

AGENDA
ADVISORY COUNCIL ON STATE PROCUREMENT MEETING #046
MONDAY, MARCH 22, 2021, 2:00 P.M.
WEBEX

AGENDA ITEM	PAGE #
I. Call to Order	--
II. Approve Minutes from January 7, 2021 Meeting	3
III. Advisory Council Agenda Items Overview..... (see attached documentation)	10
IV. New Business Proposed revisions to the following Central Procurement Office documents (see attached documentation): (1) RFP and RFQ Guide..... (2) Click-wrap Agreement Approval Request..... (3) Contract Approval - Agency Legal Certification..... (4) eHealth Pre-Approval Endorsement (Removal)..... (5) No Cost Intellectual Property Indemnity (formerly "Copyrights and Patents")..... (6) Contractor Commitment to Diversity contract term..... (7) Statewide Contract Reports contract term (New)..... (8) Statewide PaymentCard Policy 2015-010.....	 13 19 25 31 33 37 41 43
V. Other Business	--
VI. Adjournment	--

**MINUTES OF JANUARY 7, 2021
MEETING**

MINUTES
ADVISORY COUNCIL ON STATE PROCUREMENT MEETING #045
THURSDAY, JANUARY 7, 2021, 2:00 P.M.
WEBEX

Members in Attendance:

Mike Perry, Jason Mumpower, Summer Carr Johnson, Ted Hayden, Brad Eskind, Sean Newman, Buddy Lea, Brian Wilcox, Jay Malpass

Others in Attendance:

Paul Krivacka, Jenny Young, Randy Dean, Debi Moss, Davis Nwankwo, Robin Upchurch, Kevin Wieck, Darren Foster, James Grady, Bryan Chriske, Kelly Johns, Kim Henry, Leonard Chadwick, Lorraine Lassourreille, Mark Naftel, Mary Anne Queen, Megan Buell, Reggie Parkerson, Shannon Mohundro, Terry Mason, Trey Norris, William Kemmer

I. Call to Order: Mr. Mike Perry, Chief Procurement Officer, called the meeting to order and recognized that a quorum of voting members was present. Mr. Perry stated that this would be our first virtual meeting of the Advisory Council. He explained the meeting process, asking everyone to announce themselves before speaking, and the voting will be by roll call.

II. Introduction of New Advisory Council Member: Mr. Perry announced Brian Wilcox and Jay Malpass as new non-voting members to the Advisory Council ("Council"). Brian Wilcox has been the Purchasing Manager for the City of Franklin since 2004. He is a Certified Public Procurement Officer (CPPO), certified through the National Institute of Governmental Purchasing. Mr. Wilcox is a very active member of that organization, both nationally and within the Middle Tennessee Public Purchasing Association's local chapter. He is an active member of the States Central Procurement Office (CPO) by using many state contracts and attending seminars and training workshops. Mr. Perry stated that Mr. Wilcox is well qualified to serve. Jay Malpass is a Strategics Project Manager for Motorola Solutions, where he is very active with the State of Tennessee. He also works with several other states and Public Utilities. Jay is well versed in State procurement and State procurement processes.

III. Minutes from the February 10, 2020 Meeting: Mr. Perry asked if there were any corrections or additions to the minutes from the February 10, 2020 meeting. Hearing none, a motion was made by Mr. Jason Mumpower, Deputy Comptroller, Comptroller's Office, to accept the minutes as presented. The motion was seconded by Mr. Buddy Lea, Assistant Commissioner, Department of Finance and Administration. All members voted in favor – none opposed.

IV. New Business:

Mr. Perry asked Paul Krivacka, Lead Attorney/Director of Category Management, Central Procurement Office, to present the following New Business agenda items:

Mr. Krivacka proceeded to present agenda item (1):

(1) RFP Instructions

Mr. Krivacka summarized the following points about the RFP Instructions proposal:

- This proposal removes reference to the CPO's AGSPRS email address, which is being phased out due to automation projects.

Hearing no discussion on agenda item (1), Mr. Lea made a motion to recommend the RFP Instructions proposal as presented to the Procurement Commission for approval. The motion was seconded by Mr. Mumpower. All members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda item (2):

(2) RFP Option, Field Test

Mr. Krivacka presented the following points regarding the RFP Option, Field Test proposal:

- This proposal adds the option to include an "Oral Presentation" or "Field Test" instead of just an "Oral Presentation." Adding this option will allow procurement professionals to describe more accurately what may be requested of respondents during the solicitation.
- For certain solicitations, State Agencies may need to have more of a technical demonstration and opportunity to field test a product that is being proposed, and in other situations, an Oral Presentation may be more appropriate.

Hearing no discussion on agenda item (2), Ted Hayden, Executive Director of Compliance, State of Tennessee Real Estate Asset Management, made a motion to recommend RFP Option, Field Test proposal as presented to the Procurement Commission for approval. The motion was seconded by Mr. Lea. All members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda item (3):

(3) Insurance

Mr. Krivacka presented the following points about Insurance proposal:

- In response to feedback from several respondents, this proposal would revise the standard insurance clause to remove the word "certified" from the following sentence:
- "The State reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time."
- There is an additional cost that may be associated with having the right to obtain a certified copy of the policy. In most cases, a complete copy is sufficient for the State's purposes.

