STATE OF TENNESSEE
CENTRAL PROCUREMENT OFFICE

# REQUEST FOR QUALIFICATIONS # 31625-16005
# AMENDMENT # 2
# FOR ARTS GRANTS MANAGEMENT SYSTEM

**DATE: January 6, 2016**

**RFQ # 31625-16005 IS AMENDED AS FOLLOWS:**

1. **This RFQ Schedule of Events updates and confirms scheduled RFQ dates.** Any event, time, or date containing revised or new text is highlighted.

| EVENT | | TIME (Central Time Zone) | DATE (all dates are State business days) | UPDATED; CONFIRMED or NO CHANGE |
|---|---|---|---|---|
| 1. | RFQ Issued | | December 1, 2015 | CONFIRMED |
| 2. | Disability Accommodation Request Deadline | 2:00 p.m. | December 4, 2015 | CONFIRMED |
| 3. | Pre-Response Conference | 2:00 p.m. | December 7, 2015 | CONFIRMED |
| 4. | Notice of Intent to Respond Deadline | 2:00 p.m. | December 8, 2015 | CONFIRMED |
| 5. | Written "Questions & Comments" Deadline | 2:00 p.m. | December 14, 2015 | CONFIRMED |
| 6. | State response to written "Questions & Comments" | | January 5, 2016 | CONFIRMED |
| 7. | State response to written "Questions & Comments" that were omitted. | | January 6, 2016 | UPDATED |
| 8. | RFQ Technical Response Deadline | 2:00 p.m. | January 25, 2016 | NO CHANGE |
| 9. | State Schedules respondent Oral Presentations (ONLY Respondents who pass Mandatory Requirements) | | January 29, 2016 | NO CHANGE |
| 10. | Respondent Oral Presentations | 8:00 a.m. - 4:30 p.m. | February 10-12, 2016 | NO CHANGE |
| 11. | State Notice of Qualified Respondents Released | | February 19, 2016 | NO CHANGE |
| 12. | RFQ Cost Proposal Deadline (ONLY for Qualified Respondents) | 2:00 p.m. | February 26, 2016 | NO CHANGE |
| 13. | RFQ Negotiations | | March 1-4, 2016 | NO CHANGE |
| 14. | State Evaluation Notice Released | | March 9, 2016 | NO CHANGE |

| | | | | |
|---|---|---|---|---|
| 15. | Solicitation Files Opened for Public Inspection | | March 10-17, 2016 | NO CHANGE |
| 16. | Respondent Contract Signature Deadline | 2:00 p.m. | March 24, 2016 | NO CHANGE |
| 17. | Anticipated Contract Start Date (anticipated date for contract to be fully executed and vendor to begin work) | | April 15, 2016 | NO CHANGE |

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

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

| QUESTION / COMMENT | STATE RESPONSE |
|---|---|
| 1 What is the required Data archival policy? | Per Pro Forma Contract A.4. the Contractor shall maintain all data that is input by the State's users on at least 2 servers located in at least 2 locations within the U.S. to be specified by vendor. The Contractor shall make daily back-up copies of all data. The Contractor shall provide a means for the State to access a back-up copy of all data in a format to be determined in consultation with the State on at least a monthly basis or upon request.<br><br>Further, the vendor should retain daily copies for 2 months and monthly archived copies of the data for at least 2 years. |
| 2 Is the State open for any custom solution meeting provided timelines rather than Software As Service model? | No. |

**3. RFQ Amendment Effective Date.** The revisions set forth herein shall be effective upon release. All other terms and conditions of this RFQ not expressly amended herein shall remain in full force and effect.

**STATE OF TENNESSEE**
**CENTRAL PROCUREMENT OFFICE**

# REQUEST FOR QUALIFICATIONS # 31625-16005 AMENDMENT # 1 FOR ARTS GRANTS MANAGEMENT SYSTEM

**DATE: January 5, 2016**

**RFQ # 31625-16005 IS AMENDED AS FOLLOWS:**

1. **This RFQ Schedule of Events updates and confirms scheduled RFQ dates.** Any event, time, or date containing revised or new text is highlighted.

| EVENT | | TIME (Central Time Zone) | DATE (all dates are State business days) |
|---|---|---|---|
| 1. | RFQ Issued | | December 1, 2015 |
| 2. | Disability Accommodation Request Deadline | 2:00 p.m. | December 4, 2015 |
| 3. | Pre-Response Conference | 2:00 p.m. | December 7, 2015 |
| 4. | Notice of Intent to Respond Deadline | 2:00 p.m. | December 8, 2015 |
| 5. | Written "Questions & Comments" Deadline | 2:00 p.m. | December 14, 2015 |
| 6. | State response to written "Questions & Comments" | | January 5, 2016 |
| 7. | RFQ Technical Response Deadline | 2:00 p.m. | January 25, 2016 |
| 8. | State Schedules respondent Oral Presentations (ONLY Respondents who pass Mandatory Requirements) | | January 29, 2016 |
| 9. | Respondent Oral Presentations | 8:00 a.m. - 4:30 p.m. | February 10-12, 2016 |
| 10. | State Notice of Qualified Respondents Released | | February 19, 2016 |
| 11. | RFQ Cost Proposal Deadline (ONLY for Qualified Respondents) | 2:00 p.m. | February 26, 2016 |
| 12. | RFQ Negotiations | | March 1-4, 2016 |
| 13. | State Evaluation Notice Released | | March 9, 2016 |
| 14. | Solicitation Files Opened for Public Inspection | | March 10-17, 2016 |
| 15. | Respondent Contract Signature Deadline | 2:00 p.m. | March 24, 2016 |
| 16. | Anticipated Contract Start Date (anticipated date for contract to be fully executed and vendor to begin work) | | April 15, 2016 |

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

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

| | QUESTION / COMMENT | STATE RESPONSE |
|---|---|---|
| 1 | Can you provide an estimated contract cost for the Grants Management System RFQ (#31625-16005)? | Estimated five year contract cost is $80,000 - $300,000, based on estimates from RFI 31625-15001.<br><br>Estimated range of $40-100k Yr 1, then $10-50K Yrs 2-5. Final contract maximum will be based on competitive cost proposals as set forth in the RFQ. |
| 2 | Can you provide the respondent names to the Grants Management System RFI (#31625-15001)? | Amplifund, Bromelkamp, Dulles Technology, HTC Global Systems, InfoStrat, Innovation Network, MB3 Online, REI, Smart Simple, Streamlink, Submittable, Westaf |
| 3 | We did submit a proposal for your RFP last spring - is this a new RFP for the same system? | Same system. RFI 31625-15001 was a request for information to explore market options and to inform development of this RFQ. This RFQ is anticipated to result in a contract for a new grants management system. |
| 4 | Can you identify the current Grants Management system used? | The State's current system is Bromelkamp eGrant and Pearl (an Access database). |
| 5 | On the state side, will the project be managed by staff internally or are there plans to use an external vendor to facilitate the project management? | Project management after the system is configured will be done by State staff. |
| 6 | Can you clarify the size of the project team? | The State anticipates working with vendor to mutually determine the most efficient and effective size of the project team at any given time depending on the tasks at hand. Any of the 19 Arts Commission staff will be engaged as needed in this mission-critical project. We expect a core team of 2-7 staff at any given time. |
| 7 | Is the State, open for Global delivery model for e.g. Offshore or nearshore? | We have no preference or mandate; however, employees within the United States must be legally present within the United States, i.e. documented. |
| 8 | Do you require support for multiple languages? | Not at this time. If this were determined to be required in future, per Pro Forma Contract D.3, the contract pursuant to this RFQ would be modified by a written amendment signed by all Parties and approved by all applicable State officials. |
| 9 | Can contract negotiations happen in good faith? If ?? is selected to be the primary vendor. Our legal team hasn't fully vetted the contract as we do not know if we will be awarded as the service provided for TAC's grants management.<br><br>In the event that we are, we ask that we are | Please reference B.19 of the RFQ document. If the redline of the pro forma contract is not part of the technical proposal, the State will not allow the recommended proposer to submit additional information after the RFQ Schedule of Events Technical Response Deadline. |

| | QUESTION / COMMENT | STATE RESPONSE |
|---|---|---|
| | able to redline the contract and negotiate to an agreement that would suit both parties. | |
| 10 | If ?? is the selected vendor, what are the expectations of the state in regards to data migration from current system to the new system? | The State does not expect to migrate data from applicants or grantees from the current system, but aims to start fresh. Most grant categories will be the same, so updated grant guidelines, final report and request for payment questions will either be directly uploaded or could migrate, depending on vendor preference for efficiency. See Revised Attachment I, Pro Forma Contract A.3.a.i. |
| 11 | Does the State currently track the outcomes of the awarded grants? | Yes. |
| 12 | In the RFQ, the state requests several copies of Technical response, as well as other documents, are those to be provided via postal mail or will email suffice? | RFQ 3.3 requests the five (5) copies on standard CD-R recordable discs or USB flash drives which would need to be sent via postal mail. |
| 13 | If any other questions come up, are the respondents allowed to contact the state regarding such questions or must we adhere strictly to this deadline? | Respondents may contact the State with questions at any time. However, unless the answer to the questions is significant enough to result in State determination of need for an amendment to the procurement that will be published, responses to individual questions will not be made outside the currently published deadline for questions. |
| 14 | Per 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 not be considered responsive.) Is a D&B report acceptable? | A Dun & Bradstreet credit bureau report is acceptable. |
| 15 | Re B.15, is there a size firm to which this would apply? Does signing the Pro Forma Attachment 2 satisfy of this requirement for businesses of 10 and under? | For diversity information please contact our Governor's Office of Diversity Business Enterprise (Go-DBE) representative. Richard VanNorman can address questions related to this area of the RFQ. His e-mail is Richard.VanNorman@tn.gov and his office number is 615-253-4654. |
| 16 | Re B.17, is the term "current or former State employees" specific to the State of Tennessee or any State employee? | Specific to the State of Tennessee |
| 17 | Re C.3, where are pro forma contract provisions A.2.5 and A.2.6? We cannot find them in the document. | See corrected RFQ Attachment C.3. |
| 18 | Re C.4, can we have assurances that only state staff will be accessing the test environment for the period January 25 - February 19, 2016? | Yes. See updated RFQ Attachment C.4. in which the State provides the requested assurance. |

| QUESTION / COMMENT | STATE RESPONSE |
|---|---|
| 19 Re Attachment D, my first questions relate to the scoring in the functional requirements checklist. Assigning a lower score to items which require configuration may be misleading, especially when configuration is itself a desirable feature. The following items call for configuration inherently.<br>➢ 10. Records certain specific actions…in a system audit log. [Presumably this requires configuration to designate which actions are logged]<br>➢ 12. Includes configurable data dashboards [Configuration is inherent to the feature]<br>➢ 24. ..customize online forms… [Configuration is inherent to the feature]<br>➢ 27. ..insert mail merge data [Configuration is inherent to the feature]<br>➢ 29. ..set up and send automatic emails Configuration is inherent to the feature]<br>Would you be willing to change the evaluation to score all built-in features the same regardless of whether or not they involve configuration? | Please see revised scoring in updated Attachment D to allow equal maximum points for standard features and configuration features.<br><br>Respondents are again reminded of the importance of explanatory comments for items in Section D. Particularly, for configuration items, please be clear in the comments about which items are configured once during the set-up by vendor and which can be configured by State staff or users going forward as may be needed. |
| 20 Re D.1, how the Document Management system is envisioned for the Grant Management application. Does the Agency already have an existing Document Management System? | The proposed system should include a document management system. The current agency document management system is not on-line and requires daily back-ups by State staff. |
| 21 Re D.3, what are all the online applications to which the integration is required with Grant Management System and integration methodology | In the State's current system, grant applicants complete grant applications online and then that data must be "imported" manually by State staff into the Access database system that is not on-line. D.3 attempts to assure that any new system avoids that onerous process. |
| 22 Re D.3, do the interfaces to online applications already exist or effort needs to be considered to do this activity? | See response above to better explain this item. "Online applications" in this question are simply grant applications from external applicants, not some kind of special software that somehow needs to be interfaced or integrated. |
| 23 Re D.8, how many report requirements are envisioned in the system? Are these Canned (Pre-defined) reports or dynamics? | In the current system, the TN Arts Commission uses approximately 30 reports on a regular basis. These reports can be pre-defined in the new system. The State would like the option to define its own queries |

