State or the State's designated staff to Grantee's facilities and/or any location involved with providing services to the State or involved with processing or storing State data, and Grantee shall cooperate with State staff and audit requests submitted under this Section. Any confidential information of either party accessed or disclosed during the course of the security audit shall be treated as set forth under this Grant Contract or federal or state law or regulations. Each party shall bear its own expenses incurred in the course of conducting this security audit. Grantee shall at its own expense promptly rectify any non-compliance with the Policy or other requirements identified by this security audit and provide proof to the State thereof.

Tennessee Department of Human Services

The Department of Human of Services may add the following Section(s) as appropriate:

- E.#.** Disaster Recovery/Continuity of Operations Plan. The Grantee acknowledges and represents to the State that it has implemented a disaster recovery/continuity of operations plan that may be executed in the event of a natural disaster or man-made disaster. Said plan shall be made available to the State upon request.
- E. #.** Confidentiality of Records. The Grantee agrees that strict standards of confidentiality of records shall be maintained in accordance with State and Federal law and regulations (Reference TCA Sections 71-1-131, 71-3-119, 45-10-101 et seq., 45-10-118, and 50-7-701, 45 Code of Federal Regulations Sections 205.50, 303.21, and 307.13; 26 U.S.C. Section 6103(f); 42 U.S.C. Sections 653, and 1320b-7), and all other applicable State and Federal laws regulations and any and all data-sharing agreements between the Tennessee Department of Human Services and the Federal Government, specifically including, but not limited to, the SDS-BENDEX-SVES for 1137 and/or Child Support Benefit Programs Data Matching Agreement between the Social Security Administration and the Tennessee Department of Human Services.
- (a) All material and information provided to the Grantee by the State or acquired by the Grantee on behalf of the State from any non-public source whether verbal, written, electronic data, magnetic tape, cards or otherwise shall be regarded as confidential information in accordance with the provisions of State and Federal law and ethical standards and shall not be disclosed, except as otherwise permitted by law, regulation or court order, and all necessary steps shall be taken by the Grantee to safeguard the confidentiality of such material or information in conformance with Federal and State law and ethical standards.

- (b) The Grantee further agrees that any information provided by the State relative to applicants or recipients of public assistance is to be used only for the administration of this Grant Contract or in any investigation, prosecution, or criminal, administrative or civil proceeding conducted pursuant to this Grant Contract. The Grantee agrees to provide safeguards to restrict the use or disclosure of any information concerning such applicants or recipients to purposes stated in this section.
- (c) The safeguards so provided shall also prohibit disclosure to any legislator, legislative or other committee or legislative body, investigator, attorney, or prosecutor of any information which identifies by name or address any such applicant or recipient, except as otherwise permitted by law.
- (d) The Grantee agrees that any Federal or State tax related information will be treated as confidential as set forth in this section, and will be used solely for purposes of administering the child support program, unless otherwise required by law.
- (e) It shall be the Grantee's responsibility to ensure that any destruction of confidential information, as described in this section, will be accomplished in a manner consistent with State policy and Federal regulations pertaining to the destruction of private or confidential data. Confidential information shall be destroyed completely by a method that assures complete obliteration, removal, or destruction to preclude recognition or reconstruction of the confidential information.
- (f) The Grantee's obligations under this section do not apply to information: in the public domain; entering the public domain but not from a breach by the Grantee of this Grant Contract; previously possessed by the Grantee without written obligations to the State to protect it; acquired by the Grantee without written restrictions against disclosure from a third party which, to the Grantee's knowledge, is free to disclose the information; independently developed by the Grantee without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.
- (g) In performance of this Grant Contract, the Grantee agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements regarding Federal Tax Information (FTI):
 - 1) All work will be done under the supervision of the Grantee or the Grantee's employees.
 - 2) Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Grant Contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this Grant Contract. Disclosure to anyone other than an officer or employee of the Grantee is prohibited.
 - 3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
 - 4) The Grantee certifies that the data processed during the performance of this Grant Contract will be completely purged from all data storage components of his or her computer facility; no output will be retained by the Grantee at the time the work is completed. If immediate purging of all data storage components is not possible, the Grantee certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
 - 5) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the State or its designee. When this is not possible, the Grantee will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the State or its designee with a statement containing the date of destruction, description of material destroyed, and the method used.
 - 6) All computer systems processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance

requirements, the security features of the system must have the following minimum requirements: a security policy, accountability, assurance, and documentation. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.

- 7) No work involving Federal tax information furnished under this Grant Contract will be subGrant Contracted without prior written approval from the State.
 - 8) The Grantee will maintain a list of employees having authorized access. Such list will be provided to the State upon request and, upon request, to the IRS reviewing office. The State will have the right to void the Grant Contract if the Grantee fails to provide the safeguards described above.
- (h) Criminal /Civil Sanctions: Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as five thousand dollars (\$5,000.00) or imprisonment for as long as five (5) years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than one thousand dollars (\$1,000.00) with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Grant Contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Grant Contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as one thousand dollars (\$1,000.00) or imprisonment for as long as one (1) year, or both, together with the costs of prosecution. Such person shall also notify each officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of one thousand dollars (\$1,000.00) for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431.

Additionally, it is incumbent upon the Grantee to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(l)(1), which is made applicable to Grantees by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a Grantee, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully disclosed the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than five thousand dollars (\$5,000.00).

- (i) Inspection: The IRS and the State shall have the right to send its officers and employees into the offices and plants of the Grantee for inspection of the facilities and operations provided for the performance of any work under this Grant Contract. On the basis of such inspection, specific measures may be required in cases where the Grantee is found to be non-compliant with Grant Contract safeguards.

- (j) The Grantee agrees, and understands, that access to FTI must be preceded by certification that all personnel of the Grantee and its subgrantees understand security policy and procedures for safeguarding IRS information. Training provided prior to initial certification, and annually thereafter, must include, but not be limited to, Incident Response policy and procedures for reporting unauthorized disclosures and data breaches. Further, the Grantee agrees that all personnel of the Grantee, and all personnel of subgrantees performing services under this Grant Contract for the Grantee, authorized to handle Federal tax related information will sign, annually, an IRS Confidentiality Form, to be provided by the State, with the original signed forms to be maintained by the Grantee, along with a current list of its employees, and those of its subgrantees, performing services under this Grant Contract. These IRS Confidentiality Forms, and the list of Grantee's employees and those of its subgrantees performing services under this Grant Contract, shall be made available to the State and the IRS upon request.
- (k) It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Grant Contract.

Tennessee Department of Mental Health and Substance Abuse Services

The Tennessee Department of Mental Health and Substance Abuse Services may add the following Section(s) as appropriate:

- E.#.** Prohibitions on Use of Federal Mental Health Block Grant (MHBG) Funds. Pursuant to federal laws and regulations, the Grantee shall not use any federal Community Mental Health Services Block Grant (now MHBG, formerly CMHS BG) funds made available under this Grant Contract for any of the following purposes:
- a. to provide inpatient services;
 - b. to make cash payments to intended recipients of health services;
 - c. to purchase or improve land, purchase, construct or permanently improve (other than minor remodeling) any building or other facility, or to purchase major medical equipment;
 - d. to satisfy any requirement for the expenditure of non-federal funds for the receipt of federal funds;
 - e. to provide financial assistance to any entity other than a public or non-profit private entity.
- E.#.** Prohibition on Supplantation of Federal Mental Health Block Grant (MHBG) Funds. Pursuant to federal laws and regulations, the Grantee shall not use any funds paid or services rendered under the federal Community Mental Health Services Block Grant (now MHBG, formerly CMHS BG) to supplant any other funds available for the services provided under this Grant Contract.
- E.#.** Prohibitions on Use of Federal Substance Abuse Block Grant (SABG) Funds. Pursuant to federal laws and regulations, the Grantee shall not use any federal Substance Abuse Prevention and Treatment Block Grant (now SABG, formerly SAPT BG) funds made available under this Grant Contract for any of the following purposes:
- a. to provide inpatient hospital or inpatient community mental health services;
 - b. to make cash payments to intended recipients of health services;
 - c. to purchase or improve land, purchase, construct or permanently improve (other than minor remodeling) any building or facility, or purchase major medical equipment
 - d. to satisfy any requirement for the expenditure of non-federal funds for the receipt of federal funds;
 - e. to provide financial assistance to any entity other than a public or non-profit private entity;
 - f. to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug or distributing bleach for the purpose of cleansing needles for such hypodermic injection;
 - g. to carry out any testing for the etiologic agent for acquired immune deficiency syndrome unless such testing is accompanied by the appropriate pre-test counseling and appropriate post-test counseling.
- E.#.** Prohibition on Supplantation of Federal Substance Abuse Block Grant (SABG) Funds. Pursuant to federal laws and regulations, the Grantee shall not use any funds paid or services rendered under the federal Substance Abuse Prevention and Treatment Block Grant (now SABG, formerly

SAPT BG) to supplant any other funds available for the services provided under this Grant Contract.

E.#. Permitted Uses of Federal Projects for Assistance in the Transition from Homelessness Act of 1990 (PATH) Funds. Pursuant to federal laws and regulations, the Grantee may use federal PATH funds made available under this Grant Contract as follows:

- a. In accordance with Public Law 101-645 Section 528(b), funds may be used for housing services including:
 - (1) minor renovation, expansion, and repair;
 - (2) planning of housing;
 - (3) technical assistance in applying for housing assistance;
 - (4) improving the coordination of housing services;
 - (5) security deposits;
 - (6) costs associated with matching eligible homeless individuals with appropriate housing situations;
 - (7) one-time rental payments to prevent eviction.
- b. In accordance with Public Law 101-645 Section 526(a)(6), funds may be used for administrative expenses.

E.#. Prohibitions on Use of Federal Projects for Assistance in the Transition from Homelessness Act of 1990 (PATH) Funds. Pursuant to federal laws and regulations, particularly Public Law 101-645 Section 528(c), the Grantee shall not use any federal PATH funds made available under this Grant Contract for any of the following purposes:

- a. emergency shelter;
- b. construction of housing facilities;
- c. inpatient psychiatric or substance abuse treatment;
- d. cash payments directly to intended recipient of PATH services

E.#. Federal Projects for Assistance in the Transition from Homelessness Act of 1990 (PATH) Funds Shall Supplement, Not Supplant. Pursuant to federal laws and regulations, particularly Public Law 101-645 Sections 523(e)(1), 523(e)(2), and 526(a)(3), the Grantee shall use federal PATH funds made available under this Grant Contract to supplement, not supplant, funds currently utilized to provide existing services to service recipients.

E.#. Rule 2 Compliance. The State and the Grantee shall comply with obligations under Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and its accompanying regulations as codified at 42 C.F.R. §§ 2.1 *et seq.*

- a. The Grantee warrants to the State that it is familiar with the requirements of Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and its accompanying regulations, 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 Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and its regulations, in the course of performance of the Grant Contract so that both parties will be in compliance with Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records.
- c. The State and the Grantee will sign documents, including but not limited to business associate agreements, as required by Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and that are reasonably necessary to keep the State and the Grantee in compliance with Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records. This provision shall not apply if information received by the State under this Grant Contract is NOT "protected health information" as defined by Rule 2 of the Confidentiality of Alcohol and

Drug Abuse Patient Records, or if Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records permits the State to receive such information without entering into a business associate agreement or signing another such document.

- d. The Grantee will indemnify the State and hold it harmless for any violation by the Grantee or its subcontractors of Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records. This includes the costs of responding to a breach of protected 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. [not used in GG Grant Contracts]

E.#. Professional Practice. The Grantee shall assure that there is a code of conduct in place and applicable to all employees that covers, at minimum, business practices, clinical practices, and service recipient/staff interaction/fraternization. Further, Grantee's personnel shall conduct their practice in conformity with all applicable statutes, rules and regulations, and recognized ethical standards of their profession. Procedures for reporting violations of the ethical standards shall be developed and communicated to staff upon hire and annually thereafter, which shall include a non-reprisal approach for persons reporting suspected violations, as well as a description of possible sanctions for violating the standards. Failure to implement a code of conduct in accordance with this section and to adequately address suspected violations of the code of conduct may be cause for termination of this Grant Contract.

E.#. Additional Subcontracting Requirements. If subcontracts are approved by the State, they shall contain, in addition to those sections identified in D.5., sections on "Licensure", "Environmental Tobacco Smoke", "Confidentiality of Records", "HIPAA Compliance", and "Rule 2 Compliance" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall be the prime contractor and shall be responsible for all work performed.

Tennessee Military Department

The Tennessee Military Department may add the following Section(s) as appropriate:

E.#. Compliance with Title VI of the Civil Rights Act of 1964. The Grantee agrees to comply with the provisions contained in Title IV of 1964 Civil Rights Act (42 U.S.C. 2000d), and any federal regulations specific to the funding of this grant. The Grantee further agrees to complete and return a self-compliance report as provided by the Grantor.

E.#. The Grantee agrees to seek recovery of all funds that are expended in alleviating the damages and suffering caused by this major disaster against any party or parties whose negligence or other tortious conduct may have caused or contributed to the damage or hardship for which Federal assistance is provided pursuant to the Presidential declaration of this major disaster. FEMA will treat such amounts as duplicated benefits available to the Grantee in accordance with 42 U.S.C. § 5155 and 44 CFR 206.

E.#. Compliance with National Incident Management System (NIMS). The Grantee will be in compliance with NIMS Standards established by the U.S. Department of Homeland Security and the Federal Emergency Management Agency authorized by Homeland Security Presidential Directive 08 (HSPD-08). The Grantee agrees that it has met NIMS compliance standards. The Grantee further agrees to complete within the announced suspense date the NIMS Implementation yearly survey.

Tennessee Department of Transportation

The Department of Transportation may add the following Section(s) as appropriate:

E.#. Additional Federal Highway Administration Requirements. In addition to the requirements found in other sections of this Grant Contract, the Grantee shall become familiar with, and shall at all times comply with and observe, when appropriate, the provisions of 23 CFR Part 420.121.

E.#. Work Products. The State shall have ownership, right, title, and interest, including ownership of copyright, in all deliverables described in or developed from Section A. above (the "Work Products") , including but not limited to, documents, computer source code, computer software, methodologies, models, templates, processes, testing assessment tools and scenarios, created, designed, developed, derived, documented, installed, or delivered under this Grant Contract subject to the terms and conditions of this Section and full and final payment for each "Work Product." The State and Federal Highway Administration shall have royalty-free and unlimited rights and license to use, disclose, reproduce, publish, distribute, modify, maintain, or create derivative works from, for any purpose whatsoever, all said Work Products.

To the extent that the Grantee uses any of its pre-existing tools, materials or information in the performance of the Scope of Services described in Section A above of this Grant Contract ("Grantee Materials"), the Grantee shall retain all right, title and interest in and to such Grantee Materials, and the State shall acquire no right, title or interest in or to such Grantee Materials EXCEPT the Grantee grants to the State an unlimited, non-exclusive, non-transferable license to use, copy, and distribute internally, solely for the State's internal purposes, any Grantee Materials reasonably necessary for the State to exercise its rights in any Work Product provided under the Grant Contract.

The Grantee shall furnish such information and data as the State may request, including but not limited to, computer code that is applicable, essential, fundamental, or intrinsic to any Work Product and Grantee Materials reasonably necessary for the State to exercise its rights in any Work Product, in accordance with this Grant Contract and applicable state law.

Nothing in this Grant Contract shall prohibit the Grantee's use for any purposes of the Grantee Materials, the data, results and other information resulting from the Scope of Services, as well as any general knowledge, skills, experience, ideas, concepts, know-how, and techniques created, obtained or used during the course of providing the services requested under this Grant Contract. Additionally, the State agrees that it is the intent of the parties that Grantee and its research personnel (including without limitation, students) publish their work conducted pursuant to this Grant Contract. Therefore, the State agrees that Grantee and its research personnel (including without limitation, students) shall be free to publish the results and data generated or otherwise arising from the conduct of the Scope of Services contained in Section A above and that such research personnel shall hold all right, title and interest (including without limitation, copyright) in any manuscripts created by such research personnel for purposes of publication in scholarly journals.

Nothing in the Grant Contract shall prohibit the Grantee from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Grant Contract.

The State and Grantee are subject to the provisions of 37 CFR Part 401 governing patents and inventions, and the standard patent rights clause at 37 CFR Part 401.14 is hereby incorporated into this Grant Contract by reference. In addition, the Grantee will retain all rights provided for the State in this clause, and the State will not, as part of the consideration for making the award and entering into this Grant Contract, obtain rights in the Grantee's subject inventions. The State and the Federal Highway Administration (FHWA) shall have a royalty-free, non-exclusive, and irrevocable right to unlimited use of any and all aforesaid material developed or created as a result of the work or services specified in this Grant Contract. The State's or FHWA's use may be for commercial or non-commercial purposes and shall be free from any and all claims for royalties or other compensation that might otherwise be asserted by the Grantee.

E.#. FTA Compliance. All applicable terms of FTA Master Agreement, dated [insert date] are incorporated herein by reference.

E.#. T.C.A. Section 13-10-107 Compliance.

- 1) Grantee agrees to proceed expeditiously with and complete the project in accordance with plans approved by the Commissioner of TDOT ("Commissioner");

- 2) Grantee agrees to commence and continue operation of the project on completion of the project and not to discontinue operations or dispose of all or part of the project without Commissioner's prior written approval;
- 3) Grantee agrees to apply for and make reasonable efforts to secure federal assistance for the project, subject to any conditions the Commissioner may require in order to maximize the amounts of such assistance received or to be received for all projects in the State; and
- 4) Grantee agrees to provide Grantee's share of the cost of the project and comply with T.C.A. § 13-10-107(c)(4).

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

E.#. Reimbursements to Reflect Match/Share. Reimbursements to Grantee shall reflect the percentage of Grantee Match/Share detailed in the Grant Budget. Reimbursements are subject to the other provisions of this Grant Contract, including but not limited to, the maximum liability amount in Section C.1.

E.#. The Grantee agrees:

- (a) To use the equipment acquired under this Grant only for the purposes and the manner set forth in their application.
- (b) At the beginning of each calendar year, the Grantee shall certify that the equipment received under this Grant is still being used in accordance with the terms and provisions of this agreement.
- (c) To pay all fees on the equipment acquired through this Grant, including but not limited to, title and registration fees.
- (d) To be responsible for all costs and expenses related to the operation, maintenance, and repair of the equipment acquired through this Grant Agreement.
- (e) To provide licensed drivers, as required by the Tennessee Department of Safety, for operation of all equipment received under this Grant.
- (f) To provide insurance of all vehicles acquired under this Grant for the following minimum amounts:
 1. Personal Injury Liability – minimum of \$300,000.00 per person and \$1,000,000.00 per incident.
 2. Property Damage Liability – minimum of \$300,000.00 per incident.
 3. Comprehensive – maximum deductible of \$500.00.
 4. Collision – maximum deductible of \$500.00.
 5. Uninsured Motorist – minimum of \$50,000.00 per person and \$100,000.00 per incident.

This insurance shall be in effect at all times while the vehicle is used for public transportation services or service vehicle purposes in operations. The Grantee shall furnish the State with evidence of such insurance at the time the equipment is delivered to the Grantee and annually on the anniversary date of the delivery of the equipment. Upon demand by the State, the Grantee shall provide proof of insurance at any time during the term of useful life of equipment.

- (g) That any vehicles received under this Grant will comply with the Motor Vehicle Safety Standards as established by the United States Department of Transportation.

(h) That any vehicles received under this Grant shall be used for not less than the useful life. The useful life of all vehicles purchased under the grant is as listed in the grant document filed with the Federal Transit Administration (FTA). Upon reaching the expiration of the useful life of the equipment, the state may ask the Grantee to provide written notice to the State.

- E.#.** Possession of Vehicle Titles. While the Grantee shall take legal title to all vehicles purchased under the contract, the State shall hold possession of all titles. Upon issuance of the title to the Grantee, the Grantee shall turn over possession of the title to the State. The State shall maintain physical possession of the title until the State approves the Grantee to initiate the disposal process for the vehicle.
- E.#.** Vehicle Disposal Process. The Grantee shall adhere to disposal process as described in the State Management Plan for FTA Programs of the Tennessee Department of Transportation on file with the Federal Transit Administration (FTA)
- E.#.** Vehicle Disposal Proceeds. All proceeds from the disposal of the vehicle as described in the vehicle disposal process shall be accounted for and used for transportation program activity expenses.
- E.#.** Human Service Contract Proceeds. All funds generated from Human Service Contracts using state or FTA funded vehicles or supported by state or federal operating funds shall be accounted for and used for transportation program activity expenses.
- E.#.** Funding for Special Transportation Services (STS). The funds provided in this grant shall be utilized as described in Section A. Scope of Service and shall apply only to the Special Transportation Services in Chattanooga, Hamilton County, Tennessee.
- E.#.** Funding for Morristown. The funds provided in this grant shall be utilized as described in Section A. Scope of Service and shall apply only to Morristown/Lakeway Metropolitan Transportation Planning Organization in Morristown, Jefferson County, White Pine, Hamblen, and Jefferson County, Tennessee.
- E.#.** Funding for Cleveland. The funds provided in this grant shall be utilized as described in Section A. Scope of Service and shall apply only to the Cleveland Urban Area Transit System in Cleveland, Bradley County, Tennessee.
- E.#.** Funding for Department of Regional Services. The funds provided in this grant shall be utilized as described in Section A. Scope of Service and shall apply only to the Department of Regional Services in Shelby County, Tennessee.
- E.#.** Grantee Match. Upon execution of this grant contract, the Grantee will be required to deposit its share of the estimated total project cost to the State.

Additional deposits will be required if actual costs exceed the estimated costs. Any excess in the amount deposited above actual costs will be refunded.

If the cost of this project increases by more than fifteen percent (15%) of the estimated grant contract amount during the progress of the work, the parties agree to enter into a supplemental agreement setting out the respective financial obligations of the State, Grantee, and the Federal Airport Improvement Program.

- E.#.** Participation in Real Property Acquisition. The State and/or Federal participation in the acquisition of real property is outlined in Attachment #, attached and incorporated herein to this Grant Contract.
- E.#.** Airport Assurances from Sale or Disposal of Land, Properties, Structures or Materials Related to Airport. The airport owner shall not sell or otherwise dispose of the property identified herein without the express prior written consent of the State, which consent will not be unreasonably withheld. In the event that the State grants permission to sell or otherwise dispose of all or a portion of the forgoing property in perpetuity, the airport owner shall be liable to pay the State a portion of the proceeds at fair market value as determined herein, resulting from the agreed upon sale price or fair market value. The funds collected from the sale of the property or fair market

value will be divided in the same proportion as defined in this Grant Contract with said State funds reinvested into airport property in accordance with State funding policies and procedures.

Nothing herein shall prohibit the parties hereto from agreeing to the reinvestment of said proportion of the proceeds or fair market value for rehabilitation or improvements in any remaining airport properties or structures or at a new airport site.

All properties purchased with assistance of this Grant must include in the property deed a clause that states that "**This property was purchased with the assistance of State and/or Federal funds, and may not be sold or otherwise disposed of without all agencies express written consent.**"

- E.#. Airport Operations. For all grants that total fifty thousand dollars (\$50,000.00) or more, as consideration for receiving this Grant from the State, the Grantee agrees to operate and maintain the Airport for a period of twenty (20) years from the effective date of this Grant Contract.
- E.#. Compliance with FAA Regulations. For all grants involving federal funds, the Grantee agrees to accomplish the project in compliance with the terms and conditions contained in the U. S. Department of Transportation Federal Aviation Administration *Terms and Conditions of Accepting Airport Improvement Program Grants* hereby incorporated into this document by reference. Said document is on file in the Tennessee Department of Transportation, Aeronautics Division Office. These assurances can also be located on the FAA Website at www.faa.gov/airports/aip/grant_assurances
- E.#. No Retainage Allowed. The Grantee may not withhold retainage on progress payments from the prime contractor and the prime contractor may not withhold retainage from their subcontractors.
- E.#. Printing Authorization. The Grantee agrees that no printing/publication shall be printed pursuant to this Grant Agreement without the prior authorization of the State even if printing costs are included in the budget line items, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement. The Grantee and its employees may publish the results of the research in whole or in part as they deem appropriate without authorization by the State if it is at no cost to the Grantor State Agency.
- E.#. Grantor State Agency 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 Grantor State Agency for the Grantee's temporary use under this Grant Agreement. Upon termination of this Grant Agreement, all property furnished shall be returned to the Grantor State Agency 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 Grantor State Agency for the residual value of the property at the time of loss.
- E.#. Travel Requirements. Travel must be project related and ALL conference and/or out-of-state travel must be preapproved by the Grantor State Agency even if included in the budget line items, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.
- The Grantee, upon request, must include (in addition to other invoice requirements of this Grant Agreement) a complete itemization of travel compensation requested in accordance with and attaching to the invoice appropriate documentation and receipts as required by the above-referenced "State Comprehensive Travel Regulations."
- E.#. Additional Compensation Terms. The Grantee is not entitled to be paid the maximum liability for any period under the Grant Agreement or any extensions of the Grant Agreement for work not requested by the Grantor State Agency. The maximum liability represents available funds for payment to the Grantee and does not guarantee payment of any such funds to the Grantee under this Grant Agreement unless the Grantor State Agency requests work and the Grantee performs said work. In which case, the Grantee shall be paid in accordance with the payment rates detailed in section C.3. The Grantor State Agency is under no obligation to request work from the Grantee in any specific dollar amounts or to request any work at all from the Grantee during any period of this Grant Agreement.

The payment rate in Section C.3 shall constitute the entire compensation due the Grantee for associated deliverables, as outlined in Section A.2, and all of the Grantee's obligations hereunder regardless of the difficulty, materials or equipment required. 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.

- E.#. Competitive Procurements.** Should this Grant Agreement provide for the reimbursement of the cost of goods, materials, supplies, equipment, or contracted services; such procurements shall be made on a competitive basis, where practicable. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Agreement. In each instance where it is determined that use of a competitive procurement method was not practical, said documentation shall include a written justification for such decision and non-competitive procurement.

SIGNATURES

By signature, the Grantor State Agency head or authorized designee shall assure and affirm that:

- 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;
- the Grantor State Agency maintains documentation of a fair and impartial Grantee selection in full compliance with the approved procurement methodology as indicated by the summary cover sheet; and
- the proposed scope of services 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.

FEDERAL AWARD IDENTIFICATION

If the Grantee is a subrecipient and the Grant Contract involves any federal funds, complete the Federal Award Identification worksheet. Reference the worksheet in Section A and include 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. 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.

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," "grant 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 periods of applicability. If a grant budget attachment does include multiple pages respectively applicable to 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 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.

GRANT (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	CFDA #
<input type="checkbox"/> Subrecipient <input type="checkbox"/> Contractor	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.

<p>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.</p>	<p><i>CPO USE - GR</i></p>
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Speed Chart (optional)	Account Code (optional)
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**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, properly completed documentation.
- a. The Grantee shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Grantee acknowledges and agrees that, once this form is received by the State, all

payments to the Grantee under this or any other grant contract will be made by automated clearing house ("ACH").

- b. The Grantee shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Grantee's Federal Employer Identification Number or Social Security Number referenced in the Grantee's Edison registration information.

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 fa.audit@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. For purposes of this Section, pass-through entity means a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program.
- The Grantee shall provide audited financial statements to the Tennessee Comptroller of the Treasury ("Comptroller") if during the Grantee's fiscal year, the Grantee: (1) expends seven hundred fifty thousand dollars (\$750,000) or more in direct and indirect federal financial assistance and the State is a pass-through entity; (2) expends seven hundred fifty thousand dollars (\$750,000) or more in state funds from the State; or (3) expends seven hundred fifty thousand dollars (\$750,000) or more in federal financial assistance and state funds from the State, and the State is a pass-through entity. At least ninety (90) days before the end of its fiscal year, the Grantee shall complete Attachment [reference the Notice of Audit Report document] to notify the State whether or not Grantee is subject to an audit. The Grantee should submit only one, completed document during the Grantee's fiscal year. Any Grantee that is subject to an audit and so indicates on Attachment [reference the Notice of Audit Report document] shall complete Attachment [reference the Parent Child Information document]. If the Grantee is subject to an audit, Grantee shall obtain the Comptroller's approval before engaging a licensed, independent public accountant to perform the audit. The Grantee may contact the Comptroller for assistance identifying auditors.
- All audits shall be performed in accordance with the Comptroller's requirements, as posted on its web site. When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.
- A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.
- The audit contract between the Grantee and the Auditor shall be on a contract form prescribed by the Comptroller. The Grantee shall be responsible for payment of fees for an audit prepared by a licensed, independent public accountant. Payment of the audit fees by the Grantee shall be subject to the provision relating to such fees contained within this Grant Contract. The Grantee shall be responsible for reimbursing the Comptroller for any costs of an audit prepared by the Comptroller.
- 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 comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements 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

PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)

GRANTOR STATE AGENCY NAME:

NAME & TITLE

DATE

ATTACHMENT REFERENCE

GRANT BUDGET				
Additional Identification Information As Necessary				
The grant budget line-item amounts below shall be applicable only to expense 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 PARTICIPATION	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
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.

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

ATTACHMENT REFERENCE**Notice of Audit Report**

Check one of the two boxes below and complete the remainder of this document as instructed. Send completed documents as a PDF file to cpo.auditnotice@tn.gov. **The Grantee should submit only one, completed "Notice of Audit Report" document to the State ninety (90) days prior to the Grantee's fiscal year.**

- Grantee Legal Entity Name** is subject to an audit for fiscal year #.
- Grantee Legal Entity Name** is not subject to an audit for fiscal year #.

Grantee's Edison Vendor ID Number:

Grantee's fiscal year end:

Any Grantee that is subject to an audit must complete the information below.