Mr. Mumpower asked if the Central Procurement Office (CPO) Risk Manager agrees that this proposal is not excessively risky and that the committee can be assured that dropping this requirement for a certified doesn't create excessive risk. Mr. Krivacka responded that this proposal comes from the CPO's Risk Manager. This was in conjunction with discussions with the CPO Risk Management Consultant, AON, and Treasury Risk Managers.

Hearing no further discussion on agenda item (3), Mr. Lea made a motion to recommend Insurance proposal as presented to the Procurement Commission for approval. The motion was seconded by Ms. Summer Carr, Assistant General Counsel, Department of Economic and Community Development. All members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda item (4):

(4) Limitation of State's Liability – (Optional Statewide Term)

Mr. Krivacka presented the following points regarding the Limitation of State's Liability – (Optional Statewide Term) proposal:

- This proposal relates to a change to the template language dealing with the State's Limitations of Liability.
- This change is intended to make it more transparent that the estimated liability was just an estimate. The reality is that an estimated liability in a contract relates to a statewide contract, often reflecting a number that is an estimate only and does not reflect the actual contract value.

Mr. Krivacka stated in reviewing the language approved through the Policy Sub-Committee on State Procurement; a change may be needed. He mentioned two ways to handle this matter. Mr. Krivacka suggested a change for the Advisory Council to vote on today or to pull this item from today's agenda and send it back through the Policy Sub-Committee.

Mr. Krivacka stated that the State liability should be based on the lesser of actual invoices submitted under the contract or the estimated liability. Mr. Krivacka noted that the language as drafted does not make that clear. The change Mr. Krivacka would like to suggest is, that the state liability is based on the lesser of estimated liability or the total of all adequately submitted invoices under the contract.

Mr. Perry asked if this item was urgent and needed to be approved today. Mr. Krivacka replied that he did not think this was urgent. But if it were, CPO has a rule exception process where the rule exception can be submitted and approved to become part of the contract. Mr. Perry stated that based on Mr. Krivacka's reply, he would suggest that without objection for the members, he is pulling this item from the agenda and running it back through the Policy Sub-Committee to run its ordinary course of approval. Mr. Lea and Mr. Mumpower stated no objections.

Mr. Perry stated that item (4) Limitation of State's Liability – (Optional Statewide Term) would be adjusted. The proposed change will be presented to the Policy Sub-committee at the next meeting and brought back to the Advisory Council at the next appointed meeting.

Mr. Krivacka then proceeded to present agenda item (5):

(5) Delegated Grant Authority Template

Mr. Krivacka presented the Delegated Grant Authority Template proposal:

- The DGA Template Cover Sheet includes "Contractor" as an option to choose from on the cover sheet, describing the type of relationship the grant contract will establish.
- This request removes the "Contractor" option and replaces it with "Recipient" to comply with the CPO Grant Management and Subrecipient Monitoring Policy and Procedures, Policy Number 2013-007.
- This request also modifies the DGA Template at Section E. to add a note that the maximum liability of the Delegated Grant Authority may not exceed ten million dollars unless there is an approved Rule Exception Request.
- This requirement is already included in the Delegated Authority Amendment instructions, and the absence of reference to whether there is a limit or not has raised questions.
- This will clearly state that an RER will be required for DGAs over \$10,000,000 moving forward.

Hearing no discussion on agenda item (5), Mr. Mumpower made a motion to recommend Delegated Grant Authority Template proposal as presented to the Procurement Commission for approval. The motion was seconded by Mr. Lea. All members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda item (6):

(6) USDA Food and Nutrition Service Requirement of Non-discrimination clause (NEW)

Mr. Krivacka presented the USDA Food and Nutrition Service Requirement of Non-discrimination clause (NEW) proposal:

- This proposal would add an optional provision to the GR Template to reduce need for RER moving forward.
- The proposed optional term is used by DHS to comply with contracts with the USDA Food and Nutrition Service.

Hearing no discussion on agenda item (6), Mr. Mumpower made a motion to recommend the USDA Food and Nutrition Service Requirement of Non-discrimination clause (NEW) proposal as presented to the Procurement Commission for approval. The motion was seconded by Mr. Hayden. All members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda item (7):

(7) Separate Counterpart – (NEW)

Mr. Krivacka presented the following points about the Separate Counterpart – (NEW) proposal:

- Adds a new Separate Counterpart Term – "This Grant Contract may be executed in two or more dated counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same effective instrument."
- This will reduce the administrative burden for procurement professionals collecting time-sensitive signatures for grant contracts.

Mr. Lea asked if this proposal would address the issue where a state agency is contracting with a Municipality that requires, for example, not only a procurement official but the approval of a City Council that often comes much later. Mr. Krivacka responded that it does not because that is a different issue.