| QUESTION / COMMENT | STATE RESPONSE |
|---|---|
| | and reports to the extent possible. |
| 24 The two interfaces that are referred in D. 9, are these pointing towards personalized dashboards for role specific. Please clarify. | See revised wording for Attachment D.9. The aim of D.9 is to prevent/reduce complexity and confusion for short-term outside reviewers or grant applicants who need access to much less of the system than State staff. "Interfaces" refers to the whole visual experience for users with different roles, including but not limited to dashboards. |
| 25 Re D.11, for the Signature of the contract requirement, is it digitally signed or require integration with any physical signature capture Device. | This question -and-State-response relates to signatures for grant contracts generated through the proposed solution for several hundred grantees annually (not the 5 year contract with the vendor to be issued pursuant to this RFQ).<br><br>In the current less-than-optimally-efficient process, a hard copy of the grantee contract in required state format is generated via MSWord mail merge and sent by U.S. mail to each grantee. The grantee signs a wet signature and returns the hard copy by mail or returns a scanned copy by email, which the State prints out. The Arts Commission reviews and countersigns the hard copy contract. The hard copy contract is then scanned as a pdf and attached as support for a PO in the state accounting system. Surely there is a better way that can avoid hard copy mailing back and forth with grantees. One way or another, however, a pdf document of the final contract with legally binding signatures is needed that can be attached in the state accounting system.<br><br>Please see new item D.11.a which lays out incorporation of digital signature functionality as a desired element in the workflow process. |
| 26 Re D. 11, for the risk assessment, accuracy verification, completeness verification is that going to be a manual process or requires automation? | State staff will assess applicant data for risk, accuracy and completeness based on their knowledge. Workflow needs to allow for staff approval or collection and upload of missing data before applications proceed to external review or award. As a basic check for completeness, some fields should be able to be marked required in the system and applicants should not be able to submit unless they respond in some way to certain required data. However, assessing the quality of content of what is entered will still require professional judgment. |
| 27 Re D.16, the layout of the application should be responsive so that the application can be viewed on various mobile devices? Please confirm for the same layout works on responsive or is it required to create separate layout for Mobile? | It would be preferable for the application to be responsive and optimized for mobile. A separate layout is not required. |

| | QUESTION / COMMENT | STATE RESPONSE |
|---|---|---|
| 28 | Re D.20, is there any interface to the USPS or Address Verification Service agency is currently using? | No |
| 29 | Re D.25, do we have any requirement of assigning Grant access to Applicants (mapping between applicant categories to Grant categories) | No |
| 30 | Re D. 25, can we assume that 1 reviewer can have access to multiple grants? | Yes. Individual reviewers typically review all grants in a particular grant category or subcategory by discipline (visual arts, performing arts, literary arts, etc) |
| 31 | Re D.27, the mail merge requirement refers to dynamically pull data from the forms and generate a word document on need basis? | Yes |
| 32 | Re D.31, can you please provide a sample of "Final Progress Report"? | See http://tnartscommission.org/wp-content/uploads/2015/11/form_grant_evaluation.pdf |
| 33 | Re D.33, please confirm the interfaces availability to integrate State's accounting system. | Per D.33, at a minimum, grantees need to be able to submit request for payment data that can be reviewed and approved by state staff and a copy emailed to the Accounting staff who enter vouchers in the state's accounting ERP. |
| 34 | Re D.51, what does the state mean by reduce the amount of used text space? | For example, if a text box in a grant application form has room for 1000 characters and an applicant only uses 300 in its response, the State would like any printed version of the application to not include big boxes with lots of blank space where the other 700 characters could have been used but were not. |
| 35 | Re D.61, "System shall provide an online, accessible wizard capability or other context-sensitive help to assist applicants in the application process," can you explain what is desired here? Is this step-by-step instructions for the applicant or a way for the applicant to know what required items are still missing from the application in order to submit? | The system should provide tool tips for applicants needing further instructions for certain fields. The system should also prompt applicants who have not completed required fields or who have input data in an incorrect format or outside the system's parameters (e.g. too many characters, putting letters in number fields) to make the correction. |
| 36 | Re D.64, please elaborate on the evaluation criteria process of the applicants? | See http://tnartscommission.org/app-review-process/ , including "Panel Orientation" for a detailed online guide about panelists' responsibilities.<br>Criteria specific to each grant category are refined annually, and weighted scoring could change from time to time. |
| 37 | How does the State currently do Grant Management? Is Data migration in scope? | The State's current system is Bromelkamp eGrant and Pearl (an Access database). The State does not expect to migrate data from applicants or grantees from the current system, but aims to start fresh. |

| | QUESTION / COMMENT | STATE RESPONSE |
|---|---|---|
| 38 | What is the expected volume of applications processing per annum | 1700 per pro forma contract A.3.a.iii. In FY15, the agency processed 1,543 applications. |
| 39 | How many concurrent users will use the application in business hours? | Estimated average # of concurrent users during business hours is 50. Estimated # of concurrent users during annual peak day (opening of the Arts Student Ticket Subsidy grant application) is 500. |
| 40 | Is a facility required for external reviewers/internal staff to flag any conflict of interests with grant applications that they are reviewing? | Yes, external reviewers/internal staff must be able to disclose any conflicts of interest and then, ideally, be prevented from commenting or submitting scores related to any application with which they have a conflict. |
| 41 | It is stated that external reviewers need a method to score and rank grant applications. Where applications are reviewed and approved by staff, is a similar scoring and ranking system required? | No. Typically staff reviews are pass-fail, while external reviewers give scores in a graduated range based on determinations of merit. |
| 42 | Is a facility required to track funding sources per grant? | Yes |
| 43 | In section A3 of the Pro Forma Contract – Appendix I 'data conversion' is listed as one of the activities of the project. | This was an error. See correction in the revised Attachment I, Pro Forma Contract below. |
| 44 | Re Pro Forma Contract Scope A.3. Please suggest that User Type "Grantee" is a internal TN user or external user and how the authentication is required? | See Revised Pro Forma contract A.3.a.iii. A “Grantee” is an external user that has progressed in the system workflow from “Applicant” status to “Grantee” status when State staff input a grant award determination in the system. |
| 45 | Can you confirm that this 'data conversion' refers to the current grants data and converting it to a format that will allow its import into the chosen system? | See revised Attachment I, Pro Forma Contract A.3.a.i which removed “data conversion” from the scope. |
| 46 | Can you clarify the current format, number of years and size (Mb) of the data? | See revised Attachment I, Pro Forma Contract A.3.a.i which removed “data conversion” from the scope. |
| 47 | In section A5 of the Pro Forma Contract – Appendix I it details that ‘assistance with interfacing the grants management system software with Microsoft Office’ will be required. Can you clarify the version(s) of MS Office currently used and the Office applications that will require this interface/support (Word, Excel, etc)? | TN Arts Commission staff use Microsoft Office 2010 Professional including Word, Excel, Powerpoint, Access, and Outlook. State staff also use Microsoft Outlook Web App for remotely accessing email. In addition, Adobe Reader and Adobe Acrobat products are used to read and edit pdf files. |

**3. Delete RFQ Attachment C in its entirety and insert the following in its place** (any sentence or paragraph containing revised or new text is highlighted)**:**

**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. | | **30** | |
| | **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. Describe how updates and upgrades are managed, what kind of technical support is available and how you manage issues or bugs. | | **30** | |
| | **C.3.** | The State seeks to increase efficiency in grant application data collection and review through the judicious use of third party data accessed through Application Program Interfaces (APIs). Please describe your system's use of APIs, if any, for grants making for other customers noting the data source and type of information provided. Please describe your intended approach to deliver services identified in ~~the pro forma contract provisions A.2.5 and A.2.6.~~ Attachment D items 5-6. The Respondent Comments section of Attachment D items 5-6 can refer to this C.3. response if desired. | | **10** | |
| | **C.4.** | Provide access to a "dummy" account in the proposed software solution from January 25-February 19, 2016 so that TN Arts Commission staff can experience the "user-friendly" elements of display, workflow, form-building and queries. Provide directions for access in the RFQ narrative response and explain the level of access provided. The State assures that only State staff will access the "dummy" account. | | **30** | |

| **RESPONDENT LEGAL ENTITY NAME:** | | | | | |
|---|---|---|---|---|---|
| **Response Page #** (Respondent completes) | **Item Ref.** | **Section C— Technical Qualifications, Experience & Approach Items** | **Item Score** | **Evaluation Factor** | **Raw Weighted Score** |
| *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)* | |
| **Total Raw Weighted Score** / **Maximum Possible Raw Weighted Score** *(i.e., 5 x the sum of item weights above)* | | | **X 20** *(maximum possible score)* | **= SCORE:** | |
| *State Use – Evaluator Identification:* | | | | | |
| *State Use – Solicitation Coordinator Signature, Printed Name & Date:* | | | | | |

4. **Delete RFQ Attachment D Grant making System Functional and Technical Requirements and insert the following in its place the updated separate excel spreadsheet** (any sentence or paragraph containing revised or new text is highlighted)**:**

5. **Delete RFQ Attachment I Pro Forma Contract in its entirety and insert the following in its place** (any sentence or paragraph containing revised or new text is highlighted)**:**

**ATTACHMENT I**

## RFQ # 31625-16005 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.

**CONTRACT**
**BETWEEN THE STATE OF TENNESSEE,**
**TENNESSEE ARTS COMMISSION**
**AND**
**CONTRACTOR NAME**

This Contract, by and between the State of Tennessee, Tennessee Arts Commission ("State") and Contractor Legal Entity Name ("Contractor"), is for the provision of Arts Grants Management System services, as further defined in the "SCOPE." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

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

**A. SCOPE:**

A.1. The Contractor shall provide all goods or services and deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract.

A.2. Software as a service. The Contractor shall license the State to use its proprietary grantsmaking software system entitled (Name of grants making system) that includes all features described in the Contractor's response to RFQ 31625-16005. The Contractor shall provide a URL for access by the State's users, including staff, outside grant reviewers, grant applicants and grantees.

The grantsmaking system must include the features as detailed in RFQ 31625-16005 Attachment D. Grantmaking System Functional and Technical Requirements incorporated into this contract as Attachment 3.