Type of funds expended	Estimated amount of funds expended by end of Grantee's fiscal year
Federal pass-through funds	
a. Funds passed through the State of Tennessee	a.
b. Funds passed through any other entity	b.
Funds received directly from the federal government	
Non-federal funds received directly from the State of Tennessee	

Auditor's name:

Auditor's address:

Auditor's phone number:

Auditor's email:

ATTACHMENT REFERENCE**Parent Child Information**

Send completed documents as a PDF file to cpo.auditnotice@tn.gov. *The Grantee should submit only one, completed "Parent Child Information" document to the State during the Grantee's fiscal year if the Grantee indicates it is subject to an audit on the "Notice of Audit Report" document.*

"Parent" means an entity whose IRS filing contains the information of at least one other entity.

"Child" means an entity whose information is contained in another entity's IRS filing.

Grantee's Edison Vendor ID number:

Is **Grantee Legal Entity Name** a parent? Yes No

If yes, provide the name and Edison Vendor ID number, if applicable, of any child entities.

Is **Grantee Legal Entity Name** a child? Yes No

If yes, complete the fields below.

Parent entity's name: _____

Parent entity's tax identification number: _____

Note: If the parent entity's tax identification number is a social security number, this form must be submitted via US mail to:

Central Procurement Office, Grants Program Manager
3rd Floor, WRS Tennessee Tower
312 Rosa L Parks Avenue
Nashville, TN 37243

Parent entity's contact information

Name of primary contact person: _____

Address: _____

Phone number: _____

Email address: _____

Parent entity's Edison Vendor ID number, if applicable: _____

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.

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.

When the Grant Contract is required to be obligated by a certain date because of a federal award, the Grantor State Agency is exempt from this requirement if the Grantor State Agency obtains a rule exception request. The rule exception request must include supporting documentation for the Grant Contract's effective date, which may include a hyperlink to federal award information.

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.

Option 4:

The Department of Health may add the following Section as appropriate:

- C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may move up to one percent (1%) of a line-item amount to another line item category provided that any increase is off-set by an equal reduction of other line-item amount(s) and the total Grant Contract amount detailed by the Grant Budget does not increase. An increase of any line item funded at zero dollars (\$0.00) shall require prior approval of the Grantor State Agency.

Option 5:

The Department of Transportation may add the following Section as appropriate:

- C.6. Budget Line-item. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may request revisions of Grant Budget line-items by letter, giving full details supporting such request, provided that such revisions do not increase total Grant Budget 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 explicitly set forth. Any increase in the total Grant Budget amount shall require a Grant Contract amendment.

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.

Termination for Cause

The Department of Environment and Conservation may add the following Section as appropriate:

- D.4. Termination for Cause. If the Grantee fails to properly perform its obligations under the Grant Contract in a timely or proper manner, or if the Grantee violates any term(s) of this Grant Contract, the State shall have the right to immediately terminate the Grant Contract and withhold payment in excess of fair compensation for completed services. Notwithstanding the above, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Grant Contract by the Grantee. Specifically, the Grantee shall be liable to the State for the full amount paid by the State to the Grantee under this Grant Contract if the Grantee fails to fully meet the requirements of the Scope of Services.

Nondiscrimination

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

- D.10. **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. The Department of Transportation Division of Multimodal Resources, Department of Human Services, and Department of Environment and Conservation may use the following section as needed.

- D.26. **Reserved.**

Charges to Service Recipients Prohibited

The Department of Health may use the following term as applicable:

- 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, with the exception of:
- (a) patient liability amounts (including copay, coinsurance, and deductibles) established by insurance plans and assigned to the patient,
 - (b) charges based on patients' income and family size, and
 - (c) other fees as established by the State.

The Grantee shall be allowed to bill the patient's insurance, including governmental insurers such as TennCare, where appropriate. The parties shall comply with all applicable governmental and insurance plan reimbursement rules, including but not limited to Medicaid/TennCare or Medicare. The parties further agree that benefits provided or received under this Grant Contract are not contingent on referrals nor are they paid under arrangement to provide healthcare services reimbursed by Medicare or Medicaid/TennCare.

Charges to Service Recipients Prohibited

The Department of Health may use the following term as applicable:

- 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, with the exception of co-pays paid by the recipient and reimbursement from the recipient's third party insurance provider. The Grantee shall be allowed to bill the recipients' insurance, including governmental insurers such as TennCare, where appropriate. The parties shall comply with all TennCare reimbursement rules. The parties further agree that benefits

provided or received under this Grant Contract are not contingent on referrals nor are they paid under arrangement to provide healthcare services reimbursed by Medicare or Medicaid/TennCare. This grant award plus the co-pays paid by the recipients and payment from the recipients' third party insurance provided received by the Grantee shall not exceed the Grantee's total program cost.

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.

Federal Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency and Accountability Act

Add the following section only if the Grantee will have access to personally identifiable student information or student information that is confidential pursuant to federal or state law.

- E. #. Federal Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency and Accountability Act. The Grantee shall comply with the Federal Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232(g)) and its accompanying regulations (34 C.F.R. § 99) ("FERPA"). The Grantee warrants that the Grantee is familiar with FERPA requirements and that it will comply with these requirements in the performance of its duties under this Grant Contract. The Grantee agrees to cooperate with the State, as required by FERPA, in the performance of its duties under this Grant Contract. The Grantee agrees to maintain the confidentiality of all education records and student information. The Grantee shall only use such records and information for the exclusive purpose of performing its duties under this Grant Contract.

The Grantee shall also comply with Tenn. Code Ann. § 49-1-701, *et seq.*, known as the "Data Accessibility, Transparency and Accountability Act," and any accompanying administrative rules or regulations (collectively "DATAA"). The Grantee agrees to maintain the confidentiality of all records containing student and de-identified data, as this term is defined in DATAA, in any databases, to which the State has granted the Grantee access, and to only use such data for the exclusive purpose of performing its duties under this Grant Contract.

Any instances of unauthorized disclosure of data containing personally identifiable information in violation of FERPA or DATAA that come to the attention of the Grantee shall be reported to the State within twenty-four (24) hours. Grantee shall indemnify and hold harmless State, its employees, agents and representatives, from and against any and all claims, liabilities, losses, or causes of action that may arise, accrue, or result to any person or entity that is injured or damaged as a result of Grantee's failure to comply with this section.

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.

HIPAA Compliance

Grantees: The Grantee must execute a business associate agreement ("BAA") if: (a) the Grantor State Agency is a "covered entity" as defined by the Privacy Rules; and (b) the Grantee will provide services that involve Grantee's access to protected health information ("PHI") as defined by the Privacy Rules.

Subcontractors: The Grantee must execute a BAA with a subcontractor if the subcontractor creates, receives, maintains, or transmits PHI on behalf of the Grantee.

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 Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims 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 Contractor shall satisfy and indemnify the State for the amount of any settlement or final judgment, and the Contractor 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 Contractor notice of any such claim or suit, however, the failure of the State to give such notice shall only relieve Contractor of its obligations under this Section to the extent Contractor can demonstrate actual prejudice arising from the State's failure to give notice. This Section shall not grant the Contractor, 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.

Tennessee Department of Children Services

The Department of Children of Services may add the following Section(s) as appropriate:

- E. #.** Supplemental Conflict of Interest. The Grantee shall not have as any owner, member of the board of directors, or member of the board of trustees, a person who also holds any other position that may influence the placements provided to children in the plaintiff class of Brian A. v. Haslam. Such positions include, but are not limited to juvenile court judges, referees, or other court officers involved in the individual cases of children in foster care.
- E. #.** Title VI of the Civil Rights Act of 1964. The Grantee shall develop and deliver to the State on or before July 31st of each fiscal year an implementation plan that describes the Grantee's long-range goals and objectives that will guide the Grantee's efforts to ensure compliance with Title VI of the Civil Rights Act of 1964 pursuant to the guidelines established by the Tennessee Title VI Compliance Commission. Title VI plans must be submitted no later than July 31st of each year to: Tennessee Department of children's Services, Director of the Division of Diversity Initiatives, Division for Diversity Initiatives.
- E. #.** Supplemental Subcontracting. In accordance with the Brian A. Settlement Agreement (specifically, the Racial Disparities Study conducted by Dr. Ruth McRoy) the State is actively working toward decreasing the racial disparity between service providers and target service populations. To help correct this disparity, the State strongly recommends, in situations where subcontracts are necessary, that the Grantee subcontract for services with minority owned or operated subcontractors that can assist the Grantee in meeting the needs of the children and families that are served. The State requires the Grantee to support the State's commitment to achieving diversity and developing programs that reflect the diversity of the population served.
- E. #.** Monitoring Sub-Contractors. The Grantee shall develop written procedures for monitoring all of its State-approved subcontractors. The procedures must clearly outline the process for assuring that all subcontractors are in compliance with the DCS and Provider Policy Manuals and the subcontracting guidelines detailed at the following web site: http://www.state.tn.us/youth/providers/prov_policies.htm

The Grantee shall have an established quality assurance/quality improvement plan for all subcontractors.

The Grantee shall also maintain an internal quality improvement process that assesses the overall quality and performance of its subcontractors.

- E. #. Working Capital. The Grantee must have a minimum of sixty (60) days working capital in the event payment to the Grantee is interrupted by an emergency or for reasons beyond the Grantee's control to ensure continuity of operations. Working capital must be documented by a review of the Grantee's balance sheet and income statement. Working capital is defined as current assets minus current liabilities. Current assets may include marketable securities as long as they have not been legally pledged against a long term equity interest. Credit lines are not working capital.

Working capital requirements shall be met at the time of initial contracting and maintained during subsequent contracting periods. In the event working capital declines below the sixty (60) day requirement, the Grantee shall be placed on probation and the Contract will be subject to cancellation at the discretion of the State.

- E. #. Financial Statements. The Grantee shall submit to the State independently audited financial statements containing an auditor's report reflecting the auditor's opinion that the statements are presented fairly and found to be in conformity with generally accepted accounting principles. The independent audit must have been performed by a certified public accounting firm in good standing with the American Institute of Certified Public Accountants (AICPA). The financial statements must be complete, and include all statements and notes to the statements as contained within the audit report. The financial statements and audit report shall be submitted within nine (9) months of the Grantee's reporting period to: Department of Children's Services, Finance & Budget Division. Division

The financial statements must represent the Contracting entity. Where the financial statements are for a parent company of the entity providing the service, the Contract must be in the name of the parent company and signed by an authorized representative of the parent company. The entity providing the service may be identified within the Contract as the service provider; however, financial responsibility will belong to the parent company.

- E. #. Grantee Gatekeeper Contact. The Grantee shall provide information to the Child Placement & Private Provider's Division (CPPP) relative to the Grantee's gatekeeper or representative empowered to make placement decisions on behalf of the Grantee to allow access to placement 24 hours a day seven days a week to the State. The information to be provided is as follows: gatekeeper/representative name(s); title; direct telephone number(s), cell phone number and/or pager number(s).

- E. #. Performance Standards. The Grantee hereby acknowledges and agrees that its performance under this Grant Contract shall meet the standards set forth in Section A of this Grant Contract, the DCS Provider Policy Manual (PPM), DCS Policy, the Brian A. Settlement Agreement, and the conditions set forth in this Contract. If the Grantee fails to meet these standards, the State, at its exclusive option, may allow up to six (6) months for the provider to achieve compliance with the standards. If performance deficiencies are not resolved to the satisfaction of the State within the prescribed time, and if no extenuating circumstances can be documented by the Grantee to the State's satisfaction, the State may cancel the Grant Contract at the State's discretion.

- E. #. Notification of Closure. The Grantee shall notify the State of the closure of its agency or facility no less than thirty (30) days prior to the actual date of closure. Failure to provide the State thirty (30) days written notice of the Grantee's intent to close its operations or any part of its operation shall be considered a breach of this Contract.

- E. #. Closure Transition. Within thirty (30) days from the closure notification date, the Grantee shall work with the State to transition all custodial youth placed with the Grantee, shall reconcile all records, transfer case files to DCS, and complete the Contract transition.
- E. #. State Ownership of Case Files. The State shall have ownership, right, title, and interest in all case files created, designed, developed, derived, documented, installed, or maintained on behalf of the State pursuant to this Contract. The State shall have unlimited rights to all said case files. The Grantee shall furnish such information and data upon the request of the State, in accordance with this Contract and applicable State law.
- E. #. Permanent Education Records. The Grantee shall maintain educational records permanently. These records shall be cut off at discharge or graduation. If the Grantee's school ceases operation, or the State ceases to contract with the Grantee, the permanent educational records for students who have been in State custody shall be forwarded to the State by the Grantee. The Grantee shall bear all costs for the transfer of all records.

Both paper and electronic media shall be included. Records include, but are not limited to: institution academic transcripts, grade reports, records of grade changes, copies of GED Certificates or State issued diplomas/certificates of any kind, standardized examination reports, birth records, grade point average (GPA), class rank, letters of recommendation and related documentation and correspondence.

Records from closed Grantee schools shall be forwarded at least five (5) business days prior to closure to: DCS Records Management, Records Officer.

- E. #. Mergers, Dissolutions, Partnerships & Joint Ventures. As would be the case with any agency dissolution, merger, or acquisition, the agency and the State have financial responsibilities requiring resolution. The Grantee is required to provide ninety (90) days notification prior to any dissolution, merger, or acquisition.

In the event an agency is dissolved, the State maintains rights to assets (representing accounts payable/reinvestment due to the State) as may be distributed voluntarily or by court action. Additionally, the State acknowledges its responsibility for its liabilities (representing accounts payable/reinvestment due to the Grantee).

In the event an agency is merged or acquired by another agency/entity then the due to/from financial responsibilities shall be commensurate with the Articles to the Merger or Acquisition.

- E. #. Ownership of Software. Pursuant to 45 C.F.R. § 95.617(a), the State shall have all ownership rights to all software, modifications and associated documentation thereof prepared by the Grantee in connection with the performance of the services under this Grant Contract. The Grantee waives any authorship rights and similar retained interests in the software, modifications, and associated documentation prepared in connection with the performance of the services under this Grant Contract.

Pursuant to 45 C.F.R. § 95.617(b), the federal government reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for federal government purposes, such software, modifications, and associated documentation prepared by the Grantee in connection with the performance of the services under this federal financial participation contract.

- E. #. Not a DCS Employee. The Grantee shall inform the client in writing that the Grantee is a private provider and not an employee of the State.
- E. #. Violation of Security and Facility Policies. Violation of security and facility policies or practices, or possession of contraband items will result in the Grantee being immediately escorted from campus and arrested/criminally prosecuted as warranted.

- E. #. Employee Background Checks. Prior to the provision of any services, all personnel that have direct contact with children shall comply with DCS Policy 4.1. Employee Background checks.
- E. #. Criminal Background Check. Prior to the provision of any services for this Grant Contract, all Grantee personnel performing work under this Grant Contract shall provide fingerprint samples to effect a criminal history records check conducted by the Tennessee Bureau of Investigation. Fingerprints may only be submitted at DCS approved sites where they can be processed electronically. The Grantee shall be responsible for the payment of all fee(s) for Grantee personnel providing their fingerprint samples and submitting to a criminal history review.
- E. #. Prison Rape Elimination Act (PREA). The Grantee shall comply with the Prison Rape Elimination Act of 2003 (42 U.S.C. § 15601 *et seq.*), and with all applicable PREA standards and DCS policies related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse in facilities owned, operated or subcontracted by the Grantee. Grantee acknowledges that, in addition to self-monitoring requirements, DCS will conduct announced and unannounced on-site compliance monitoring. Failure to comply with PREA, PREA Standards, or relevant DCS policies may result in termination of the contract.
- E. #. Title VI of the Civil Rights Act of 1964. The Grantee shall adhere to the requirements of Title VI of the Civil Rights Act of 1964, as codified in 42 U.S.C. 2000d, which states that "No person in the United States shall, on the ground of race, color or national origin be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance." The Grantee shall have in place or available a process to assist qualified persons of the provided service who may be limited in their English proficiency (LEP).

The Grantee shall deliver to the State on or before July 31st of each fiscal year an implementation plan that describes the Grantee's long-range goals and objectives that will guide the Grantee's efforts to ensure compliance with Title VI of the Civil Rights Act of 1964 pursuant to the guidelines established by the Tennessee Human Rights Commission's Title VI Compliance Program. Title VI plans must be submitted no later than July 31st of each year to the Tennessee Department of Children's Services, Division of Diversity Initiatives.

- E. #. Evidence-Based Programs. Pursuant to Tenn. Code Ann. § 37-5-121, the Department of Children's Services is prohibited from expending state funds on any juvenile justice program or program related to the prevention, treatment or care of delinquent juveniles, including any service model or delivery system in any form or by any name, unless the program is evidence-based. "Evidence-based" means a program or practice that is governed by a program manual or protocol that specifies the nature, quality, and amount of service that constitutes the program; and scientific research using methods that meet high scientific standards for evaluating the effects of such programs must have demonstrated with two (2) or more separate client samples that the program improves client outcomes central to the purpose of the program.

The Grantee and any of the Grantee's subcontractors shall cooperate with the State in evaluating whether its services are evidence-based or otherwise, and will provide program and service details, efficacy data and any information required or requested by the State, consistent with State and federal law regarding confidentiality, for the purpose of complying with this statute for monitoring and quality control. The Grantee further acknowledges and understands that the intent of the law is to discontinue programs and services that are not supported by the evidence of impartial scientific investigation as outlined by statute, rules and regulations which have been, or may be, promulgated by the Department of Children's Services. By affixing its signature below, the Grantee understands and agrees that the Department of Children's Services is compelled by law to terminate this Grant instrument if services with any Grantee or the Grantee's subcontractor(s) are not proven to be evidence-based and if continuation of this Grant shall cause the Department of Children's Services not to be in compliance with such statute within the timetable set forth in Tenn. Code Ann. § 37-5-121.

- 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 shall be regarded as confidential information in accordance with the provisions of applicable State and federal law, State and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Grantee to safeguard the confidentiality of such material or information in conformance with applicable State and federal law, State and federal rules and regulations, departmental policy, and ethical standards.

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

The State acknowledges that the Grantee may use data generated through work under this Contract for educational, patient care, and research purposes, including academic publication. All such research activities shall preserve the confidentiality of DCS client and family records at each level of research and data usage. All privacy preservation safeguard procedures must be approved by the Grantee's Institutional Review Board (IRB) and the DCS Research Committee, which provide separate Grantee and State oversight for research activities using de-identified and/or limited data sets that do not maintain links to identifying information about individual children. These data sets will be used to conduct statistical analyses on the cross sectional and longitudinal assessment of the mental health needs, strengths, service utilizations and outcomes of children in state custody.

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

Tennessee Department of Health

The Tennessee Department of Health may add the following Section(s) as appropriate:

- E. #. Healthy Eating Requirements. Grant recipients who purchase or serve snacks or meals in conjunction with their performance under this Grant Contract shall provide only healthy foods. No high sugar beverage shall be served at any time. Fruits and vegetables shall be given preference in menu selections.
- E. #. CFDA Number(s) When applicable, the Grantee shall inform its licensed independent public accountant of the federal regulations that are to be complied within the performance of an audit. This information shall consist of the following Catalog of Federal Domestic Assistance Numbers: (Specific CFDA# is given and it's name)
- E. #. Health Care Data. Grantee shall provide data reports about health care services provided under this Grant using the Department of Health's Patient Tracking and Billing Management Information System (or its successor). Data regarding health care services provided by the Grantee shall be coded and entered into the Patient Tracking and Billing Management Information System (PTBMIS), using the PTBMIS Codes Manual. The PTBMIS Codes manual is available electronically at <http://hsaintranet.health.tn.gov/> and e-mail notices shall be sent to the Grantee

regarding new revisions and/or updates, which can be accessed through the above-referenced website.

On a schedule defined by the State, the Grantee shall submit Central Office Database Report (CODB) files, as defined in PTBMIS, electronically to the State. The Grantee shall also submit other health care data reports, as requested by the State, and in a format acceptable to the State.

- E. #. Security Audit. The State may conduct audits of Grantee's compliance with the State's Enterprise Information Security Policy ("The Policy") or under this Grant Contract, including those obligations imposed by Federal or State law, regulation or policy. The Policy, as may be periodically revised, can be located at the following link: <http://www.tn.gov/finance/oir/security/secpolicy.html>. The State's right to conduct security audits is independent of any other audit or monitoring required by this Grant Contract. The timing and frequency of such audits shall be at the State's discretion and may, but not necessarily shall, be in response to a security incident.
- a. A security audit may include the following: (i) review of access logs, screen shots and other paper or electronic documentation relating to Grantee's compliance with the Policy. This may include review of documentation relevant to subcontractors or suppliers of security equipment and services used with respect to State data; (ii) physical inspection of controls such as door locks, file storage, communications systems, and employee identification procedures; and (iii) interviews of responsible technical and management personnel regarding security procedures.
- b. Grantee shall provide reports or additional information upon request of the state and access by the State or the State's designated staff to Grantee's facilities and/or any location involved with providing services to the State or involved with processing or storing State data, and Grantee shall cooperate with State staff and audit requests submitted under this Section. Any confidential information of either party accessed or disclosed during the course of the security audit shall be treated as set forth under this Grant Contract or federal or state law or regulations. Each party shall bear its own expenses incurred in the course of conducting this security audit. Grantee shall at its own expense promptly rectify any non-compliance with the Policy or other requirements identified by this security audit and provide proof to the State thereof.

Tennessee Department of Human Services

The Department of Human of Services may add the following Section(s) as appropriate:

- E.#. Disaster Recovery/Continuity of Operations Plan. The Grantee acknowledges and represents to the State that it has implemented a disaster recovery/continuity of operations plan that may be executed in the event of a natural disaster or man-made disaster. Said plan shall be made available to the State upon request.
- E. #. Confidentiality of Records. The Grantee agrees that strict standards of confidentiality of records shall be maintained in accordance with State and Federal law and regulations (Reference TCA Sections 71-1-131, 71-3-119, 45-10-101 et seq., 45-10-118, and 50-7-701, 45 Code of Federal Regulations Sections 205.50, 303.21, and 307.13; 26 U.S.C. Section 6103(I); 42 U.S.C. Sections 653, and 1320b-7), and all other applicable State and Federal laws regulations and any and all data-sharing agreements between the Tennessee Department of Human Services and the Federal Government, specifically including, but not limited to, the SDS-BENDEX-SVES for 1137 and/or Child Support Benefit Programs Data Matching Agreement between the Social Security Administration and the Tennessee Department of Human Services.
- (a) All material and information provided to the Grantee by the State or acquired by the Grantee on behalf of the State from any non-public source whether verbal, written, electronic data, magnetic tape, cards or otherwise shall be regarded as confidential information in accordance with the provisions of State and Federal law and ethical standards and shall not be disclosed, except as otherwise permitted by law, regulation or court order, and all necessary steps shall be taken by

the Grantee to safeguard the confidentiality of such material or information in conformance with Federal and State law and ethical standards.

- (b) The Grantee further agrees that any information provided by the State relative to applicants or recipients of public assistance is to be used only for the administration of this Grant Contract or in any investigation, prosecution, or criminal, administrative or civil proceeding conducted pursuant to this Grant Contract. The Grantee agrees to provide safeguards to restrict the use or disclosure of any information concerning such applicants or recipients to purposes stated in this section.
- (c) The safeguards so provided shall also prohibit disclosure to any legislator, legislative or other committee or legislative body, investigator, attorney, or prosecutor of any information which identifies by name or address any such applicant or recipient, except as otherwise permitted by law.
- (d) The Grantee agrees that any Federal or State tax related information will be treated as confidential as set forth in this section, and will be used solely for purposes of administering the child support program, unless otherwise required by law.
- (e) It shall be the Grantee's responsibility to ensure that any destruction of confidential information, as described in this section, will be accomplished in a manner consistent with State policy and Federal regulations pertaining to the destruction of private or confidential data. Confidential information shall be destroyed completely by a method that assures complete obliteration, removal, or destruction to preclude recognition or reconstruction of the confidential information.
- (f) The Grantee's obligations under this section do not apply to information: in the public domain; entering the public domain but not from a breach by the Grantee of this Grant Contract; previously possessed by the Grantee without written obligations to the State to protect it; acquired by the Grantee without written restrictions against disclosure from a third party which, to the Grantee's knowledge, is free to disclose the information; independently developed by the Grantee without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.
- (g) In performance of this Grant Contract, the Grantee agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements regarding Federal Tax Information (FTI):
 - 1) All work will be done under the supervision of the Grantee or the Grantee's employees.
 - 2) Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Grant Contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this Grant Contract. Disclosure to anyone other than an officer or employee of the Grantee is prohibited.
 - 3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
 - 4) The Grantee certifies that the data processed during the performance of this Grant Contract will be completely purged from all data storage components of his or her computer facility; no output will be retained by the Grantee at the time the work is completed. If immediate purging of all data storage components is not possible, the Grantee certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
 - 5) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the State or its designee. When this is not possible, the Grantee will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and

will provide the State or its designee with a statement containing the date of destruction, description of material destroyed, and the method used.

- 6) All computer systems processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the system must have the following minimum requirements: a security policy, accountability, assurance, and documentation. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.
- 7) No work involving Federal tax information furnished under this Grant Contract will be subGrant Contracted without prior written approval from the State.
- 8) The Grantee will maintain a list of employees having authorized access. Such list will be provided to the State upon request and, upon request, to the IRS reviewing office. The State will have the right to void the Grant Contract if the Grantee fails to provide the safeguards described above.
- (h) Criminal /Civil Sanctions: Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as five thousand dollars (\$5,000.00) or imprisonment for as long as five (5) years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than one thousand dollars (\$1,000.00) with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Grant Contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Grant Contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as one thousand dollars (\$1,000.00) or imprisonment for as long as one (1) year, or both, together with the costs of prosecution. Such person shall also notify each officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of one thousand dollars (\$1,000.00) for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431.

Additionally, it is incumbent upon the Grantee to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(l)(1), which is made applicable to Grantees by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a Grantee, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully disclosed the material in

any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than five thousand dollars (\$5,000.00).

- (i) Inspection: The IRS and the State shall have the right to send its officers and employees into the offices and plants of the Grantee for inspection of the facilities and operations provided for the performance of any work under this Grant Contract. On the basis of such inspection, specific measures may be required in cases where the Grantee is found to be non-compliant with Grant Contract safeguards.
- (j) The Grantee agrees, and understands, that access to FTI must be preceded by certification that all personnel of the Grantee and its subgrantees understand security policy and procedures for safeguarding IRS information. Training provided prior to initial certification, and annually thereafter, must include, but not be limited to, Incident Response policy and procedures for reporting unauthorized disclosures and data breaches. Further, the Grantee agrees that all personnel of the Grantee, and all personnel of subgrantees performing services under this Grant Contract for the Grantee, authorized to handle Federal tax related information will sign, annually, an IRS Confidentiality Form, to be provided by the State, with the original signed forms to be maintained by the Grantee, along with a current list of its employees, and those of its subgrantees, performing services under this Grant Contract. These IRS Confidentiality Forms, and the list of Grantee's employees and those of its subgrantees performing services under this Grant Contract, shall be made available to the State and the IRS upon request.
- (k) It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Grant Contract.

Tennessee Department of Mental Health and Substance Abuse Services

The Tennessee Department of Mental Health and Substance Abuse Services may add the following Section(s) as appropriate:

- E.#. Prohibitions on Use of Federal Mental Health Block Grant (MHBG) Funds. Pursuant to federal laws and regulations, the Grantee shall not use any federal Community Mental Health Services Block Grant (now MHBG, formerly CMHS BG) funds made available under this Grant Contract for any of the following purposes:
 - a. to provide inpatient services;
 - b. to make cash payments to intended recipients of health services;
 - c. to purchase or improve land, purchase, construct or permanently improve (other than minor remodeling) any building or other facility, or to purchase major medical equipment;
 - d. to satisfy any requirement for the expenditure of non-federal funds for the receipt of federal funds;
 - e. to provide financial assistance to any entity other than a public or non-profit private entity.
- E.#. Prohibition on Supplantation of Federal Mental Health Block Grant (MHBG) Funds. Pursuant to federal laws and regulations, the Grantee shall not use any funds paid or services rendered under the federal Community Mental Health Services Block Grant (now MHBG, formerly CMHS BG) to supplant any other funds available for the services provided under this Grant Contract.
- E.#. Prohibitions on Use of Federal Substance Abuse Block Grant (SABG) Funds. Pursuant to federal laws and regulations, the Grantee shall not use any federal Substance Abuse Prevention and Treatment Block Grant (now SABG, formerly SAPT BG) funds made available under this Grant Contract for any of the following purposes:
 - a. to provide inpatient hospital or inpatient community mental health services;
 - b. to make cash payments to intended recipients of health services;
 - c. to purchase or improve land, purchase, construct or permanently improve (other than minor remodeling) any building or facility, or purchase major medical equipment

- d. to satisfy any requirement for the expenditure of non-federal funds for the receipt of federal funds;
- e. to provide financial assistance to any entity other than a public or non-profit private entity;
- f. to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug or distributing bleach for the purpose of cleansing needles for such hypodermic injection;
- g. to carry out any testing for the etiologic agent for acquired immune deficiency syndrome unless such testing is accompanied by the appropriate pre-test counseling and appropriate post-test counseling.

E.#. Prohibition on Supplantation of Federal Substance Abuse Block Grant (SABG) Funds. Pursuant to federal laws and regulations, the Grantee shall not use any funds paid or services rendered under the federal Substance Abuse Prevention and Treatment Block Grant (now SABG, formerly SAPT BG) to supplant any other funds available for the services provided under this Grant Contract.

E.#. Permitted Uses of Federal Projects for Assistance in the Transition from Homelessness Act of 1990 (PATH) Funds. Pursuant to federal laws and regulations, the Grantee may use federal PATH funds made available under this Grant Contract as follows:

- a. In accordance with Public Law 101-645 Section 528(b), funds may be used for housing services including:
 - (1) minor renovation, expansion, and repair;
 - (2) planning of housing;
 - (3) technical assistance in applying for housing assistance;
 - (4) improving the coordination of housing services;
 - (5) security deposits;
 - (6) costs associated with matching eligible homeless individuals with appropriate housing situations;
 - (7) one-time rental payments to prevent eviction.
- b. In accordance with Public Law 101-645 Section 526(a)(6), funds may be used for administrative expenses.