Hearing no further discussion on agenda item (7), Mrs. Carr made a motion to recommend Counterpart – (NEW) proposal as presented to the Procurement Commission for approval. The motion was seconded by Mr. Lea. All members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda item (8):

(8) Procurement Procedures Manual (Sections 5.10. and 5.11)

Mr. Krivacka presented the following points about the Procurement Procedures Manual (Sections 5.10. and 5.11) proposal:

- This proposal will require evaluator training as a prerequisite for an evaluator to score responses and adds additional information for Evaluation Committee Meetings.
- These changes are designed to improve the quality of technical evaluations.

Hearing no discussion on agenda item (8), Mr. Mumpower made a motion to recommend Procurement Procedures Manual (Sections 5.10. and 5.11) proposal as presented to the Procurement Commission for approval. The motion was seconded by Mr. Lea. All members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda item (9):

(9) License Term (NEW)

Mr. Krivacka presented the following points regarding the License Term (NEW) proposal:

- The State has several active licensed trademarks and this request would add an optional term for instances where the State is granting a license to Contractors or Grantees.

Hearing no discussion on agenda item (9), Mr. Mumpower made a motion to recommend License Term (NEW) proposal as presented to the Procurement Commission for approval. The motion was seconded by Mr. Hayden. All members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda item (10):

(10) Federal Procurement Terms (NEW)

Mr. Krivacka presented the following points about the Federal Procurement Terms (NEW) proposal:

- This proposal would add more optional contract terms to the FA, GR, and GG and configurator to reduce the number of RERs required when federal funds are involved.

Mr. Lea stated that he would like to say thanks to the CPO for spearheading this change. It is a complex and time-sensitive matter when these types of contracts go into place.

Hearing no further discussion on agenda item (10), Mr. Lea made a motion to recommend Federal Procurement Terms (NEW) proposal as presented to the Procurement Commission for approval. The motion was seconded by Mrs. Carr. All members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda item (11):

(11) Warranty – Option - (NEW)

Mr. Krivacka presented the following points regarding the Warranty – Option- (NEW) proposal:

- This proposal would add a new option to the FA template to provide more flexibility to remove or revise the Warranty option with approval from CPO Legal.

Hearing no discussion on agenda item (11), Mr. Hayden made a motion to recommend Warranty – Option- (NEW) proposal as presented to the Procurement Commission for approval. The motion was seconded by Mr. Lea. All members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda item (12):

(12) Statewide Purchasing Card Policy and Procedures, Policy 2015-010

Mr. Krivacka presented the following points about the Statewide Purchasing Card Policy and Procedures, Policy 2015-010 proposal:

- The P-Card Team and P-Card program participants have extensively reviewed the P-Card Policy and have recommended several revisions to the Policy such as updating definitions; grouping similar sections; and adding two appendices for informational purposes.

Seeing no discussion on agenda item (12), Mr. Mumpower made a motion to recommend Statewide Purchasing Card Policy and Procedures, Policy 2015-010 proposal as presented to the Procurement

Commission for approval. The motion was seconded by Mr. Lea. All members voted in favor – none opposed.

Other Business: Mr. Mumpower stated this would be his last meeting serving on the Advisory Council. Mr. Mumpower added that as an original member of the Advisory Council he has appreciated all the time, effort, and work that that has been done since the Council's inception.

Adjournment: Hearing no other business, a motion for adjournment was made by Mr. Hayden. The motion was seconded by Mr. Lea. All members voted in favor – none opposed, whereupon January 7, 2021, Advisory Council meeting was adjourned.

**ADVISORY COUNCIL
AGENDA ITEMS OVERVIEW**

Overview of Agenda Items:

1. RFP and RFQ Guide

- Minor revision to soften the solicitation language from “must” to “should” as it relates to the instructions to respondents for organizing the response contents page guide.

2. Click-Wrap Agreement Approval Request

- This change removes references to the AGSPRS email account, which is being phased out due to automation initiatives.
- Click-Wrap Agreement Approval Requests are submitted using the eForms in Edison.

3. Contract Approval – Agency Legal Certification

- This change consolidates the Agency Legal Certification and the Smaller Agency Certification into one document.
- This revision softens the language in the standard Agency Legal Certification while still encouraging agency legal staff involvement and certification that contracts are in compliance with CPO Template language (or an approved Rule Exception Request has been obtained).

4. e-Health Pre-Approval Endorsement [Removal]

- Request to remove the e-Health Pre-Approval Endorsement and related references in CPO policies and procedures.
- TennCare’s office of eHealth asserts there is no longer a benefit to this endorsement primarily due to advances in technology that capture the interoperability of data between state agencies.
- Removal of this requirement will benefit all State Agencies through the reduction of required documentation.

5. No Cost Intellectual Property Indemnity (formerly “Copyrights and Patents”)

- Minor revisions to the “Copyrights and Patents” term in the No Cost (“NC”) contract to be consistent with the terminology used in the “Intellectual Property Indemnity” term in the FA Template.