A.3. Initial Set-up Plan,Configuration/customization, User Acceptance Testing, Documentation and Training. Within seven (7) business days of contract execution, the Contractor shall participate in a kick-off meeting. The purpose of the kick-off meeting shall be to introduce the Contractor team to the State project stakeholders and ensure agreement regarding project objectives, roles and responsibilities, strategy and known risks. The Contractor shall prepare and deliver a presentation for the kick-off meeting that synthesizes their approach to the overall project, provides high-level milestones and introduces the Contractor team.

a. Within thirty (30) calendar days of contract execution, the Contractor will develop a plan in consultation with the State for initial set-up of the grants making system, including user acceptance criteria for each phase of activity. Upon written approval of the plan by the State, the Contractor will proceed to implement the plan in coordination with the State. The plan and implementation will include, but not be limited to, the following elements:

i. Planning- What and When. A timeline of activities including planning, configuration and customization as needed, ~~data conversion,~~ staff training, user acceptance testing, launch dates and key grant cycle dates for the first year of operation.

**The system should be ready to accept applications for all FY17 grant programs as of October 15, 2016.**

ii. Planning – Who. A current organizational chart and contact list providing name, title, phone, pager/cell phone and email contact information for all Contractor personnel assigned to the project.
iii. Configuration/customization: users. Set up a tiered system of user registration, access permissions and dashboards for State administrators and program staff,

current grantees, grant applicants and reviewers based the following maximum annual user estimates:

| User Category | Description | Estimated Annual Maximum |
|---|---|---|
| TN Arts Administrator | Most active users; extensive experience with IT and/or Grants Management Software; overall system responsibility; assigns security and workflow roles; manages annual update of grants guidelines, rules, forms and establishment of new grant categories; troubleshoots; develops and tests queries; other roles as appropriate for the selected proprietary software solution | 2-4 |
| TN Arts User | Active user; conducts in-house grant reviews; updates forms or guidelines; runs queries; provides assistance to grant applicants so must be able to see what the applicant or grantee sees in the system; reviews and approves grant elements and may enter data in authorized fields the regular grant process workflow; runs queries; develops email communications content; merges data into MSOffice applications; other roles as appropriate for the selected proprietary software solution | 11-13 |
| TN Arts Read Only | Able to see data at every level but no edit ability | 4 -19 |
| Grant Applicant | Can set up an account for an applicant or register as an individual affiliated with an existing organization account. Able to review applications and history from prior years. Select data should carry over from year to year, with updates allowable. Able to create, submit and, upon State request, revise grant applications including data entry and uploading media and files, in categories for which they are eligible. | 1700 (1554 in FY14) |
| Grantee | Grantees are a subset of grant applicants. Applicants become grantees in workflow when an application is approved. Grantees should be able to create and complete forms and reports. Organizations at any given time may be both grant applicants and grantees. | 1200 (1001 in FY14) |
| Outside Grant Reviewer | Reviewers who need short-term limited access to review | 210 |

iv. Configuration/customization: business rules. Input required data defining grant categories, phases, workflow, logic, third party API's and other business rules as needed to set up a fully operational system.

v. Configuration/customization: forms. Facilitate creation of all necessary forms to collect data to meet the State's requirements for each grant, including but not limited to grantee organization charter file registration, grant applications including media and pdf attachments, staff and panel reviews, award letters, contracts including revised budgets, non-discrimination training certification, grantee requests for payment, grantee final closeout program and financial reports and risk-based grant monitoring reports.

vi. Configuration/customization: reporting. Develop reports to meet the State's program requirements including but not limited to pre-award reviews, authorizer

decision-making, award letters, award contracts, National Endowment for the Arts Final Data Report, county-by-county and legislative district reports.

vii. Configuration/customization: email tied to workflow. Design and implement custom rules for workflow and related email communications for review, allocation and processing of grants.

b. Training and Documentation. The Contractor shall provide initial training to State system administrators and users and written documentation related to the system. Training shall include how to operate the system, responses to frequently asked questions and train-the-trainer instruction so that the State can effectively train grant applicants, grantees, grant reviewers and new State users. One critical element for training will be equipping staff to update and customize forms.

c. Final User Acceptance Testing. The Contractor shall facilitate final User Acceptance Testing and adjustments based on feedback until the State shall confirm official written acceptance of the fully operational system.

Through the implementation period, the Contractor shall provide informal updates to the State upon request and monthly progress reports including at a minimum: progress toward project milestones; explanations of schedule variances relative to the plan; updates on implementation; status of deliverables; and action items and status.

A.4. On-going Hosting and Data Back-up. The Contractor shall host the software and maintain all data that is input by the State's users on at least 2 servers located (in at least 2 locations within the U.S. to be specified by vendor). The Contractor shall make daily back-up copies of all data. The Contractor shall provide a means for the State to access a back-up copy of all data in a format to be determined in consultation with the State on at least a monthly basis or upon request.

A.5. Standard Technical Support. The Contractor shall provide telephone and email-based support to the State staff upon request of the State's Designated Contact. All service will be performed during normal business hours, Monday through Friday, 8:00 a.m. to 4:30 p.m. Central Time, except legal holidays, unless special arrangements are agreed to in advance by both parties.

Standard technical support shall include assistance with the (Name of) grants management system including how it works and how to use it; assistance with interfacing the grants management system software with Microsoft Office; maintenance to prevent or correct errors or malfunctions on the (Name of) grants management system; troubleshooting apparent compatibility problems between the software and the client's equipment and responses to State inquiries about Contractor policies and invoices.

A.6. Other Technical Support Upon Request. Other technical support may be provided upon request of the State's Designated Contact and could include trouble-shooting with outside users on problems that the State has not been able to resolve; systems design; assistance in writing specifications or plan; consultation to determine the feasibility and cost of any proposed changes and the effect of such proposed changes on existing programs and general system operations; changes to system specifications not original provided and installed by the installation date; installation of new databases or features; custom programming; converting data from one computer to another; training after the original State staff training; or other non-routine technical support.

A.7. System Performance and Availability**.** Following implementation, the System shall be available continuously, as measured over the course of each calendar month period, an average of 99.9% of the time, excluding unavailability as the result of Exceptions as defined below (the "Availability Percentage"). "Available" means that the System shall be available for access and use by the State and external users. For purposes of calculating the Availability Percentage, the following are "Exceptions" to the service level requirement, and the System shall not be considered un-Available if any inaccessibility is due to: (i) regularly scheduled downtime (which shall occur only

upon advance written notice during non-core business hours); or (ii) loss of the State's Internet connectivity.

Core business hours are defined as:
• 8:00 a.m. – 5:00 p.m. (CT) Mondays through Fridays, excluding State holidays.
Non-core business hours are defined as:
• 5:01 p.m. (CT) Friday – 7:59 a.m. (CT) Monday;
• 5:01 p.m. – 7:59 a.m. (CT) Monday through Friday evenings and selected State holidays;
Core business hours can be changed by the State. Scheduled downtime must be approved in writing in advance by the State.

System availability shall be provided at 99.9% availability in any given month, excluding times when the System is un-available as the result of an Exception (as set forth above).

The average System response time shall be no more than seven (7) to ten (10) seconds or less for online and web applications. Hourly intervals of monitoring shall be the expected measure. The response time measurement will be the amount of time from the application receiving a request until the user receives the result, i.e., internal application response time between receipt of a request and the requested page being downloaded to the user. The response time measurement shall not include the time required to transmit the user's request to the System.

Contractor must immediately notify the State if the system is outside of variance. Notification must happen through telephone and/or email to customer-provided contacts and acknowledgment of the notification must be logged. The notification should be specific and detailed.

A.8. Data Security. The Contractor will not release any State data to any party other than the State and will maintain industry standard security protocols. In the event of a data security breach, the Contractor will report breach to the State within 48 hours of discovery of the breach and will work with the State to develop and implement a response and mitigation plan.

A.9. Data Ownership. The State shall own the data collected from its users through the licensed grantsmaking system. Upon termination of this contract without renewal arrangements, the Contractor shall make all State user data available for download within the thirty (30) calendar day period following termination in a format determined by the State.

A.10. Enterprise Information Security Policies. The Contractor will assure that its services under this contract are compliant with the State's Enterprise Information Security Policies available at https://www.tn.gov/assets/entities/finance/oir/attachments/PUBLIC-Enterprise-Information-Security-Policies-v2.0_1.pdf .

A.11. Disaster Recovery. The Contractor will deliver thirty (30) calendar days before the system is implemented and maintain the plan throughout the life of the contract, a Business Continuity and Disaster Recovery (BC-DR) Plan, which is updated and tested at least annually and is subject to approval by the State. The plan must address recovery of business functions, business units, business processes, human resources, and the technology infrastructure.

The plan must ensure that the State's Recovery Point Objectives (RPO) of one hour and recovery time objective (RTO) of 4 hours are met. The Contractor shall continually review the Disaster Recovery Plan and make necessary updates to the plan at least annually to ensure the plan always contains accurate and up-to date information.

This plan shall include procedures for the periodic copying of data to other media and the process for restoring data to its original or prior form. The Contractor will be required to provide written evidence of this to the State. This evidence should be in the form of a detailed report describing the date tested, types of systems tested, outcome of tests, and any remedial items that testing may discover. Regardless of the architecture of its systems, the Contractor shall develop and be continually ready to invoke a business continuity and disaster recovery plan. The BC-DR plan

shall encompass all information systems supporting this Contract. At a minimum the Contractor's BC-DR plan shall address the following scenarios:

1. Central and/or satellite data processing, telecommunications, print and mailing facilities and functions therein

2. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that compromise the integrity of transactions that are active in a live system at the time of the outage;

3. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that compromise the integrity of data maintained in a live or archival system; and

4. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that do not compromise the integrity of transactions or data maintained in a live or archival system but does prevent access to the system.

The Contractor shall periodically, but no less than annually, test its BC-DR plan through simulated disasters and lower level failures in order to demonstrate to the State that it can restore system functions. The Contractor shall submit an annual BC-DR Results Report to the State.
In the event that the Contractor fails to demonstrate in the tests of its BC-DR plan that it can restore system functions per the standards outlined in this Contract, the Contractor shall submit to the State a corrective action plan that describes how the failure will be resolved. The Contractor shall deliver the corrective action plan within ten (10) business days of the conclusion of the test.

In the event of a declared major failure or disaster, as defined in the Contractor's BC-DR plan, the Contractor's critical functionality, needed to perform the services under this contract, shall be restored within one hour of the failure's or disaster's occurrence. All State data shall remain within the continental United States of America.

The Contractor shall maintain a duplicate set of all records relating to this Program in electronic medium, usable by the State and the Contractor for the purpose of disaster recovery. Such duplicate records are to be stored at a secure fire, flood, and theft- protected facility located at least 25 miles away from the storage location of the originals. The Contractor shall update duplicate records, at a minimum, on a daily basis and shall retain said records for a period of one hundred and eighty (180) days from the date of creation.

A.11. Warranty. Contractor represents and warrants that the term of the warranty ("Warranty Period") shall be the greater of the Term of this Contract or any other warranty general offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a "Defect" and shall be considered "Defective." If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect, at no additional charge.

Contractor represents and warrants that the State is authorized to possess and use all equipment, materials, software, and deliverables provided under this Contract.

Contractor represents and warrants that all goods or services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, and in conformity with standards generally accepted in Contractor's industry.

If Contractor fails to provide the goods or services as warranted, then Contractor will re-provide the goods or services at no additional charge. If Contractor is unable or unwilling to re-provide

the goods or services as warranted, then the State shall be entitled to recover the fees paid to Contractor for the Defective goods or services. Any exercise of the State's rights under this Section shall not prejudice the State's rights to seek any other remedies available under this Contract or applicable law.