E.#. Prohibitions on Use of Federal Projects for Assistance in the Transition from Homelessness Act of 1990 (PATH) Funds. Pursuant to federal laws and regulations, particularly Public Law 101-645 Section 528(c), the Grantee shall not use any federal PATH funds made available under this Grant Contract for any of the following purposes:

- a. emergency shelter;
- b. construction of housing facilities;
- c. inpatient psychiatric or substance abuse treatment;
- d. cash payments directly to intended recipient of PATH services

E.#. Federal Projects for Assistance in the Transition from Homelessness Act of 1990 (PATH) Funds Shall Supplement, Not Supplant. Pursuant to federal laws and regulations, particularly Public Law 101-645 Sections 523(e)(1), 523(e)(2), and 526(a)(3), the Grantee shall use federal PATH funds made available under this Grant Contract to supplement, not supplant, funds currently utilized to provide existing services to service recipients.

E.#. Rule 2 Compliance. The State and the Grantee shall comply with obligations under Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and its accompanying regulations as codified at 42 C.F.R. §§ 2.1 *et seq.*

- a. The Grantee warrants to the State that it is familiar with the requirements of Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and its accompanying

regulations, 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 Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and its regulations, in the course of performance of the Grant Contract so that both parties will be in compliance with Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records.
- c. The State and the Grantee will sign documents, including but not limited to business associate agreements, as required by Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and that are reasonably necessary to keep the State and the Grantee in compliance with Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records. This provision shall not apply if information received by the State under this Grant Contract is NOT "protected health information" as defined by Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, or if Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records permits the State to receive such information without entering into a business associate agreement or signing another such document.
- d. The Grantee will indemnify the State and hold it harmless for any violation by the Grantee or its subcontractors of Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records. This includes the costs of responding to a breach of protected 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. [not used in GG Grant Contracts]

E.#. Professional Practice. The Grantee shall assure that there is a code of conduct in place and applicable to all employees that covers, at minimum, business practices, clinical practices, and service recipient/staff interaction/fraternization. Further, Grantee's personnel shall conduct their practice in conformity with all applicable statutes, rules and regulations, and recognized ethical standards of their profession. Procedures for reporting violations of the ethical standards shall be developed and communicated to staff upon hire and annually thereafter, which shall include a non-reprisal approach for persons reporting suspected violations, as well as a description of possible sanctions for violating the standards. Failure to implement a code of conduct in accordance with this section and to adequately address suspected violations of the code of conduct may be cause for termination of this Grant Contract.

E.#. Additional Subcontracting Requirements. If subcontracts are approved by the State, they shall contain, in addition to those sections identified in D.5., sections on "Licensure", "Environmental Tobacco Smoke", "Confidentiality of Records", "HIPAA Compliance", and "Rule 2 Compliance" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall be the prime contractor and shall be responsible for all work performed.

Tennessee Military Department

The Tennessee Military Department may add the following Section(s) as appropriate:

- E.#.** Compliance with Title VI of the Civil Rights Act of 1964. The Grantee agrees to comply with the provisions contained in Title IV of 1964 Civil Rights Act (42 U.S.C. 2000d), and any federal regulations specific to the funding of this grant. The Grantee further agrees to complete and return a self-compliance report as provided by the Grantor.
- E.#.** The Grantee agrees to seek recovery of all funds that are expended in alleviating the damages and suffering caused by this major disaster against any party or parties whose negligence or other tortious conduct may have caused or contributed to the damage or hardship for which Federal assistance is provided pursuant to the Presidential declaration of this major disaster.

FEMA will treat such amounts as duplicated benefits available to the Grantee in accordance with 42 U.S.C. § 5155 and 44 CFR 206.

- E. #. Compliance with National Incident Management System (NIMS). The Grantee will be in compliance with NIMS Standards established by the U.S. Department of Homeland Security and the Federal Emergency Management Agency authorized by Homeland Security Presidential Directive 08 (HSPD-08). The Grantee agrees that it has met NIMS compliance standards. The Grantee further agrees to complete within the announced suspense date the NIMS Implementation yearly survey.

Tennessee Department of Transportation

The Department of Transportation may add the following Section(s) as appropriate:

- E. #. Additional Federal Highway Administration Requirements. In addition to the requirements found in other sections of this Grant Contract, the Grantee shall become familiar with, and shall at all times comply with and observe, when appropriate, the provisions of 23 CFR Part 420.121.
- E. #. Work Products. The State shall have ownership, right, title, and interest, including ownership of copyright, in all deliverables described in or developed from Section A. above (the "Work Products") , including but not limited to, documents, computer source code, computer software, methodologies, models, templates, processes, testing assessment tools and scenarios, created, designed, developed, derived, documented, installed, or delivered under this Grant Contract subject to the terms and conditions of this Section and full and final payment for each "Work Product." The State and Federal Highway Administration shall have royalty-free and unlimited rights and license to use, disclose, reproduce, publish, distribute, modify, maintain, or create derivative works from, for any purpose whatsoever, all said Work Products.

To the extent that the Grantee uses any of its pre-existing tools, materials or information in the performance of the Scope of Services described in Section A above of this Grant Contract ("Grantee Materials"), the Grantee shall retain all right, title and interest in and to such Grantee Materials, and the State shall acquire no right, title or interest in or to such Grantee Materials EXCEPT the Grantee grants to the State an unlimited, non-exclusive, non-transferable license to use, copy, and distribute internally, solely for the State's internal purposes, any Grantee Materials reasonably necessary for the State to exercise its rights in any Work Product provided under the Grant Contract.

The Grantee shall furnish such information and data as the State may request, including but not limited to, computer code that is applicable, essential, fundamental, or intrinsic to any Work Product and Grantee Materials reasonably necessary for the State to exercise its rights in any Work Product, in accordance with this Grant Contract and applicable state law.

Nothing in this Grant Contract shall prohibit the Grantee's use for any purposes of the Grantee Materials, the data, results and other information resulting from the Scope of Services, as well as any general knowledge, skills, experience, ideas, concepts, know-how, and techniques created, obtained or used during the course of providing the services requested under this Grant Contract. Additionally, the State agrees that it is the intent of the parties that Grantee and its research personnel (including without limitation, students) publish their work conducted pursuant to this Grant Contract. Therefore, the State agrees that Grantee and its research personnel (including without limitation, students) shall be free to publish the results and data generated or otherwise arising from the conduct of the Scope of Services contained in Section A above and that such research personnel shall hold all right, title and interest (including without limitation, copyright) in any manuscripts created by such research personnel for purposes of publication in scholarly journals.

Nothing in the Grant Contract shall prohibit the Grantee from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Grant Contract.

The State and Grantee are subject to the provisions of 37 CFR Part 401 governing patents and inventions, and the standard patent rights clause at 37 CFR Part 401.14 is hereby incorporated into this Grant Contract by reference. In addition, the Grantee will retain all rights provided for the State in this clause, and the State will not, as part of the consideration for making the award and entering into this Grant Contract, obtain rights in the Grantee's subject inventions. The State and the Federal Highway Administration (FHWA) shall have a royalty-free, non-exclusive, and irrevocable right to unlimited use of any and all aforesaid material developed or created as a result of the work or services specified in this Grant Contract. The State's or FHWA's use may be for commercial or non-commercial purposes and shall be free from any and all claims for royalties or other compensation that might otherwise be asserted by the Grantee.

E.#. FTA Compliance. All applicable terms of FTA Master Agreement, dated [insert date] are incorporated herein by reference.

E.#. T.C.A. Section 13-10-107 Compliance.

- 1) Grantee agrees to proceed expeditiously with and complete the project in accordance with plans approved by the Commissioner of TDOT ("Commissioner");
- 2) Grantee agrees to commence and continue operation of the project on completion of the project and not to discontinue operations or dispose of all or part of the project without Commissioner's prior written approval;
- 3) Grantee agrees to apply for and make reasonable efforts to secure federal assistance for the project, subject to any conditions the Commissioner may require in order to maximize the amounts of such assistance received or to be received for all projects in the State; and
- 4) Grantee agrees to provide Grantee's share of the cost of the project and comply with T.C.A. § 13-10-107(c)(4).

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

E.#. Reimbursements to Reflect Match/Share. Reimbursements to Grantee shall reflect the percentage of Grantee Match/Share detailed in the Grant Budget. Reimbursements are subject to the other provisions of this Grant Contract, including but not limited to, the maximum liability amount in Section C.1.

E.#. The Grantee agrees:

- (a) To use the equipment acquired under this Grant only for the purposes and the manner set forth in their application.
- (b) At the beginning of each calendar year, the Grantee shall certify that the equipment received under this Grant is still being used in accordance with the terms and provisions of this agreement.
- (c) To pay all fees on the equipment acquired through this Grant, including but not limited to, title and registration fees.

- (d) To be responsible for all costs and expenses related to the operation, maintenance, and repair of the equipment acquired through this Grant Agreement.
- (e) To provide licensed drivers, as required by the Tennessee Department of Safety, for operation of all equipment received under this Grant.
- (f) To provide insurance of all vehicles acquired under this Grant for the following minimum amounts:
 1. Personal Injury Liability – minimum of \$300,000.00 per person and \$1,000,000.00 per incident.
 2. Property Damage Liability – minimum of \$300,000.00 per incident.
 3. Comprehensive – maximum deductible of \$500.00.
 4. Collision – maximum deductible of \$500.00.
 5. Uninsured Motorist – minimum of \$50,000.00 per person and \$100,000.00 per incident.

This insurance shall be in effect at all times while the vehicle is used for public transportation services or service vehicle purposes in operations. The Grantee shall furnish the State with evidence of such insurance at the time the equipment is delivered to the Grantee and annually on the anniversary date of the delivery of the equipment. Upon demand by the State, the Grantee shall provide proof of insurance at any time during the term of useful life of equipment.

- (g) That any vehicles received under this Grant will comply with the Motor Vehicle Safety Standards as established by the United States Department of Transportation.
 - (h) That any vehicles received under this Grant shall be used for not less than the useful life. The useful life of all vehicles purchased under the grant is as listed in the grant document filed with the Federal Transit Administration (FTA). Upon reaching the expiration of the useful life of the equipment, the state may ask the Grantee to provide written notice to the State.
- E.#.** Possession of Vehicle Titles. While the Grantee shall take legal title to all vehicles purchased under the contract, the State shall hold possession of all titles. Upon issuance of the title to the Grantee, the Grantee shall turn over possession of the title to the State. The State shall maintain physical possession of the title until the State approves the Grantee to initiate the disposal process for the vehicle.
- E.#.** Vehicle Disposal Process. The Grantee shall adhere to disposal process as described in the State Management Plan for FTA Programs of the Tennessee Department of Transportation on file with the Federal Transit Administration (FTA)
- E.#.** Vehicle Disposal Proceeds. All proceeds from the disposal of the vehicle as described in the vehicle disposal process shall be accounted for and used for transportation program activity expenses.
- E.#.** Human Service Contract Proceeds. All funds generated from Human Service Contracts using state or FTA funded vehicles or supported by state or federal operating funds shall be accounted for and used for transportation program activity expenses.
- E.#.** Funding for Special Transportation Services (STS). The funds provided in this grant shall be utilized as described in Section A. Scope of Service and shall apply only to the Special Transportation Services in Chattanooga, Hamilton County, Tennessee.
- E.#.** Funding for Morristown. The funds provided in this grant shall be utilized as described in Section A. Scope of Service and shall apply only to Morristown/Lakeway Metropolitan Transportation Planning Organization in Morristown, Jefferson County, White Pine, Hamblen, and Jefferson County, Tennessee.

- E.#. Funding for Cleveland. The funds provided in this grant shall be utilized as described in Section A. Scope of Service and shall apply only to the Cleveland Urban Area Transit System in Cleveland, Bradley County, Tennessee.
- E.#. Funding for Department of Regional Services. The funds provided in this grant shall be utilized as described in Section A. Scope of Service and shall apply only to the Department of Regional Services in Shelby County, Tennessee.
- E.#. Grantee Match. Upon execution of this grant contract, the Grantee will be required to deposit its share of the estimated total project cost to the State.
- Additional deposits will be required if actual costs exceed the estimated costs. Any excess in the amount deposited above actual costs will be refunded.
- If the cost of this project increases by more than fifteen percent (15%) of the estimated grant contract amount during the progress of the work, the parties agree to enter into a supplemental agreement setting out the respective financial obligations of the State, Grantee, and the Federal Airport Improvement Program.
- E.#. Participation in Real Property Acquisition. The State and/or Federal participation in the acquisition of real property is outlined in Attachment #, attached and incorporated herein to this Grant Contract.
- E.#. Airport Assurances from Sale or Disposal of Land, Properties, Structures or Materials Related to Airport. The airport owner shall not sell or otherwise dispose of the property identified herein without the express prior written consent of the State, which consent will not be unreasonably withheld. In the event that the State grants permission to sell or otherwise dispose of all or a portion of the forgoing property in perpetuity, the airport owner shall be liable to pay the State a portion of the proceeds at fair market value as determined herein, resulting from the agreed upon sale price or fair market value. The funds collected from the sale of the property or fair market value will be divided in the same proportion as defined in this Grant Contract with said State funds reinvested into airport property in accordance with State funding policies and procedures.
- Nothing herein shall prohibit the parties hereto from agreeing to the reinvestment of said proportion of the proceeds or fair market value for rehabilitation or improvements in any remaining airport properties or structures or at a new airport site.
- All properties purchased with assistance of this Grant must include in the property deed a clause that states that "**This property was purchased with the assistance of State and/or Federal funds, and may not be sold or otherwise disposed of without all agencies express written consent.**"
- E.#. Airport Operations. For all grants that total fifty thousand dollars (\$50,000.00) or more, as consideration for receiving this Grant from the State, the Grantee agrees to operate and maintain the Airport for a period of twenty (20) years from the effective date of this Grant Contract.
- E.#. Compliance with FAA Regulations. For all grants involving federal funds, the Grantee agrees to accomplish the project in compliance with the terms and conditions contained in the U. S. Department of Transportation Federal Aviation Administration *Terms and Conditions of Accepting Airport Improvement Program Grants* hereby incorporated into this document by reference. Said document is on file in the Tennessee Department of Transportation, Aeronautics Division Office. These assurances can also be located on the FAA Website at www.faa.gov/airports/aip/grant_assurances
- E.#. No Retainage Allowed. The Grantee may not withhold retainage on progress payments from the prime contractor and the prime contractor may not withhold retainage from their subcontractors.
- E.#. Printing Authorization. The Grantee agrees that no printing/publication shall be printed pursuant to this Grant Agreement without the prior authorization of the State even if printing costs are included in the budget line items, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement. The Grantee and its employees may publish the results of the

research in whole or in part as they deem appropriate without authorization by the State if it is at no cost to the Grantor State Agency.

E.#. Grantor State Agency 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 Grantor State Agency for the Grantee's temporary use under this Grant Agreement. Upon termination of this Grant Agreement, all property furnished shall be returned to the Grantor State Agency 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 Grantor State Agency for the residual value of the property at the time of loss.

E.#. Travel Requirements. Travel must be project related and ALL conference and/or out-of-state travel must be preapproved by the Grantor State Agency even if included in the budget line items, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.

The Grantee, upon request, must include (in addition to other invoice requirements of this Grant Agreement) a complete itemization of travel compensation requested in accordance with and attaching to the invoice appropriate documentation and receipts as required by the above-referenced "State Comprehensive Travel Regulations."

E.#. Additional Compensation Terms. The Grantee is not entitled to be paid the maximum liability for any period under the Grant Agreement or any extensions of the Grant Agreement for work not requested by the Grantor State Agency. The maximum liability represents available funds for payment to the Grantee and does not guarantee payment of any such funds to the Grantee under this Grant Agreement unless the Grantor State Agency requests work and the Grantee performs said work. In which case, the Grantee shall be paid in accordance with the payment rates detailed in section C.3. The Grantor State Agency is under no obligation to request work from the Grantee in any specific dollar amounts or to request any work at all from the Grantee during any period of this Grant Agreement.

The payment rate in Section C.3 shall constitute the entire compensation due the Grantee for associated deliverables, as outlined in Section A.2, and all of the Grantee's obligations hereunder regardless of the difficulty, materials or equipment required. 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.

E.#. Competitive Procurements. Should this Grant Agreement provide for the reimbursement of the cost of goods, materials, supplies, equipment, or contracted services; such procurements shall be made on a competitive basis, where practicable. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Agreement. In each instance where it is determined that use of a competitive procurement method was not practical, said documentation shall include a written justification for such decision and non-competitive procurement.

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.

ENDOWMENT GRANT (GE) MODEL

GE MODEL

This model prescribes the format and content for an endowment grant to: an individual, business, or non-profit; a Tennessee state, local, or quasi-governmental entity; or a governmental entity of another state or country. An endowment grant contract effects an award of funds or property to a grantee when the State intends to make the award free of conditions beyond a cited purpose that will benefit the general public or some population of the general public.



ENDOWMENT GRANT CONTRACT

Begin Date	End Date	Agency Tracking # -	Edison ID		
Grantee Legal Entity Name			Edison Vendor ID		
Service Caption (one line only)					
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
TOTAL:					
Ownership/Control					
<input type="checkbox"/> African American <input type="checkbox"/> Asian <input type="checkbox"/> Hispanic <input type="checkbox"/> Native American <input type="checkbox"/> Female <input type="checkbox"/> Person w/Disability <input type="checkbox"/> Small Business <input type="checkbox"/> Government <input type="checkbox"/> NOT Minority/Disadvantaged <input type="checkbox"/> Other:					
Grantee Selection Process Summary					
<input type="checkbox"/> Competitive selection		Describe the competitive selection process used.			
<input type="checkbox"/> Non-competitive selection		Describe the reasons for a non-competitive grantee selection.			
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.			<i>CPO USE - EG</i>		
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" or the "Grantor State Agency" and **Grantee 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 AND DELIVERABLES."

The following red text is for instructional purposes only and should be deleted from the Grant Contract.

The Grantor State Agency must justify why an endowment grant with an advance payment is needed over a cost-reimbursement grant. The Grantor State Agency should concurrently submit an approved rule exception request for advance payment. The rule exception request should cite the statutory authority to make the award by stating, "This Grant Contract is being awarded pursuant to Tenn. Code Ann. §(cite applicable title, chapter, section)."

By using this Endowment Model, the Grantor State Agency understands that the Grant Contract may only establish a contractor relationship with the Grantee as defined by Central Procurement Office Policy 2013-007.

The default terms of this Endowment Model are to be used when granting an award to a Tennessee local governmental entity. The Grantor State Agency should consult the "Considerations, Instructions, and Options" section of the Endowment Model to replace certain terms when contracting with an individual, business, non-profit, or a government entity of another state or county.

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

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

Grantee Edison Vendor ID # **Number**

A. SCOPE OF SERVICES AND DELIVERABLES:

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

A.#. **Specify the Scope that the Grantee must provide under this Grant Contract. Do not include payment terms in the Scope.**

B. TERM OF 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 to the Grantee for fulfillment of the Scope outside the Term.

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 (\$Amount)** ("Maximum Liability").

C.2. Compensation Firm. The Maximum Liability of the State is not subject to escalation for any reason unless amended.

- C.3. Payment Methodology – Total Advance Payment. The Grantee shall be reimbursed for actual, reasonable, and necessary costs, 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.
- C.4. Expenditures and Accounting. The expenditure of funds made available through this Grant Contract shall adhere to the Scope of Services. Said expenditures shall be made during the Grant Contract period and shall not be carried forward. The Grantee shall submit an Expenditures and Accounting report within thirty (30) days following the end of the Grant Contract. Said report shall demonstrate compliance with the Scope of Services and shall be in form and substance acceptable to the State.
- C.5. State's Right to Set Off. The State reserves the right to set off or deduct from amounts that are or shall become due and payable to the Grantee under this Grant Contract or under any other agreement between the Grantee and the State of Tennessee under which the Grantee has a right to receive payment from the State.
- C.6. Prerequisite Documentation. The Grantee shall not receive the funds under the endowment grant until the State has received the following:
- a. A Grantee completed and signed State provided "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Grantee acknowledges and agrees that, once this form is received by the State, all payments to the Grantee under this or any other grant contract will be made by automated clearing house ("ACH").
 - b. A Grantee completed and signed State provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Grantee's Federal Employer Identification Number or Social Security Number referenced in the Grantee's Edison registration information.

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 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 (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.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, the State shall have the right to immediately terminate the Grant Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the exercise of the State's right to terminate this Grant Contract for cause, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Grant Contract by the Grantee.
- 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 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.
- 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 Form to Report Lobbying," 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 hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this 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 Act (HITECH) 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 HIPAA 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 by the State under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the State to receive such information without entering into a business associate agreement or signing another such document.

- 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, and the Grantee shall 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 twelve inches (12") in height and eighteen inches (18") 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 shall include the statement, "This project is funded under an agreement 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, its employees, and any approved subcontractor 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 in accordance with applicable Tennessee law. 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.

- 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 fa.audit@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. 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.
- D.20. 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.
- D.21. State Liability. The State shall have no liability except as specifically provided in this Grant Contract.
- D.22. 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. 23. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards is available here: http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl
- D.24. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee exclusive of choice of law provisions. 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.25. 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.26. 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.27. 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.

Add ALL Necessary or Contingently Required Special Terms & Conditions

IN WITNESS WHEREOF,

GRANTEE LEGAL ENTITY NAME:

GRANTEE SIGNATURE

DATE

PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)

GRANTOR STATE AGENCY NAME:

NAME & TITLE

DATE

GE INSTRUCTIONS, CONSIDERATIONS, and OPTIONS

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

Complete the 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 model is required. Complete summary cover sheet fields as indicated within the model and the following field directions.

Agency Tracking # unique tracking number comprised of: 5-digit business unit # + unique, 5-digit #
example: 31707-12345

PREAMBLE

Add additional information only if necessary.

A. SCOPE OF SERVICES

It is the responsibility of the Grantor State Agency to adequately draft a scope of services. 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 of services 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 of services.

Draft the scope of services to clearly, specifically, and definitively detail Grantee duties, responsibilities, and the 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 of services. 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 of service, 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.

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 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 the following section revising the length of the extension period(s) as appropriate.

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.

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.

Conflicts of Interest

If the Grantee is an individual, business, non-profit, or a government entity of another state or country, insert the following:

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.

Nondiscrimination

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

D.10. 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.

HIPPA Compliance

If the Grantee is a an individual, business, non-profit, or a government entity of another state or country, replace D.11 with the following:

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.

Independent Contractor

Replace this provision with the following if the Grantee is an individual, business, non-profit, or a government entity of another state or country, insert the following:

D.20. 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.

E. SPECIAL TERMS AND CONDITIONS

Add the following sections as appropriate and in the order 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.

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| <p>E.#.</p> <p>a.</p> <p>(1)</p> <p>(2)</p> <p>(3)</p> <p>(4)</p> <p>b.</p> | <p><u>Insurance.</u> The Grantee shall carry adequate liability and other appropriate forms of insurance.</p> <p>The Grantee shall maintain, at minimum, the following insurance coverage:</p> <p>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;</p> <p>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;</p> <p>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</p> <p>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.</p> <p>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.</p> |
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Debarment and Suspension

Add the following Section if required by federal law and the Grant Contract involves federal funds.

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| <p>E.#.</p> <p>a.</p> | <p><u>Debarment and Suspension.</u> 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:</p> <p>are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;</p> |
|------------------------------|---|

- 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 under state or federal law shall be regarded as "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.

Intellectual Property

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

- E.#.** Intellectual Property. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims 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 Contractor shall satisfy and indemnify the State for the amount of any settlement or final judgment, and the Contractor 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 Contractor notice of any such claim or suit, however, the failure of the State to give such notice shall only relieve Contractor of its obligations under this Section to the extent Contractor can demonstrate actual prejudice arising from the State's failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106.

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.

Drug Free Workplace

Add the following Section as appropriate.

- E.#. The Grantee shall provide a drug-free workplace pursuant to the "Drug-Free Workplace Act," 41 U.S.C. §§ 8101 through 8106, and its accompanying regulations.

Disclosure of Personally Identifiable Information

Add the following Section as appropriate.

- E.#. Disclosure of Personally Identifiable Information. The Grantee shall report to the State any instances of unauthorized disclosure of personally identifiable information that come to the attention of the Grantee. Any such report shall be made by the Grantee within twenty-four (24) hours after the instance has come to the attention of the Grantee. 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.

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.

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.

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.

SIGNATURES

By signature, the Grantor State Agency head or authorized designee shall assure and affirm 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 a fair and impartial Grantee selection in full compliance with the approved procurement methodology as indicated by the summary cover sheet; and
3. the proposed scope of services 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.

**SECTION 4.1 – DEFINITION OF
“SUBRECIPIENT”**

***PROCUREMENT PROCEDURES
MANUAL OF THE CENTRAL
PROCUREMENT OFFICE***

REQUEST: Replace the existing definition of “Subrecipient” in Section 4.1 of the *Procurement Procedures Manual of the Central Procurement Office* with the following.

“Subrecipient” means a non-federal entity that receives an award from a pass-through entity to carry out part of a federal 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. Additionally, a Subrecipient means a non-federal entity that receives an award from the State to carry out part of a State program; but does not include an individual that is a beneficiary of such program.

**SECTION 11 – TEMPLATES AND
MODELS**

***PROCUREMENT PROCEDURES
MANUAL OF THE CENTRAL
PROCUREMENT OFFICE***

REQUEST: Replace the existing section 11.2. of the *Procurement Procedures Manual of the Central Procurement Office* with the following.

11. Templates and Models.

11.2. General Information.

Procurement professionals should utilize applicable templates and models when drafting procurement documents generated outside of the *Edison* system. Deviations from a template other than those identified in the instructions require a Rule Exception Request as set forth in Tenn. Comp. R. & Regs. 0690-03-01-.17. When a Rule Exception Request is not required, the Agency shall provide a written explanation for the deviation signed by the agency head or a signed Agency Legal Certification document. Models are intended to be used as helpful guides or minimum standards that may be modified as needed. All documents are available on the State Intranet website: <http://intranet.state.tn.us/generalserv/cpo/model.html>. Any changes to these documents are subject to review and recommendation by the Advisory Council and approval by the Procurement Commission. Procurement professionals should refer to the intranet site frequently to ensure that the most up-to-date document is being used and submitted for approval.

The Intranet website, models, and templates are incorporated by reference into this Procurement Procedures Manual as though set forth verbatim herein, and the list of procurement documents below is for informational purposes only. Each of these documents is self-explanatory. All questions regarding use of these documents should be directed to Central Procurement Office staff.

• SOLICITATION TEMPLATES, MODELS & RELATED DOCUMENTS

- Conflict of Interest – Annual Attestations
- Small Purchases Model
- Informal Purchases Model
- Request for Information (RFI) Model
- Request for Qualifications (RFQ) Template
- RFP & Related Documents:
 - Request for Proposals (RFP) Standard Template
 - RFP Amendment Template
 - RFP Evaluation Notice Example
 - RFP Process Protest Bond Example
 - RFP Release Notice Example
- Performance Bond Template
- Solicitation Development Conflict of Interest Disclosure Model

- Solicitation Evaluation Confidentiality and Conflict of Interest Disclosure Model
- Pre-approval Endorsement Requests
 - eHealth Support Request
 - HR Support Request
 - OIR Pre-approval Endorsement Request
- **CONTRACT TEMPLATES**
 - Contract Amendment Template (requiring State expenditures, no-cost, or revenue)
 - Contract Templates Requiring State Expenditures (by contractor type):
 - All Contractors (except a TN or federal government) (FA)
 - Tennessee Local or Federal Government (GU)
 - U.S. Geological Survey (GU-USGS)
 - No Cost Contract Templates (by contractor type):
 - All Contractors (except a TN or federal government) (NC)
 - Tennessee Local or Federal Government (GU-NC)
 - Revenue Contract Templates (by contractor type):
 - All Contractors (except a TN or federal government) (RV)
 - Tennessee Local or Federal Government (GU-RV)
- **GRANT TEMPLATES**
 - Grant Amendment Template (Cost-Reimbursement or Endowment Grant)
 - Cost-Reimbursement Grant Templates (by grantee type):
 - All Grantees (except a TN or federal government) (GR)
 - Tennessee Local or Federal Government (GG)
 - Endowment Grant (GE) Template
- **INTERAGENCY MODELS**
 - Interagency Agreement (IA) Model
 - Interagency Grant Agreement (IG) Model
- **DELEGATED AUTHORITY TEMPLATES**
 - Delegated Authority Amendment Template
 - Delegated Authority (DA) Template
 - Terms and Conditions for Purchase Orders Issued Under a Delegated Authority Template
 - Delegated Grant Authority (DG) Template
 - Delegated Loan Authority (DL) Template
 - Special Delegated Authority for Declared Disaster (TEMA use only) Template

- **FORMAL REQUEST DOCUMENTS**
 - Amendment Request
 - Click-wrap Approval Request
 - Contract Termination Request
 - Limitation of Liability Request
 - Renewal or Extension Request
 - Rule Exception Request (Deviations from template language other than those identified in the instructions require a Rule Exception Request. The properly completed request must be signed and dated by the contracting agency head or authorized signatory and submitted to the Central Procurement Office.)
 - Rule Exception Request for the DA and DG Templates
 - Solicitation Cancellation Request
 - Special Contract Request

- **OTHER GENERAL MODELS & ADMINISTRATIVE DOCUMENTS**
 - Terms and Conditions for Purchase Orders Issued Under an Agency's Local Purchase Authority
 - Contract Approval – Agency Legal Certification Model
 - Contract Approval – Small Agency Certification
 - Edison Record Status Reset Request
 - Employer/Employee Analysis Guidelines
 - HIPAA Business Associate Agreement Example
 - “Notwithstanding” Language
 - Service Contracts Coordinator Designation
 - Signature Certification & Authorization

POLICY NUMBER 2013-002:
CENTRAL PROCUREMENT OFFICE
PROCUREMENT METHODS POLICY
AND PROCEDURES

Policy Number 2013-002
Central Procurement Office
Procurement Methods Policy and Procedures

Revised: January 21, 2016

Prepared by: The Central Procurement Office of the State of Tennessee

1. Purpose.

To establish a policy and procedure concerning procurement methods used by the Central Procurement Office and Delegated State Agencies when procuring goods and services that ensures fairness, transparency and the maximum amount of competition for State contracts.