6. Contractor Commitment to Diversity contract term

- To assist the State with monitoring spend with diversity businesses, this change makes the Contractor Commitment to Diversity term included as a default, with option to remove without a RER if not applicable.
- This term is currently an optional term and if not included in the Contract then some Contractors are not reporting their diversity spend.
- This change will make it more likely that the Contractor Commitment to Diversity term is included in the contract and therefore assist State Agencies and Go-DBE in more accurately reporting diversity spend dollars.

7. Statewide Contract Reports contract term

- Adds the Statewide Contract Reports as an optional term to the FA template.
- These reports are often requested by the Category Management teams in the CPO on statewide contracts on an ad hoc basis and this will standardize the inclusion of the reports term.

8. Statewide Payment Card Policy 2015-010

- Section 4.5. - clarifies that Cardholder Supervisors need to complete both the Cardholder and the Agency Coordinator training.
- Section 4.7. - clarifies when a part-time employee requires a P-Card to complete their duties, a Rule Exception Request must be submitted and approved before P-Card issuance.
- Section 5.3. – adds a reminder that all F&A Division of Accounts accounting policies should be followed for P-Card transactions and usage.
- Sections 5.8 and 8.4. – adds instructions for State Agencies to contact the Statewide P-Card Administration Team as needed to unblock Merchant Category Codes (and to not contact the Bank directly).
- Section 11 – adds reference to where to find assistance with submitting the P-Card Rule Exception Request eForm (on the Central Procurement Office’s Learning and Development job aid page on TEAM TN).

RFP AND RFQ GUIDE

REDLINE

REQUEST: Revise the RFP Template at section 3.1.1.1. and the RFQ Template at section 1.1. as follows:

RFP Template:

3.1.1.1. A Respondent ~~must~~should duplicate and use the RFP Attachment 6.2., Technical Response & Evaluation Guide to organize, reference, and draft the Technical Response by duplicating the attachment, adding appropriate page numbers as required, and using the guide as a table of contents covering the Technical Response.

RFQ Template:

1. RESPONSE REQUIREMENTS

1.1. **Response Contents:** A response to this RFQ should address the following:

- 1.1.1. 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~~should 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).
- 1.1.2. 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~~should 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 of the information within the response in the indicated column of the table.
- 1.1.3. 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~~should 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 of the information within the response in the indicated column of the table.
- 1.1.4. Cost Proposal: ***For Qualified Respondents only***
 - 1.1.4.1. This section only applies to those respondents identified as being Qualified. See RFQ § 2, Schedule of Events, "State Notice of Qualified Respondents Released."
 - 1.1.4.2. If included as part of this solicitation, then the Cost Proposal must be recorded on an exact duplicate of RFQ Attachment D, Cost Proposal & Evaluation Guide. Any response that does not follow the instructions included in RFQ Attachment D may be deemed nonresponsive.

- 1.1.4.3. A Respondent must only record the proposed cost exactly as required by the RFQ Attachment D, Cost Proposal & Evaluation Guide and must NOT record any other rates, amounts, or information.
- 1.1.4.4. The proposed cost shall incorporate ALL costs for services under the contract for the total contract period.
- 1.1.4.5. A Respondent must sign and date the Cost Proposal.
- 1.1.4.6. A Respondent must submit the Cost Proposal to the State in a sealed package separate from the Technical Response.

RFP AND RFQ GUIDE

CLEAN

REQUEST: Revise the RFP Template at section 3.1.1.1. and the RFQ Template at section 1.1. as follows:

RFP Template:

- 3.1.1.1. A Respondent should duplicate and use the RFP Attachment 6.2., Technical Response & Evaluation Guide to organize, reference, and draft the Technical Response by duplicating the attachment, adding appropriate page numbers as required, and using the guide as a table of contents covering the Technical Response.

RFQ Template:

1. RESPONSE REQUIREMENTS

1.1. **Response Contents:** A response to this RFQ should address the following:

- 1.1.1. 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 should 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).
- 1.1.2. 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 should 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 of the information within the response in the indicated column of the table.
- 1.1.3. 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 should 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 of the information within the response in the indicated column of the table.
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- 1.1.4.3. A Respondent must only record the proposed cost exactly as required by the RFQ Attachment D, Cost Proposal & Evaluation Guide and must NOT record any other rates, amounts, or information.
- 1.1.4.4. The proposed cost shall incorporate ALL costs for services under the contract for the total contract period.
- 1.1.4.5. A Respondent must sign and date the Cost Proposal.
- 1.1.4.6. A Respondent must submit the Cost Proposal to the State in a sealed package separate from the Technical Response.