A.12. Inspection and Acceptance. The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

**B. TERM OF CONTRACT:**

This Contract shall be effective on DATE ("Effective Date") and extend for a period of sixty (60) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor 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 Contract exceed Written Dollar Amount ($Number) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

C.2. Compensation Firm. The payment methodology in Section C.3. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.

a. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.

b. The Contractor shall be compensated based upon the following payment methodology:

| **Goods or Services Description** | **Amount** (per compensable increment) |
|---|---|
| Completion of Kick-off Meeting and State Approval of Set-up Plan per A.3.a. | $ Number<br>*10% of the Total Implementation Cost* |
| Completion and State Approval of initial configuration including deliverables under A.3.a. items iii-vii. | $ Number<br>*30% of the Total Implementation Cost* |

| | |
|---|---|
| Completion and State Approval of system documentation and state user training deliverables per A.3.b. | $ Number<br>*30% of the Total Implementation Cost* |
| Completion and State Approval of final user acceptance testing and official written acceptance of the fully operational system by the State per A.3.c. | $ Number<br>*30% of the Total Implementation Cost* |
| On-going Hosting, Standard Technical Support & Daily Data Back-up | $ Number per Year |
| Third Party API database subscription fees, if any | $ Number per Year |
| Other Technical Support upon request per A.6 | $ Number per Hour |

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.

C.5. Invoice Requirements. The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month, and no later than thirty (30) days after goods or services have been provided to the following address:

Tennessee Arts Commission
401 Charlotte Ave
Nashville, TN 37243

a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):

(1) Invoice number (assigned by the Contractor);
(2) Invoice date;
(3) Contract number (assigned by the State);
(4) Customer account name: Tennessee Arts Commission;
(5) Customer account number (assigned by the Contractor to the above-referenced Customer);
(6) Contractor name;
(7) Contractor Tennessee Edison registration ID number;
(8) Contractor contact for invoice questions (name, phone, or email);
(9) Contractor remittance address;
(10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
(11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
(12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
(13) Amount due for each compensable unit of good or service; and
(14) Total amount due for the invoice period.

b. Contractor's invoices shall:

(1) Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;

(2) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
(3) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
(4) Include shipping or delivery charges only as authorized in this Contract.

c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that meets the minimum requirements of this Section C.5.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.

a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and

b. The Contractor 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 Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

**D. MANDATORY TERMS AND CONDITIONS:**

D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.

D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.

The State:

Carol White, Associate Director for Operations
Tennessee Arts Commission
401 Charlotte Ave
Nashville, TN 37243
Carol.White@tn.gov
Telephone # 615-253-8914
FAX # 615-741-8559

Mike Chambers, IT Director
Tennessee Arts Commission
401 Charlotte Ave
Nashville, TN 37243
Mike.Chambers@tn.gov
Telephone # 615-532-9800
FAX # 615-741-8559

The Contractor:

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

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

D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials.

D.4. Subject to Funds Availability. The 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 Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.

D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.

D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"),the State shall have the right to immediately terminate the Contract

and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor 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 Contract.

D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.

D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment 1, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.

b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.

c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.

d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.

e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.

D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this 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 State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.

D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.

D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party 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 are not employees or agents of the other Party.

D.16 Patient Protection and Affordable Care Act. The Contractor 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 Contractor shall indemnify the State and hold it harmless for any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.

D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The State's total liability under this Contract (including any exhibits, schedules,

amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.

D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death.

D.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State to enforce the terms of this Contract.

In the event of any 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 Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

D.20. HIPAA Compliance. The State and Contractor 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 Contract.

a. Contractor 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 Contract.

b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.

c. The State and the Contractor 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 Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this 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 Contractor will indemnify the State and hold it harmless for any violation by the Contractor 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.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq*., the law governing the Tennessee Consolidated Retirement

System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.

D.22. Tennessee Department of Revenue Registration. The Contractor 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 Contract.

D.23. Debarment and Suspension. The Contractor 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 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 Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor 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.

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 Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's

performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.

D.25. State and Federal Compliance. The Contractor shall comply with all applicable state and federal laws and regulations in the performance of this Contract.

D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 407.

D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.

D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.

D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

D.30. 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 RFQ 31625-16005 Attachment D. Grant making System Functional and Technical Requirements incorporated into this contract as Attachment 3;
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.

## E. SPECIAL TERMS AND CONDITIONS:

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.

E.2. Ownership of Software and Work Products.

a. Definitions.

(1) "Contractor-Owned Software," shall mean commercially available software the rights to which are owned by Contractor, including but not limited to commercial "off-the-shelf" software which is not developed using State's money or resources.

(2) "Custom-Developed Application Software," shall mean customized application software developed by Contractor solely for State.

(3) "Rights Transfer Application Software," shall mean any pre-existing application software owned by Contractor or a third party, provided to State and to which Contractor will grant and assign, or will facilitate the granting and assignment of, all rights, including the source code, to State.

(4) "Third-Party Software," shall mean software not owned by the State or the Contractor.

(5) "Work Product," shall mean all deliverables exclusive of hardware, such as software, software source code, documentation, planning, etc., that are created, designed, developed, or documented by the Contractor exclusively for the State during the course of the project using State's money or resources, including Custom-Developed Application Software. If the deliverables under this Contract include Rights Transfer Application Software, the definition of Work Product shall also include such software. Work Product shall not include Contractor-Owned Software or Third-Party Software.

b. Rights and Title to the Software

(1) All right, title and interest in and to the Contractor-Owned Software shall at all times remain with Contractor, subject to any license granted under this Contract.

(2) All right, title and interest in and to the Work Product, and to modifications thereof made by State, including without limitation all copyrights, patents, trade secrets and other intellectual property and other proprietary rights embodied by and arising out of the Work Product, shall belong to State. To the extent such rights do not automatically belong to State, Contractor hereby assigns, transfers, and conveys all right, title and interest in and to the Work Product, including without limitation the copyrights, patents, trade secrets, and other intellectual property rights arising out of or embodied by the Work Product. Contractor and its employees, agents, contractors or representatives shall execute any other documents that State or its counsel deem necessary or desirable to document this transfer or allow State to register its claims and rights to such intellectual property rights or enforce them against third parties.

(3) All right, title and interest in and to the Third-Party Software shall at all times remain with the third party, subject to any license granted under this Contract.

c. The Contractor may use for its own purposes the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of performing under this Contract. The Contractor may develop for itself, or for others, materials which are similar to or competitive with those that are produced under this Contract.

E.3. Software License Warranty. Contractor grants a license to the State to use all software provided under this Contract in the course of the State's business and purposes.

E.4. Software Support and Maintenance Warranty. Contractor shall provide to the State all software upgrades, modifications, bug fixes, or other improvements in its software that it makes generally available to its customers.

E.5. Prohibited Advertising or Marketing. The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.

E.6. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response to RFQ31625-16005 and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and Tennessee service-disabled veterans. Such reports shall be provided to the State of Tennessee Governor's Office of Diversity Business Enterprise in the required form and substance.

**IN WITNESS WHEREOF,**

**CONTRACTOR LEGAL ENTITY NAME:**

---

**CONTRACTOR SIGNATURE** **DATE**

---

**PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)**

**TENNESSEE ARTS COMMISSION:**

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**ANNE B. POPE, EXECUTIVE DIRECTOR** **DATE**

***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**<br>(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)**

6. **RFQ Amendment Effective Date.** The revisions set forth herein shall be effective upon release. All other terms and conditions of this RFP not expressly amended herein shall remain in full force and effect.

**STATE OF TENNESSEE**
**CENTRAL PROCUREMENT OFFICE**

# REQUEST FOR QUALIFICATIONS FOR ARTS GRANTS MANAGEMENT SYSTEM

**RFQ # 31625-16005**

**December 1, 2015**

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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.

### Statement of Procurement Purpose

The Tennessee Arts Commission (TN Arts) cultivates the arts for the benefit of Tennesseans and their communities. For the fiscal year July 1, 2014 – June 30, 2015, the agency received 1,543 grant applications for $9 million and awarded 1,033 grants totaling $5.3 million. Grant amounts range from $300 to $100,000. A staff of 19 and multiple panels of expert adjudicators reviewed applications and awarded grants in 20+ separate grant categories.

To improve efficiency and reduce costs for both applicants and the State, the Commission seeks to procure and deploy a fully online Software as a Service (SaaS) grants management system that incorporates applications submissions, upload of supporting materials, easy communications interfacing, flexible reports generation, remote reviewing capabilities, robust document retention and easy updates of what users see. Additional specific requirements are detailed in the *pro forma* contract, Attachment I. The system should be ready to accept applications for all FY17 grant programs as of October 15, 2016.

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.

### Background

For the fiscal year July 1, 2014 – June 30, 2015, the agency received 1,543 grant applications for $9 million and awarded 1,033 grants totaling $5.3 million. Grant amounts range from $300 to $100,000. Grants were reviewed and awarded in 20+ separate grant categories.

The agency currently manages 4 major grant cycles:

1. **Annual Adjudicated Grants** - Annual deadlines in January for annual operating, project and individual artist fellowship awards. Applicants for operating support must submit audited financial document(s). Applicants for individual artist fellowship awards submit portfolio attachments. Grantees may submit attachments of up to 10 digital images in jpeg format, no more than 300 dpi (1500 pixel max) OR video files of performance no longer than 30 minutes OR music files of performance not to exceed 40 minutes. Applications are reviewed by grant program and artistic discipline and rated by panels of arts adjudicators in April. Approximately 6 different adjudicators serve on each of 20 panels and would need access to any on-line review solution (approximately 120 total adjudicators annually).

2. **Arts Build Communities Grants** - Grassroots nonprofits and public agencies apply for grants up to $2000 through the state grants management system, but up to 15 regional designated agencies administer the up to 15 separate review panels of approximately 6 regional adjudicators per panel (approximately 90 total adjudicators annually). Application deadline is July 1 with panel reviews in August and awards by September.

3. **Student Ticket Subsidies** -Local public schools apply for grants up to $3000 for funds for ticket costs and transportation fees to expose K-12 students to a broad variety of cultural experiences, arts disciplines and artists. Arts Commission staff review applications made through the grants management system. Funds are awarded on a per capita and first-come first-served basis in up to six rounds of funding beginning in September.

4. **Rolling Grants**. Individuals and organizations apply throughout the year for small grants up to $10,000 that are reviewed by staff. Grants for qualified projects are awarded on a first-come, first-serve basis within 14 days of application.

Critical process elements to be supported in a grants management system include application guideline and forms development by TN Arts staff; on-line application, budget, certification of Title VI non-discrimination training and artistic work attachments from applicants operating from a variety of platforms; merit review, rating and ranking of applications by outside adjudicators and/or TN Arts staff; grant award or denial letter and contract document generation by TN Arts staff; payment tracking (payments are made through a separate statewide financial system); grantee final report submitted on-line; closeout by TN Arts staff.

Accurate, easy reporting is a critical function. Reports are prepared annually for the National Endowment for the Arts and state legislative funding committees, in addition to internal monthly reports to manage timely grantee reporting and closeouts.

The Arts Commission employs 19 staff members. Currently 13 staff have access to the grants management system. An ideal system would allow for tiered access with a few administrators, limited access for applicants, reviewers and grantees and broader read-only and query access for the remaining arts commission staff.

## 1.1. 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:

Tennessee Arts Commission
401 Charlotte Ave
Nashville, TN 37243

December 7, 2015 at 2:00 PM CT

Participants who wish to participate by phone can call into 1-888-778-2006. No password required.