2. Scope.

This policy applies to all procurements and resulting contracts as required by statute or rule.

3. Definitions.

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

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

“Agency Term Contract” means a State Agency Contract in which a source or sources of supply are established for a specified period of time at an agreed upon unit price or prices.

“Best and Final Offer” or “BAFO” means a negotiation tool whereby the State requests that respondents provide their best and final offer or response.

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

“Central Procurement Office Policy” means a documented set of guidelines concerning procurement related strategy, which directs and restricts the plans, decisions, and actions of State procurement professionals as approved by the Procurement Commission in accordance with Tenn. Code Ann. §§ 4-56-101, *et seq.*

“Collaborative Value Development” or “CVD” means an interactive technique between the State and Qualified Respondents within the Competitive Range, as defined in the RFQ. The purpose of the CVD is to utilize the expertise and knowledge of the Qualified Respondents to develop a Solicitation that will award a contract to the Qualified Respondent that receives the highest score.

“Competitive Negotiation” means a competitive procurement method that involves

direct contract negotiation with one or more respondents who have been pre-qualified or pre-selected by the Central Procurement Office through a competitive process.

“Competitive Negotiation Techniques” means those direct negotiation techniques used in connection with a competitive negotiation method of procurement.

“Competitive Range” means those proposals that have a reasonable chance for contract award based on criteria set forth in the written solicitation document. Only proposals within the Competitive Range shall be considered for additional discussions and negotiation.

“Contract” means any duly authorized and legally binding written agreement or purchase order for goods or services by and between the State of Tennessee and any person or any separate entity with the independent legal capacity to contract and sue and be sued.

“Contracting Party” means a person or legal entity with the independent legal capacity to contract or sue and be sued that has been awarded a contract through proper authority.

“Delegated Authority” means a written document, approved in accordance with Central Procurement Office Policy, that authorizes a State Agency to award a grant, make a loan consistent with a grant, or procure goods or services on behalf of the State.

“Delegated State Agency” means a State Agency that, in accordance with Central Procurement Office Policy, has authority to award a grant, make a loan consistent with a grant, or procure goods or services program(s) within specified limits and guidelines.

“Emergency Purchases” means a State Agency purchase made during an actual emergency arising from unforeseen causes without the issuance of a competitive solicitation.

“Immaterial Defect” means a defect in a response to a solicitation, which is of no substantial consequence, that is capable of correction through supplemental information or a clarifying response. A defect is immaterial when the effect on price, quantity, or delivery is negligible when contrasted with the total cost or scope of the goods or services being procured. Any defect, the correction of which gives a respondent a competitive advantage vis-à-vis other respondents or prejudicial to one or more respondents, shall not be deemed to be an immaterial defect.

“Person” means a natural person or legal entity with the legal capacity to enter into contracts or sue and be sued.

“Procurement” means buying, purchasing, renting, leasing, or otherwise acquiring any goods or services. It also includes all functions that pertain to the obtaining of any goods or services, including the description of requirements, selection and solicitation of sources, negotiation, preparation and award of a Contract, and all phases of Contract

administration.

“Proprietary Procurement” means a procurement of a service or a product that is manufactured and marketed by a person or persons having the exclusive right to provide the service or manufacture or sell the product.

“Purchase Order” means a document issued by the Central Procurement Office or a State Agency to a Contracting Party authorizing a purchase. Upon delivery to the Contracting Party, a “purchase order” becomes a binding Contract on both parties.

“Qualified Respondents” mean the Respondents that are selected to be within the Competitive Range.

“Respondent” means a natural person or legal entity with the capacity to contract or sue and be sued who has submitted a written response to a solicitation.

“Responsible” with respect to a respondent or a proposer means a person who has the capacity in all material respects to perform fully the Contract requirements, and the integrity and reliability that will assure good faith performance.

“Responsive” with respect to a respondent or a proposer means a person who has submitted a proposal, which conforms in all material respects, to the terms of the Solicitation.

“Reverse Auction” shall have the meaning set forth in Tenn. Code Ann. § 12-3-219.

“Rules” means the Comprehensive Rules and Regulations concerning the procurement of goods and services adopted by the Procurement Commission of the State of Tennessee.

“Solicitation” means a written document that facilitates the award of a contract to Contracting Parties for goods or services. Examples of solicitations include, but are not limited to, an Invitation to Bid, a Request for Information, a Request for Proposals, and a Request for Qualifications.

“Sole Source Procurement” means a procurement for which only one vendor possesses the unique and singularly available capability to meet requirement of the solicitation, such as technical qualifications, ability to deliver at a particular time, or services from a public utility or a situation where a particular supplier or person is identified as the only qualified source available to the requisitioning authority.

“Specification” means any description of the physical, functional, or performance characteristics, or of the nature of a supply, service, or construction item.

“Specification” includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service, or construction item for delivery.

“State” means the State of Tennessee and its Agencies, boards and commissions as the

context requires.

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

“Statewide Contract” means a contract for goods or services established by the Chief Procurement Officer that all State Agencies must utilize and that may be used by local governments, higher education and not-for-profit entities.

“Target Pricing” means a negotiation tool whereby the State provides respondents with the price the State expects to pay for a good or service.

4. Procurements -Generally.

All procurements shall utilize an approved procurement method in accordance with applicable statutes, the Rules or Central Procurement Office Policy. Allowable procurement methods and information gathering methods and techniques include, but are not limited to, the following:

- Informal Solicitations
- Invitation to Bid (ITB)
- Request for Proposals (RFP)
- Emergency Purchases
- Competitive Negotiation
- Sole Source
- Proprietary
- Reverse Auction
- Request for Information
- Request for Qualifications (RFQ)

5. Waiver of Immaterial Defects in a Response.

The maximum amount of competition for State contracts is in the best interests of the State. Immaterial defects in a response should be waived, corrections or clarifications by respondents should be allowed after responses are reviewed, provided these defects are not of the type to give one respondent an unfair competitive advantage over other respondents. Procurement professionals should use restraint in deeming responses to be non-responsive on the basis of immaterial defects in a response that do not impugn competition, but that are capable of being responsive through correction or clarification.

6. Addenda, Amendments, and Clarifications to a Solicitation.

Prior to public release, all solicitations and subsequent addenda, amendments, and clarifications to a solicitation require the approval of the Central Procurement Office and all other State entities that endorsed or approved the original solicitation. All solicitations, including any addenda, amendments, and clarifications to a solicitation, shall be approved based on the following:

- Application of the requirements of Central Procurement Office Policy and the Rules;
- Adequacy of the scope of service description; and
- Adequacy of the solicitation's assurance of:
 - o Fairness to potential providers of commodities or services;
 - o Clear and open competition;
 - o Achievement of procurement objectives; and
 - o Protection of the State's best interests.

7. Pre-Proposal Conference.

Central Procurement Office or procuring State Agency staff may conduct a Pre-Proposal conference after release of the solicitation, but before responses are submitted, if such is determined to be in the best interests of the State.

8. Oral Presentation.

A solicitation may require oral presentations in a manner set forth in the solicitation. Oral presentations shall be conducted after the solicitation is released, but before responses are submitted to the Central Procurement Office or procuring State Agency.

9. General Requirements of Solicitations and Response Evaluation.

Each solicitation shall establish a time schedule for opening and evaluation of responses and inspection of the procurement file.

9.1. *Technical Response.*

The technical response evaluation should include, but is not limited to, consideration of the following factors:

- Quality of the goods or reliability of the services;
- Experience and qualifications (e.g., pending litigation, years in business, utilization of diverse business enterprises as sub-consultants, subcontractors, or suppliers to assist in providing goods or services, partnering with or mentoring of diverse business programs associated with the delivery of goods or services, and customer references, etc.);
- Technical approach;
- Financial ability to perform;
- Delivery terms (e.g., number of days for product to be shipped or for job to be started, etc.);
- Past vendor performance, financial resources, and ability to perform to specification requirements;
- The effect of the purchase on Agency productivity;
- Environmental options and resources (e.g., green, energy efficiency, earth-conscious considerations, recycle options, remanufactured/refurbished products or equipment, packaging, certificates, permits, awards, successful and ongoing

- programs, etc.); and
- Used products or equipment.

9.2. *Cost Proposal.*

The cost proposal should include, but not be limited to, the following considerations:

- Acquisition costs;
- Costs of implementation;
- Delivery costs;
- Discounts or Rebates;
- Cost of any State employee training associated with the purchase;
- Implementation and start-up costs, including installation costs, life cycle costs, trade-in value and warranty options;
- Discounts;

Once the evaluation team has completed the evaluation of the technical portion of the response, the cost proposal (e.g., single award, line item, or group award) will be calculated using a formula set forth in the solicitation. The relative scoring and weight between the technical response and the cost proposal shall be set forth in the solicitation. The evaluation team shall combine the technical response scores with the cost proposal scores for each respondent to determine the response that has the highest evaluated score. Technical responses and cost proposals may be contemporaneously evaluated or tabulated so long as the evaluation panel for the technical responses is independent of the persons tabulating or otherwise analyzing the cost proposals. In no event should the persons serving on the evaluation panel for the technical responses be influenced by the cost proposals and all safe guards must be in place to maintain a proper segregation of duties and responsibilities.

10. Rejection of Responses.

The Chief Procurement Officer or Delegated State Agency, with the approval of the Chief Procurement Officer, shall have the absolute discretion to reject any and all responses. The Chief Procurement Officer or Delegated State Agency shall provide written notification to all respondents whose responses were rejected. If the evaluation team determines that a response is non-responsive, non-responsible, or rejects a response for any reason, the State should not complete the technical response evaluation or open the associated cost proposal. Minor clerical errors or immaterial defects will not automatically result in rejection of a response.

Any response that does not meet the requirements of the solicitation may be considered to be nonresponsive and the response may be rejected. Examples of non-responsiveness include, but are not limited to:

- The response is untimely;
- The response is incomplete;
- The response is inconsistent with the specifications as set forth in the solicitation; or
- The response restricts the rights of the State or otherwise qualifies the

respondent's proposal as set forth in his or her response.

All responses may be rejected by the Chief Procurement Officer or Delegated State Agency for the following reasons:

- Unreasonably high prices or failure of all responses to meet technical specifications as set forth in the solicitation;
- Error or defect in the solicitation;
- Cessation of need;
- Unavailability of funds;
- Lack of adequate competition;
- A determination by the State Agency, with the concurrence of the Chief Procurement Officer, that proceeding with the Procurement would be detrimental to the best interests of the State.

A rejection of all responses shall be documented and set forth the reasons for rejection of all responses. The Chief Procurement Officer shall report rejection of all responses to the Comptroller of the Treasury.

Selection or rejection of a response does not affect its status as a public record. Upon completion of the review and evaluation of responses submitted in response to a solicitation, evaluated responses and associated materials shall be open for review by the public in accordance with Tenn. Code Ann. § 10-7-504(a)(7).

The Chief Procurement Officer may reject any response, even a response that is ostensibly responsive, that contains prices for individual items or services that are inconsistent with the solicitation or unrealistic when compared to other prices in other responses to the same solicitation, provided that doing so is in the best interests of the State.

11. Verification of Ability to Perform.

Responses may be deemed non-responsive for lack of apparent ability to perform the proposed contract after adequate assurance of performance is requested by the Central Procurement Office and the respondent is unable to provide the requested assurance. A respondent must, upon request of the State, furnish satisfactory evidence of the ability to furnish products or services in accordance with the terms, conditions, and specifications of the solicitation. Proposal bonds, performance bonds or other security may be required for any contract. All such requirements shall be set forth in the solicitation.

The procuring Agency may inspect the facilities of any respondent or require additional information regarding a respondent's ability to perform the proposed contract. A site visit may be conducted by an Agency where the commodity or service at issue may be impacted by site conditions.

12. Amendment or Withdrawal of Responses.

A respondent may withdraw or amend a response prior to its opening. After response opening, and prior to award, a respondent may withdraw a response or a portion thereof only upon a

written determination by the Chief Procurement Officer that there is an obvious response error supported by appropriate industry, market or vendor cost information and where enforcement of the response would impose an unconscionable hardship on the respondent.

13. Notice of Intent to Award.

A Notice of Intent to Award shall be communicated in writing or by electronic transmission to all respondents. Each contract shall be awarded and let by the State with reasonable promptness to the apparent winning respondent, e.g., on the basis of highest evaluation score or lowest cost, whose response meets the requirements and criteria set forth in the solicitation. Where more than one item is specified in a solicitation, the State reserves the right to determine the winning respondent, or respondents in the case of a multiple award, either on the basis of each individual item, a group of items, or the total of all items, unless otherwise provided in the solicitation.

14. Contract Award.

The Central Procurement Office or Delegated State Agency shall document the evaluation team members' names, scores, and evaluation results and recommend an award to the respondent who has received the highest evaluation score or in the case of an ITB, an award to the responsive and responsible respondent with the lowest cost response.

Notwithstanding the foregoing, there are situations where it is in the best interests of the State to award a contract to a respondent other than the respondent with the lowest cost proposal. In such event, the Chief Procurement Officer, or his or her designee, shall document the reasons for awarding a contract to a respondent other than one with the lowest cost proposal. Justifications for such an award include, but are not limited to:

- The highest evaluated response, taken as a whole, falls outside the competitive range;
- The respondent is not capable of meeting the solicitation requirements;
- The respondent is not able to perform under the terms of the contract as awarded, e.g., in terms of quality, quantity or timeliness of performance; or
- Based on the totality of the above and other considerations, award to another respondent is in the best interests of the State, provided this determination is supported by sufficient documentation that will become part of the procurement file.

After the evaluation team completes the award recommendation process and notifies the respondents of the official award recommendation, the procurement file shall be open and available for public inspection for at least seven (7) calendar days prior to the actual award of the contract. Protests shall be governed by Tenn. Code Ann. § 4-56-101, *et seq.*, and the Rules of the Central Procurement Office.

15. Single Response to Solicitation.

In the event that only one response is received by the Central Procurement Office or the procuring State Agency by the response deadline in response to a solicitation, the State may elect one of the following actions:

- The procuring Agency head may request the Chief Procurement Officer to cancel the solicitation based upon insufficient competition;
- Open the technical response to determine whether it meets minimum requirements. If it does not meet minimum requirements, the procuring Agency head may request the Chief Procurement Officer to approve to cancel the solicitation;
- If the response meets minimum requirements, the procuring Agency may open the cost proposal and negotiate with the respondent; or
- The procuring Agency head may also request the Chief Procurement Officer to approve or cancel the solicitation if the cost is deemed excessive after attempts at negotiation.

16. Cancellation or Reissuance of Solicitation.

Cancellation or reissuance of a solicitation requires a written notice of cancellation or reissuance from the Central Procurement Office for contracts procured by the Central Procurement Office or written notice of cancellation or reissuance from the procuring Agency if it is an Agency procured contract. Any notice of cancellation or reissuance of a solicitation by an Agency shall also be provided to the Central Procurement Office. All decisions to cancel or reissue a solicitation shall be documented and become part of the procurement file.

17. Tie Responses.

A tie will exist where two or more respondents offer goods or services that meet all specifications and terms and conditions at identical prices, including cash discount offered for prompt payment. A tie will be broken by considering the following factors, in descending order:

- First preference shall be given to a “Tennessee Respondent.” Pursuant to Tenn. Code Ann. § 12-4-121(c)(2), a “Tennessee Respondent” means a business that is:
 - o Incorporated in this State;
 - o Has its principal place of business in this State; or
 - o Has an established physical presence in this State.
- Second preference shall be given to certified disadvantaged business enterprise (“DBE”) respondents.
- Third preference shall be given to the respondent who was the low cost respondent on other items being procured for the same solicitation.
- Fourth preference shall be given to the respondent who offers the best delivery.
- If a tie remains, it shall be broken by lot or coin toss.

18. Protests.

Protests shall be governed by Tenn. Code Ann. § 4-56-101, *et seq.*, Central Procurement Policy, and the Rules.

19. Procurement and Information Gathering Methods and Techniques.

19.1. *Informal Solicitations.*

Informal solicitations may be used for one time purchases or for contracts with a total value not to exceed fifty thousand dollars (\$50,000.00) or such amount approved by the Procurement Commission. Three quotes should be obtained, when practicable. The person soliciting quotes shall document the quotes received in accordance with Central Procurement Office Policy, which shall become part of the procurement file. Purchase orders or contracts may not be artificially divided by a Delegated State Agency in order to make the purchase amount fall below limitations established in Central Procurement Office Policy or the Rules.

19.2. *Invitation to Bid ("ITB").*

An ITB is a request, verbal or written, which is made to prospective suppliers of commodities or providers of services requesting the submission of a response for the purpose of awarding a contract or transmitting a purchase order. An ITB is generally an objective determination where the award is made to the responsive and responsible respondent who meets the minimum specifications and requirements at the lowest cost.

All ITBs shall require, at a minimum, that respondents:

- Provide a valid mailing or email address;
- Sign the response prior to opening;
- Provide a net price for the unit specified for each item;
- Initial in ink any corrections of a line item unit price made by the respondent;
- Provide the number of calendar days required for delivery after receipt of order; and
- State the length of time in which a proposed pricing is valid (failure to do so will result in pricing being valid for sixty (60) days).

Alternate items may be proposed in a response if allowed by the terms of the solicitation and if the alternate item or items meet the specifications in terms of quality, form and function. The procuring Agency may specify whether alternate items are allowed.

19.3. *Request for Proposals ("RFP").*

A RFP is a formal invitation to potential respondents to submit a proposal to provide a good or service to a State or one or more of its Agencies. Additionally, a RFP is a Procurement process whereby the State has the ability to judge if a respondent's qualifications, experience, and approach will result in an award of a contract to a respondent on terms and conditions in the best interests of the State.

Terms and conditions for a RFP are derived from the *pro forma* Contract (located on the Central Procurement Office website) developed during the RFP creation and attached to the solicitation. A RFP shall set forth specific provisions in accordance

with Central Procurement Office Policy and include and meet the following:

- The description of the technical requirements for the goods or services to be procured by RFP shall provide sufficient detail to minimize the likelihood of respondent confusion;
- The technical requirements and scope in the RFP shall not contain features that unduly restrict competition;
- The RFP shall contain directions regarding the submittal of responses;
- State requirements and restrictions regarding the RFP should be detailed in the RFP;
- A description of the evaluation factors to be considered in evaluating the responses should be detailed in the RFP. Evaluation factors should include, by way of example only, respondent qualifications, experience, technical approach, and cost; A declaration of whether the contract award is subject to successful contract negotiation should be detailed in the RFP; and
- The RFP shall contain a schedule of events that specifies RFP deadlines. Respondents shall be given a reasonable time, as determined by the Chief Procurement Officer, to consider the required scope and the response evaluation factors before responses are submitted. The schedule of events may contain the deadlines for events, which includes by way of example only:
 - o RFP Issuance Date;
 - o Disability Accommodation Request;
 - o Pre-Proposal Conference;
 - o Notice of Intent to Propose;
 - o Respondent Written “Questions and Comments” Submission;
 - o State Response to Written “Questions and Comments”;
 - o Oral Presentation;
 - o Site Visit;
 - o Performance Bond Submission;
 - o Response Submission;
 - o State Completion of Technical Response Evaluations;
 - o State Opening and Scoring of Cost Proposals;
 - o State Evaluation Notice Released and RFP Files Opened for Public Inspection; and
 - o Contract Signing.

The Central Procurement Office or Delegated State Agency shall carefully consider all persons involved with the development, formulation, drafting, or review of a RFP and safeguard against any perceived or actual conflicts of interest.

The Central Procurement Office or Delegated State Agency shall approve all RFPs and any addenda, amendments, and clarifications to RFPs before their public release. All RFPs that would result in contracts requiring the Comptroller’s approval shall also require the approval of the Office of the Comptroller of the Treasury before their public release. Further, any addenda, amendments, and clarifications to RFPs that would result in contracts requiring the Comptroller’s approval shall be filed by the procuring Agency with the Comptroller of the Treasury contemporaneously with their public release.

A RFP or its revisions shall be approved based on the following:

- Application of the requirements of the Rules and Central Procurement Office Policy;
- Adequacy of the scope description; and
- Adequacy of the RFP's assurance of:
 - o Fairness to respondents;
 - o Clear and open competition;
 - o Achievement of procurement objectives; and
 - o Protection of the State's interests.

Upon approval, the Central Procurement Office or Delegated State Agency shall send the RFP or a written or electronic notice that the specific RFP has been released to a documented list of potential providers.

19.3.1. *Evaluation of Responses.*

To foster the integrity of the RFP evaluation process, each respondent shall be required to submit the Cost Proposal component of the response in a sealed and labeled envelope separate from the technical response component. The cost proposal shall be evaluated separately from the technical response:

- The technical response and the cost proposal may be opened and evaluated simultaneously provided safeguards are in place to avoid the panel evaluating the technical proposal being influenced by the cost proposal;
- The scores of both technical response and the cost proposal may be combined to arrive at a total evaluation score.
- Any response that fails to adequately separate the cost proposal components from the technical response components may be considered non-responsive and rejected by the Chief Procurement Officer in his or her sole discretion.
- Response evaluations shall be impartial and ensure that all material requirements of the RFP have been met.
- Responses shall be evaluated in a manner consistent with the Rules and Central Procurement Office Policy.
- Prior to reviewing responses, each Response Evaluation Team member shall review a list of persons making responses and determine if the member has a conflict of interest with serving on the Response Evaluation Team. Each member shall sign a conflict of interest statement as required by Central Procurement Policy. The conflict of interest statement shall be retained in the Procurement file.
- Responses shall be evaluated based on criteria set forth in the solicitation and on the basis of factors pertinent to the goods or services being procured.
- The Central Procurement Office or Delegated State Agency shall award a contract to the respondent whose response receives the highest evaluation score based on the respondent's technical response and cost proposal.

- Contract awards to a respondent other than the respondent receiving the highest evaluated score shall require the written approval of the Chief Procurement Officer. Justification for the contract award shall be documented in the procurement file.

19.4. *Emergency Purchases.*

“Emergency Purchases” are State Agency purchases made during an actual emergency arising from unforeseen causes without the issuance of a competitive solicitation.

The Central Procurement Office or Delegated State Agency may make purchases of goods or services in the open market to meet emergencies arising from an unforeseen cause.

Emergency purchases shall be made by contract in accordance with Central Procurement Office Policy and the Rules and utilize competitive procurement methods or negotiations whenever practicable. The procuring Agency shall maintain a procurement file that addresses the following:

- The circumstances leading to an emergency purchase;
- Procurement-related actions taken in response to the emergency, including procurement methods used; and
- A complete list of goods or services procured, including prices paid and total purchase amount.

19.4.1. *Conditions of Use for Emergency Purchase.*

Typical circumstances that warrant the use of an Emergency Purchase method include, by way of example only, natural disasters, e.g., tornadoes and floods, fire and oil or other hazardous material spill, mechanical failures, system outages, or unforeseen police action. An “emergency” does not require the declaration of a State of Emergency. Poor planning or the expiration of funds does not constitute an emergency. While these circumstances may require immediate action or may justify use of Non-Competitive Procurement methods, these circumstances do not warrant use of an Emergency Purchase method.

19.4.2. *Emergency Purchase Approval Process and Written Documentation.*

The Chief Procurement Officer may delegate Emergency Purchase authority to a State Agency to address emergencies arising from any unforeseen cause, including, but not limited to, delays by contractors, delays in transportation, unanticipated work volume, system or mechanical failures acts of God, or unforeseen police action. Delegated State Agencies may procure goods or services through the Emergency Purchase method in accordance with applicable rules, policies, and procedures. State Agencies should make Emergency Purchases through the Edison system and submit in writing to the Central Procurement Office the following information upon request by the Central Procurement Office:

- The circumstances leading to the Emergency Purchase;

- The procurement-related actions taken in response to the emergency, including procurement methods used;
- A complete list of goods or services procured, including prices paid and total purchase amount; and
- As applicable, additional purchases expected, including expected price and total purchase amount, as of the time of the report.

19.5. *Competitive Negotiation.*

A competitive negotiation is a procurement method that involves direct discussions between the State and respondents who have been pre-qualified through a pre-qualification method and found to be responsive and responsible. The purpose of a competitive negotiation is to facilitate discussion between the State and the best evaluated respondent or respondents to ensure award of a contract or contracts on terms on conditions in the best interests of the State.

Competitive negotiation techniques may be used in conjunction with any procurement method. All negotiations shall be conducted by the Chief Procurement Officer, his or her appointed lead negotiator, or an appointed negotiation team. The State may elect to negotiate by requesting revised cost proposals from one or more responsive and responsible respondents. The State, however, reserves the right to award a contract on the basis of initial responses received. Accordingly, each response should contain the respondent's best terms from a price and technical standpoint.

The State reserves the right to conduct multiple negotiation rounds or limit negotiations to only respondents in the competitive range or to only the highest evaluated respondent. If the State exercises its right to enter into negotiations, it may identify areas of one or more proposals that may require further clarification or areas in which it is apparent that there may have been miscommunications or misunderstandings as to the State's specifications or requirements. The State may seek to clarify those identified issues during negotiations.

All responsive and responsible respondents the State has identified for further cost negotiation will receive equivalent information. All cost negotiations will be documented for the procurement file. Additionally, the State may conduct Target Pricing and other price or service level negotiations. Target Pricing may be based on considerations such as current pricing, market considerations, benchmarks, budget availability, or other methods that do not reveal individual respondent pricing. During Target Price negotiations, respondents are not obligated to meet or beat target prices, but respondents will not be allowed to increase prices they propose. All communications, clarifications and negotiations shall be conducted in a manner that supports fairness in proposal improvement. Note that each clarification sought by the State may be unique to an individual respondent.

The Central Procurement Office staff shall maintain, at a minimum, the following documentation for a competitive negotiation:

- A log of the date and time of each meeting with a respondent, including the identity of the respondent and its representative;

- A description of the nature or reason for all material communications with each respondent; and
- A copy of all written and electronic communications between the Central Procurement Office or State Agency and each respondent.

19.6. *Sole Source Procurements.*

Sole source procurements may be made when an item or service possesses specific characteristics that can only be filled by a single source or where exclusive rights exist. Sole source procurements shall require the State Agency to provide advance justification to the Central Procurement Office in accordance with Central Procurement Office Policy. All sole source procurements, regardless of the dollar amount, require the Chief Procurement Officer's prior approval. Reporting of sole source procurements shall be provided to the Comptroller of the Treasury in such form and time period as prescribed in Central Procurement Policy. The Chief Procurement Officer in approving the use of a sole source method of procurement shall consider and adequately document in the procurement file the following:

- Whether the vendor possesses exclusive or predominant capabilities or the item or service contains features providing a superior utility not obtainable from similar vendors;
- Whether the product or service is unique and available from only one source;
- Whether the program requirements can be modified so that competitively procured goods or services may be used;
- Whether items must be interchangeable or compatible with in-place items;
- Whether or not it is in the State's best interests to conduct a pilot program for a defined period of time; or
- Whether the economics, technical aspects, or other facts and circumstances of the procurement in question make the use of a sole source procurement method a more prudent choice than a competitive procurement method.

Sole source procurements shall also be conducted in accordance with the Central Procurement Office's *Non-competitive Procurement Policy and Procedures*.

19.7. *Proprietary.*

A Proprietary procurement is a procurement of goods or services manufactured and marketed by a person or persons having the exclusive right to sell the goods or provide the services. Proprietary procurements are distinguishable from sole source procurements due to the potential for limited competition among the resellers of the goods or services. All proprietary procurements, regardless of the dollar amount, require the Chief Procurement Officer's prior approval. Reporting of proprietary procurements shall be provided to the Comptroller of the Treasury in such form and time period as prescribed in Central Procurement Policy.

Proprietary procurements shall also be conducted in accordance with the Central Procurement Office's *Non-competitive Procurement Policy and Procedures*.

19.8. *Reverse Auction.*

A Reverse Auction is a competitive process that allows respondents to bid on specified goods or services electronically and adjust cost proposals during a specified time period. An award shall be made to the respondent determined to be the lowest responsible and responsive respondent at the close of the specified response period.

19.9. *Request for Information (“RFI”).*

A “Request for Information” or “RFI” is a solicitation sent to a broad base of potential suppliers for the purpose of developing strategy, building a database, or preparing for a Request for Proposals or a Request for Qualifications. A RFI enables an equitable and simultaneous comparison of vendors. Agencies may use this tool to gather information about the availability of goods or services. A RFI is created through the Edison system and should be utilized when:

- An Agency has a procurement need, but requires more information to fully understand the industry;
- The Agency desires to identify vendors who are available to supply the needed good or service; or
 - When the Central Procurement Office or procuring State Agency determines that a RFP process will benefit from a RFI.

19.10. *Request for Qualifications (“RFQ”).*

A “Request for Qualifications” or “RFQ” may only be utilized by the Central Procurement Office. It is a written solicitation containing a list of qualifications that must be met before a vendor may propose in response to a Request for Proposals. A written response from a vendor is the appropriate response to a Request for Qualifications. A RFQ is a document that may be distributed before initiation of the Solicitation process. It is used to gather information from potential vendors regarding qualifications of providers of goods and services within the market place.