**CLICK-WRAP AGREEMENT
APPROVAL REQUEST**

REDLINE

Click-wrap Agreement Approval Request

Procurement professionals should use this document to seek approval to enter into or renew a click-wrap agreement associated with a proposed purchase made under an Agency’s small purchase authority. This Request will typically be utilized for licenses of software, internet-based services or computer services. See sections 4.1. and 5.15.3.3. of the [Procurement Procedures Manual of the Central Procurement Office](#) for more information about click-wrap agreements. THIS DOCUMENT CANNOT BE USED TO MODIFY AN EXISTING CONTRACT, EVEN A CONTRACT EXECUTED UNDER AN AGENCY’S SMALL PURCHASE AUTHORITY. A Special Contract Request may not be required for any agreement with a total dollar value under the small purchase authority threshold. For new click-wrap agreements, submit send a copy of the proposed click-wrap agreement, [license agreement or terms of use](#), the quote you were provided (if applicable), and a completed Click-wrap Agreement Approval Request in ~~PDF format~~ Edison as a Click-wrap e-Form. For additional guidance, please see the e-Forms Job Aid available online at the following: <https://www.teamtn.gov/cpo/learning-development/cpo-job-aids.html>. Agsprrs.agsprrs@tn.gov. If this is a renewal, please also include a copy of the previously approved click-wrap agreement. Approved Click-Wrap Agreement Requests and supporting documents must be maintained with the procurement file.

APPROVED*	APPROVED
CENTRAL PROCUREMENT OFFICE	STRATEGIC TECHNOLOGY SOLUTIONS
DATE	DATE

*If CPO provides you with a State negotiated Contract, CPO’s approval is contingent upon their receipt of an Agency countersigned copy. The Agency signatory must have signing authority. Please sign and: (1) send directly to the Contractor at the email address CPO provides to you; ~~(2) send to Agsprrs.agsprrs@tn.gov so that CPO may retain a copy for their records;~~ (3) retain a copy for your records; and (34) upload a copy of the signed Contract and this Click Wrap Approval Request document into Edison.

If a letter of adhesion is sent and the contract is not negotiated then upload a copy of the letter of adhesion (this will contain “Letter of Adhesion” in the filename), the original terms and conditions, and this Click Wrap Approval Request document into Edison. In the event that the proposed Click Wrap Agreement Request is stamped DENIED an accompanying explanation will be provided in the box labelled “Denial Explanation” located at the bottom of this form, which may contain additional instructions.

Agency Tracking #	
1. Procuring Agency	
2. Agency Contact (Include name, email address and phone number)	
3. Contractor Name and ID # (Also include both the developer and the reseller if obtaining via a third party)	
4. Contractor Contact (Include name and email address to where proposed changes can be sent. If buying from a reseller, please provide the reseller contact information.)	
5. Click-wrap agreement’s proposed Effective Date (This is the anticipated date for entering into the click-wrap agreement.)	
6. Click-wrap agreement’s proposed End Date	
7. Name and description of goods or services (Please be specific, i.e. what the product will be used for, whether anything will be downloaded onto State	

servers or whether data will be transmitted to third parties).		
8. Are these goods or services currently available on a statewide or agency term contract? If YES, please explain why the current contract is not being used for this procurement.		<input type="checkbox"/> NO <input type="checkbox"/> YES,
9. Maximum Contract Cost – with ALL options to extend exercised. Note: the Click-Wrap Approval process shall not be used if the Maximum Contract Cost is over \$10,000.		\$
10. Sensitive Data Involvement - If none, select N/A. If yes, please provide the type of data involved (e.g., HIPAA, Payment Card Industry (PCI), Federal Tax Information (FTI), Family Educational Rights and Privacy Act (FERPA), Federal Information Security Management Act (FISMA), Criminal Justice Information Services (CJIS), Center for Medicare and Medicaid (CMS), Social Security Administration (SSA), or Personally Identifiable Information (PII)).		<input type="checkbox"/> N/A <input type="checkbox"/> YES,
11. Additional STS Approvals – Please identify any STS Endorsements or Exception Requests that have been submitted for this product/service. If this does not apply to your request, please leave blank.		(1) Endorsement or Exception Request # (2) Date submitted (3) Current Status (circle one) [Planned] [In Progress] [Completed]
For Renewals Only		
Confirm that there is a valid renewal option remaining in the contract and confirm that there has been no other change to the agreement's terms and conditions. – If there is not a valid renewal or extension option remaining in the agreement, submit as a new click-wrap agreement or contract instead. (Note: the term cannot exceed sixty (60) months without an approved Rule Exception Request and Contract Amendment.)	Confirm that all necessary due diligence has been performed and it is in the State's best interest to renew or extend the contract. – Considering such items as contractor performance, pricing, etc.	Confirm this renewal or extension does not increase the total dollar value above amounts approved for local purchase authority.
YES <input type="checkbox"/>	YES <input type="checkbox"/>	YES <input type="checkbox"/>
Denial Explanation (for CPO/STS use only)		

**CLICK-WRAP AGREEMENT
APPROVAL REQUEST**

CLEAN

Click-wrap Agreement Approval Request

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APPROVED*	APPROVED
CENTRAL PROCUREMENT OFFICE	STRATEGIC TECHNOLOGY SOLUTIONS
DATE	DATE