## 1.2. 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.

## 1.3. Definitions and Abbreviations

| TERM | DEFINITION |
|---|---|
| Acceptance Criteria | The criteria defining the level of functionality and performance at which the deliverable/product and/or document need to perform/provide the State to consider the product/deliverable or part of the product complete. Acceptance Criteria will be defined in the agreed upon Acceptance Management Plan. |
| Adjudicator | Aka "reviewer" or "grant reviewer." Knowledgeable persons selected by TN Arts to read and score grant applications by published criteria. For the largest grant categories of annual grants, adjudicators for particular grant categories meet in person as an advisory panel to review and score grant applications. |
| Advisory Panel | Adjudicators or grant reviewers that review and score grant applications, often including meetings in person. |
| Annual Grant | Annual grants are grants funded in categories that receive applications once a year on published deadlines and that are reviewed by advisory panel(s) before award for activities to occur within the state fiscal year. |
| Applicant | A person, individual, non-profit or public organization applying for a grant from the Tennessee Arts Commission. Specifically, the organization whose Federal Employee Identification Number (FEIN) or the person whose Social Security Number is associated with the submitted application. |
| Application | A grant application is a request for grant funds to support activities in response to a posted opportunity for grant funding. An application consists of data from an applicant provided in fields and attachments specified by the State in order to achieve desired specific program outcomes. |
| API | Application Program Interface |
| Central Procurement Office or CPO | Central Procurement Office of the TN Department of General Services responsible for regulation of state procurement |
| Charter File | All 501(c)3 applicants must have on file with the TN Arts Commission copies of basic nonprofit status documentation, including TN State Charter, IRS 501c3 determination letter, most recent copy of organization by-laws. These documents can be submitted once and retained from year-to-year within the file for the nonprofit organization. |
| Data Security Breach | Unauthorized access to data within the grantsmaking system by any external party. |
| Downtime | The period of time in a given month when the System, or any portion thereof, because of failure of any or all software, is not operational in conformance with the defined System Requirements. Down-time shall begin 15 minutes after the Contractor is notified of the issue. |
| DUNS Number | The federal government requires organizations to provide a DUNS number on their grant applications. As a recipient of federal funding, the Tennessee Arts Commission also requires |

| | |
|---|---|
| | DUNS numbers on all grant applications from organizations.<br><br>Dun and Bradstreet (D&B) is a company that provides business information for credit, marketing, and purchasing decisions. Its "data universal numbering system," known as DUNS, issues unique 9-digit numbers that are used by businesses and the federal government to keep track of more than 70 million businesses world-wide. Because a DUNS number is specific to a physical location, some entities such as states, public school districts and universities will have several DUNS numbers, for example "DUNS + 4," used to identify specific units within a larger entity. |
| Edison | The State's Enterprise Resource Planning System (ERP) through which grant payments are made. |
| EIN | Employer Identification Number. An Employer Identification Number (EIN) is also known as a Federal Tax Identification Number, and is used to identify a business entity. The Internal Revenue System offers a free registration system. |
| Exempt Organization Verification Check | The search engine available on the Internal Revenue Service's website that allows an organization to verify that it still retains legal nonprofit status. |
| External User | Synonymous with customer, applicant, grant applicant, grantee, reviewer and/or adjudicator. |
| Fiscal Year | The State fiscal year is July 1-June 30. |
| Final Data Report (FDR) | Detailed annual report of all grantees and grant payments with specific required data fields that is due to the National Endowment for the Arts (NEA) by September 30. |
| Grant | A grant is an award of funding by contract to a grantee that shall benefit the general public or some population of the general public. |
| Grant Category | A particular opportunity for funding that is defined by grant guidelines or business rules to achieve specific particular public outcomes. Grant categories are summarized by grant program titles such as "Major Cultural Institutions," "Rural Arts Project Support", "Individual Artist Fellowship", etc. |
| Grant Guidelines | Each grant category is defined by a set of business rules that outline applicant eligibility, desired outcomes, available funding, application period, review process, allowable and unallowable activities, application process, and review criteria and process. |
| Grantee | Recipient of a grant. Eligibility varies among grant categories but is limited to individuals, nonprofits and public agencies. |
| Internal User | Users of the grantsmaking system who work for the Tennessee Arts Commission. These users generally process, review or manage information provided by grant applicants, reviewers and/or grantees who use the system. |
| Mobile device | A computing platform that is not meant to be stationary. Examples include but are not limited to laptops, tablets, iPhones, iPads and Android devices. |
| NEA | National Endowment for the Arts, a federal funding and regulatory agency for the State |
| Open | Designation of a grant category that is receiving applications for funding. After the application deadline passes or funding is exhausted, that category is "closed" and can no longer accept applications. |
| Panel | Adjudicators or grant reviewers that meet in person to review and score grant applications. See also "Advisory Panel." |

| | |
|---|---|
| Request for Payment | Invoice from a grantee. |
| Reviewer | Aka “adjudicator” or “grant reviewer.” Knowledgeable persons selected by TN Arts to read and score grant applications by published criteria. For the largest grant categories of annual grants, adjudicators for particular grant categories meet in person as an advisory panel to review and score grant applications. |
| Revised Budget | All grant contracts include a schedule of activities and planned expenditures for which the State will reimburse the grantee for actual expenses. Upon award of a grant amount different than what was requested, a revised budget must be developed and approved. |
| Rolling Grant | Grant categories with varying deadlines, typically 30 days in advance of a new project and typically awarded on a first-come, first-serve or population formula basis. |
| State | State of Tennessee |
| Term | The period during which allowable activities under an approved grant may be conducted. |
| Title VI training certification | Compliance with and training related to Title VI of the Civil Rights Act of 1964 is an annual requirement for every TN Arts grant. Each year, grantees are required to provide a list of employees who have watched a training video before they can receive any grant funding. |
| User Acceptance | Written acknowledgment by the State to the Contractor that Acceptance Criteria for a particular phase of the system set-up and implementation plan has been successfully met. |
| WCAG 2.0 | Web Content Accessibility Guidelines 2.0. A shared technical standard for web content accessibility to make web content more accessible to people with disabilities. |
| Workflow | Sequence of tasks. A workflow describes the order of a set of tasks performed to complete a given procedure within an organization. |
| Workflow Process | A series of steps through which work is routed. |
| Workflow System | A system which manages and defines a series of tasks within an organization to produce a final outcome (s). |
| Work Sample | A selection of an individual artist’s or arts organization’s body of work, usually produced within the past three years. |

## 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 | | December 1, 2015 |
| 2. | Disability Accommodation Request Deadline | 2:00 p.m. | December 4, 2015 |
| 3. | Pre-Response Conference | 2:00 p.m. | December 7, 2015 |
| 4. | Notice of Intent to Respond Deadline | 2:00 p.m. | December 8, 2015 |
| 5. | Written "Questions & Comments" Deadline | 2:00 p.m. | December 14, 2015 |
| 6. | State response to written "Questions & Comments" | | January 5, 2016 |
| 7. | RFQ Technical Response Deadline | 2:00 p.m. | January 25, 2016 |
| 8. | State Schedules respondent Oral Presentations (ONLY Respondents who pass Mandatory Requirements) | | January 29, 2016 |
| 9. | Respondent Oral Presentations | 8:00 a.m. - 4:30 p.m. | February 10-12, 2016 |
| 10. | State Notice of Qualified Respondents Released | | February 19, 2016 |
| 11. | RFQ Cost Proposal Deadline (ONLY for Qualified Respondents) | 2:00 p.m. | February 26, 2016 |
| 12. | RFQ Negotiations | | March 1-4, 2016 |
| 13. | State Evaluation Notice Released | | March 9, 2016 |
| 14. | Solicitation Files Opened for Public Inspection | | March 10-17, 2016 |
| 15. | Respondent Contract Signature Deadline | 2:00 p.m. | March 24, 2016 |
| 16. | Anticipated Contract Start Date (anticipated date for contract to be fully executed and vendor to begin work) | | April 15, 2016 |

## 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. Grant Making System Functional and Technical Requirements: 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 D as a guide to organize responses for this portion of the RFQ response. The Respondent should complete the "Respondent Response" column with a value from the Respondent Response Value section. Respondents must submit a printed PDF copy of the Excel spreadsheet with their technical responses. A digital copy of the PDF Excel spreadsheet should also be submitted with the respondent's technical response.

3.1.5. Oral Presentation: This section is part of the State's evaluation of Phase II of the Technical Response Evaluation and details the items that must be demonstrated within the proposed system during the Oral Presentation as part of the response to this RFQ. A Respondent must use RFQ Attachment E as a guide to organize responses for this portion of the RFQ response. Oral presentations should include an audiovisual demonstration of the proposed grants making system and may be presented in person or remotely.

3.1.6. Cost Proposal: ***For Qualified Respondents only***

3.1.6.1. This section only applies to those respondents identified as being Qualified. See RFQ § 2, Schedule of Events, "State Notice of Qualified Respondents Released."

3.1.6.2. If included as part of this solicitation, then the Cost Proposal must be recorded on an exact duplicate of RFQ Attachment F, Cost Proposal & Evaluation Guide. Any response that does not follow the instructions included in RFQ Attachment F may be deemed nonresponsive.

3.1.6.3. A Respondent must only record the proposed cost exactly as required by the RFQ Attachment F, Cost Proposal & Evaluation Guide and must NOT record any other rates, amounts, or information.

3.1.6.4. The proposed cost shall incorporate ALL costs for services under the contract for the total contract period.

3.1.6.5. A Respondent must sign and date the Cost Proposal.

3.1.6.6. 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:

Tamara Byrd, MSM
Sourcing Analyst
Central Procurement Office
Department of General Services
William R. Snodgrass TN Tower – 3rd Floor
312 Rosa L. Parks Ave., Nashville, TN 37243
Work: (615) 532-2314
Email: tamara.byrd@tn.gov

## 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 #31625-16005 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 #31625-16005 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 #31625-16005 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 #31625-16005 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 #31625-16005 in all communications relating to this solicitation, and direct any such communications to the following person designated as the Solicitation Coordinator:

Tamara Byrd, MSM
Sourcing Analyst
Central Procurement Office
Department of General Services
William R. Snodgrass TN Tower – 3rd Floor
312 Rosa L. Parks Ave., Nashville, TN 37243
Work: (615) 532-2314
Email: tamara.byrd@tn.gov

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 1.2.).

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:

Kim Johnson, Arts Access Director
Tennessee Arts Commission
401 Charlotte Ave
Nashville, TN 37243
Phone: 615-532-9797
Kim.Johnson@tn.gov

### 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.

4.5.3. 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.

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 RFQ 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 § 1.2). 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 <u>not</u> 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 indentified 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:

Ranking: To be qualified for the competitive range, the Technical Response must be ranked in the top four (4) after the Technical Response score is totaled and put in ordinal ranking (1 - the best evaluated ranking).

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, D & E).

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, D & E to determine which of the Respondents are considered Qualified and within the competitive range.

5.2.1. The Solicitation Coordinator will invite each apparently responsive and responsible Respondent to make an oral presentation.

5.2.1.1. The oral presentations are mandatory. The Solicitation Coordinator will schedule Respondent presentations during the period indicated by the RFQ Section 2, Schedule of Events. The Solicitation Coordinator will make every effort to accommodate each Respondent's schedules. When the Respondent presentation schedule has been determined, the Solicitation Coordinator will contact Respondents with the relevant information as indicated by RFQ Section 2, Schedule of Events.