19.11. *Collaborative Value Development (“CVD”).*

“Collaborative Value Development” is an additional event in the procurement process after the issuance of a RFQ, between the State and Qualified Respondents within the Competitive Range, prior to issuing a Solicitation for contract award.

CVD is an opportunity for Qualified Respondents and the State to hold one or more collaborative events to engage in an in-depth discussion concerning the needs of the State with regard to the scope or specifications of a contract to be awarded by the State through a subsequent Solicitation. This technique may be used where, by example, the State lacks specific knowledge of a given industry or unique services or technologies are involved. The goal of CVD is to develop innovative solutions that will ultimately reduce costs and improve Contractor performance.

If the Chief Procurement Officer determines that a CVD event is beneficial for a particular procurement, then the RFQ must clearly state that a CVD event will occur, how the Competitive Range of Qualified Respondents will be determined, and the scope of CVD in which the State and each Qualified Respondent will participate. A CVD may only be used by the Central Procurement Office and should be reserved for complex procurements that involve an elevated risk, high potential spend, unique industries, complex goods or services, emerging or developing technologies, or other factors that warrant the additional time investment by both the State and the vendor community.

Each Qualified Respondent will have an equal opportunity to provide representatives to participate in the CVD event. Participation in the CVD will be a mandatory prerequisite for submitting a Solicitation Response. Any mandatory requirements must be clearly stated in the RFQ. The goals and objectives of the CVD should also be clearly communicated to all Qualified Respondents who are selected to attend the CVD event. At the conclusion of the CVD event, the Solicitation Coordinator will then independently draft a Solicitation. The Solicitation will be released to Qualified Respondents in the Competitive Range selected pursuant to the RFQ.

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.*

REQUEST FOR QUALIFICATIONS (RFQ) TEMPLATE

REQUEST FOR QUALIFICATIONS (RFQ) TEMPLATE

This template prescribes the format and content for a Request for Qualifications (RFQ). This template should only be utilized if the Central Procurement Office is the procuring entity. Documents of this type must adhere to this template with revisions only as instructions permit. Insignificant deviations from this template, while always subject to disapproval, will typically not require a specific rule exception unless an oversight examiner requires separate documentation in a particular instance. If a formal rule exception request is not required, oversight approval of the document will constitute any necessary rule exceptions that may be necessary.

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

RFQ CONTENTS

Revisions of the standard, simplified RFQ Contents may not be approved. The following optional terms may be included as applicable:

1. INTRODUCTION

1.1. Statement of Procurement Purpose

Specify important, specific information relating to contract requirements, specifications of goods or performance in the scope of services and not in this RFQ section.

1.1.1. RFQ Number

Assign an RFQ number consisting of:

- the 5-digit, contracting agency business unit code
- a unique, 5-digit, agency-assigned number such that each RFQ number will be different

Example: **RFQ # 31707-12345**

1.1.2. State Communications

Option: Additional Information.

Add a second paragraph to this section as appropriate (e.g., add text detailing a specific URL where the State will convey official, written responses and communications related to this RFQ by Internet posting).

1.1.3. Factual Data

Option: Additional Data Disclaimer.

Add the following as a second paragraph of this section as appropriate.

All statistical and fiscal information contained in this RFQ and its exhibits, including amendments and modifications thereto, are provided "as is", without warranty as to the accuracy or adequacy of the data or information so provided, and reflect the department's best understanding based on information or belief available to the department at the time of RFQ preparation. No inaccuracies in such data or information shall be a basis for delay in performance or a basis for legal recovery of damages, actual, consequential or punitive.

1.2. Pre-Response Conference

Option: No Pre-Response Conference.**1.5. Collaborative Value Development****Option: Collaborative Value Development.**

Add the following as appropriate. Note: CVDs should be reserved for more complex procurements.

1.5. Collaborative Value Development

After RFQ § 2, Schedule of Events, "State Notice of Qualified Respondents Released," each Qualified Respondent will be invited to attend a Collaborative Value Development (CVD) event. Each CVD event will be held at the time and date detailed in the RFQ Schedule of Events, RFQ § 2.

Add additional CVD event details, such as whether or not attendance at the CVD event is mandatory to participate in the Solicitation event; how the Competitive Range will be determined (e.g., all Respondents with a minimum score, the top three highest scored Respondents, etc.); the number of representatives who will be invited to attend from each Qualified Respondent; the goals and objectives of the CVD; and, any other information that would be helpful to a potential Respondent.

2. RFQ SCHEDULE OF EVENTS**RFQ Schedule of Events (table)**

The date instructions in the Schedule of Events table indicate minimum days.

Allot more days for each event as practical and where flexibility is allowed by the model instructions (indicated by "≥" signs).

Revise the "time zone" as appropriate.

Option: NO Pre-Response Conference Event.

Delete the Pre-Response Conference Event 3 from the schedule (and re-number subsequent events accordingly) as appropriate.

Option: Oral Presentation Event.

Complete and insert the following rows, in order immediately after the RFQ Technical Response Deadline event, (and re-number subsequent events) as appropriate.

#. State Schedules respondent Oral Presentations (ONLY Respondents who pass Mandatory Requirements)		≥ 1 BUSINESS DAYS LATER
#. Respondent Oral Presentations	8:00 a.m. - 4:30 p.m.	PERIOD BEGINNING ≥ 5 BUSINESS DAYS LATER

Option: Collaborative Value Development (CVD)

Add the following after RFQ § 2, Schedule of Events, "State Notice of Qualified Respondents Released" if the State will hold a CVD event and added the optional language in section 1.5. for CVDs.

#. State schedules Collaborative Value Development event (ONLY for Qualified		≥ 1 BUSINESS DAY LATER
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Respondents)		
#. Collaborative Value Development event		To be determined after consultation with Qualified Respondents

Option: Cost Proposals

Add the following after RFQ § 2, Schedule of Events "State Notice of Qualified Respondents Released and Solicitation Files Opened for Public Inspection" if the State will solicit a Cost Proposal from Qualified Respondents.

#. RFQ Cost Proposal Deadline (ONLY for Qualified Respondents)	2:00 p.m.	> 7 CALENDAR DAYS LATER
#. State Evaluation Notice Released		1 – 3 BUSINESS DAYS LATER
#. Solicitation Files Opened for Public Inspection		1 BUSINESS DAY LATER
#. Respondent Contract Signature Deadline	2:00 p.m.	≥ 8 BUSINESS DAYS LATER
#. Anticipated Contract Start Date (anticipated date for contract to be fully executed and vendor to begin work)		≥ 20 BUSINESS DAYS LATER

Option: RFQ Negotiations

Add the following after RFQ § 2, Schedule of Events "Cost Proposal Deadline"

#. RFQ Negotiations		≥ 3 BUSINESS DAYS LATER
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Option: Performance Bond Event.

Complete and insert the following row immediately after the Contractor Contract Signature Deadline event as appropriate.

#. Performance Bond Deadline	4:30 p.m.	≥ 1 BUSINESS DAY LATER
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3. RESPONSE REQUIREMENTS**3.3. Response Format**

The RFQ should require that respondents submit enough Technical Response copy discs to allow one copy for each Evaluation Team member. Revise §3.3.2.1. accordingly.

Option: Additional Delivery Instructions.

Revise subsections, if necessary, to provide for additional instructions for labeling and submitting the Technical Response and Cost Proposal.

3.4. Response Prohibitions**Option: No Extraneous Terms and Conditions in Response – for RFQs involving IT only**

If the RFQ involves information technology goods or services, insert the following as 3.4.6. and renumber the subsequent subsections **only after** consulting with the Central Procurement Office's Legal Team and obtaining Central Procurement Office approval.

3.4.6. Include any end-user license agreement, manufacturer's terms and conditions, service guide, clickwrap agreement, shrinkwrap agreement, online terms and conditions, or other terms and conditions that will supplement, modify, or contradict the terms set forth in the *pro forma* contract.

Option: Page Limitation

Add the following instruction to limit the Technical Response to a certain number of pages as appropriate.

3.4.#. Exceed ____ pages in length (maps, graphs, and charts included as an appendix will not count against this page limit)

Option: Time Limitation

Add the following instruction to prohibit a respondent oral presentation from exceeding certain length of time as appropriate.

3.4.#. Provide an oral presentation to exceed ____ hours in length including time for questions. A topic outline will be provided with the oral presentation invitation.

4. GENERAL INFORMATION & REQUIREMENTS

4.5. Disclosure of Response Contents

Option: Additional Disclosure Information.

Add the following to the end of subsection 4.5. if it is deemed necessary and it is approved by the contracting agency and the Central Procurement Office.

The State agrees to protect, to the fullest extent permitted by state law, the confidentiality of information expressly identified by the Respondent as confidential and proprietary, including information that would allow a person to obtain unauthorized access to confidential information or to electronic information processing systems owned by or licensed to the State.

5. PROCUREMENT PROCESS & CONTRACT AWARD

5.1. Option: Cost Proposals & RFQ Negotiations

Replace RFQ § 5.1.1. with the following if negotiations will be included in the evaluation process.

The vendor selection will be a two-part process: (1) Qualification of Technical Responses, and (2) Cost Proposals/Negotiations.

5.2. Competitive Range of Technical Responses

The RFQ should specify what the competitive range will be for your particular RFQ. Add details describing what selection criteria will be utilized to determine the competitive range/what the respondent must do to be considered "Qualified".

Option: Ranking

The Technical Response must be ranked in the top ____ [insert number (#) ≥ 3] after the Technical Response score is totaled and put in ordinal ranking (1 - the best evaluated ranking).

Option: Percentile

The Technical Response score must attain a combined score of ____ [insert number]. This minimum score threshold represents a score of ____%.

Option: Respondent Oral Presentations

Add the following to the Phase II paragraph if oral presentations will be included in the evaluation process.

The State may invite those who passed the Phase I evaluation to give oral presentations to the State. The qualitative assessment of each Respondent will include the information derived from the oral presentations.

5.5. Option: Cost Proposals

Add the following to RFQ § 5.5., Evaluation Guide, if the State will solicit a Cost Proposal from Qualified Respondents.

Evaluation Category	Maximum Points Possible
Cost Proposal (refer to RFQ Attachment D)	NUMBER ≥ 30% of TOTAL POINTS

5.6. Contract Award

The RFQ should specify how anticipated contract award will occur for the particular RFQ. Revise as appropriate, subject to approvals.

Option: Contract Award

Add the following as RFQ § 5.6., Contract Award, if the State will solicit a Cost Proposal from Qualified Respondents, which will result in a contract award.

- 5.6.1. The Solicitation Coordinator will submit the Evaluation Team determinations and response scores to the head of the contracting agency, or the agency head's designee, for consideration along with any other relevant information that might be available and pertinent to contract award.
- 5.6.2. The contracting agency head, or the agency head's designee, will determine the apparent best-evaluated response. (To effect a contract award to a Respondent other than the one receiving the highest evaluation score, the head of the contracting agency must provide written justification and obtain written approval of the Chief Procurement Officer and the Comptroller of the Treasury.)
- 5.6.3. The State reserves the right to make an award without further discussion of any response.
- 5.6.4. The State will issue an Evaluation Notice and make the RFQ files available for public inspection at the time and date specified in the RFQ §2, Schedule of Events.

NOTICE: The Evaluation Notice shall not create rights, interests, or claims of entitlement in either the Respondent identified as the apparent best evaluated or any other Respondent.

- 5.6.5. The Respondent identified as offering the apparent best-evaluated must sign a contract drawn by the State pursuant to this RFQ. The contract shall be substantially the same as the RFQ Attachment G, *pro forma* contract. The Respondent must sign said contract no later than the Respondent Contract Signature Deadline detailed in RFQ § 2, Schedule of Events. If the Respondent fails to provide the signed contract by the deadline, the State may determine the Respondent is non-responsive to this RFQ and reject the response.
- 5.6.6. Notwithstanding the foregoing, the State may, at its sole discretion, entertain limited negotiation prior to contract signing and, as a result, revise the *pro forma* contract terms and conditions or performance requirements in the State’s best interests, PROVIDED THAT such revision of terms and conditions or performance requirements shall NOT materially affect the basis of response evaluation or negatively impact the competitive nature of the RFQ and vendor selection process.
- 5.6.7. If the State determines that a response is nonresponsive and rejects it after opening Cost Proposals, the Solicitation Coordinator will re-calculate scores for each remaining responsive Cost Proposal to determine (or re-determine) the apparent best-evaluated response.

ATTACHMENT A: TECHNICAL RESPONSE & EVALUATION GUIDE

Option: Page Limitation.

Add the following row to the RFQ Attachment A table (in the grayed out top area) if a page limitation was included in RFQ § 3.4., Response Prohibitions.

		The Technical Response must not exceed _____ pages in length;	
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Option: Cash Flow Information.

Add the following row to the RFQ Attachment A table (after the model items) if the contracting agency chooses to review the evidence of Respondent’s financial stability/responsibility.

	A.#	<p>Provide documentation disclosing the amount of cash flows from operating activities for the Respondent’s most current operating period. Said documentation must indicate whether the cash flows are positive or negative, and, if the cash flows are negative for the most recent operating period, the documentation must include a detailed explanation of the factors contributing to the negative cash flows.</p> <p>NOTICE: All persons, agencies, firms, or other entities that provide opinions regarding the Respondent’s financial status <u>must</u> be properly licensed to render such opinions. The State may require the Respondent to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders the opinions.</p>	
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Option: Certificate of Insurance.

Add the following row to the RFQ Attachment A table (after the model items) ONLY IF a Certificate of Insurance is considered necessary evidence of Respondent’s financial stability/responsibility. (Specifying

insurance requirements in the *pro forma* contract does not necessitate adding this optional response requirement.)

Add, delete, or revise subsections detailing insurance coverage requirements as appropriate. (If this response requirement item is added to the RFQ, the appropriate Insurance provision must be detailed in the *pro forma* contract, and the insurance coverage requirements specified in both the RFQ and the *pro forma* contract must agree.)

	<p>A.# Provide a valid, Certificate of Insurance that is verified and dated within the last six (6) months and which details <u>all</u> of the following:</p> <ul style="list-style-type: none"> (a) Insurance Company (b) Respondent's Name and Address as the Insured (c) Policy Number (d) The following minimum insurance coverage: <ul style="list-style-type: none"> (i) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per occurrence for employers' liability; (ii) 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 WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per occurrence and WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) aggregate; (iii) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per occurrence; and (iv) Professional Malpractice Liability with a limit of not less than WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per claim. (e) The following information applicable to each type of insurance coverage: <ul style="list-style-type: none"> (i) Coverage Description, (ii) Exceptions and Exclusions, (iii) Policy Effective Date, (iv) Policy Expiration Date, and (v) Limit(s) of Liability. 	
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Option: Audited Financial Statements.

Add the following row to the RFQ Attachment A table (after the model items) ONLY IF the anticipated contract amount is \geq \$1,000,000.00 AND extraordinary effort to assure Respondent financial stability/responsibility is appropriate.

	<p>A.# Provide the Respondent's most recent independent audited financial statements. Said independent audited financial statements <u>must</u>:</p> <ul style="list-style-type: none"> (1) reflect an audit period for a fiscal year ended within the last 36 months (2) be prepared with all monetary amounts detailed in United 	
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	<p>States currency;</p> <p>(3) be prepared under United States Generally Accepted Accounting Principles (US GAAP);</p> <p>(4) include: the auditor's opinion letter; financial statements; and the notes to the financial statements; and</p> <p>(5) be deemed, in the sole discretion of the State to reflect sufficient financial stability to undertake the subject agreement with the State.</p> <p>NOTES:</p> <ul style="list-style-type: none"> ▪ Reviewed or Compiled Financial Statements will not be deemed responsive to this requirement and will <u>not</u> be accepted. ▪ All persons, agencies, firms, or other entities that provide opinions regarding the Respondent's financial status <u>must</u> be properly licensed to render such opinions. The State may require the Respondent to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders the opinions. 	
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Option: Audited Financial Statements – Line of Credit Option.

Privately held companies may not have or be willing to release audited financial statements for public review. Therefore, requiring audited financial statements (as detailed above) without an alternative to the requirement could conceptually prevent privately held companies from responding to the RFQ.

The contracting agency should consider the possible impact of the requirement on competition versus the state's need to reasonably determine the financial stability/responsibility of respondents and decide whether it is appropriate to include an alternative to the requirement.

Insert the following paragraph before the "NOTES" in the optional audited financial statements requirement text (above) if appropriate.

OR, in lieu of the aforementioned independent audited financial statements, provide a financial institution's letter of commitment for a general Line of Credit in the amount of **WRITTEN AMOUNT ≥ ONE MILLION DOLLARS (\$NUMBER AMOUNT)**, U.S. currency, available to the Respondent. Said letter must specify the Respondent's name, be signed and dated within the past three (3) months by an authorized agent of the financial institution, and indicate that the Line of Credit shall be available for at least **PERIOD ≥ 6 MONTHS**.

Option: Audited Financial Statements – Additional Requirement.

Add the following sentence at the end of the second bulleted note in the optional audited financial statements requirement text **ONLY IF** the contracting agency legal counsel recommends it in writing.

Any attest or review of the financial status of a Tennessee corporation must be rendered by an accountant or accounting firm licensed or otherwise specifically permitted to provide an attest or review by the Tennessee Board of Accountancy.

Option: Proposal Bond Confirmation.

Add the following row to the RFQ Attachment A table **ONLY IF** a Proposal Bond is required by the Chief Procurement Officer. All proposal bond amounts shall be stated as a set amount or as a percentage of the contract value. In no event shall the proposal bond amount exceed five percent (5%) of the estimated value of the contract.

	A.#	Provide a proposal bond issued by a surety company licensed to do business in the State of Tennessee in the amount of \$____.	
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Contingent Requirement: Performance Bond Confirmation.

Add the following row to the RFQ Attachment A table ONLY IF a Performance Bond is proposed.

	A.#	Provide a statement confirming that, if awarded a contract pursuant to this RFQ, the Respondent shall deliver a Performance Bond to the State in accordance with the requirements of this RFQ. The statement must be signed by an individual with legal authority to bind the proposing entity to the provisions of this RFQ and any contract awarded pursuant to it.	
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Option: Additional Mandatory Requirements.

Typically, each mandatory requirement item must be drafted such that an objective “yes/no” determination of whether the requirement was met is reasonable and adequate (clearly not necessitating a qualitative evaluation of the response).

Contracting agency staff may be asked to provide evidence that a proposed mandatory requirement is not inappropriately arbitrary or capricious (e.g., (1) information from an independent, authoritative source indicating that the proposed criteria is a reasonable standard; and (2) a recommendation signed by the contracting agency legal counsel explaining why the proposed requirement is not arbitrary or capricious).

Add mandatory requirement items to the RFQ Attachment A table (after the model items) as appropriate. Do not include a mandatory requirement that entails a response that should or must be more subjectively evaluated. Do not include an arbitrary mandatory requirement.

ATTACHMENT B: TECHNICAL RESPONSE & EVALUATION GUIDE

General Qualifications & Experience

The entire set of General Qualifications & Experience items detailed in the model for this section **MUST** be evaluated together as indicated.

RFQ Attachment B and the methodology for evaluating responses may **NOT** be revised except to add new evaluation items.

B.17. References

Option: Revised Reference Requirements.

Do not assume automatic approval of any revision of the model text.

Revise the number of required references as appropriate. Revise the model text, as appropriate, to detail an alternate process for obtaining and evaluating references. Any such revision must be exactly detailed and clearly uniform in application with all respondents.

Option: Red-Line *pro forma* contract submittal.

Add the following row to the RFQ Attachment B table ONLY if it would benefit the State to be amenable to making changes to the *pro forma* contract.

	B.#.	<p>The State is amenable to making changes to RFQ Attachment G, <i>pro forma</i> contract. The State will take all reasonable suggested alternative or supplemental contract language changes by Respondents under advisement during the evaluation and post award processes, subject to any mandates or restrictions imposed on the State by applicable state or federal law. The State, however, recommends that Respondents include with their response any alternative or supplemental suggested contract language that a Respondent would propose.</p> <p>Clearly indicate, by providing a “red-line” of RFQ Attachment G, <i>pro forma</i> contract, all suggested alternative or supplemental contract</p>	
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	language. Do not include any exceptions or changes that (1) contradict a Federal requirement or a Mandatory Requirement, or (2) push back any deadlines.	
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ATTACHMENT C: TECHNICAL RESPONSE & EVALUATION GUIDE

Technical Qualifications, Experience & Approach

The sum of all Evaluation Factors within the section should equal "100" (or "1,000") so that the relative percentage of importance/ emphasis is readily apparent.

Assign Evaluation Factors such that the Point Scale Score for the evaluation factors will be weighted to reflect the relative importance of the item to the other evaluation factors within the section.

If all evaluation factors in the section are to be considered (weighted) equally, specify "1" as the Evaluation Factor for every factor.

Option: Additional Technical Qualifications, Experience & Approach Items. Add evaluation items to the RFQ Attachment C table so that the state has the best possible information upon which to select a Respondent for contract award.

Option: Oral Presentations as part of Technical Response & Evaluation Guide

Oral Presentations may NOT include "general" questions and answers. All questions must either be scripted questions asked by state staff or subject matter experts in every response presentation or a specific question in exact follow-up to particular information presented by the respondent in response to one or more of the Oral Presentation items.

Option: Cost Proposals

ATTACHMENT D: COST PROPOSAL & EVALUATION GUIDE ATTACHMENT

Each line item on which the State is seeking costs must clearly specify the associated, applicable units of goods or services. While the line item of cost description should stipulate the applicable units of goods or services, it should also be specified within each blank cost cell. Examples: \$ ___ / hour, or \$ ___ / each, etc.

The Cost Proposal format should **not** require calculations by Respondents.

The Cost Proposal & Evaluation Guide (and the associated *pro forma* contract payment methodology) **must** be drafted so that **NO** Respondent is able to propose cost in such a manner that the Evaluation Cost Amount would equal zero. This is critical if the cost response evaluation formula is to mathematically result in rational numbers as cost response scores. (In some instances, it might be necessary to require a minimum proposed amount for one or more line item of costs.)

Cost Proposal & Evaluation Guide

For Qualified Respondents Only

NOTICE: THIS COST PROPOSAL MUST BE COMPLETED EXACTLY AS REQUIRED

COST PROPOSAL SCHEDULE— The Cost Proposal, detailed below, shall indicate the proposed price for the delivery of specified goods for the entire scope of services including all services defined in the Scope of Services of the RFQ Attachment G, *pro forma* Contract and for the entire contract period. The Cost Proposal shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract resulting from this RFQ. All monetary amounts shall be in U.S. currency and limited to two (2) places to the right of the decimal point.

ADD ADDITIONAL REQUIREMENTS FOR COMPLETING PROPOSED COST AS APPLICABLE (I.E., MINIMUM AMOUNT, "BLANK" CELLS, ETC.)

NOTICE: The Evaluation Factor associated with each line item of cost is for evaluation purposes only. The evaluation factors do NOT and should NOT be construed as any type of volume guarantee or minimum purchase quantity. The evaluation factors shall NOT create rights, interests, or claims of entitlement in the Respondent.

Notwithstanding the line item of costs herein, pursuant to the second paragraph of the *pro forma* contract section C.1. (refer to RFQ Attachment G), "The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract."

This Cost Proposal must be signed, in the space below, by an individual empowered to bind the entity responding to the provisions of this RFQ and any contract awarded pursuant thereto. If said individual is not responding in an individual capacity or is the *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to legally bind the entity responding to this RFQ.

RESPONDENT SIGNATURE:			
PRINTED NAME & TITLE:			
DATE:			
RESPONDENT LEGAL ENTITY NAME:			
Line item of cost Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
DESCRIPTION	\$ / UNIT	NUMBER	
REPEAT AS NECESSARY	\$ / UNIT	NUMBER	
REPEAT AS NECESSARY	\$ / UNIT	NUMBER	
EVALUATION COST AMOUNT (sum of evaluation costs above):			
The RFQ Coordinator will use this sum and the formula below to calculate the Cost Proposal Score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.			

RESPONDENT LEGAL ENTITY NAME:			
Line item of cost Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
$\frac{\text{lowest evaluation cost amount from all responses}}{\text{evaluation cost amount being evaluated}}$		$\times \text{RFQ } \S \text{ 5.5. NUMBER (maximum section score)}$	$= \text{SCORE:}$
<i>State Use – RFQ Coordinator Signature, Printed Name & Date:</i>			

EVALUATION FACTORS — A factor associated with each line item of cost is used to foster reasonable, competitive price offers for each line item of costs and to prevent Respondents from offering prices with the intent of “gaming” the evaluation model and not resulting in the best actual cost to the state. The use of Evaluation Factors should also result in a more appropriate consideration of each line item of cost in terms of its relative impact upon the total cost to the state under the proposed contract. Typically, all Evaluation Factors must be based upon:

- historical data relating to the number of the associated goods or services units previously bought by the state for a comparable period; OR
- the procuring state agency’s reasoned projection of the actual number of each line item of cost units that the state will buy under the new contract during the entire contract period (with all options, if any, to extend the contract exercised).

(If one or more milestone or other lump sum type payment amounts are included in the mix of line item of costs, the logical Evaluation Factor for each milestone or lump sum line item of cost should typically be “1” since each payment amount would be remitted only one time.)

Option: Cost Proposal Format Default – ONE Payment Rate Per Line item of cost (static or CPI-escalated).

Use the default Cost Proposal schedule if the Respondents must offer only one rate per all goods or services for the entire contract period (with or without rate escalation provisions are detailed in the *pro forma* contract).

Option: Cost Proposal Format – Unit or Temporal Rate Payments (proposed by period).

Use the following table if the Respondents must offer rates for one or more cost items for each of several specified periods of the contract.

Cost Proposal & Evaluation Guide

For Qualified Respondents Only

NOTICE: THIS COST PROPOSAL MUST BE COMPLETED EXACTLY AS REQUIRED

COST PROPOSAL SCHEDULE— The Cost Proposal, detailed below, shall indicate the proposed price for the delivery of specified goods for the entire scope of services including all services defined in the Scope of Services of the RFQ Attachment G, *pro forma* Contract and for the entire contract period. The Cost Proposal shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract resulting from this RFQ. All monetary amounts shall be in U.S. currency and limited to two (2) places to the right of the decimal point.

ADD ADDITIONAL REQUIREMENTS FOR COMPLETING PROPOSED COST AS APPLICABLE (I.E., MINIMUM AMOUNT, "BLANK" CELLS, ETC.)

NOTICE: The Evaluation Factor associated with each cost item is for evaluation purposes only. The evaluation factors do NOT and should NOT be construed as any type of volume guarantee or minimum purchase quantity. The evaluation factors shall NOT create rights, interests, or claims of entitlement in the Respondent.

Notwithstanding the cost items herein, pursuant to the second paragraph of the *pro forma* contract section C.1. (refer to RFP Attachment G), "The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract."

This Cost Proposal must be signed, in the space below, by an individual empowered to bind the proposing entity to the provisions of this RFQ and any contract awarded pursuant to it. If said individual is not the *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to legally bind the proposing entity.

RESPONDENT SIGNATURE:								
PRINTED NAME & TITLE:								
DATE:								
RESPONDENT LEGAL ENTITY NAME:								
Cost Item Description	Proposed Cost					State Use ONLY		
	DATE— DATE	DATE— DATE	DATE— DATE	DATE— DATE	DATE— DATE	Sum	Evaluation Factor	Evaluation Cost (sum x factor)
DESCRIPTION	\$ / UNIT		NUMBER					
REPEAT AS NECESSARY	\$ / UNIT		NUMBER					
REPEAT AS NECESSARY	\$ / UNIT		NUMBER					

RESPONDENT LEGAL ENTITY NAME:								
Cost Item Description	Proposed Cost					State Use ONLY		
	DATE— DATE	DATE— DATE	DATE— DATE	DATE— DATE	DATE— DATE	Sum	Evaluation Factor	Evaluation Cost (sum x factor)
REPEAT AS NECESSARY	\$ / UNIT		NUMBER					
REPEAT AS NECESSARY	\$ / UNIT		NUMBER					
TOTAL EVALUATION COST AMOUNT (sum of evaluation costs above):								
The RFP Coordinator will use this sum and the formula below to calculate the Cost Proposal Score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.								
$\frac{\text{lowest evaluation cost amount from all proposals}}{\text{evaluation cost amount being evaluated}}$						$\times \text{RFP } \$ 5.5 \text{ NUMBER}$	$=$	SCORE:
State Use – RFQ Coordinator Signature, Printed Name & Date:								

Option: Cost Proposal Format – NO Evaluation Factors Column contract

In those instances where the relative importance of ALL line item of costs is equal (for example, if payments will be only based on milestone/ lump sum type payments in which the sum of all of the line item of costs would equal the anticipated cost of the contract), all Evaluation Factors would equal "1." Inasmuch, it would be acceptable to draft the Cost Proposal format without the preamble notice relating to Evaluation Factors as well as without the Evaluation Factor column or the Sum and Evaluation Factor columns.

Option: Cost Proposal & Evaluation Guide.

Revise the Cost Proposal & Evaluation Guide detailed in the model, as appropriate, to direct respondents to complete a protected spreadsheet ("protected" so that respondents may only insert proposed cost as required) provided by the state along with the RFQ in lieu of completing the Cost Proposal table illustrated in the guide.

ATTACHMENT E: STATEMENT OF CERTIFICATIONS & ASSURANCES

Option: Alternate Language if Red-Line Allowed

Modify Item 3 as follows if Red-Line *pro forma* contract submittal was permitted in RFQ Attachment B.

The Respondent accepts and agrees to all terms and conditions, except changes as set forth in the response (refer to RFQ Attachment B, **Item B#NUMBER**), set out in the RFQ Attachment G, *pro forma* Contract.