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Agency Tracking #	
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7. Name and description of goods or services (Please be specific, i.e. what the product will be used for, whether anything will be downloaded onto State	

servers or whether data will be transmitted to third parties).		
8. Are these goods or services currently available on a statewide or agency term contract? If YES, please explain why the current contract is not being used for this procurement.		<input type="checkbox"/> NO <input type="checkbox"/> YES,
9. Maximum Contract Cost – with ALL options to extend exercised. Note: the Click-Wrap Approval process shall not be used if the Maximum Contract Cost is over \$10,000.		\$
10. Sensitive Data Involvement - If none, select N/A. If yes, please provide the type of data involved (e.g., HIPAA, Payment Card Industry (PCI), Federal Tax Information (FTI), Family Educational Rights and Privacy Act (FERPA), Federal Information Security Management Act (FISMA), Criminal Justice Information Services (CJIS), Center for Medicare and Medicaid (CMS), Social Security Administration (SSA), or Personally Identifiable Information (PII)).		<input type="checkbox"/> N/A <input type="checkbox"/> YES,
11. Additional STS Approvals – Please identify any STS Endorsements or Exception Requests that have been submitted for this product/service. If this does not apply to your request, please leave blank.		(1) Endorsement or Exception Request # (2) Date submitted (3) Current Status (circle one) [Planned] [In Progress] [Completed]
For Renewals Only		
Confirm that there is a valid renewal option remaining in the contract and confirm that there has been no other change to the agreement's terms and conditions. – If there is not a valid renewal or extension option remaining in the agreement, submit as a new click-wrap agreement or contract instead. (Note: the term cannot exceed sixty (60) months without an approved Rule Exception Request and Contract Amendment.)	Confirm that all necessary due diligence has been performed and it is in the State's best interest to renew or extend the contract. – Considering such items as contractor performance, pricing, etc.	Confirm this renewal or extension does not increase the total dollar value above amounts approved for local purchase authority.
YES <input type="checkbox"/>	YES <input type="checkbox"/>	YES <input type="checkbox"/>
Denial Explanation (for CPO/STS use only)		

**CONTRACT APPROVAL - AGENCY
LEGAL CERTIFICATION**

REDLINE

REQUEST: Revise the “Contract Approval – Agency Legal Certification Model” as follows and remove “Contract Approval – Small Agency Certification” from the list of “Other General Models & Administrative Documents under section 11.2. of the *Procurement Procedures Manual of the Central Procurement Office*.

Contract Approval – Agency Legal Certification

A completed contract routed for Central Procurement Office (CPO) approval via Edison ~~must-should~~ be accompanied by this Agency Legal Certification template that has been signed and attached in PDF format.

1. Edison Contract ID #	
2. Contracting Agency Name	
3. Contractor Name	
4. Service Caption	
5. Agency Contact (name, phone, e-mail)	
<p>6. Legal Certification</p> <p><i>By signing below, the department’s legal staff certifies that:</i></p> <ol style="list-style-type: none"> 1) the contract as submitted includes only CPO template language (unless the agency has obtained an approved rule exception request); 2) the contract is legally sufficient both in form and substance to protect the best interests of the State; and 3) the contract does not contravene applicable law. <hr/> <p>Agency Attorney Signature & Date</p>	

1. Edison Contract ID #

7. (Optional) Alternative to Legal Certification Request

Note: In the event Agency legal staff is unable to certify above, the Department's Contract Coordinator may certify as follows and a Word version of the Contract should be submitted along with the contract.

Please keep in mind that this alternative will slow down the approval process.

Certification

By signing below, the department's contract coordinator certifies that:

- 1) the contract as submitted includes only CPO template language (unless the agency has obtained an approved rule exception request).

Contract Coordinator Signature & Date

Note: If there are extenuating circumstances and a department's legal staff is unable to certify to a contract in the above manner, you must provide a written explanation with Agency Head signature, in the space provided below. Once the explanation is received by the CPO, instructions will be provided to the department as to what will be needed in order to gain approval of the contract, e.g., providing a Microsoft Word version of the contract, etc. **Please keep in mind that this alternative will slow down the approval process and should be the exception, not the rule.**

Justification _____

Agency Head Signature & Date — *contracting agency head or authorized signatory*

**CONTRACT APPROVAL - AGENCY
LEGAL CERTIFICATION**

CLEAN

REQUEST: **Revise the “Contract Approval – Agency Legal Certification Model” as follows and remove “Contract Approval – Small Agency Certification” from the list of “Other General Models & Administrative Documents under section 11.2. of the *Procurement Procedures Manual of the Central Procurement Office.***

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Please keep in mind that this alternative will slow down the approval process.

Certification

By signing below, the department's contract coordinator certifies that:

- 1) the contract as submitted includes only CPO template language (unless the agency has obtained an approved rule exception request).