5.2.1.2. Respondent presentations are only open to the invited Respondent, Proposal Evaluation Team members, the Solicitation Coordinator, and any technical consultants who are selected by the State to provide assistance to the Proposal Evaluation Team.

5.2.1.3. Oral presentations provide an opportunity for Respondents to explain and clarify their responses. Respondents must not materially alter their responses and presentations will be limited to addressing the items detailed in RFQ Attachment E., Oral Presentation. Respondent pricing shall not be discussed during oral presentations.

5.2.1.4. The State will maintain an accurate record of each Respondent's oral presentation session. The record of the Respondent's oral

presentation shall be available for review when the State opens the procurement files for public inspection.

5.2.1.5. Proposal Evaluation Team members will independently evaluate each oral presentation in accordance with the RFQ Attachment E., Oral Presentation.

5.2.1. 6. The Solicitation Coordinator will calculate and document the average of the Proposal Evaluation Team member scores for RFQ Attachment E., Oral Presentation, and record that number as the score for Respondent's Oral Presentation section.

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 31625-16005 Attachment F, 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) | 15 |
| Technical Qualifications, Experience & Approach (refer to RFQ Attachment C) | 20 |
| Grant making System Functional and Technical Requirements (refer to RFQ Attachment D) | 20 |
| Oral Presentation (refer to RFQ Attachment E) | 15 |
| Cost Proposal (refer to RFQ Attachment F) | 30 |

5.6 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 I, *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, PROVIED 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.

## 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 G) 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.<br><br>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. | |
| | **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 | |

| RESPONDENT LEGAL ENTITY NAME: | | | |
|---|---|---|---|
| **Response Page #** (Respondent completes) | **Item Ref.** | **Section A— Mandatory Requirement Items** | **Pass/Fail** |
| | | positive credit rating for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will not be considered responsive.) | |
| | **A.6.** | Provide a written confirmation that the proposed solution will be a hosted cloud solution. The State defines "hosted cloud solution" as a secure, virtual storage environment, where the State's data is effectively separated from that of other entities.' | |
| | **A. 7.** | Provide the name of the proposed Grants Management System and a list of at least three (3) customers who have used the system you propose for a minimum of three (3) years. | |
| | **A.8.** | Provide a written confirmation that the proposed solution allows state users to create new online grant application forms and grant categories without additional charges from the vendor. | |
| *State Use – RFQ Coordinator Signature, Printed Name & Date:* | | | |

## 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.e.*, 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 *nolo contendere* 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.<br><br>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. |
| | | 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 |

| **RESPONDENT LEGAL ENTITY NAME:** | | |
|---|---|---|
| **Response Page #** (Respondent completes) | **Item Ref.** | **Section B— General Qualifications & Experience Items** |
| | **B.10.** | what extent it will impair the Respondent's performance in a contract pursuant to this RFQ.<br>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. |
| | **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.** | Provide a statement of whether the Respondent intends to use subcontractors to accomplish the work required by this RFQ, and if so, detail:<br>(a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each;<br>(b) a description of the scope and portions of the work each subcontractor will perform; <u>and</u><br>(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. |
| | **B.15.** | Provide documentation of the Respondent's commitment to diversity as represented by the following:<br>(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.<br>(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:<br>(i) contract description;<br>(ii) contractor name and ownership characteristics (*i.e.*, ethnicity, gender, Tennessee service-disabled); and<br>(iii) contractor contact name and telephone number.<br>(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 RFQ. Please include the following information:<br>(i) a percentage (%) indicating the participation estimate. (Express the estimated participation number as a percentage of the total estimated contract value that will |

| **RESPONDENT LEGAL ENTITY NAME:** | | |
|---|---|---|
| **Response Page #** (Respondent completes) | **Item Ref.** | **Section B— General Qualifications & Experience Items** |
| | | be dedicated to business with subcontractors and supply contractors having such ownership characteristics only and **DO <u>NOT</u> INCLUDE DOLLAR AMOUNTS**);<br>(ii) anticipated goods or services contract descriptions;<br>(iii) names and ownership characteristics (i.e., ethnicity, gender, Tennessee service-disabled veterans) of anticipated subcontractors and supply contractors.<br><br>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 <u>https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810</u> for more information.<br>(d) <u>Workforce</u>. Provide the percentage of the Respondent's total current employees by ethnicity and gender.<br>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. |
| | **B.16.** | 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:<br>(a) the name, title, telephone number and e-mail address of the State contact responsible for the contract at issue;<br>(b) the name of the procuring State agency;<br>(c) a brief description of the contract's specification for goods or scope of services;<br>(d) the contract term; and<br>(e) the contract number.<br>NOTES:<br>▪ 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.<br>▪ 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.** | 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:<br>▪ two (2) accounts Respondent currently services that are similar in size to the State; <u>and</u><br>▪ three (3) completed projects.<br>References from at least three (3) different individuals are required to satisfy the 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.<br>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: |

| **RESPONDENT LEGAL ENTITY NAME:** | | |
|---|---|---|
| **Response Page #** (Respondent completes) | **Item Ref.** | **Section B— General Qualifications & Experience Items** |
| | | (a) Add the Respondent's name to the standard reference questionnaire at Attachment F, and make a copy for each reference.<br>(b) Send a reference questionnaire and a new, standard #10 envelope to each reference.<br>(c) Instruct the reference to:<br>(i) complete the reference questionnaire;<br>(ii) sign <u>and</u> date the completed reference questionnaire;<br>(iii) seal the completed, signed, and dated reference questionnaire within the envelope provided;<br>(iv) sign his or her name in ink across the sealed portion of the envelope; and<br>(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).<br>(d) <u>Do NOT open the sealed references upon receipt</u>.<br>(e) Enclose all <u>sealed</u> reference envelopes within a larger, labeled envelope for inclusion in the Technical Response as required.<br>NOTES:<br>▪ 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.<br>▪ The State will not review more than the number of required references indicated above.<br>▪ 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.<br>▪ The State is under <u>no</u> obligation to clarify any reference information. |
| | **B.18.** | Provide a statement and any relevant details addressing whether the Respondent is any of the following:<br>(a) is presently debarred, suspended, proposed for debarment, or voluntarily excluded from covered transactions by any federal or state department or agency;<br>(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;<br>(c) is presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed above; and<br>▪ 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.19.** | The State is amenable to making changes to RFQ Attachment I, *pro forma* 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 |

| **RESPONDENT LEGAL ENTITY NAME:** | | |
|---|---|---|
| **Response Page #** (Respondent completes) | **Item Ref.** | **Section B— General Qualifications & Experience Items** |
| | | would propose.<br><br>Clearly indicate, by providing a "red-line" of RFQ Attachment I, *pro forma* contract, all suggested alternative or supplemental contract language. Do **not** include any exceptions or changes that (1) contradict a Federal requirement or a Mandatory Requirement, or (2) push back any deadlines. |
| **SCORE *(for all Section B— Qualifications & Experience Items above)*:** *(maximum possible score = 15)* | | |
| *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. | | **30** | |
| | **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. Describe how updates and upgrades are managed, what kind of technical support is available and how you manage issues or bugs. | | **30** | |
| | **C.3.** | The State seeks to increase efficiency in grant application data collection and review through the judicious use of third party data accessed through Application Program Interfaces (APIs). Please describe your system's use of APIs, if any, for grants making for other customers noting the data source and type of information provided. Please describe your intended approach to deliver services in the pro forma contract provisions A.2.5 and A.2.6. | | **10** | |
| | **C.4.** | Provide access to a "dummy" account in the proposed software solution from January 25-February 19, 2016 so that TN Arts Commission staff can experience the "user-friendly" elements of display, workflow, form-building and queries. Provide directions for access in the RFQ narrative response and explain the level of access provided. | | **30** | |
| *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)* | |

| **RESPONDENT LEGAL ENTITY NAME:** | | | | | |
|---|---|---|---|---|---|
| **Response Page #** (Respondent completes) | **Item Ref.** | **Section C— Technical Qualifications, Experience & Approach Items** | **Item Score** | **Evaluation Factor** | **Raw Weighted Score** |
| **Total Raw Weighted Score** / **Maximum Possible Raw Weighted Score** *(i.e., 5 x the sum of item weights above)* | | **X 20** *(maximum possible score)* | | **= SCORE:** | |
| *State Use – Evaluator Identification:* | | | | | |
| *State Use – Solicitation Coordinator Signature, Printed Name & Date:* | | | | | |

## GRANT MAKING SYSTEM FUNCTIONAL AND TECHNICAL REQUIREMENTS

### D. GRANTMAKING SYSTEM FUNCTIONAL AND TECHNICAL REQUIREMENTS.

Please see the separate Excel Spreadsheet Attachment D to address individual requirements of the Grants Making System as outlined in Attachment I. *Pro Forma* Contract.

Please note the three tabs on the spreadsheet: Instructions, Introduction and Grant making System. In the Grant making System worksheet, please indicate whether the listed feature is a Standard Feature, Configuration Feature, Customized to State Specifications or Not Available.

In the Comments section beside each feature and response, please provide information on why the specific response code was chosen.

## TECHNICAL RESPONSE & EVALUATION GUIDE

**SECTION E: ORAL PRESENTATION.** Oral Presentations will only be requested of respondents determined as passing the Mandatory Requirements set forth in RFQ Attachment A. Respondents will be contacted according to the RFQ Schedule of Events and asked to provide a link for an online presentation. Presenters will be asked to demonstrate features of their proposed software-as-a-service solution according to the agenda below. Presentations may not exceed one (1) hour in length.

A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate and score the presentation 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 score as indicated.

| **RESPONDENT LEGAL ENTITY NAME:** | | | |
|---|---|---|---|
| **Oral Presentation Items** | **Item Score** | **Evaluation Factor** | **Raw Weighted Score** |
| **E.1. Orientation**. Provide a short overview orientation of your grants management system, including navigation and how information is organized. | | 1 | |
| **E.2. Applicant Accounts System.** Demonstrate how the system can set up a master file for grantee organizations that includes some information that does not change from year to year (EIN #) and some information that could change from year to year (street address) but would default into applications in any new grant applications developed for the organization. Demonstrate how individual employees of the organization can create their own accounts linked to the organization and how individuals with an existing account can be prevented from creating a duplicate. | | 5 | |
| **E.3. Grant Life Cycle Workflow**. Please demonstrate the life cycle of a grant. | | 5 | |
| **E.4. Configuring and Assigning Workflow**. Please demonstrate how State users can configure workflow and assign access for various functional activities to individuals and/or groups of individual users. | | 5 | |
| **E.5. Form Building.** Please demonstrate how State users can build forms with a variety of types of data fields and some fields into which data previously submitted could default. For example, grant budget data could be set to default into a Request for Funds and/or Final Financial Report form to allow for easy comparison of approved budget vs. actual expenditures. | | 10 | |
| **E.6. Email System.** Please demonstrate functionality to allow State users to:<br>• send email through the system to a single individual or a group of people who meet particular criteria | | 5 | |

| **RESPONDENT LEGAL ENTITY NAME:** | | | |
|---|---|---|---|
| • set up and send automatic emails based on certain events<br>• store copy of email associated with particular application records for reference and audit purposes | | | |
| **E.7. Document Generation.** Demonstrate generation of documents in MSWord or .pdf that merge system data into templates. | | 5 | |
| **E.8. Dashboard Configuration.** Provide examples of dashboard configurations for different types of users including Administrator, Panel Reviewer, Grant Program Officer, Applicant and Grantee. | | 3 | |
| **E.9. Queries & Reports.** Demonstrate how data queries and reports can be built, run and shared. | | 5 | |
| **E.10. System Configuration, Testing, Training & Launch.** Recap system set-up process. | | 5 | |
| **Total Raw Weighted Score** *(sum of Raw Weighted Scores above)***:**<br>The Solicitation Coordinator will use this sum and the formula below to calculate the score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations. | | | |
| **total raw weighted score** / **maximum possible raw weighted score** *(i.e., 5 x the sum of item weights above)* | **X 15** *(maximum section score)* | **= SCORE:** | |
| *State Use – Evaluator Identification:* | | | |
| *State Use – Solicitation Coordinator Signature, Printed Name & Date:* | | | |

**ATTACHMENT F**

# 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 F**

# 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 I, *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.

Please note that the Set-up Fee is broken into four parts to allow for milestone payments through the first year of the contract.