NAME:	
TITLE:	
TELEPHONE #	
E-MAIL ADDRESS:	

(3) **What goods or services do/did the vendor provide to your company or organization?**

(4) **What is the level of your overall satisfaction with the vendor of the goods or services described above?**

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



RFP # NUMBER PROPOSAL REFERENCE QUESTIONNAIRE — PAGE 2

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

(5) **If the goods or services that the vendor provided to your company or organization are completed, were the goods or services completed in compliance with the terms of the contract, on time, and within budget? If not, please explain.**

(6) **If the vendor is still providing goods or services to your company or organization, are these goods or services being provided in compliance with the terms of the contract, on time, and within budget? If not, please explain.**

(7) **How satisfied are you with the vendor's ability to perform based on your expectations and according to the contractual arrangements?**

(8) In what areas of goods or service delivery do/did the vendor excel?

(9) In what areas of goods or service delivery do/did the vendor fall short?

(10) What is the level of your satisfaction with the vendor's project management structures, processes, and personnel?

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



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

RFP # NUMBER PROPOSAL REFERENCE QUESTIONNAIRE — PAGE 3

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

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



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

(12) Would you contract again with the vendor for the same or similar goods or services?

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



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

REFERENCE SIGNATURE:

(by the individual completing this request for reference information)

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

DATE:

REFERENCE QUESTIONNAIRE

RESPONDENT NAME: _____
RFQ # NUMBER _____

The Respondent will be responsible for obtaining completed Reference Questionnaires as required and for enclosing the sealed envelopes within the response.

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

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

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

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

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

NAME:	
TITLE:	
TELEPHONE #	
E-MAIL ADDRESS:	

(3) What goods or services do /did the vendor provide to your company or organization?

- (4) **What is the level of your overall satisfaction with the vendor of the goods or services described above?**

Satisfied Not Satisfied

Please check one box

- (5) **Were the goods delivered or services completed in compliance with the terms of the contract, on time, and within budget?**

Yes No Not Completed

Please check one box

- (6) **How satisfied are you with the vendor's ability to perform based on your expectations and according to the contractual arrangements?**

Satisfied Not Satisfied

Please check one box

- (7) **What is the level of your satisfaction with the vendor's project management structures, processes, and personnel?**

Satisfied Not Satisfied

Please check one box

- (8) **Would you contract again with the vendor for the same or similar goods or services?**

Satisfied Not Satisfied

Please check one box

SIGNATURE:

(by the individual completing this reference questionnaire)

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

DATE:

ATTACHMENT G: PRO FORMA CONTRACT ATTACHMENT

Draft the *pro forma* contract in accordance with the appropriate contract model.

Option: Disclaimer for Government Entity Contracts.

Add the following optional text to the attachment cover page if deemed appropriate.

If the contract is awarded to a governmental entity established pursuant to *Tennessee Code Annotated* (e.g., a human resource agency, a developmental district, the University of Tennessee, or a Board of Regents school), the standard terms and conditions of the contract shall be revised accordingly; however, significant performance requirements shall not be revised.

APPROVAL INSTRUCTIONS

Each RFQ document must be approved for release in accordance with the instructions below.

Complete the document as required by this Model.

Submit the proposed document to CPO at least 20 days before the desired RFQ release date. (Notwithstanding compliance with this deadline, circumstances may necessitate a delay of the release date.)

Submit the document draft to CPO via e-mail to: Agsprrs.Agsprrs@state.tn.us or the CPO examiner assigned to the contracting agency as a digital file in DOC format. Each draft must:

1. be clearly marked as "REVIEW DRAFT"
2. specify a number indicating the draft version;
3. highlight all deviations from the model language; and
4. highlight any changes between draft versions that may be necessary prior to release:
 - CPO staff will: (a) review the draft and confer with contracting agency staff by means of e-mailed review notes and redrafts; and (b) e-mail the proposed document to Comptroller staff when the CPO review is completed.
 - Comptroller staff will: (a) review the draft and confer directly with CPO by means of review notes and redrafts exchanged by e-mail; and (b) e-mail pre-approval notice to CPO staff when the latest draft appears acceptable for release.

Approval is also required for any amendment or cancellation.

PUBLICATION INSTRUCTIONS

Upon Comptroller approval, prepare the solicitation document for public release by removing any highlighting, changing all text to an appropriate color, and removing any draft version number or other extraneous notations.

On the business day before the date approved for public solicitation, e-mail the document prepared for public release to the CPO staff person assigned to the contracting agency so that CPO staff may post the digital document(s) on the Internet as appropriate.

The document presented for publication must be comprised by one or more (clearly and logically separated component) digital files in PDF or DOC format. If previously approved, the cost response attachment may be presented for publication in XLS, spreadsheet format.

ALWAYS confirm that each document is properly posted for public review.

If, for any reason, an RFQ is not properly published to the Internet, it may be necessary for the state to substantially revise the approved RFQ schedule of events to add additional time before Q&A and response deadlines.



**STATE OF TENNESSEE
CENTRAL PROCUREMENT OFFICE**

**REQUEST FOR QUALIFICATIONS
FOR
BRIEF GOODS OR SERVICES CAPTION**

RFQ # NUMBER

TABLE OF CONTENTS

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ATTACHMENTS:

- A. Technical Response & Evaluation Guide – Mandatory Requirement Items**
- B. Technical Response & Evaluation Guide – General Qualifications & Experience Items**
- C. Technical Response & Evaluation Guide – Technical Qualifications, Experience & Approach Items**
- D. Cost Proposal & Evaluation Guide**
- E. Statement of Certifications & Assurances**
- F. Reference Questionnaire**
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1. INTRODUCTION

The State of Tennessee, **Central Procurement Office**, hereinafter referred to as "the State," has issued this Request for Qualifications ("RFQ") to define mandatory goods or services requirements; solicit responses; detail response requirements; and, outline the State's process for evaluating responses and selecting a Respondent for contract award to provide the needed goods or services.

Through this RFQ or any subsequent solicitation, the State seeks to buy the requested goods or services at the most favorable, competitive prices and to give ALL qualified businesses, including those that are owned by minorities, women, Tennessee service-disabled veterans, and small business enterprises, the opportunity to do business with the state as contractors or subcontractors.

1.1. Statement of Procurement Purpose

BRIEF, HIGH-LEVEL EXPLANATION OF GOODS OR SERVICES SOUGHT OR A SUMMARY OF THE PROBLEM TO BE ADDRESSED. HIGHLIGHT THE PURPOSE OF THE RFQ (TO SELECT A VENDOR/NUMBER OF VENDORS) THAT ARE QUALIFIED TO MEET THE STATE'S NEEDS FOR THE GOODS OR SERVICES REQUESTED BY THE STATE.

INCLUDE A SUMMARY OF THE PROBLEM TO BE ADDRESSED, FURTHER INFORMATION ABOUT INITIATIVE, SUMMARY BACKGROUND INFORMATION, ETC., AS NEEDED. DO NOT ASSUME THAT DETAILED SPECIFICATIONS OR SCOPE OF WORK (WHICH SHOULD BE SET OUT IN THE *PRO FORMA* CONTRACT), WILL BE APPROVED FOR THIS SECTION.

INCLUDE AN ESTIMATE OF THE PURCHASE REQUIREMENTS FOR THE CURRENT CONTRACT PERIOD, IF APPLICABLE.

1.2. Pre-Response Conference

A Pre-Response Conference will be held at the time and date detailed in the RFQ Schedule of Events, RFQ § 2. Pre-Response Conference attendance is not mandatory, and potential Respondents may be limited to a maximum number of attendees depending upon overall attendance and space limitations. Please contact the Solicitation Coordinator to RSVP for the Pre-Response Conference. The Conference will be held at:

**ADDRESS/LOCATION
OTHER APPROPRIATE INFORMATION IF ANY**

1.3. Notice of Intent to Respond

Before the Notice of Intent to Respond Deadline detailed in RFQ § 2, Schedule of Events, potential Respondents should submit to the Solicitation Coordinator a Notice of Intent to Respond in the form of a simple e-mail or other written communication. Such notice should include the following information: the business or individual's name (as appropriate), a contact person's name and title, the contact person's mailing address, telephone number, facsimile, number, and e-mail address. Filing a Notice of Intent to Respond is not a prerequisite for submitting a response; however, it is necessary to ensure receipt of notices and communications relating to this RFQ.

1.4. Definitions and Abbreviations

DEFINE ABBREVIATIONS OR TERMS USED THROUGHOUT THE RFQ.

TERM	DEFINITION

--	--

2. RFQ SCHEDULE OF EVENTS

The following schedule represents the State's best estimates for this RFQ; however, the State reserves the right, at its sole discretion, to adjust the schedule at any time, or cancel and reissue a similar solicitation. Nothing in this RFQ is intended by the State to create any property rights or expectations of a property right in any Respondent.

EVENT		TIME (Central Time Zone)	DATE (all dates are State business days)
1.	RFQ Issued		DATE
2.	Disability Accommodation Request Deadline	2:00 p.m.	≥ 3 BUSINESS DAYS LATER
3.	Pre-Response Conference	TIME	≥ 1 BUSINESS DAY LATER
4.	Notice of Intent to Respond Deadline	2:00 p.m.	≥ 1 BUSINESS DAY LATER
5.	Written "Questions & Comments" Deadline	2:00 p.m.	≥ 3 BUSINESS DAYS LATER
6.	State response to written "Questions & Comments"		≥ 3 BUSINESS DAYS LATER
7.	RFQ Technical Response Deadline	2:00 p.m.	≥ 5 BUSINESS DAYS LATER
8.	State Notice of Qualified Respondents Released		≥ 1 BUSINESS DAY LATER

3. RESPONSE REQUIREMENTS

3.1. **Response Contents:** A response to this RFQ should address the following:

- 3.1.1. **Mandatory Requirements:** This section details the mandatory technical, functional, and experience requirements that must be demonstrated in the response to this RFQ in order to be passed on to Phase II of the Technical Response evaluation. A Respondent must duplicate and use RFQ Attachment A as a guide to organize responses for the Mandatory Requirements of the RFQ response. The Respondent should reference the page location of the information within the response in the indicated column of the table. This section is included in the State's evaluation as to whether or not a Respondent meets mandatory qualifications (Phase I).
- 3.1.2. **General Qualifications & Experience:** This section is included in the State's evaluation of Phase II of the Technical Response Evaluation and details general information and qualifications that must be demonstrated in the response to this RFQ. A Respondent must duplicate and use RFQ Attachment B as a guide to organize responses for this portion of the RFQ response. The Respondent should reference the page location in the information within the response in the indicated column of the table.
- 3.1.3. **Technical Qualifications, Experience & Approach:** This section is also included in the State's evaluation of Phase II of the Technical Response Evaluation and details technical qualifications, experience, and approach items that must be demonstrated in the response to this RFQ. A Respondent must duplicate and use RFQ Attachment C as a guide to organize responses for this portion of the RFQ response. The Respondent should reference the page location in the information within the response in the indicated column of the table.
- 3.1.4. **Cost Proposal: *For Qualified Respondents only***
- 3.1.4.1. This section only applies to those respondents identified as being Qualified. See RFQ § 2, Schedule of Events, "State Notice of Qualified Respondents Released."
- 3.1.4.2. If included as part of this solicitation, then the Cost Proposal must be recorded on an exact duplicate of RFQ Attachment D, Cost Proposal & Evaluation Guide. Any response that does not follow the instructions included in RFQ Attachment D may be deemed nonresponsive.
- 3.1.4.3. A Respondent must only record the proposed cost exactly as required by the RFQ Attachment D, Cost Proposal & Evaluation Guide and must NOT record any other rates, amounts, or information.
- 3.1.4.4. The proposed cost shall incorporate ALL costs for services under the contract for the total contract period.
- 3.1.4.5. A Respondent must sign and date the Cost Proposal.
- 3.1.4.6. A Respondent must submit the Cost Proposal to the State in a sealed package separate from the Technical Response.

3.2. **Response Delivery Location**

A Respondent must ensure that the State receives a Response to this RFQ no later than the Response Deadline time and dates detailed in the RFQ § 2, Schedule of Events. All responses must be delivered to:

SOLICITATION COORDINATOR NAME
ADDRESS/LOCATION (INCLUDE FLOOR NUMBER)
PHONE NUMBER

OTHER APPROPRIATE INFORMATION IF ANY

3.3. Response Format

- 3.3.1. A Respondent must ensure that the original response meets all form and content requirements detailed within this RFQ.
- 3.3.2. A Respondent must submit original response documents and copies as specified below.

3.3.2.1. Technical Response

One (1) original Technical Response paper document clearly labeled:

“RFQ #NUMBER TECHNICAL RESPONSE ORIGINAL”

and five (5) copies of the Technical Response each in the form of one (1) digital document in “PDF” format properly recorded on its own otherwise blank, standard CD-R recordable disc or USB flash drive labeled:

“RFQ #NUMBER TECHNICAL RESPONSE COPY”

The digital copies should not include copies of sealed customer references or cost information in the general and technical evaluation phase. However, any other discrepancy between the paper response document and digital copies may result in the State rejecting the response as nonresponsive.

3.3.2.2. Cost Proposal: *For Qualified Respondents only*

One (1) original Cost Proposal paper document labeled:

“RFQ #NUMBER COST PROPOSAL ORIGINAL”

and one (1) copy in the form of a digital document in “XLS” format properly recorded on a separate, blank, standard CD-R recordable disc or USB flash-drive labeled:

“RFQ #NUMBER COST PROPOSAL COPY”

In the event of a discrepancy between the original Cost Proposal document and the digital copy, the original, signed document will take precedence.

3.4. Response Prohibitions: A response to this RFQ shall not:

- 3.4.1. Restrict the rights of the State or otherwise qualify the response to this RFQ;
- 3.4.2. Include, for consideration in this procurement process or subsequent contract negotiations, incorrect information that the Respondent knew or should have known was materially incorrect;
- 3.4.3. Include more than one response, per Respondent, to this RFQ;
- 3.4.4. Include any information concerning costs (in specific dollars or numbers) associated with the Technical Response;
- 3.4.5. Include the respondent’s own contract terms and conditions (unless specifically requested by the RFQ); or
- 3.4.6. Include the respondent as a prime contractor while also permitting one or more other respondents to offer the respondent as a subcontractor in their own responses.

3.5. Response Errors & Revisions

A Respondent is responsible for any and all errors or omissions in its response to this RFQ. A Respondent will not be allowed to alter or revise its response after the Response Deadline time and dates as detailed in RFQ § 2, Schedule of Events, unless such is formally requested in writing by the State (e.g., through a request for clarification, etc.).

3.6. Response Withdrawal

A Respondent may withdraw a response at any time before the Response Deadline time and date as detailed in RFQ § 2, Schedule of Events, by submitting a written signed request by an authorized representative of the Respondent. After withdrawing a response, a Respondent may submit another Response at any time before the Response Deadline time and date as detailed in RFQ § 2, Schedule of Events.

3.7. Response Preparation Costs

The State will not pay any costs associated with the preparation, submittal, or presentation of any response. Each Respondent is solely responsible for the costs it incurs in responding to this RFQ.

4. GENERAL INFORMATION & REQUIREMENTS

4.1. Communications

- 4.1.1. Respondents shall reference **RFQ #NUMBER** in all communications relating to this solicitation, and direct any such communications to the following person designated as the Solicitation Coordinator:

**NAME, TITLE
ADDRESS
PHONE
EMAIL ADDRESS**

The State will convey all official responses and communications related to this RFQ to the potential respondents from whom the State has received a Notice of Intent to Respond (refer to RFQ Section 1.3.).

- 4.1.2. Potential respondents with a handicap or disability may receive accommodation relating to the communication of this RFQ and participating in the RFQ process. Potential respondents may contact the RFQ Coordinator to request such reasonable accommodation no later than the Disability Accommodation Request Deadline detailed in RFQ § 2, Schedule of Events.
- 4.1.3. **Unauthorized contact about this RFQ with other employees or officials of the State of Tennessee may result in disqualification from contract award consideration.**
- 4.1.4. Notwithstanding the foregoing, potential Respondents may also contact the following as appropriate:
- 4.1.4.1. Staff of the Governor's Office of Diversity Business Enterprise may be contacted for assistance with respect to available minority-owned, woman-owned, Tennessee service-disabled veteran-owned, and small business enterprises as well as general public information relating to this request; or
- 4.1.4.2. The following individual designated by the State to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and associated federal regulations:
- NAME, TITLE
ADDRESS
PHONE
EMAIL ADDRESS**

4.2. Nondiscrimination

No person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of a contract pursuant to this solicitation or in the employment practices of the Vendor on the grounds of handicap or disability, age, race, color, religion (subject to *Tennessee Code Annotated*, Sections 4-21-401 and 405), sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Vendor pursuant to this solicitation shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

4.3. Conflict of Interest

- 4.3.1. The State may not consider a proposal from an individual who is, or within the past six (6) months has been, a State employee. For these purposes,

- 4.3.1.1. An individual shall be deemed a State employee until such time as all compensation for salary, termination pay, and annual leave has been paid;
- 4.3.1.2. A contract with or a proposal from a company, corporation, or any other contracting entity in which a controlling interest is held by any State employee shall be considered to be a contract with or proposal from the employee; and
- 4.3.1.3. A contract with or a proposal from a company, corporation, or any other contracting entity that employs an individual who is, or within the past six months has been, a State employee shall not be considered a contract with or a proposal from the employee and shall not constitute a prohibited conflict of interest.

4.3.2. This RFQ is also subject to *Tennessee Code Annotated*, Section 12-4-101.

4.4. **Respondent Required Review & Waiver of Objections**

- 4.4.1. Each potential respondent must carefully review this RFQ, including but not limited to, attachments, the RFQ Attachment G, *pro forma* Contract, and any amendments for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called "questions and comments").
- 4.4.2. Any potential respondent having questions and comments concerning this RFQ must provide such in writing to the State no later than the written "Questions & Comments Deadline" detailed in RFQ § 2, Schedule of Events.
- 4.4.3. Protests based on any objection shall be considered waived and invalid if the objection has not been brought to the attention of the State, in writing, by the written "Questions & Comments Deadline."

4.5. **Disclosure of Response Contents**

- 4.5.1. All materials submitted to the State in response to this solicitation become property of the State of Tennessee. Selection for award does not affect this right. By submitting a response, a Respondent acknowledges and accepts that the full contents and associated documents submitted in response to this request will become open to public inspection. Refer to RFQ § 2, Schedule of Events.
- 4.5.2. The RFQ responses will be available for public inspection only after the completion of evaluation of the RFQ or any resulting solicitation which this RFQ becomes a part of, whichever is later.

4.6. **Notice of Professional Licensure, Insurance, and Department of Revenue Registration Requirements**

- 4.6.1. All persons, agencies, firms or other entities that provide legal or financial opinions, which a Respondent provides for consideration and evaluation by the State as part of a response to this RFQ, shall be properly licensed to render such opinions.
- 4.6.2. Before the Contract resulting from this RFQ is signed, the apparent successful Respondent (and Respondent employees and subcontractors, as applicable) must hold all necessary, appropriate business and professional licenses to provide service as required. The State may require any Respondent to submit evidence of proper licensure.
- 4.6.3. Before the Contract resulting from this RFQ is signed, the apparent successful Respondent must provide a valid, Certificate of Insurance indicating current insurance coverage meeting minimum requirements as may be specified by the RFQ.
- 4.6.4. Before the Contract resulting from this RFP is signed, the apparent successful Respondent must be registered with the Department of Revenue for the collection of Tennessee sales and use tax. The State shall not approve a contract unless the Respondent provides proof of such registration. The foregoing is a mandatory requirement of an award of a contract pursuant to this solicitation.

4.7. **RFQ Amendments & Cancellation**

- 4.7.1. The State reserves the right to amend this RFQ at any time, provided that it is amended in writing. However, prior to any such amendment, the State will consider whether it would negatively impact the ability of potential respondents to meet the deadlines and revise the RFQ Schedule of Events if deemed appropriate. If a RFQ amendment is issued, the State will convey it to potential respondents who submitted a Notice of Intent to Respond (refer to RFQ § 1.3). A response must respond, as required, to the final RFQ (including its attachments) as may be amended.
- 4.7.2. The State reserves the right, at its sole discretion, to cancel or to cancel and reissue this RFQ in accordance with applicable laws and regulations.

4.8. **State Right of Rejection**

- 4.8.1. Subject to applicable laws and regulations, the State reserves the right to reject, at its sole discretion, any and all proposals.
- 4.8.2. The State may deem as nonresponsive and reject any proposal that does not comply with all terms, conditions, and performance requirements of this RFQ. Notwithstanding the foregoing, the State reserves the right to seek clarifications or to waive, at its sole discretion, a response's minor variances from full compliance with this RFQ. If the State waives variances in a response, such waiver shall not modify the RFQ requirements or excuse the Respondent from full compliance with such, and the State may hold any resulting vendor to strict compliance with this RFQ.
- 4.8.3. The State will review the response evaluation record and any other available information pertinent to whether or not each respondent is responsive and responsible. If the evaluation team identifies any respondent that appears not to meet the responsive and responsible thresholds such that the team would not recommend the respondent for potential contract award, this determination will be fully documented for the record. ("Responsive" is defined as submitting a response that conforms in all material respects to the RFQ. "Responsible" is defined as having the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.)

4.9. **Assignment & Subcontracting**

- 4.9.1. The vendor may not subcontract, transfer, or assign any portion of the Contract awarded as a result of this RFQ without prior approval of the State. The State reserves the right to refuse approval, at its sole discretion, of any subcontract, transfer, or assignment.
- 4.9.2. If a Respondent intends to use subcontractors, the response to this RFQ must specifically identify the scope and portions of the work each subcontractor will perform (refer to RFQ Attachment B, Item B.14.).
- 4.9.3. Subcontractors identified within a response to this RFQ will be deemed as approved by the State unless the State expressly disapproves one or more of the proposed subcontractors prior to signing the Contract.
- 4.9.4. The Contractor resulting from this RFQ may only substitute another subcontractor for a proposed subcontractor at the discretion of the State and with the State's prior, written approval.
- 4.9.5. Notwithstanding any State approval relating to subcontracts, the Contractor resulting from this RFQ will be the prime contractor and will be responsible for all work under the Contract.

4.10. **Next Ranked Respondent**

The State reserves the right to initiate negotiations with the next ranked respondent should the State cease doing business with any respondent selected via this RFQ process.

5. PROCUREMENT PROCESS & CONTRACT AWARD

- 5.1. The complete vendor selection will be a two-part process: (1) Qualification of Technical Responses; and (2) Evaluation of Cost Proposals. Any contract award is subject to successful contract negotiation.
- 5.2. Qualification of Technical Responses: Technical Responses will be short-listed for further evaluation, analysis or negotiation if they are apparently responsive, responsible, and within the competitive range. A Technical Response will be deemed within the competitive range based on the following criterion:

(INSERT details as to how the competitive range will be determined).

Phase I: The State will evaluate the Mandatory Requirements set forth in RFQ Attachment A on a pass/fail basis.

Phase II: Following the Phase I evaluation, the State will apply a standard equitable evaluation model, which will represent a qualitative assessment of each response. Each response will be scored by Evaluation Team members according to the Technical Response & Evaluation Guides (See RFQ Attachments B & C).

The Solicitation Coordinator will total the average score from the evaluation team for each responsive and responsible Respondent's Technical Response Points for RFQ Attachments B & C to determine which of the Respondents are considered Qualified and within the competitive range.

- 5.3. Cost Proposals: If included as part of this solicitation then only Qualified Respondents, that are responsive and responsible and in the competitive range, will continue onto Part Two, Cost Proposal evaluation. The Cost Proposal containing the lowest cost will receive the maximum number of points per each section. See RFQ Attachment D, Cost Proposal & Evaluation Guide.
- 5.4. Clarifications and Negotiations: The State reserves the right to award a contract on the basis of initial responses received; therefore, each response should contain the respondent's best terms from a technical and cost standpoint. However, the State reserves the right to conduct clarifications or negotiations with respondents. All communications, clarifications, and negotiations shall be conducted in a manner that supports fairness in response improvement.
- 5.4.1. Clarifications: The State may identify areas of a response that may require further clarification or areas in which it is apparent that there may have been miscommunications or misunderstandings as to the State's specifications or requirements. The State may seek to clarify those issues identified during one or multiple clarification round(s). Each clarification sought by the State may be unique to an individual respondent.
- 5.4.2. Negotiations: The State may elect to negotiate with Qualified Respondents, within the competitive range, by requesting revised responses, negotiating costs, or finalizing contract terms and conditions. The State reserves the right to conduct multiple negotiation rounds
- 5.4.2.1. Cost Negotiations: All responsive respondents within the competitive range will be given equivalent information with respect to cost negotiations. All cost negotiations will be documented for the procurement file. Additionally, the State may conduct target pricing and other goods or services level negotiations. Target pricing may be based on considerations such as current

pricing, market considerations, benchmarks, budget availability, or other methods that do not reveal individual respondent pricing. During target price negotiations, respondents are not obligated to meet or beat target prices, but will not be allowed to increase prices.

5.4.2.2. If the State determines costs and contract finalization discussions and negotiations are not productive, the State reserves the right to bypass the apparent best evaluated Respondent and enter into contract negotiations with the next apparent best evaluated Respondent.

5.5. Evaluation Guide

The State will consider qualifications, experience, technical approach, and cost (if applicable) in the evaluation of responses and award points in each of the categories detailed below. The maximum evaluation points possible for each category are detailed below.

Evaluation Category	Maximum Points Possible
Mandatory Requirements (refer to RFQ Attachment A)	Pass/Fail
General Qualifications, Experience, Technical Qualifications, Experience & Approach (refer to RFQ Attachment B)	NUMBER
Technical Qualifications, Experience & Approach (refer to RFQ Attachment C)	NUMBER

ATTACHMENT A**TECHNICAL RESPONSE & EVALUATION GUIDE**

All Respondents must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). All Respondents must also detail the response page number for each item in the appropriate space below.