Contract Coordinator Signature & Date

**EHEALTH PRE-APPROVAL
ENDORSEMENT**

(REMOVAL)

Request: Remove the Department of Finance & Administration's eHealth Initiative Pre-Approval Endorsement and all references to this endorsement in the CPO models, templates, policies, and procedures including sections 5.15.3.1. and 11.2. of the *Procurement Procedures Manual of the Central Procurement Office*; section 6.2. of Policy Number 2013-004, Contract Management Policy; and section 6 of Policy Number 2013-006, Delegation of Authority Policy.

**NO COST INTELLECTUAL PROPERTY
INDEMNITY (FORMERLY
“COPYRIGHTS AND PATENTS”)**

REDLINE

REQUEST: Revise the No Cost "NC" term as follows:

~~E.#. Copyrights and Patents. E.#. Intellectual Property Indemnity.~~ The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State ~~for concerning or arising out of any claim of an alleged patent, copyright, trade secret or other intellectual property infringement of any laws regarding patents or copyrights which may arise from the Contractor's performance of this Contract.~~ In any such claim or action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any settlement or final judgment ~~for infringement. The, and the Contractor further agrees it shall be~~ liable ~~responsible~~ for the reasonable all legal or other fees of attorneys for or expenses incurred by the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State, arising from any such claim. The State shall give the Contractor written notice of any such claim or suit ~~and full right and opportunity, however, the failure of the State to give such notice shall only relieve Contractor of its obligations under this Section to the extent Contractor can demonstrate actual prejudice arising from the State's failure to conduct give notice. This Section shall not grant the Contractor, through its attorneys, the Contractor's own defense thereof~~ right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106.

**NO COST INTELLECTUAL PROPERTY
INDEMNITY (FORMERLY
“COPYRIGHTS AND PATENTS”)**

CLEAN

REQUEST: Revise the No Cost “NC” term as follows:

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

**CONTRACTOR COMMITMET TO
DIVERSITY CONTRACT TERM**

REDLINE

REQUEST: Move the “Contractor Commitment to Diversity” term from optional to a “Special Term and Condition” and revise the instructions as follows:

FA Template:

E.#. 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 **Solicitation Number** (Attachment **Reference**) 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 monthly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, service-disabled veterans, and persons with disabilities. Such reports shall be provided to the State of Tennessee Governor’s Office of Diversity Business Enterprise in the TN Diversity Software available online at:
<https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810>.

FA Template Instructions, Considerations, and Options:

Contractor Commitment to Diversity

~~Add the~~Revise or remove the Contractor Commitment to Diversity section following Section as appropriate. ~~(typically in contracts resulting from a standard RFP).~~

**CONTRACTOR COMMITMET TO
DIVERSITY CONTRACT TERM**

CLEAN

REQUEST: Move the “Contractor Commitment to Diversity” term from optional to a “Special Term and Condition” and revise the instructions as follows:

FA Template:

E.#. 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 **Solicitation Number** (Attachment **Reference**) and resulting in this Contract.

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<https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810>.

FA Template Instructions, Considerations, and Options:

Contractor Commitment to Diversity

Revise or remove the Contractor Commitment to Diversity section as appropriate.

**STATEWIDE CONTRACT REPORTS
CONTRACT TERM**

NEW

REQUEST: Add the following as an optional term to the FA Template.

Statewide Contract Reports – CPO use Only

Add the following Section if the contract will establish a Statewide Contract and modify as needed to request reports from the Contractor.

E.#. Statewide Contract Reports. All reports shall be submitted electronically in Microsoft Excel format. Reports shall include the ability to sort or summarize data in accordance with the Contract Administrator's specifications. All reports shall be provided at no additional cost to the State.

Quarterly Reports: Contractor(s) will submit quarterly reports to the Contract Administrator no later than **ten (10)** days after the end of the State's quarter (e.g. a fiscal year quarter 2 report for October - December is due no later than **January 10th**). At the Contract Administrator's sole discretion, the State may extend the time allowed to complete quarterly reports. Quarterly reports shall provide statistical data on all purchases under this Contract by Tennessee State Agencies and Authorized Users. At minimum, the quarterly report's statistical data shall be detailed and broken down by line item to include:

1. **Edison contract number**
2. **Contract line item number**
3. **Invoice date**
4. **Invoice number**
5. **Supplier part number**
6. **Item or bundle description**
7. **Quantity purchased**
8. **Unit of measure**
9. **Unit of measure description**
10. **Name of State Agency or Authorized User**
11. **Identity of purchaser: State entity or non-State entity**
12. **State Agency location**
13. **Unit/Contract price per line item**
14. **List price as listed in supplier's catalog if catalog item**
15. **Subtotals for each category above**
16. **Grand totals for each category above**

Custom Reports: When requested by the State, the Contractor shall submit custom reports to the Contract Administrator within thirty (30) days of the request.