**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 I), "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) |
| Total Implementation Cost for the State Approved delivery of the SAAS Grants making System pursuant to Pro Forma Contract Sections A.2 and A.3 | $ Number | 1 | |
| On-going Hosting, Standard Technical Support & Daily Data Back-up | $ Number per Year | 5 | |
| Third Party API database subscription fees, if any | $ Number per Year | 5 | |

| **RESPONDENT LEGAL ENTITY NAME:** | | | |
|---|---|---|---|
| **Line item of cost Description** | **Proposed Cost** | **State Use Only** | |
| | | **Evaluation Factor** | **Evaluation Cost** (cost x factor) |
| Other Technical Support upon request per A.6 | $ Number per Hour | 300 | |
| **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. | | | |
| **lowest evaluation cost amount from all responses** / **evaluation cost amount being evaluated** | **x 30 (maximum section score)** | **= SCORE:** | |
| *State Use – RFQ Coordinator Signature, Printed Name & Date:* | | | |

**ATTACHMENT G**

## 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, except changes as set forth in the response (refer to RFQ Attachment B, Item B#19), set out in the RFQ Attachment I, *pro forma* Contract.
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. Both the Technical Response and the Cost Proposal submitted in response to the RFQ shall remain valid for at least 120 days subsequent to the date of the Cost Proposal 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:** _____

## 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.

**RFQ # 31625-16005 REFERENCE QUESTIONNAIRE**

**RESPONDENT NAME:** RESPONDENT NAME (completed by respondent before reference is requested)

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:

a. complete this questionnaire (either using the form provided or an exact duplicate of this document);
b. sign and date the completed questionnaire;
c. seal the completed, signed, and dated questionnaire in a new standard #10 envelope;
d. sign in ink across the sealed portion of the envelope; and
e. 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?**

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

**1 2 3 4 5**

**least satisfied** ——— **most satisfied**

**RFQ # 31625-16005 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.*

| | 1 | 2 | 3 | 4 | 5 | |
|---|---|---|---|---|---|---|
| **least satisfied** | | | | | | **most satisfied** |

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

**RFQ # 31625-16005 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.*

| | 1 | 2 | 3 | 4 | 5 | |
|---|---|---|---|---|---|---|
| **least satisfied** | | | | | | **most satisfied** |

**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.*

| | 1 | 2 | 3 | 4 | 5 | |
|---|---|---|---|---|---|---|
| **least satisfied** | | | | | | **most satisfied** |

**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:** _____

**ATTACHMENT I**

## RFQ # 31625-16005 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.

**CONTRACT**
**BETWEEN THE STATE OF TENNESSEE,**
**TENNESSEE ARTS COMMISSION**
**AND**
**CONTRACTOR NAME**

This Contract, by and between the State of Tennessee, Tennessee Arts Commission ("State") and Contractor Legal Entity Name ("Contractor"), is for the provision of Arts Grants Management System services, as further defined in the "SCOPE." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

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

**A. SCOPE:**

A.1. The Contractor shall provide all goods or services and deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract.

A.2. Software as a service. The Contractor shall license the State to use its proprietary grantsmaking software system entitled (Name of grants making system) that includes all features described in the Contractor's response to RFQ 31625-16005. The Contractor shall provide a URL for access by the State's users, including staff, outside grant reviewers, grant applicants and grantees.

The grantsmaking system must include the features as detailed in RFQ 31625-16005 Attachment D. Grantmaking System Functional and Technical Requirements incorporated into this contract as Attachment 3.

A.3. Initial Set-up Plan,Configuration/customization, User Acceptance Testing, Documentation and Training. Within seven (7) business days of contract execution, the Contractor shall participate in a kick-off meeting. The purpose of the kick-off meeting shall be to introduce the Contractor team to the State project stakeholders and ensure agreement regarding project objectives, roles and responsibilities, strategy and known risks. The Contractor shall prepare and deliver a presentation for the kick-off meeting that synthesizes their approach to the overall project, provides high-level milestones and introduces the Contractor team.

a. Within thirty (30) calendar days of contract execution, the Contractor will develop a plan in consultation with the State for initial set-up of the grants making system, including user acceptance criteria for each phase of activity. Upon written approval of the plan by the State, the Contractor will proceed to implement the plan in coordination with the State. The plan and implementation will include, but not be limited to, the following elements:

i. Planning- What and When. A timeline of activities including planning, configuration and customization as needed, data conversion, staff training, user acceptance testing, launch dates and key grant cycle dates for the first year of operation.

**The system should be ready to accept applications for all FY17 grant programs as of October 15, 2016.**

ii. Planning – Who. A current organizational chart and contact list providing name, title, phone, pager/cell phone and email contact information for all Contractor personnel assigned to the project.

iii. Configuration/customization: users. Set up a tiered system of user registration, access permissions and dashboards for State administrators and program staff, current grantees, grant applicants and reviewers based the following maximum annual user estimates:

| **User Category** | **Description** | **Estimated Annual Maximum** |
|---|---|---|
| TN Arts Administrator | Most active users; extensive experience with IT and/or Grants Management Software; overall system responsibility; assigns security and workflow roles; manages annual update of grants guidelines, rules, forms and establishment of new grant categories; troubleshoots; develops and tests queries; other roles as appropriate for the selected proprietary software solution | 2-4 |
| TN Arts User | Active user; conducts in-house grant reviews; updates forms or guidelines; runs queries; provides assistance to grant applicants so must be able to see what the applicant or grantee sees in the system; reviews and approves grant elements and may enter data in authorized fields the regular grant process workflow; runs queries; develops email communications content; merges data into MSOffice applications; other roles as appropriate for the selected proprietary software solution | 11-13 |
| TN Arts Read Only | Able to see data at every level but no edit ability | 4 -19 |
| Grant Applicant | Can set up an account for an applicant or register as an individual affiliated with an existing organization account. Able to review applications and history from prior years. Select data should carry over from year to year, with updates allowable. | 1700 (1554 in FY14) |
| Grantee | Able to create and complete grant applications, forms and reports, including data entry and uploading media and files, in categories for which they are eligible. | 1200 (1001 in FY14) |
| Outside Grant Reviewer | Reviewers who need short-term limited access to review | 210 |

iv. Configuration/customization: business rules. Input required data defining grant categories, phases, workflow, logic, third party API's and other business rules as needed to set up a fully operational system.

v. Configuration/customization: forms. Facilitate creation of all necessary forms to collect data to meet the State's requirements for each grant, including but not limited to grantee organization charter file registration, grant applications including media and pdf attachments, staff and panel reviews, award letters, contracts including revised budgets, non-discrimination training certification, grantee requests for payment, grantee final closeout program and financial reports and risk-based grant monitoring reports.

vi. Configuration/customization: reporting. Develop reports to meet the State's program requirements including but not limited to pre-award reviews, authorizer decision-making, award letters, award contracts, National Endowment for the Arts Final Data Report, county-by-county and legislative district reports.

vii. Configuration/customization: email tied to workflow. Design and implement custom rules for workflow and related email communications for review, allocation and processing of grants.

b. Training and Documentation. The Contractor shall provide initial training to State system administrators and users and written documentation related to the system. Training shall include how to operate the system, responses to frequently asked questions and train-the-trainer instruction so that the State can effectively train grant applicants, grantees, grant reviewers and new State users. One critical element for training will be equipping staff to update and customize forms.

c. Final User Acceptance Testing. The Contractor shall facilitate final User Acceptance Testing and adjustments based on feedback until the State shall confirm official written acceptance of the fully operational system.

Through the implementation period, the Contractor shall provide informal updates to the State upon request and monthly progress reports including at a minimum: progress toward project milestones; explanations of schedule variances relative to the plan; updates on implementation; status of deliverables; and action items and status.

A.4. On-going Hosting and Data Back-up. The Contractor shall host the software and maintain all data that is input by the State's users on at least 2 servers located (in at least 2 locations within the U.S. to be specified by vendor). The Contractor shall make daily back-up copies of all data. The Contractor shall provide a means for the State to access a back-up copy of all data in a format to be determined in consultation with the State on at least a monthly basis or upon request.

A.5. Standard Technical Support. The Contractor shall provide telephone and email-based support to the State staff upon request of the State's Designated Contact. All service will be performed during normal business hours, Monday through Friday, 8:00 a.m. to 4:30 p.m. Central Time, except legal holidays, unless special arrangements are agreed to in advance by both parties.

Standard technical support shall include assistance with the (Name of) grants management system including how it works and how to use it; assistance with interfacing the grants management system software with Microsoft Office; maintenance to prevent or correct errors or malfunctions on the (Name of) grants management system; troubleshooting apparent compatibility problems between the software and the client's equipment and responses to State inquiries about Contractor policies and invoices.

A.6. Other Technical Support Upon Request. Other technical support may be provided upon request of the State's Designated Contact and could include trouble-shooting with outside users on problems that the State has not been able to resolve; systems design; assistance in writing specifications or plan; consultation to determine the feasibility and cost of any proposed changes and the effect of such proposed changes on existing programs and general system operations; changes to system specifications not original provided and installed by the installation date; installation of new databases or features; custom programming; converting data from one computer to another; training after the original State staff training; or other non-routine technical support.

A.7. System Performance and Availability**.** Following implementation, the System shall be available continuously, as measured over the course of each calendar month period, an average of 99.9% of the time, excluding unavailability as the result of Exceptions as defined below (the "Availability Percentage"). "Available" means that the System shall be available for access and use by the State and external users. For purposes of calculating the Availability Percentage, the following are "Exceptions" to the service level requirement, and the System shall not be considered un-Available if any inaccessibility is due to: (i) regularly scheduled downtime (which shall occur only

upon advance written notice during non-core business hours); or (ii) loss of the State's Internet connectivity.

Core business hours are defined as:
• 8:00 a.m. – 5:00 p.m. (CT) Mondays through Fridays, excluding State holidays.
Non-core business hours are defined as:
• 5:01 p.m. (CT) Friday – 7:59 a.m. (CT) Monday;
• 5:01 p.m. – 7:59 a.m. (CT) Monday through Friday evenings and selected State holidays;
Core business hours can be changed by the State. Scheduled downtime must be approved in writing in advance by the State.

System availability shall be provided at 99.9% availability in any given month, excluding times when the System is un-available as the result of an Exception (as set forth above).

The average System response time shall be no more than seven (7) to ten (10) seconds or less for online and web applications. Hourly intervals of monitoring shall be the expected measure. The response time measurement will be the amount of time from the application receiving a request until the user receives the result, i.e., internal application response time between receipt of a request and the requested page being downloaded to the user. The response time measurement shall not include the time required to transmit the user's request to the System.