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

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		The Technical Response must be delivered to the State no later than the Technical Response Deadline specified in the RFQ § 2, Schedule of Events.	
		The Technical Response must not contain cost or pricing information of any type.	
		The Technical Response must not contain any restrictions of the rights of the State or other qualification of the response.	
		A Respondent must not submit alternate responses.	
		A Respondent must not submit multiple responses in different forms (as a prime and a subcontractor).	
	A.1.	Provide the Statement of Certifications and Assurances (RFQ Attachment E) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFQ and any resulting contract. The document must be signed without exception or qualification.	
	A.2.	Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall perform work under the contract has a possible conflict of interest (e.g., employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	A.3.	Provide a current bank reference indicating that the Respondent's business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.	
	A.4.	Provide two current positive credit references from vendors with which the Respondent has done business written in the form of standard business letters, signed, and dated within the past three (3) months.	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A-- Mandatory Requirement Items	Pass/Fail
	A.5.	Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a positive credit rating for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will <u>not</u> be considered responsive.)	
	A. #.	REPEAT MANDATORY REQUIREMENT ITEMS & ASSOCIATED ITEM REFERENCES AS NECESSARY	
<i>State Use – RFQ Coordinator Signature, Printed Name & Date:</i>			

ATTACHMENT B**TECHNICAL RESPONSE & EVALUATION GUIDE**

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

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

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.10.	<p>Provide a statement of whether there is any pending or in progress Securities Exchange Commission investigations involving the Respondent. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it will impair the Respondent's performance in a contract pursuant to this RFQ.</p> <p>NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the Respondent to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders such opinions.</p>
	B.11.	Provide a brief, descriptive statement detailing evidence of the Respondent's ability to deliver the goods or services sought under this RFQ (e.g., prior experience, training, certifications, resources, program and quality management systems, etc.).
	B.12.	Provide a narrative description of the proposed contract team, its members, and organizational structure along with an organizational chart identifying the key people who will be assigned to provide the goods or services required by this RFQ, illustrating the lines of authority, and designating the individual responsible for the completion of each task and deliverable of the RFQ.
	B.13.	Provide a personnel roster listing the names of key people who the Respondent will assign to perform tasks required by this RFQ along with the estimated number of hours that each individual will devote to the required tasks. Follow the personnel roster with a resume for each of the people listed. The resumes must detail the individual's title, education, current position with the Respondent, and employment history.
	B.14.	<p>Provide a statement of whether the Respondent intends to use subcontractors to accomplish the work required by this RFQ, and if so, detail:</p> <p>(a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each;</p> <p>(b) a description of the scope and portions of the work each subcontractor will perform; <u>and</u></p> <p>(c) a statement specifying that each proposed subcontractor has expressly assented to being proposed as a subcontractor in the Respondent's response to this RFQ.</p>
	B.15.	<p>Provide documentation of the Respondent's commitment to diversity as represented by the following:</p> <p>(a) <u>Business Strategy</u>. Provide a description of the Respondent's existing programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities, women, Tennessee service-disabled veterans, and small business enterprises. Please also include a list of the Respondent's certifications as a diversity business, if applicable.</p> <p>(b) <u>Business Relationships</u>. Provide a listing of the Respondent's current contracts with business enterprises owned by minorities, women, Tennessee service-disabled veterans and small business enterprises. Please include the following information:</p> <p>(i) contract description;</p> <p>(ii) contractor name and ownership characteristics (i.e., ethnicity, gender, Tennessee service-disabled); and</p> <p>(iii) contractor contact name and telephone number.</p>

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		<p>(c) <u>Estimated Participation</u>. Provide an estimated level of participation by business enterprises owned by minorities, women, Tennessee service-disabled veterans, and small business enterprises if a contract is awarded to the Respondent pursuant to this RFP. Please include the following information:</p> <ul style="list-style-type: none"> (i) a percentage (%) indicating the participation estimate. (Express the estimated participation number as a percentage of the total estimated contract value that will be dedicated to business with subcontractors and supply contractors having such ownership characteristics only and DO NOT INCLUDE DOLLAR AMOUNTS); (ii) anticipated goods or services contract descriptions; (iii) names and ownership characteristics (i.e., ethnicity, gender, Tennessee service-disabled veterans) of anticipated subcontractors and supply contractors. <p>NOTE: In order to claim status as a Diversity Business Enterprise under this contract, businesses must be certified by the Governor's Office of Diversity Business Enterprise (Go-DBE). Please visit the Go-DBE website at https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810 for more information.</p> <p>(d) <u>Workforce</u>. Provide the percentage of the Respondent's total current employees by ethnicity and gender.</p> <p>NOTE: Respondents that demonstrate a commitment to diversity will advance State efforts to expand opportunity to do business with the State as contractors and subcontractors. Response evaluations will recognize the positive qualifications and experience of a Respondent that does business with enterprises owned by minorities, women, Tennessee service-disabled veterans and small business enterprises and who offer a diverse workforce.</p>
	B.16.	<p>Provide a statement of whether or not the Respondent has any current contracts with the State of Tennessee or has completed any contracts with the State of Tennessee within the previous five-year period. If so, provide the following information for all current and completed contracts:</p> <ul style="list-style-type: none"> (a) the name, title, telephone number and e-mail address of the State contact responsible for the contract at issue; (b) the name of the procuring State agency; (c) a brief description of the contract's specification for goods or scope of services; (d) the contract term; and (e) the contract number. <p>NOTES:</p> <ul style="list-style-type: none"> ▪ Current or prior contracts with the State are <u>not</u> a prerequisite and are <u>not</u> required for the maximum evaluation score, and the existence of such contracts with the State will <u>not</u> automatically result in the addition or deduction of evaluation points. ▪ Each evaluator will generally consider the results of inquiries by the State regarding all contracts responsive to Section B.16 of this RFQ.
	B.17.	<p>Provide customer references from individuals who are <u>not</u> current or former State employees for projects similar to the goods or services sought under this RFQ and which represent:</p> <ul style="list-style-type: none"> ▪ two (2) accounts Respondent currently services that are similar in size to the State; <u>and</u> ▪ three (3) completed projects. <p>References from at least three (3) different individuals are required to satisfy the</p>

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		<p>requirements above, e.g., an individual may provide a reference about a completed project and another reference about a currently serviced account. The standard reference questionnaire, which <u>must</u> be used and completed is provided at RFQ Attachment F. References that are not completed as required may be deemed nonresponsive and may not be considered.</p> <p>The Respondent will be <u>solely</u> responsible for obtaining fully completed reference questionnaires and including them in the sealed Technical Response. In order to obtain and submit the completed reference questionnaires, follow the process below:</p> <p>(a) Add the Respondent's name to the standard reference questionnaire at Attachment F, and make a copy for each reference.</p> <p>(b) Send a reference questionnaire and a new, standard #10 envelope to each reference.</p> <p>(c) Instruct the reference to:</p> <p>(i) complete the reference questionnaire;</p> <p>(ii) sign <u>and</u> date the completed reference questionnaire;</p> <p>(iii) seal the completed, signed, and dated reference questionnaire within the envelope provided;</p> <p>(iv) sign his or her name in ink across the sealed portion of the envelope; and</p> <p>(v) return the sealed envelope directly to the Respondent (the Respondent may wish to give each reference a deadline, such that the Respondent will be able to collect all required references in time to include them within the sealed Technical Response).</p> <p>(d) <u>Do NOT open the sealed references upon receipt.</u></p> <p>(e) Enclose all <u>sealed</u> reference envelopes within a larger, labeled envelope for inclusion in the Technical Response as required.</p> <p>NOTES:</p> <ul style="list-style-type: none"> ▪ The State will not accept late references or references submitted by any means other than that which is described above, and each reference questionnaire submitted must be completed as required. ▪ The State will not review more than the number of required references indicated above. ▪ While the State will base its reference check on the contents of the sealed reference envelopes included in the Technical Response package, the State reserves the right to confirm and clarify information detailed in the completed reference questionnaires, and may consider clarification responses in the evaluation of references. ▪ The State is under no obligation to clarify any reference information.
	B.18.	<p>Provide a statement and any relevant details addressing whether the Respondent is any of the following:</p> <p>(a) is presently debarred, suspended, proposed for debarment, or voluntarily excluded from covered transactions by any federal or state department or agency;</p> <p>(b) has within the past three (3) years, been convicted of, or had a civil judgment rendered against the contracting party 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;</p> <p>(c) is presently indicted or otherwise criminally or civilly charged by a government</p>

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		entity (federal, state, or local) with commission of any of the offenses detailed above; and <ul style="list-style-type: none"> ▪ has within a three (3) year period preceding the contract had one or more public transactions (federal, state, or local) terminated for cause or default.
	B.#.	REPEAT REQUIREMENT ITEMS & ASSOCIATED ITEM REFERENCES AS NECESSARY
	B.#.	REPEAT REQUIREMENT ITEMS & ASSOCIATED ITEM REFERENCES AS NECESSARY
SCORE (for all Section B— Qualifications & Experience Items above): (maximum possible score = RFQ § 5.5 NUMBER)		
State Use – Evaluator Identification:		

ATTACHMENT C

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION C: TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH. The Respondent should explain its approach to providing goods or services to the State. The items listed below represent specific questions the State would request you answer in your response. For ease of review, please annotate your explanation so that it contains references to the items listed below where they are addressed. Respondent should not feel constrained to answer only the specific questions listed below in its explanation and should feel free to provide attachments if necessary in an effort to provide a more thorough response.

The Evaluation Team, made up of three (3) or more State employees, will independently evaluate and score the response to each item. Each evaluator will use the following whole number, raw point scale for scoring each item:

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

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

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
	C.1.	Provide a narrative that illustrates the Respondent's understanding of the State's requirements and project schedule.		NUMBER	
	C.2.	Provide a narrative that illustrates how the Respondent will complete the delivery of goods or scope of services, accomplish required objectives, and meet the State's project schedule.		NUMBER	
	C.3.	Provide a narrative that illustrates how the Respondent will manage the project, ensure delivery of specified goods or completion of the scope of services, and accomplish required objectives within the State's project schedule.		NUMBER	
	C.#.	REPEAT REQUIREMENT ITEMS & ASSOCIATED ITEM REFERENCES & WEIGHTS AS NECESSARY		NUMBER	
The Solicitation Coordinator will use this sum and the formula below to calculate the section score. All calculations will use and result in numbers rounded to two (2) places to the right of the decimal point.			Total Raw Weighted Score: (sum of Raw Weighted Scores above)		
$\frac{\text{Total Raw Weighted Score}}{\text{Maximum Possible Raw Weighted Score (i.e., 5 x the sum of item weights above)}} \times \text{RFP § 5.5. NUMBER (maximum possible score)} = \text{SCORE:}$					
State Use – Evaluator Identification:					

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
<i>State Use – Solicitation Coordinator Signature, Printed Name & Date:</i>					

ATTACHMENT D

Cost Proposal & Evaluation Guide
For Qualified Respondents Only

Cost Proposals/Negotiations will only be requested of Qualified Respondents in the competitive range. This is a place holder for the document that will be issued to Qualified Respondents at that part of the procurement process.

ATTACHMENT E**STATEMENT OF CERTIFICATIONS AND ASSURANCES**

An individual responding in his or her individual capacity or legally empowered to contractually bind the Respondent must complete and sign the Statement of Certifications and Assurances below as required, and this signed statement must be included with the response as required by the Request for Qualifications.

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

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

By signature below, the signatory certifies legal authority to bind the responding entity to the provisions of this request and any contract awarded pursuant to it. The State may, at its sole discretion and at any time, require evidence documenting the signatory's authority to be personally bound or to legally bind the responding entity.

DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO DO SO BY THE ENTITY RESPONDING TO THIS RFQ.

SIGNATURE & DATE:

PRINTED NAME & TITLE:

LEGAL ENTITY NAME:

FEIN or SSN:

ATTACHMENT F

REFERENCE QUESTIONNAIRE

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

The Respondent will be responsible for obtaining completed reference questionnaires as required (refer to RFQ Attachment B, General Qualifications & Experience Items, Item B.17.), and for enclosing the sealed reference envelopes within the Respondent's Technical Proposal.

(Insert Reference Questionnaire on following page)

ATTACHMENT G

RFQ # NUMBER PRO FORMA CONTRACT

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

Pro Forma ATTACHMENT 1**(Fill out only by selected Contractor)****ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

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

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

CONTRACTOR SIGNATURE

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

PRINTED NAME AND TITLE OF SIGNATORY**DATE OF ATTESTATION****Pro Forma ATTACHMENT 2****(Fill out only by selected Contractor)**

SAMPLE LETTER OF DIVERSITY COMMITMENT

(Company Letterhead/Logo)**(Address)****(Date)****(Salutation),**

(Company Name) is committed to achieving or surpassing a goal of **(numeral)** percent spend with certified diversity business enterprise firms on State of Tennessee contract # **(Edison document #)**. Diversity businesses are defined as those that are owned by minority, women, small business and Tennessee service-disabled veterans which are certified by the Governor's Office of Diversity Business Enterprise (Go-DBE).

We confirm our commitment of **(percentage)** participation on the **(Contract)** by using the following diversity businesses:

- (i) Name and ownership characteristics (i.e., ethnicity, gender, Tennessee service-disabled veteran) of anticipated diversity subcontractors and suppliers:

- (ii) Participation estimates (expressed as a percent of the total contract value to be dedicated to diversity subcontractors and suppliers):

_____ %.

- (iii) Description of anticipated services to be performed by diversity subcontractors and suppliers:

We accept that our commitment to diversity advances the State's efforts to expand opportunity of diversity businesses to do business with the State as contractors and sub-contractors.

Further, we commit to:

1. Using applicable reporting tools that allow the State to track and report purchases from businesses owned by minority, women, Tennessee service-disabled veterans and small business.
2. Reporting quarterly to the Go-DBE office the dollars spent with certified diversity businesses owned by minority, women, Tennessee service-disabled veterans and small business accomplished under contract # **(Edison number)**.

(Company Name) is committed to working with the Go-DBE office to accomplish this goal.

Regards,

(Company authority – signature and title)

POLICY NUMBER 2015-010:
CENTRAL PROCUREMENT OFFICE
STATEWIDE PURCHASING CARD
POLICY AND PROCEDURES

Policy Number 2015-010
Central Procurement Office
Statewide Purchasing Card Policy and Procedures

Revised: January 21, 2016

Prepared by: The Central Procurement Office of the State of Tennessee

1. PROGRAM OVERVIEW.

The State of Tennessee Purchasing Card Program streamlines the State's payment process for goods and services by eliminating the administrative burdens and costs associated with the State's traditional payment methods. The Program's objective is to simplify the documentation necessary for State Agency purchases by placing P-Cards in the hands of Cardholders. Cardholders may use the P-Card to purchase the types of goods and services subject to this Policy. Personal purchases are prohibited and all rules, policies, and procedures of the Central Procurement Office applicable to the procurement of goods and services must be followed unless exempt.

2. DEFINITIONS.

"Agency Term Contract" means a State Agency contract in which a source or sources of supply are established for a specified period of time at an agreed upon unit price or prices.

"Bank" means Citibank, NA, or any of its subsidiaries as the context may require.

"Cardholder" means the State Agency employee who is issued a physical P-Card to initiate payments on behalf of the State.

"Cardholder Agreement" means the document signed by the Cardholder to verify that he or she completed P-Card training, received a copy of the P-Card Policy, and understands the Policy.

"Cardholder Application" means the application completed by the Cardholder that is approved by the Cardholder Supervisor and the *State Agency P-Card Program Coordinator* that is required before a P-Card Account will be assigned to a Cardholder.

"Cardholder Supervisor" means the State Agency employee with supervisory authority over the Cardholder.

"CitiManager®" means the online portal that provides Cardholders, State Agency P-Card Program Coordinators, and the Statewide P-Card Program Administration Team the ability to view and download statement information, update and manage accounts, set limits and permissions, reset passwords, and process Cardholder requests.

"Central Fiscal Office P-Card" means the P-Card assigned to a Cardholder with a Single Transaction Limit of up to fifty thousand dollars (\$50,000).

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

“Cycle (Credit) Limit” means the spending limit that restricts the total value of purchases a Cardholder can make in one billing cycle.

“Fiscal Director” means that State Agency employee, regardless of his or her particular title, who serves as the Agency’s chief financial officer.

“Merchant Category Codes” or “MCCs” means the specific Merchant Category Code, assigned by an acquiring financial institution, that identifies the primary goods or services a vendor provides.

“P-Card Account” means the unique account number assigned to a Cardholder as determined by the Bank.

“P-Card Program” means the program established by the State and managed by the Central Procurement Office whereby Cardholders and Virtual P-Card Users make purchases on behalf of the State of Tennessee.

“Purchasing Card” or “P-Card” means a commercial card that allows organizations to take advantage of the existing credit card infrastructure to make electronic payments for goods or services. A P-Card is similar to a consumer credit card, but the card-using organization must pay the card issuer in full each month. In this Policy, the term “Purchasing Card” or “P-Card” shall also include “Virtual Purchasing Cards” or “Virtual P-Cards” as the context requires.

“Purchasing Card Profile” means the unique profile associated with a Cardholder that contains monetary or MCC limits on the Cardholder’s ability to make purchases on behalf of the State.

“Single Transaction Limit” or “STL” means the mandatory spending limit that restricts the amount of a single purchase regardless of the Cycle Limit on the card. This Policy establishes the STL for the designated State Agency Central Fiscal Office P-Card as fifty thousand dollars (\$50,000) and for all other physical P-Cards as ten thousand dollars (\$10,000).

“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 other than units of the University of Tennessee or Board of Regents systems.

“State Agency P-Card Program Coordinator” means the employee within the State Agency who manages the P-Card Program at the State Agency level.

“State Agency Approver” means the State Agency Employee who approves P-Card or Virtual P-Card Transactions.

“Statewide Contract” means a contract for goods or services established by the Chief Procurement Officer that all State Agencies must utilize and that may be used by local governments, higher education and authorized not-for-profit entities.

“Statewide P-Card Program Administrator” means the employee within the Central Procurement Office who is responsible for managing and overseeing the P-Card Program.

“Statewide P-Card Program Administration Team” means the team within the Central Procurement Office that is responsible for overseeing the P-Card Program.

“State Agency Reconciler” means the State Agency employee responsible for all the functions associated with post-purchase processing P-Card Transactions including account allocation and providing a business purpose when required.

“Transaction” means the purchase of goods or services through use of a P-Card or Virtual P-Card.

“Vendor” means a person or legal entity with the legal capacity to enter into contracts and sue and be sued who provides goods or services to the State through a contract or a purchase order.

“Virtual Purchasing Card” or “Virtual P-Card” means the unique account number, embedded within Edison, which is assigned to a State Agency for payment of vendors with an existing relationship with the State. “Virtual P-Card User” or “User” means the State Agency employee who has a buyer or e-procurement role in Edison, has undergone training on reconciliation, and is authorized to use a Virtual P-Card to initiate payment transactions on behalf of the State.

3. TYPES OF ACCOUNTS.

This Policy recognizes two general account types: P-Card Accounts and Virtual P-Card accounts. P-Card Accounts and Virtual P-Card accounts can be used only for official State business as set forth in this Policy. P-Cards must be surrendered or Virtual P-Card accounts closed upon the Cardholder’s transfer to another State Agency, separation from state employment, or upon demand by the Cardholder Supervisor, the State Agency P-Card Program Coordinator or the Statewide P-Card Program Administrator.

3.1. P-Card Accounts.

P-Card accounts are those that involve the issuance of a P-Card Account to an individual Cardholder to further the official business of the State. Cardholders are limited to one active physical P-Card.

3.2. Virtual P-Cards.

Virtual P-Cards are cardless accounts that allow State Agencies to pay for approved, Edison purchase order transactions initiated by Virtual P-Card Users. The account number is “embedded” in the Edison P-Card module and is securely transmitted to the vendor upon Edison-based approval of a User’s purchase order transactions. A Virtual P-Card may be used for payments to any vendor that is registered in the State’s vendor registration system whose payment method has been activated to “P-Card” in

Edison. Virtual P-Card accounts allow for greater ease of use (multiple buyers can leverage the same payment device), as well as enhanced control through absence of a physical card and spending limits. The State Agency P-Card Coordinator should contact the Statewide P-Card Program Administrator for more information on Virtual P-Cards.

The ten thousand dollar (\$10,000) STL that applies to all physical P-Cards does not apply to Virtual P-Cards or Central Fiscal Office P-Cards; the STL for a Central Fiscal Office P-Card is fifty thousand dollars (\$50,000) and there is no STL for purchases made with a Virtual P-Card. The Bank determines the Cycle Limit for Virtual P-Cards. Each State Agency is limited to one (1) Virtual P-Card Account.

3.2.1. Records Retention Requirements.

The Office of the Secretary of State oversees Tennessee's Records Management Division, the State Agency that provides guidance on disposition, retention, and destruction of state records. Records Disposition Authority (RDA) SW23 applies to all P-Card documents. RDA SW23 requires that State Agencies maintain documents related to P-Card issuance and use for five (5) years and destroy them at the end of the five-year period. P-Card documents may be maintained in either paper or electronic format, so long as the electronic content has been verified for completeness, accuracy, and usability. RDA SW23 is available in its entirety at <http://www.tnsos.net/rmd/rda/index.php>.

3.2.2. Internal Revenue Service 1099 Reporting.

In 2011, the Internal Revenue Service announced changes to the Internal Revenue Code, Section 6050W, which shifted the burden of payment reporting requirements from the purchaser to the vendor's bank when the P-Card is the payment method for a reportable transaction. Because of the shift in responsibility, participants in the Program are no longer required to report total P-Card transactions in excess of six hundred dollars (\$600) with certain vendors. Reporting for all other payment methods, including checks, Automated Clearing House, or other means, will remain the responsibility of the State Agency making payment. Cardholders should consult the tax specialists at their State Agency for further information or details regarding Internal Revenue Service 1099 reporting requirements.

4. OVERVIEW OF P-CARD PROGRAM ROLES AND RESPONSIBILITIES.

The CPO is the State Agency that is primarily responsible for managing, overseeing, and coordinating the P-Card Program. The Statewide P-Card Program Administrator is the employee within the CPO who has the direct, day-to-day responsibility for managing, overseeing, and coordinating the P-Card Program between the CPO and State Agencies. The State Agency P-Card Coordinator is the employee within each State Agency who has been appointed to supervise Cardholders and manage and coordinate the P-Card Program within his or her State Agency in compliance with this Policy. The Cardholder Supervisor is the State Agency employee with supervisory authority over the Cardholder who ensures that transactions are properly reconciled and reported to the Department of Finance and Administration ("F&A"), Division of Accounts. State Agency Reconcilers are the employees within a State Agency who are responsible for

reconciling P-Card transactions. The State Agency Approver is the employee within the State Agency who approves P-Card Transactions. The Cardholder is the specially-trained employee within a State Agency responsible for purchasing goods or services on behalf of the State of Tennessee using a physical P-Card. In the interests of segregating duties and responsibilities, State Agency Reconcilers shall not be Cardholders.

5. P-CARD PROGRAM ROLES AND RESPONSIBILITIES.

5.1. P-Card Processing Cycle Overview.

The typical cycle for P-Card usage is:

- An individual Cardholder, with State Agency approved spending limits, initiates a purchase using a P-Card;
- The individual Cardholder retains an original, legible copy of the purchase's receipt for use in reconciliation (see Section 10.2 for more information on receipts);
- Transactions are typically posted in the Edison P-Card module within 24-72 hours after the purchase is made;
- The Cardholder will log into the Edison P-Card module on a weekly basis to review transactions and account coding and take necessary action to correct errors in the purchase details;
- The Cardholder and his or her State Agency Approver confirms or disputes Transactions posted to the card account;
- The credit line is replenished for the amount of the Transactions;
- The Cardholder will receive a hard-copy Bank statement monthly;
- The hard-copy Bank statement and original receipts will be sent to the State Agency Reconciler for final reconciliation;
- The State Agency Reconciler will reconcile all Transactions in accordance with the State Agency P-Card Policy; and
- The State Agency Reconciler prepares all documentation for retention.

5.2. Statewide P-Card Program Administrator.

The Statewide P-Card Program Administrator serves as the primary point-of-contact in the CPO for the P-Card Program. The Statewide P-Card Program Administrator's role, duties and responsibilities include:

- Establishing written internal procedures to ensure compliance with state procurement statutes, rules, policies and procedures, including this Policy, and reviewing each State Agency's internal P-Card policy;
- Developing written internal procedures for requesting exceptions to either state or internal policy requirements;
- Ensuring that State Agency Transactions are audited at least annually;
- Developing State Agency specific training for all Cardholders, State Agency Approvers, State Agency Reconcilers, and State Agency Supervisors;
- Developing appropriate refresher training to be delivered at least annually; and

- Notifying State Agency P-Card Program Coordinators of changes in state rules, policies or procedures.

5.3. State Agency P-Card Program Coordinator.

The State Agency P-Card Program Coordinator serves as the main point-of-contact between the State Agency and the Statewide P-Card Program Administration Team.

The State Agency must provide the Statewide P-Card Program Administrator written notice within one (1) business day of any changes in status of the State Agency P-Card Program Coordinator.

The State Agency P-Card Program Coordinator's role, duties, and responsibilities include:

- Collaborating with the Agency's Fiscal Director to develop and maintain the State Agency's internal P-Card policy to address policy areas unique to the State Agency or that are not covered by this Policy;
- Working with State Agency management to identify job titles, positions, or Edison roles that require use of a P-Card or Virtual P-Card;
- Working with State Agency management to determine appropriate Cardholder spending limits based on budget restrictions, job requirements, historical spending patterns, and overall procurement practices;
- Evaluating Cardholder spending limits against actual usage at least annually;
- Terminating a Cardholder's status if necessary (e.g., due to separation from employment, transfer to another State Agency, low P-Card usage) and cancelling a P-Card;
- Ensuring Agency-wide reconciliation procedures provide for timely payment and for allocation of Transactions to the general ledger at least monthly; and
- Ensuring that Transactions are reconciled and supported by adequate documentation, including use of Edison or CitiManager®, as appropriate.

5.4. Cardholder Supervisors.

The Cardholder Supervisor responsible for supervising Cardholders must have a thorough knowledge of the Cardholders' job responsibilities in order to determine if purchases are job-related or otherwise authorized by CPO rules, policies or procedures. The Cardholder Supervisor's role, duties, and responsibilities include:

- Before approving the P-Card transactions, either by signing a transaction log or statement or signing off on transactions electronically, carefully reviewing all documentation to ensure that all documentation meets the minimum requirements as set forth in this Policy;
- Approving, rejecting, or disputing all Transactions within the scheduled timeframe;
- Ensuring that all documentation is submitted according to the State Agency's internal procedures and this Policy;
- Maintaining knowledge of State Agency internal procedures and policies and this Policy; and

- Requesting reasonable spending limits in accordance with State Agency internal procedures and policies and this Policy.

5.5. State Agency Reconciler.

The State Agency Reconciler is the State Agency employee responsible for all the functions associated with post-purchase processing of P-Card Transactions including account allocation and providing a business purpose when required. A Reconciler CANNOT make purchases using the P-Card belonging to a Cardholder for whom he or she reconciles.

5.6. State Agency Approver.

The State Agency Approver is the State Agency employee who approves purchases made by the Cardholder to which he or she is assigned. This role may also be performed by the Cardholder Supervisor. By approving each P-Card transaction, the Approver exercises critical control by ensuring authorized and appropriate P-Card use and correct allocation of expenses in accordance with related policies of F&A, Division of Accounts. State Agency Approvers should also review receipts where appropriate to ensure compliance with this Policy and F&A, Division of Accounts policies. No Cardholder may approve his or her own P-Card transactions nor may he or she direct someone else to approve P-Card transactions in a manner that could violate this Policy or applicable policies of F&A, Division of Accounts. As a general rule, the State Agency Approver should not report to the Cardholder whose transactions he or she is reviewing. A State Agency Approver has the following responsibilities:

- Review Cardholder transactions to ensure that purchases made were:
 - For the use and benefit of the State of Tennessee;
 - Necessary for the official duties of the agency;
 - Made in accordance with CPO policies and procedures;
 - For goods or services actually received.
- If a State Agency Approver is in doubt about any of the above, the State Agency Approver should immediately question the Cardholder and seek advice from the State Agency P-Card Program Coordinator or the Statewide P-Card Program Administrator.
- Immediately inform the State Agency P-Card Program Coordinator of any misuse, abuse or fraudulent use of a P-Card.
- If the Cardholder is unavailable for questioning, the State Agency P-Card Program Coordinator or the Statewide P-Card Program Administration Team may adjust the Cardholder's STL to one dollar (\$1.00). The State Agency Approver shall notify the State Agency P-Card Program Coordinator of Cardholder transfers or terminations. Advanced notice is required if the State Agency Approver is aware of impending personnel actions.
- Review, certify, and forward Cardholder transaction log pages, receipts or cycle statements in accordance with this Policy.

5.7. Cardholders.

An important participant in the P-Card Program is the Cardholder. The Cardholder is a key element in making the P-Card Program successful.

5.7.1. Cardholder Responsibilities.

The State is responsible for payment to Citibank. Therefore, P-Cards are issued to the State and assigned on its behalf to specific Cardholders. No credit checks will be performed on individual employees nor will account activity be reported to credit rating agencies. Cardholders have the following duties and responsibilities as a condition for being issued a P-Card:

- Reading and becoming familiar with this Policy;
- Attending and passing Cardholder / Approver training course;
- Signing Cardholder / Approver agreement;
- Being responsible for all purchases made on the P-Card; and
- Adhering to this Policy and other applicable rules, policies, and procedures.

5.7.2 Cardholder Misuse.

Each Cardholder is responsible for the purchases made on the P-Card that is assigned to them. Cardholders are required to adhere to applicable CPO rules, policies, procedures, and this Policy.

Use of a P-Card is a privilege based on trust. A Cardholder is trained and understands the penalties for abuse of the P-Card. The P-Card is for official State business use only and the purchase of personal or disallowable goods or services is strictly prohibited. Misuse of the P-Card may result in disciplinary action up to and including termination of employment and prosecution to the extent permitted by law. Cardholders will be required to reimburse the State, including sales tax, for any improper purchases.

5.8. Virtual P-Card Users.

Virtual P-Card Users are critical to the P-Card Program's success. A User has authority to make purchases utilizing his or her Agency's local purchase authority and to make purchases from a Statewide Contract or Agency Term Contract for official State business. State Agency employees with an e-procurement or buyer role in Edison are eligible to be Users. Users must complete training on reconciliation procedures before initiating any Transactions with a Virtual P-Card.

6. P-CARD SECURITY.

The security of each P-Card is the Cardholder's responsibility. Every precaution should be used to protect the account number. The account number should never be left in a conspicuous place.

Use of the P-Card is restricted to the authorized Cardholder whose name appears on the face of the card and may not be loaned to any other person. The account number that appears on the P-Card must not be given to any individual other than the vendor from whom the Cardholder is making a purchase.

6.1. Lost or Stolen Cards.

If a P-Card is lost, stolen, or the card information has been compromised, the Cardholder must immediately contact **Citibank Customer Service at 1-800-248-4553**. Upon such notification, outstanding authorizations will be confirmed and further use of the P-Card will be blocked by Citibank. Neither the State nor the Cardholder will be responsible for fraudulent charges made to a promptly reported lost or stolen card.

At the time of the notification, Citibank will request the following information:

- Cardholder's name
- Account number
- Last four digits of SSN
- Circumstances surrounding the loss of the card
- Any purchase(s) made prior to the card being lost or stolen

The Cardholder must notify his or her State Agency P-Card Program Coordinator of the P-Card's loss or theft and make arrangements to receive a new P-Card. Citibank will then issue a new card with a new account number which will be delivered to the State Agency P-Card Program Coordinator.

6.2. Separation from Employment.

If a Cardholder's separation from employment or transfer to another State position is planned, P-Card use shall be discontinued prior to Cardholder's separation from employment or transfer to allow sufficient time for submission of receipts and processing of outstanding charges before the Cardholder leaves or transfers. In the event of unplanned separation from employment, the Cardholder's P-Card shall immediately be deactivated and the Cardholder shall discontinue P-Card use upon separation from employment.

6.3. Purchasing Rules.

The P-Card is only a vehicle for making purchases. Existing State laws governing procurement, accounts payable, records retention, and other applicable laws must still be followed. All procurement rules of the CPO apply when using the P-Card.

6.4. Tax Exemption.

Purchases made in Tennessee and for the use and benefit of the State of Tennessee are exempt from Tennessee sales tax. Cardholders should obtain an exemption certificate and present it to each vendor. This form is available on the Department of Revenue web site at <http://www.tn.gov/revenue/forms/sales/index.shtml> in the "Exemption Applications/Certificates" section. Purchases made in other states may be subject to that state's sales tax. The Cardholder must be diligent when dealing with the vendor regarding taxes. If the vendor cannot deduct the sales tax because of pre-set controls within its computer systems or will not honor the exemption, the Cardholder may continue with the purchase but must note the refusal on the receipt. In the event a Cardholder is inappropriately charged for sales tax, he or she shall seek a credit refund of any sales taxes to the P-Card account.

6.5. Credits.

If a Cardholder returns merchandise, a credit should be issued to the Cardholder's P-Card and a credit receipt obtained. Under no circumstances should a Cardholder receive cash or a credit voucher. The Cardholder or State Agency Approver is responsible for reviewing *CitiManager*® to ensure that credits are received and, if not, file the appropriate paperwork for disputed items. Cardholders should avoid Vendors with restrictive merchandise return policies.

6.6. Disputing Transactions.

If there is a problem with a Transaction, the Cardholder must first attempt to reach a resolution directly with the Vendor. In most cases, disputes can be resolved between the Cardholder and the Vendor. The Vendor will usually issue a credit.

The Cardholder should document all attempts to resolve a problematic Transaction. If the disputed Transaction involves a reservation or order that has been cancelled, the Cardholder is responsible for obtaining a cancellation number. If efforts to resolve the problem with the Vendor are unsuccessful or if a credit does not appear in *CitiManager*®, the Cardholder should file the appropriate dispute paperwork with the Bank and contact his or her State Agency P-Card Program Coordinator.