**STATEWIDE PAYMENTCARD POLICY
2015-010**

REDLINE

Request: Revise Statewide Payment Card Policy 2015-010 at the following excerpts:

4.5 Cardholder Supervisors.

The Cardholder Supervisor must have a thorough knowledge of the Cardholders' job responsibilities in order to determine if purchases are job-related or otherwise authorized by CPO rules, policies or procedures. The Cardholder Supervisor's role, duties, and responsibilities may include:

- Completing the Cardholder and Agency Coordinator training in Edison;
- Reviewing all documentation and ensuring it is submitted according to this Policy and the State Agency's internal P-Card Procedures, as applicable;
- Approving or rejecting all Transactions as to the appropriateness of the transaction;
- Ensuring that all documentation is submitted according to this Policy and the State Agency's internal P-Card Procedures, as applicable;
- Maintaining knowledge of this Policy and State Agency's internal P-Card Procedures, as applicable; and
- Requesting reasonable spending limits in accordance with this Policy and State Agency's internal P-Card Procedures, as applicable.

4.7. Cardholders.

Cardholders have the following duties and responsibilities as a condition for being issued a P-Card:

- Being a full-time State employee (note: when a part-time employee requires a P-Card to complete their duties, a P-Card Rule Exception Request must be submitted before P-Card issuance);
- Reading and becoming familiar with this Policy;
- Completing the Cardholder training in Edison;
- Being responsible for all purchases made on the P-Card;
- Being responsible for verifying transactions in Edison (confirming or disputing) and attaching appropriate supporting documentation on at least a weekly basis (per Section 9.3); and
- Adhering to this Policy and other applicable rules, policies, and procedures.

5.3 Purchasing Rules.

The P-Card is only a vehicle for making payments. Existing State laws governing procurement, accounts payable, records retention, and other applicable laws must still be followed. All procurement rules of the CPO apply when using the P-Card. All F&A Division of Accounts accounting policies should be followed for P-Card transactions and usage.

5.8 Declined Purchase Transactions.

On occasion, a Cardholder’s purchase transaction may be declined. Cardholders should contact the Bank’s Customer Service to determine the reason for the decline before contacting their State Agency P-Card Program Coordinator for assistance. Declined transactions are reported to the P-Card Administration Team and subject to review.

Common reasons for declined purchases include:

- MCC is restricted from the Payment Card;
- The Cardholders has exceeded the STL or Cycle Limit; or
- Card expiration.

If after learning about the reason for the declined transaction, a Cardholder needs to request a change then State Agencies should contact the Statewide P-Card Program Administration Team or follow the P-Card Rule Exception Request eForm procedure in Edison as applicable.

8.4 Merchant Category Code Restrictions.

Merchant Category Codes are four-digit codes used by commercial credit card brands (e.g., Visa, MasterCard, American Express) to identify a merchant’s principal trade, profession, or line of business. MCCs are assigned to a merchant based on the types of goods or services the merchant provides. MCCs blocked on P-Cards restrict State purchases from certain merchants to protect against unauthorized or prohibited purchases.

- The Statewide P-Card Program Administration Team manages the State-identified MCC groups that contain codes associated with suppliers that provide goods or services that are prohibited from purchase using the P-Card.
- Unauthorized MCCs are blocked at the point-of-sale.
- State Agencies may request activation of additional MCCs for inclusion in a State-authorized group or creation of a new MCC group to meet specific needs [by contacting the Statewide P-Card Program Administration Team.](#)
- State Agencies should not contact the Bank directly to unblock MCCs.

Section 10.1.

<u>176</u>	Any goods or services related to political activity as defined under “The Little Hatch Act,” Tenn. Code Ann. §§ 2-19-201 through 208	Purchase of political publications are prohibited by Department of Finance and Administration - Policy 10 , Organizational Dues, Subscriptions, and Sponsorships.
<u>187</u>	Purchases Reserved for the Designated State Agency Central Fiscal Office Cardholder, unless in accordance with Section 11 of this Policy	Cardholders other than the person designated by the State Agency Fiscal Office Cardholder are prohibited from making certain purchases as outlined in section 11 of this Policy.

198	Purchases identified as Capital Assets by the Department of Finance & Administration Capital Asset Guide	Purchases of goods or equipment that require tagging under the Department of Finance and Administration's policies – Policy 33 , should not utilize the P-Card as the primary payment method because these purchases require the prior approval of the Department of Finance and Administration, Division of Accounts, as the business owner of the Asset Management Module. Exceptions for <i>emergency</i> Asset purchases using the P-Card must be pre-approved by Asset Management.
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11. ...

State Agencies may request an exception from this paragraph through the use of a P-Card Rule Exception Request eForm in Edison initiated by the State Agency P-Card Program Coordinator and approved by the State Agency Fiscal Director and the Central Procurement Office. [For assistance with submitting the eForm please visit the Central Procurement Office's Learning and Development job aid page on TEAM TN.](#)

**STATEWIDE PAYMENTCARD POLICY
2015-010**

CLEAN

Request: Revise Statewide Payment Card Policy 2015-010 at the following excerpts:

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