Contractor must immediately notify the State if the system is outside of variance. Notification must happen through telephone and/or email to customer-provided contacts and acknowledgment of the notification must be logged. The notification should be specific and detailed.

A.8. Data Security. The Contractor will not release any State data to any party other than the State and will maintain industry standard security protocols. In the event of a data security breach, the Contractor will report breach to the State within 48 hours of discovery of the breach and will work with the State to develop and implement a response and mitigation plan.

A.9. Data Ownership. The State shall own the data collected from its users through the licensed grantsmaking system. Upon termination of this contract without renewal arrangements, the Contractor shall make all State user data available for download within the thirty (30) calendar day period following termination in a format determined by the State.

A.10. Enterprise Information Security Policies. The Contractor will assure that its services under this contract are compliant with the State's Enterprise Information Security Policies available at https://www.tn.gov/assets/entities/finance/oir/attachments/PUBLIC-Enterprise-Information-Security-Policies-v2.0_1.pdf .

A.11. Disaster Recovery. The Contractor will deliver thirty (30) calendar days before the system is implemented and maintain the plan throughout the life of the contract, a Business Continuity and Disaster Recovery (BC-DR) Plan, which is updated and tested at least annually and is subject to approval by the State. The plan must address recovery of business functions, business units, business processes, human resources, and the technology infrastructure.

The plan must ensure that the State's Recovery Point Objectives (RPO) of one hour and recovery time objective (RTO) of 4 hours are met. The Contractor shall continually review the Disaster Recovery Plan and make necessary updates to the plan at least annually to ensure the plan always contains accurate and up-to date information.

This plan shall include procedures for the periodic copying of data to other media and the process for restoring data to its original or prior form. The Contractor will be required to provide written evidence of this to the State. This evidence should be in the form of a detailed report describing the date tested, types of systems tested, outcome of tests, and any remedial items that testing may discover. Regardless of the architecture of its systems, the Contractor shall develop and be

continually ready to invoke a business continuity and disaster recovery plan. The BC-DR plan shall encompass all information systems supporting this Contract. At a minimum the Contractor's BC-DR plan shall address the following scenarios:

1. Central and/or satellite data processing, telecommunications, print and mailing facilities and functions therein

2. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that compromise the integrity of transactions that are active in a live system at the time of the outage;

3. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that compromise the integrity of data maintained in a live or archival system; and

4. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that do not compromise the integrity of transactions or data maintained in a live or archival system but does prevent access to the system.

The Contractor shall periodically, but no less than annually, test its BC-DR plan through simulated disasters and lower level failures in order to demonstrate to the State that it can restore system functions. The Contractor shall submit an annual BC-DR Results Report to the State.
In the event that the Contractor fails to demonstrate in the tests of its BC-DR plan that it can restore system functions per the standards outlined in this Contract, the Contractor shall submit to the State a corrective action plan that describes how the failure will be resolved. The Contractor shall deliver the corrective action plan within ten (10) business days of the conclusion of the test.

In the event of a declared major failure or disaster, as defined in the Contractor's BC-DR plan, the Contractor's critical functionality, needed to perform the services under this contract, shall be restored within one hour of the failure's or disaster's occurrence. All State data shall remain within the continental United States of America.

The Contractor shall maintain a duplicate set of all records relating to this Program in electronic medium, usable by the State and the Contractor for the purpose of disaster recovery. Such duplicate records are to be stored at a secure fire, flood, and theft- protected facility located at least 25 miles away from the storage location of the originals. The Contractor shall update duplicate records, at a minimum, on a daily basis and shall retain said records for a period of one hundred and eighty (180) days from the date of creation.

A.11. Warranty. Contractor represents and warrants that the term of the warranty (“Warranty Period”) shall be the greater of the Term of this Contract or any other warranty general offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a “Defect” and shall be considered “Defective.” If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect, at no additional charge.

Contractor represents and warrants that the State is authorized to possess and use all equipment, materials, software, and deliverables provided under this Contract.

Contractor represents and warrants that all goods or services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, and in conformity with standards generally accepted in Contractor’s industry.

If Contractor fails to provide the goods or services as warranted, then Contractor will re-provide the goods or services at no additional charge. If Contractor is unable or unwilling to re-provide the goods or services as warranted, then the State shall be entitled to recover the fees paid to Contractor for the Defective goods or services. Any exercise of the State's rights under this Section shall not prejudice the State's rights to seek any other remedies available under this Contract or applicable law.

A.12. Inspection and Acceptance. The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

**B. TERM OF CONTRACT:**

This Contract shall be effective on DATE ("Effective Date") and extend for a period of sixty (60) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor 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 Contract exceed Written Dollar Amount ($Number) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

C.2. Compensation Firm. The payment methodology in Section C.3. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.

a. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.

b. The Contractor shall be compensated based upon the following payment methodology:

| **Goods or Services Description** | **Amount** (per compensable increment) |
|---|---|
| Completion of Kick-off Meeting and State Approval of Set-up Plan per A.3.a. | $ Number<br>*10% of the Total Implementation Cost* |

| | |
|---|---|
| Completion and State Approval of initial configuration including deliverables under A.3.a. items iii-vii. | $ Number<br>*30% of the Total Implementation Cost* |
| Completion and State Approval of system documentation and state user training deliverables per A.3.b. | $ Number<br>*30% of the Total Implementation Cost* |
| Completion and State Approval of final user acceptance testing and official written acceptance of the fully operational system by the State per A.3.c. | $ Number<br>*30% of the Total Implementation Cost* |
| On-going Hosting, Standard Technical Support & Daily Data Back-up | $ Number per Year |
| Third Party API database subscription fees, if any | $ Number per Year |
| Other Technical Support upon request per A.6 | $ Number per Hour |

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.

C.5. Invoice Requirements. The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month, and no later than thirty (30) days after goods or services have been provided to the following address:

Tennessee Arts Commission
401 Charlotte Ave
Nashville, TN 37243

a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):

(1) Invoice number (assigned by the Contractor);
(2) Invoice date;
(3) Contract number (assigned by the State);
(4) Customer account name: Tennessee Arts Commission;
(5) Customer account number (assigned by the Contractor to the above-referenced Customer);
(6) Contractor name;
(7) Contractor Tennessee Edison registration ID number;
(8) Contractor contact for invoice questions (name, phone, or email);
(9) Contractor remittance address;
(10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
(11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
(12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
(13) Amount due for each compensable unit of good or service; and
(14) Total amount due for the invoice period.

b. Contractor's invoices shall:

(1) Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;
(2) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
(3) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
(4) Include shipping or delivery charges only as authorized in this Contract.

c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that meets the minimum requirements of this Section C.5.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.

a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and

b. The Contractor 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 Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

**D. MANDATORY TERMS AND CONDITIONS:**

D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.

D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made

by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.

The State:

Carol White, Associate Director for Operations
Tennessee Arts Commission
401 Charlotte Ave
Nashville, TN 37243
Carol.White@tn.gov
Telephone # 615-253-8914
FAX # 615-741-8559

Mike Chambers, IT Director
Tennessee Arts Commission
401 Charlotte Ave
Nashville, TN 37243
Mike.Chambers@tn.gov
Telephone # 615-532-9800
FAX # 615-741-8559

The Contractor:

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

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

D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials.

D.4. Subject to Funds Availability. The 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 Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.

D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for

compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.

D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"),the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor 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 Contract.

D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.

D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment 1, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.

b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.

c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.

d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.

e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.

D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this 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 State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.

D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.

D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party 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 are not employees or agents of the other Party.

D.16 Patient Protection and Affordable Care Act. The Contractor 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 Contractor shall indemnify the State and hold it harmless for any costs to the

State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.

D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The State's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.

D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death.

D.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State to enforce the terms of this Contract.

In the event of any 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 Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

D.20. HIPAA Compliance. The State and Contractor 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 Contract.

a. Contractor 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 Contract.

b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.

c. The State and the Contractor 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 Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this 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 Contractor will indemnify the State and hold it harmless for any violation by the Contractor 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.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq*., the law governing the Tennessee Consolidated Retirement System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.

D.22. Tennessee Department of Revenue Registration. The Contractor 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 Contract.

D.23. Debarment and Suspension. The Contractor 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 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 Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor 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.

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 Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.

D.25. State and Federal Compliance. The Contractor shall comply with all applicable state and federal laws and regulations in the performance of this Contract.

D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 407.

D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.

D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.

D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

D.30. 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 RFQ 31625-16005 Attachment D. Grant making System Functional and Technical Requirements incorporated into this contract as Attachment 3;
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.

## E. SPECIAL TERMS AND CONDITIONS:

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.

E.2. Ownership of Software and Work Products.

a. Definitions.

(1) "Contractor-Owned Software," shall mean commercially available software the rights to which are owned by Contractor, including but not limited to commercial "off-the-shelf" software which is not developed using State's money or resources.

(2) "Custom-Developed Application Software," shall mean customized application software developed by Contractor solely for State.

(3) "Rights Transfer Application Software," shall mean any pre-existing application software owned by Contractor or a third party, provided to State and to which Contractor will grant and assign, or will facilitate the granting and assignment of, all rights, including the source code, to State.

(4) "Third-Party Software," shall mean software not owned by the State or the Contractor.

(5) "Work Product," shall mean all deliverables exclusive of hardware, such as software, software source code, documentation, planning, etc., that are created, designed, developed, or documented by the Contractor exclusively for the State during the course of the project using State's money or resources, including Custom-Developed Application Software. If the deliverables under this Contract include Rights Transfer Application Software, the definition of Work Product shall also include such software. Work Product shall not include Contractor-Owned Software or Third-Party Software.

b. Rights and Title to the Software

(1) All right, title and interest in and to the Contractor-Owned Software shall at all times remain with Contractor, subject to any license granted under this Contract.

(2) All right, title and interest in and to the Work Product, and to modifications thereof made by State, including without limitation all copyrights, patents, trade secrets and other intellectual property and other proprietary rights embodied by and arising out of the Work Product, shall belong to State. To the extent such rights do not automatically belong to State, Contractor hereby assigns, transfers, and conveys all right, title and interest in and to the Work Product, including without limitation the copyrights, patents, trade secrets, and other intellectual property rights arising out of or embodied by the Work Product. Contractor and its employees, agents, contractors or representatives shall execute any other documents that State or its counsel deem necessary or desirable to document this transfer or allow State to register its claims and rights to such intellectual property rights or enforce them against third parties.

(3) All right, title and interest in and to the Third-Party Software shall at all times remain with the third party, subject to any license granted under this Contract.

c. The Contractor may use for its own purposes the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of performing under this Contract. The Contractor may develop for itself, or for others, materials which are similar to or competitive with those that are produced under this Contract.

E.3. Software License Warranty. Contractor grants a license to the State to use all software provided under this Contract in the course of the State's business and purposes.

E.4. Software Support and Maintenance Warranty. Contractor shall provide to the State all software upgrades, modifications, bug fixes, or other improvements in its software that it makes generally available to its customers.

E.5. Prohibited Advertising or Marketing. The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.

E.6. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response to RFQ31625-16005 and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and Tennessee service-disabled veterans. Such reports shall be provided to the State of Tennessee Governor's Office of Diversity Business Enterprise in the required form and substance.

**IN WITNESS WHEREOF,**

**CONTRACTOR LEGAL ENTITY NAME:**

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**CONTRACTOR SIGNATURE** **DATE**

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**PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)**

**TENNESSEE ARTS COMMISSION:**

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**ANNE B. POPE, EXECUTIVE DIRECTOR** **DATE**

***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**<br>(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)**