If a Citibank Statement contains a Transaction that needs to be disputed, the Cardholder should contact Citibank Customer Service at 1-800-248-4553, Option #0 to initiate the dispute process, and contact his or her State Agency P-Card Program Coordinator to ensure the disputed transaction has been documented. If the dispute cannot be resolved between the Cardholder and the Bank, the Cardholder shall immediately notify his or her State Agency P-Card Program Coordinator and follow the agency-specific procedures for disputes.

6.7. Declined Purchase Transactions.

On occasion, a Cardholder's purchase transaction may be declined. Cardholders should contact Citibank Customer Service at 1-800-248-4553, option #0 to determine the reason for the decline before contacting their State Agency P-Card Program Coordinator for assistance.

Common reasons for declines include:

- MCC is restricted from the Purchasing Card;
- The Cardholders has exceeded the STL, daily limit or monthly limit; or
- Invalid expiration.

7. CARD ISSUANCE AND CANCELLATION.

The State Agency P-Card Program Coordinator is responsible for issuing all P-Cards within his or her Agency. State Agency P-Card Program Coordinators have authority to terminate a Cardholder's status as a Cardholder and cancel P-Cards. The Statewide P-Card Program Administrator should be notified of any P-Card cancellations.

7.1. P-Card Issuance.

Purchasing Cards are issued following:

- Completion of the Cardholder Application;
- Completion and approval of a Cardholder profile;
- Completion of P-Card training; and
- Completion of the Cardholder Agreement.

7.2. P-Card Cancellation.

P-Cards shall be cancelled by the following:

- Cardholder's separation from employment for any reason;
- Cardholder's job status changes such that he or she no longer requires a P-Card;
- Cardholder reports the loss or theft of the P-Card;
- Cardholder misuses the P-Card; or
- Untimely approval of transactions.

If a P-Card is cancelled, it shall be destroyed by cutting it down the magnetic strip. The Statewide P-Card Program Administrator shall be notified of all P-Card cancellations.

8. P-CARD PROGRAM TRAINING.

Cardholder training is critical—all Cardholders must complete training before being issued a P-Card. Training ensures that the Cardholder understands the P-Card Program procedures and this Policy and is aware of potential disciplinary action for P-Card misuse or abuse. Once training is complete, the Cardholder shall sign a Cardholder Agreement as a condition for being issued a P-Card. The Cardholder Agreement is evidence that the Cardholder has received training and a copy of the P-Card Policy. The Statewide P-Card Program Administrator will coordinate Cardholder training with State Agency P-Card Program Coordinators.

9. INTERNAL CONTROLS.

A strong system of internal controls is essential for detection and deterrence of fraud, misuse, or abuse of the P-Card. Internal controls include policies, procedures, training, spending limits, Merchant Category Code restrictions, prompt reconciliation, and prompt account distribution.

9.1. Duty of State Agencies.

Each State Agency must establish an internal control structure that ensures compliance with the State's procurement laws, CPO rules, policies and procedures, this Policy, and the terms and conditions of P-Card established by the Bank. The State Agency Fiscal Director is responsible for developing and reviewing the State Agency's internal P-Card policy and ensuring that sound accounting practices and internal policies are in place and enforced. All State Agency P-Card Program internal policies shall address the following:

- Separation of duties between ordering cards (State Agency P-Card Program Coordinators), making Transactions (Cardholders and Users), and review or approval of Transactions for payment (Cardholder Supervisors or Cardholder Approvers);
- Independent review of the P-Card Account maintenance activity at least monthly if the State Agency P-Card Program Coordinator is also a Cardholder or User.

- Limits on the number of Cardholders assigned to a Cardholder Supervisor in order to ensure adequate review of business need and documentation for each Transaction; and
- Provision for annual independent audit or review of the Agency's P-Card program by the State Agency P-Card Program Coordinator, State Agency Internal Audit unit, or other business unit assigned State Agency audit responsibilities. Reviews must include adequacy of:
 - Internal policies and procedures;
 - Cardholder spending limits;
 - Monthly reconciliation procedures; and
 - Documentation for Transactions.

9.2. State Agency Internal P-Card Policy and Procedures.

Each State Agency must develop its own internal policy and procedures to address areas that this Policy does not address.

9.3. Card Management and Reconciliation Systems.

All Transaction reconciliations will be completed in Edison unless the Central Procurement Office approves an alternate method of reconciliation.

9.4. Merchant Category Code Restrictions.

Merchant Category Codes are four-digit codes used by commercial credit card brands (e.g., Visa, MasterCard, American Express) to identify a merchant's principal trade, profession, or line of business. MCCs are assigned to a merchant based on the types of goods or services the merchant provides. MCCs blocked on P-Cards restrict State purchases from certain merchants to protect against unauthorized or prohibited purchases.

- The Statewide P-Card Program Administration Team manages the State-identified MCC groups that contain codes associated with vendors that provide goods or services that are prohibited for purchase using the P-Card.
- Although Transactions at unauthorized MCCs are blocked at the point-of-sale, they are occasionally forced through. These Transactions are subject to audit.
- The CPO's Compliance Team will conduct periodic audits of Transactions with restricted MCC vendors.
- State Agencies may request activation of additional MCCs for inclusion in a State-authorized group or creation of a new MCC group to meet specific needs. A Cardholder's State Agency P-Card Program Coordinator should ensure that Cardholder profiles permit only those MCC groups that a Cardholder needs to meet his or her job requirements.

9.5. Cardholder Spending Limits and Utilization.

The State Agency Fiscal Director may establish a Single Transaction Limit (STL) of up to the ten thousand dollar (\$10,000) maximum for Cardholders as he or she determines appropriate taking into account the State Agency's overall needs. Each State Agency Fiscal Director may also establish one (1) designated State Agency Central Fiscal Office P-Card with a STL of up to the fifty thousand dollar (\$50,000) maximum. If the transaction amount exceeds ten thousand dollars (\$10,000), then Cardholders and State

Agency Fiscal Directors should consult the *Procurement Procedures Manual of the Central Procurement Office* with respect to contract and purchase order requirements and exemptions from contract and purchase order requirements. Imposing spending limits enables management to provide Cardholders with the purchasing power to perform their jobs without exposing the State to unnecessary risk. Spending limits should be based on the Cardholder's job responsibilities. Cardholder spending limits must be reviewed at least annually to determine if actual usage is consistent with spending limits. Increases or decreases to spending limits may be made by the State Agency Fiscal Director as needed for a single transaction limit of up to ten thousand dollars (\$10,000) for a Cardholder and up to fifty thousand dollars (\$50,000) for a Central Fiscal Office P-Card. Cardholders are prohibited from splitting a single purchase between one or more P-Cards or between a Card transaction and a purchase order to circumvent the STL or CPO rules, policies or procedures. Each State Agency is required to perform a review of spending limits at least annually in order to determine if each Cardholder's spending limit is adequate and appropriate.

9.6. Dormant Cards.

Each State Agency's internal P-Card policy shall address how long a P-Card can remain unused before it is considered inactive. The CPO recommends that State Agencies reduce the Cycle Limit of any P-Card that has not been used within twelve (12) complete cycles to one dollar (\$1). When a P-Card has not been used for some time, the State Agency P-Card Program Coordinator should conduct a review to determine if the Cardholder still needs a P-Card. Each State Agency is responsible for the ensuring that this review is completed in accordance with its own internal P-Card policy.

10. DOCUMENTATION AND ACCOUNTING.

10.1. Documentation.

State Agencies should use Edison for Transaction reconciliation. When performing reconciliation in Edison, Cardholders must follow internal procedures for handling documentation. Any State Agency seeking to use a manual method for Transaction reconciliation must obtain approval from the Central Procurement Office.

Regardless of the Transaction reconciliation method, Cardholders should provide invoices or receipts for all Transactions. Invoices or receipts shall include:

- The Vendor's name, location, and contact information;
- Line item details, including quantity, description, unit price, and total price; and
- A line showing that the State was not charged for sales tax.

10.2. Receipts.

- It is the Cardholder's responsibility to obtain itemized receipts and any other pertinent backup documentation. Other documentation may include shipping documents and bills of lading. This information will be used by the Agency to validate and reconcile charges.

- For online purchases that do not provide a downloadable receipt, a screen shot of the receipt information can serve as a receipt.
- In lieu of obtaining physical receipts, the Cardholder may also take a picture of the receipt with his or her mobile device and save the receipt electronically.
- If a Cardholder loses a receipt and a duplicate cannot be obtained, the Cardholder should follow his or her State Agency's internal procedures for lost receipts. Cardholders who lose receipts and resort to their Agency's internal procedures for lost receipts more than three (3) times during a fiscal year may have their P-Card privileges suspended.
- The amount on the receipt and the amount of the charge to the Cardholder's P-Card account must match. Any discrepancies in amounts should be resolved with the Vendor and an explanation regarding the resolution should be made on the receipt or other backup documentation. It is not sufficient to change the amount on the receipt only.
- The Cardholder and the Cardholder Supervisor shall document all missing receipts.
- Credits may be processed without a receipt, but the Cardholder must provide an explanation of the credit.

10.3. Reconciliation.

- Cardholders should perform reconciliation in Edison on a weekly basis.
- After completing the weekly reconciliation process, the Cardholder must forward signed and dated receipts to his or her State Agency Approver. This should also occur on a weekly basis.

10.4. Allocation to the General Ledger.

Timely allocation of charges to the general ledger is essential to ensure compliance with State accounting and budgetary policies. The State Agency must ensure that all transactions are allocated to the general ledger before the end of the billing cycle.

11. PROHIBITED PURCHASES AND TRANSACTIONS.

11.1. Prohibited Purchases.

Cardholders are prohibited from using a physical P-Card for the following types of purchases, payments, or transactions:

- Goods or services not directly related to job responsibilities or other official State of Tennessee business, i.e., personal purchases;
- Cash withdrawals, including ATM or debit withdrawals;
- Travel expenses;
- Telephone billings;
- Political publications of any sort;
- Utility billings and connection fees;
- Payments to another State Agency;
- Rental of passenger vehicles of any kind;

- Artifacts for historical or commemorative purposes (except for the State Museum);
- An employee's moving expenses;
- Purchases of any motor vehicle fuel for any vehicle of equipment leased from the Department of General Services' Division of Motor Vehicle Management ("MVM");
- Back orders or partial shipments—goods or services must be in stock or otherwise available at the time of purchase;
- Purchases made using a P-Card or other account by someone other than the Cardholder or account holder;
- Service awards for state employees;
- Awards for private citizens;
- Honoraria expenses;
- Insurance policies;
- Gift cards or gift certificates; and
- Any goods or services related to political activity as defined under "The Little Hatch Act," Tenn. Code Ann. §§ 2-19-201 through 208;

11.2. Personal Purchases Prohibited.

As provided in Sections 3.1, 5.7 and 12.1, Cardholders are prohibited from using a P-Card for the purchase of any goods or services not directly related to job responsibilities or other official State business. Intentional use of a P-Card for any purposes other than State business will result in disciplinary action, up to and including termination from State employment or criminal prosecution. Under Tenn. Code Ann. § 39-16-402, State employees who intentionally or knowingly use a P-Card or a Virtual P-Card for personal purchases commit a Class E felony.

11.3. Split Charges Prohibited.

Tenn. Code Ann. § 12-3-503(b) and CPO Policy Number 2013-003 authorize State Agencies to make a purchase without soliciting quotes or proposals from multiple vendors when the total value of the purchase is ten thousand dollars (\$10,000) or less. Cardholders are prohibited by Tenn. Code Ann. § 12-3-503(b)(2) from splitting a transaction between two or more transactions on a single account, two or more transactions on multiple accounts, or two or more transactions using the P-Card and a purchase order, in order to circumvent the STL imposed on the P-Card. The STL for P-Card purchases using a physical P-Card is ten thousand dollars (\$10,000) unless a State Agency has designated a lower STL in its internal P-Card policy.

11.4. Payment of Sales and Use Tax.

Tenn. Code Ann. § 67-6-329(a) provides that all sales of services and tangible personal property made to the State of Tennessee are exempted from sales and use taxes. Cardholders should provide each vendor with an exemption certificate, as described in Section 6.4. Cardholders are responsible for ensuring that vendors do not charge tax or provide a credit for inadvertent charges.

- If taxes are charged, the Cardholder must contact the vendor to obtain a credit to the account.

- Vendors may only credit the State's P-Card Account and may not refund erroneously paid taxes through other means, including cash, gift cards, or store credit.
- The Cardholder is required to maintain documentation of his or her attempts to obtain credit for any Tennessee Sales and Use Tax charged to the P-Card Account in error.

12. PURCHASES RESERVED FOR THE DESIGNATED STATE AGENCY CENTRAL FISCAL OFFICE CARDHOLDER.

Only the person designated by the State Agency Fiscal Director may use his or her individual P-Card for the following purchases:

- Tuition, fees, and supplies for training individuals;
- Internet, newspaper, radio, or television advertisements;
- Subscriptions to newspapers, periodicals, newsletters, or pamphlets;
- Organization membership dues;
- Charges for meeting rooms and attendant expenses in excess of two hundred dollars (\$200) per day or for more than five (5) days;
- Convention or registration fees; and
- Association entry fees.

State Agencies may request an exception from this paragraph by submitting a rule exception request to the Statewide P-Card Program Administrator.

13. DECLARED EMERGENCIES AND NATURAL DISASTERS.

Tenn. Comp. R. & Regs. 0690-03-01-.05(5) authorizes the CPO or delegated State Agencies to forego standard procurement requirements to meet emergencies arising from unforeseen causes. If an emergency affecting the health or safety of any person occurs when CPO personnel are not available, any State Agency is authorized to contract for necessary goods or services and obtain "after the fact" emergency purchase authorization. All requests for "after the fact" emergency purchase authorization shall comply with CPO rules, policies, and procedures.

14. ENCOURAGED USE OF P-CARDS.

14.1. Statewide and Agency Term Contracts.

As provided in Section 10.4 of the CPO's *Procurement Procedures Manual*, State Agencies are required to use Statewide Contracts for procuring goods or services to the extent the needed goods or services are available on a Statewide Contract. State Agencies may not procure goods or services available on a Statewide Contract from any other source without prior approval from the Chief Procurement Officer or designee. State Agencies are encouraged to utilize P-Cards for purchasing goods or services on Agency Term Contracts and Statewide Contracts.

14.2. Utilization of Diversity Vendors.

Cardholders are strongly encouraged to make authorized purchases from vendors certified by the Governor's Office of Diversity Business Enterprise.

15. SURCHARGES AND CONVENIENCE FEES.

Many vendors charge a “credit card processing fee” or “convenience fee” for accepting credit cards including the P-Card. These types of fees are strictly regulated by Visa and MasterCard.

According to Visa’s “Card Acceptance and Chargeback Management Guidelines for Merchants” available on Visa’s website, credit card surcharges are allowed but cannot be more than the amount the vendor’s bank charges them for processing the transaction. Also, the vendor cannot charge both a surcharge and a convenience fee, explained below.

The maximum allowable surcharge is four percent (4%) and must be shown as a line item on the detailed invoice or receipt. Whenever a Vendor charges a surcharge, the following rules apply:

- The Vendor must have provided Visa and its bank at least thirty (30) days notification of their intent to impose surcharges;
- The fact that the Vendor imposes surcharges must be clearly posted on the door and at point-of-sale for physical locations and on web sites when sales are made via the internet; and
- The Vendor must inform the Cardholder or User:
 - Of the exact percent of the surcharge;
 - That the Vendor is the entity assessing the surcharge;
 - That surcharges are applicable on credit transactions only; and
 - That the surcharge is not greater than what the vendor pays to Visa.

For any Transaction where the Vendor has charged a surcharge, a Cardholder or User must obtain a copy of the acknowledgement letter sent to the Vendor by Visa authorizing the Vendor to impose a surcharge. A copy on file with the State Agency P-Card Program Coordinator will be sufficient.

FA TEMPLATE – FERPA CLAUSE

Request: Revise the FERPA clause in the FA Template. Change "grantee" to "contractor"

Federal Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency and Accountability Act

Add the following section only if the Contractor will have access to personally identifiable student information or student information that is confidential pursuant to federal or state law.

E. #. Federal Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency and Accountability Act. The ~~Grantee-Contractor~~ shall comply with the Federal Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232(g)) and its accompanying regulations (34 C.F.R. § 99) ("FERPA"). The ~~Grantee-Contractor~~ warrants that the ~~Grantee-Contractor~~ is familiar with FERPA requirements and that it will comply with these requirements in the performance of its duties under this ~~Grant~~ Contract. The ~~Grantee-Contractor~~ agrees to cooperate with the State, as required by FERPA, in the performance of its duties under this ~~Grant~~ Contract. The ~~Grantee Contractor~~ agrees to maintain the confidentiality of all education records and student information. The ~~Grantee-Contractor~~ shall only use such records and information for the exclusive purpose of performing its duties under this ~~Grant~~ Contract.

The ~~Grantee-Contractor~~ shall also comply with Tenn. Code Ann. § 49-1-701, *et seq.*, known as the "Data Accessibility, Transparency and Accountability Act," and any accompanying administrative rules or regulations (collectively "DATAA"). The ~~Grantee-Contractor~~ agrees to maintain the confidentiality of all records containing student and de-identified data, as this term is defined in DATAA, in any databases, to which the State has granted the ~~Grantee-Contractor~~ access, and to only use such data for the exclusive purpose of performing its duties under this ~~Grant~~ Contract.

Any instances of unauthorized disclosure of data containing personally identifiable information in violation of FERPA or DATAA that come to the attention of the ~~Grantee-Contractor~~ shall be reported to the State within twenty-four (24) hours. ~~Grantee Contractor~~ shall indemnify and hold harmless the State, its employees, agents and representatives, from and against any and all claims, liabilities, losses, or causes of action that may arise, accrue, or result to any person or entity that is injured or damaged as a result of Contractor's failure to comply with this section.

**EDISON CONFIGURATOR
INCORPORATION OF ADDITIONAL
DOCUMENTS**

Request: Add the following to the Edison Document Configurator. Note: any attachments that are licensing agreements or service-level agreements should be reviewed by legal counsel prior to use.

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

- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
- b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes [identify attachments and exhibits];
- c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
- d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
- e. any technical specifications provided to proposers during the procurement process to award this Contract; and
- f. the Contractor's response seeking this Contract.

**EDISON CONFIGURATOR
FA TEMPLATE AND PURCHASE ORDER
TERMS – LIENS, ENCUMBRANCES, AND
TITLE**

Request: Add the following term and condition to the Edison configurator, FA Template, and Purchase Order Terms.

E.#. Liens, Encumbrances, and Title. The Contractor owns and has good and marketable title to, and legal ownership of the goods, free and clear of any and all liens, security interests, pledges, mortgages, charges, limitations, claims, restrictions, rights of first refusal, rights of first offer, rights of first negotiation or other encumbrances of any kind or nature (collectively, "Encumbrances"). Upon delivery, without exception, the State will acquire from the Contractor legal and beneficial ownership of, good and marketable title to, and all rights to the goods to be sold to the State by the Contractor, free and clear of all Encumbrances. The Contractor shall, within ten (10) days after delivery deliver to the State if required by applicable law to establish or show evidence of ownership, any and all documents or certificates required to establish or show evidence of the State's ownership in the goods.

**CERTIFICATION RELATED
DOCUMENTATION**



STATE OF TENNESSEE
PROCUREMENT COMMISSION

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

RE-CERTIFICATION

1. Item No. 763.A53
Service: Janitorial Services
Agency/Location: Tennessee Army National Guard
Army Aviation Support Facility #2
112 Army Drive Louisville, TN.
Annual Price: \$31,668.12 or \$1.578985 per square foot.
No price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 10/01/2015 – 09/30/2016

2. Item No. 763.64
Service: Janitorial Services
Agency/Location: Military Department, Tennessee Air National Guard
G, 1-230th ACS, A.A.S.F. #3 Hanger Office Space.
2254 Westover Road. Jackson, TN.
Annual Price: \$10,634.40 or \$0.89 per square foot
No price increase requested
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 10/01/2015 – 09/30/2016

3. Item No. 763.19
Service: Janitorial Services
Agency/Location: Tennessee Department of Military
Tennessee Air National Guard, Nashville International Airport
Annual Price: \$38,417.67 or \$1.56 per square foot.
Price increase requested. Previous Certified price was \$43,372.68 annually, or \$0.9560
per square foot per year.
Satisfaction: No complaints have been filed.
Re-certification Requested for Period of 10/01/2015 – 09/30/2016

4. Item No. 763.76
Service: Vehicle Prep & Inspection Services
Agency/Location: Tennessee Department of Transportation
Motor Pool, 1st Street, North, Nashville, TN
Annual Price: \$ 17, 957.04 or \$18.67 per vehicle.
No price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 10/01/2015 – 09/30/2016
5. Item No. 763.77
Service: Janitorial Services
Agency/Location: Tennessee Department of Transportation
Motor Pool, 1st Street, North, Nashville, TN.
Annual Price: \$4,735.08 or \$5.20338 per square foot.
No price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 10/01/2015 – 09/30/2016
6. Item No. 763.A66
Service: Janitorial Services
Agency/Location: Tennessee Department of Transportation
TDOT Region IV Headquarters, 300 Benchmark Place Jackson, TN.
Annual Price: \$112,040.88 or \$1.57991 per square foot.
No price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 10/01/2015 – 09/30/2016
7. Item No. 763.A130
Additions include and are limited to ten (10) – panel oral drug assays, laboratory confirmation of oral assays, and add on lab panels for laboratory confirmation.
Service: Drug Testing Kits
Agency/Location: Statewide
Annual Spend: \$399,922.98, no price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 10/01/2015 – 09/30/2016
8. Item No. 763.36ad
Service: Female Sanitary Products
Agency/Location: Statewide
Annual Spend: \$64,960.91
No price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 10/01/2015 – 09/30/2016

9. Item No. 763.A169
Line jetting service added.
Service: Grease Trap Services
Agency/Location: Statewide
Annual Spend: \$105,471.79
No price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 10/01/2015 – 09/30/2016
10. Item No. 763.A170
Service: Used Cooking Oil
Agency/Location: Statewide
Annual Rebate: This is a Revenue Contract whose rebate to state agency is based per gallon of used cooking oil.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 10/01/2015 – 09/30/2016
11. Item No. 763.63
Service: Janitorial Services
Agency/Location: Military Department, Tennessee Army National Guard Armed Forces Reserve Center Volunteer Training Site, Building 686 Smyrna, TN 37167.
Annual Price: \$69,135.12 or \$0.8110 per square foot.
No price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 12/01/2015 – 11/30/2016
12. Item No. 763.A98
Service: Janitorial Services
Agency/Location: TDOT Region 4 Engineering Bldg. Boswell Complex.
5334 Boswell Avenue Memphis, TN 38120.
Annual Price: \$8,373.48 or \$0.9775 per square foot.
No price increase requested
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 12/01/2015 – 11/30/2016
13. Item No. 763.A100
Service: Ground 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 12/01/15 – 11/30/16
14. Item No. 763.A99
Service: Janitorial Services

- Agency/Location: Tennessee Department of Transportation, Region IV, Boswell Help Building, Boswell Complex, 5336 Boswell Ave. Memphis, TN 38120.
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 12/01/2015 – 11/30/2016
15. Item No. 763.A101
Service: Janitorial Services
Agency/Location: Tennessee Department of Transportation, Region 4, Regional Transportation Management Center, Boswell Complex.
5344 Boswell Ave. Memphis, TN 38120.
Annual Price: \$21,799.32 or \$1.6617 per square foot.
No price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 12/01/2015 – 11/30/2016
16. Item No. 763.A168
Service: Premium Coffee
Agency/Location: Statewide
Annual Spend: \$3,002.92.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 12/01/2015 – 11/30/2016
17. Item No. 763.A19b
Service: Janitorial Services
Agency/Location: Military Department, Tennessee Army National Guard 117th Regional Training Institute Building 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 01/01/2016 – 12/31/2016
18. Item No. 763.A164
Service: Janitorial Services
Tennessee Emergency Management Agency
1510 R.E. Bailey Bypass Jackson, TN 38301
Annual Price: \$6,674.40 or \$1.0303 per square foot.
No price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 01/01/2016 – 12/31/2016

NEW CERTIFICATION

19. Item No. 763.A178
Service: Janitorial Services
Agency/Location: Tennessee Highway Patrol, Truck Inspection Site (I-65 North).
5753 Highway 31W Portland, TN 37148.
Annual Price: \$6,084.29 or \$2.03 per square foot.
Certification Requested for Period of 01/01/2016 – 12/31/2016

20. Item No. 763.A177
Service: Continuous Forms & Snap Out Forms
Agency/Location: Statewide
Estimated Annual Spend: \$855,000.00
Certification Requested for Period of 11/01/2015 – 010/31/2016

DE-CERTIFICATION

21. Item No. 763.38d
Service: Continuous Forms & Snap Out Forms
Agency/Location: Statewide
Annual Spend: \$854,015.62
Satisfaction: No complaints have been filed.
De-Certification Requested for 10/31/2015

LIMITATION OF LIABILITY REPORT

**Approved Limitation of Liability Requests
for the Time Period September 1, 2015 to January 6, 2016**

TRACKING	CALENDAR YEAR	ID	LOGGED	STATUS	STATUS DATE	SERVICE	CONTRACTING AGENCY	BASIS FOR REQUEST	COT APPROVAL OF REQUEST
33103-00816	15	5703	9/14/2015	APPROVED	9/16/2015	WIDA BRIDGE STUDY FOR NEW ENGLISH LANGUAGE PROFICIENCY ASSESSMENT	DEPARTMENT OF EDUCATION	PARTIES HAVE AGREED TO LEAVE THE LIMITATION OF LIABILITY PROVISION SILENT	9/17/2015
33111-00616	15	5720	9/21/2015	APPROVED	9/21/2015	WIDA CONSORTIUM CORE PACKAGE	DEPARTMENT OF EDUCATION	PARTIES HAVE AGREED TO LEAVE THE LIMITATION OF LIABILITY PROVISION SILENT	9/22/2015
34701-00362	15	5741	9/23/2015	APPROVED	9/24/2015	INTEGRATED TAX SYSTEM SFOFTWARE TO REPLACE LEGACY RITS	DEPARTMENT OF REVENUE	LANGUAGE MODIFIED TO CLARIFY THAT CONTRACTOR'S LIABILITY FOR ALL INDIRECT OR CONSEQUENTIAL DAMAGE CLAIMS UNDER CONTRACT SHALL BE LIMITED TO AN AMOUNT EQUAL TO TWO (2) TIMES THE MAXIMUM LIABILITY AMOUNT	9/28/2015
30901-29816	15	5848	10/26/2015	APPROVED	10/26/2015	INRULE	TREASURY DEPARTMENT	CONTRACTOR'S LIABILITY FOR ALL CLAIMS UNDER CONTRACT SHALL BE LIMITED TO AN AMOUNT EQUAL TO ONE AND ONE HALF (1 1/2) TIMES THE MAXIMUM LIABILITY AMOUNT	10/28/2015
33103-00816	15	5913	11/2/2015	APPROVED	11/3/2015	MICROSOFT EDUCATION SOFTWARE AND MAINTENANCE	DEPARTMENT OF GENERAL SERVICES	CONTRACTOR'S LIABILITY FOR ALL INDIRECT OR CONSEQUENTIAL DAMAGE CLAIMS UNDER CONTRACT SHALL BE LIMITED TO AN AMOUNT EQUAL TO TWO (2) TIMES THE ESIMATED LIABILITY AMOUNT	11/5/2015
	15	5966	11/17/2015	APPROVED	11/19/2015	APPLE HARDWARE AND SOFTWARE	DEPARTMENT OF GENERAL SERVICES	CONTRACTOR'S MAXIMUM AGGREGATE LIABILITY FOR ANY AND ALL CLAIMS SAHLL NOT EXCEED FIVE MILLION DOLLARS (\$5,000,000)	11/20/2015
31865-09232	15	6119	12/29/2015	APPROVED	1/4/2016	EQUIFAX VERIFICATION SERVICES	DEPARTMENT OF FINANCE AND ADMINISTRATION, DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION	IN NO EVENT SHALL DAMAGES OF ANY KIND PAYABLE BY EVS HEREUNDER EXCEED THE SUM PAID BY AGENCY FOR THE TIME OF SERVICE WHICH CAUSES AGENCY'S CLAIMS	1/4/2016

CORRECTION OF ERRORS REPORT

(No Report for this Period)

MEMORANDUM OF UNDERSTANDING REPORT

SWC # / Edison Contract #	Contract Name	Category Specialist / Sourcing Analyst	Vendor Name	Description	MOU Active Date	Items Added via MOU
387	MSP	Jeff Magruder	Knowledge Services	Temporary and Contract Staff Augmentation	9/30/2015	Allowed Oklahoma to use our MSP contract in a pilot program for their Department of Human Services
387	MSP	Mike Leitzke	Knowledge Services	Temporary and Contract Staff Augmentation	11/16/2015	Fulltime LPN
387	MSP	Mike Leitzke	Knowledge Services	Temporary and Contract Staff Augmentation	11/16/2015	Rural Facility PRN LPN
387	MSP	Mike Leitzke	Knowledge Services	Temporary and Contract Staff Augmentation	11/16/2015	Rural Facility Travel RN
387	MSP	Mike Leitzke	Knowledge Services	Temporary and Contract Staff Augmentation	11/16/2015	Mental Health Pharmacist
387	MSP	Mike Leitzke	Knowledge Services	Temporary and Contract Staff Augmentation	12/21/2015	Fulltime Psych Tech
387	MSP	Mike Leitzke	Knowledge Services	Temporary and Contract Staff Augmentation	12/21/2015	Oppucational Therapist
387	MSP	Mike Leitzke	Knowledge Services	Temporary and Contract Staff Augmentation	12/21/2015	Travel RN