STATE OF TENNESSEE
DEPARTMENT OF TOURIST DEVELOPMENT

REQUEST FOR PROPOSALS
FOR
State of Tennessee Official Vacation Guide – development, production, and revenue generating advertising sales

RFP # 32601-2200

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1. INTRODUCTION

The State of Tennessee, Department of Tourist Development, hereinafter referred to as “the State,” issues this Request for Proposals (RFP) to define minimum contract requirements; solicit responses; detail response requirements; and, outline the State’s process for evaluating responses and selecting a contractor to provide the needed goods or services.

Through this RFP, the State seeks to procure necessary goods or services at the most favorable, competitive prices and to give ALL qualified respondents, including those that are owned by minorities, women, service-disabled veterans, persons with disabilities and small business enterprises, an opportunity to do business with the state as contractors, subcontractors or suppliers.

1.1 Statement of Procurement Purpose

The State intends to secure a contract for the revenue-generating development, production and shipping of the State of Tennessee's Official Vacation Guide and the sale of advertising in said publication to fund the cost of the aforementioned services as well as for advertising services in connection with the www.tnvacation.com website, Welcome Center duratrans signs, other means of advertising which may become available, and the collection of data for the State tourism/travel industry data base. All of the above advertising services will generate revenue for the State.

The State will provide a copy of the current Vacation Guide and the current rate schedules for advertising upon request.

1.1.2 The previous Contract Term yielded approximately $212,000.00 in average, annual gross revenue.

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

The RFP Attachment 6.7., Pro Forma Contract details the State’s requirements:

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

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

1.3. Nondiscrimination

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

1.4. RFP Communications

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

RFP # 32601-2200

1.4.2. Unauthorized contact about this RFP with employees or officials of the State of Tennessee except as detailed below may result in disqualification from consideration under this procurement process.
1.4.2.1. Prospective Respondents must direct communications concerning this RFP to the following person designated as the Solicitation Coordinator:

Karen Conway, Solicitation Coordinator Division of General Services
Central Procurement Office
WRS Tennessee Tower, 3rd Floor
312 Rosa L. Parks Avenue
Nashville, TN 37243-1102
(615) 507-6211
Karen.Conway@tn.gov

1.4.2.2. Notwithstanding the foregoing, Prospective Respondents may alternatively contact:

a. staff of the Governor’s Office of Diversity Business Enterprise for assistance available to minority-owned, woman-owned, service-disabled veteran-owned, businesses owned by persons with disabilities, and small businesses as well as general, public information relating to this RFP (visit https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/governor-s-office-of-diversity-business-enterprise--godbe--/godbe-general-contacts.html for contact information); and

b. the following individual designated by the State to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and associated federal regulations:

Helen Crowley
Department of General Services
312 Rosa L. Parks Ave 3rd Floor
615-741-3836
Helen.Crowley@tn.gov

1.4.3. Only the State’s official, written responses and communications with Respondents are binding with regard to this RFP. Oral communications between a State official and one or more Respondents are unofficial and non-binding.

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

1.4.5. Respondents must assume the risk of the method of dispatching any communication or response to the State. The State assumes no responsibility for delays or delivery failures resulting from the Respondent’s method of dispatch. Actual or digital “postmarking” of a communication or response to the State by a specified deadline is not a substitute for the State’s actual receipt of a communication or response.

1.4.6. The State will convey all official responses and communications related to this RFP to the prospective Respondents from whom the State has received a Notice of Intent to Respond (refer to RFP Section 1.8).

1.4.7. The State reserves the right to determine, at its sole discretion, the method of conveying official, written responses and communications related to this RFP. Such written communications may be transmitted by mail, hand-delivery, facsimile, electronic mail, Internet posting, or any other means deemed reasonable by the State. For Internet posting, please refer to the following website: https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/supplier-information/request-for-proposals--rfp--opportunities1.html.
1.4.8. The State reserves the right to determine, at its sole discretion, the appropriateness and adequacy of responses to written comments, questions, and requests related to this RFP. The State's official, written responses will constitute an amendment of this RFP.

1.4.9. Any data or factual information provided by the State (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. The State will make reasonable efforts to ensure the accuracy of such data or information, however it is the Respondent’s obligation to independently verify any data or information provided by the State. The State expressly disclaims the accuracy or adequacy of any information or data that it provides to prospective Respondents.

1.5. Assistance to Respondents With a Handicap or Disability

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

1.6. Respondent Required Review & Waiver of Objections

1.6.1. Each prospective Respondent must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.7., Pro Forma Contract, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called “questions and comments”).

1.6.2. Any prospective Respondent having questions and comments concerning this RFP must provide them in writing to the State no later than the Written Questions & Comments Deadline detailed in the RFP Section 2, Schedule of Events.

1.6.3. Protests based on any objection to the RFP 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.

1.7. Pre-Response Conference

A Pre-response Conference will be held at the time and date detailed in the RFP Section 2, Schedule of Events. Pre-response Conference attendance is not mandatory, and prospective Respondents may be limited to a maximum number of attendees depending upon overall attendance and space limitations.

The conference will be held at:

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting
Or call in (audio only)
+1 629-209-4396,,567734703#
United States, Nashville
Phone Conference ID: 567 734 703#

The purpose of the conference is to discuss the RFP scope of goods or services. The State will entertain questions, however prospective Respondents must understand that the State’s oral response to any question at the Pre-response Conference shall be unofficial and non-binding. Prospective Respondents must submit all questions, comments, or other concerns regarding the RFP in writing prior to the Written Questions & Comments Deadline date detailed in the RFP Section 2, Schedule of Events. The State will send the official response to these questions and comments to prospective Respondents from whom the
State has received a Notice of Intent to respond as indicated in RFP Section 1.8, and on the date detailed in the RFP Section 2, Schedule of Events.

1.8. Notice of Intent to Respond

Before the Notice of Intent to Respond Deadline detailed in the RFP Section 2, Schedule of Events, prospective 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; and
- the contact person’s mailing address, telephone number, facsimile number, and e-mail address.

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

1.9. Response Deadline

A Respondent must ensure that the State receives a response no later than the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events. The State will not accept late responses, and a Respondent’s failure to submit a response before the deadline will result in disqualification of the response. It is the responsibility of the Respondent to ascertain any additional security requirements with respect to packaging and delivery to the State of Tennessee. Respondents should be mindful of any potential delays due to security screening procedures, weather, or other filing delays whether foreseeable or unforeseeable.
2. **RFP SCHEDULE OF EVENTS**

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

<table>
<thead>
<tr>
<th>EVENT</th>
<th>TIME</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. RFP Issued</td>
<td></td>
<td>January 6, 2022</td>
</tr>
<tr>
<td>2. Disability Accommodation Request Deadline</td>
<td>2:00 p.m.</td>
<td>January 11, 2022</td>
</tr>
<tr>
<td>3. Pre-response Conference</td>
<td>10:00 a.m.</td>
<td>January 12, 2022</td>
</tr>
<tr>
<td>4. Notice of Intent to Respond Deadline</td>
<td>2:00 p.m.</td>
<td>January 13, 2022</td>
</tr>
<tr>
<td>5. Written “Questions &amp; Comments” Deadline</td>
<td>2:00 p.m.</td>
<td>January 20, 2022</td>
</tr>
<tr>
<td>6. State Response to Written “Questions &amp; Comments”</td>
<td></td>
<td>January 31, 2022</td>
</tr>
<tr>
<td>7. Response Deadline</td>
<td>2:00 p.m.</td>
<td>February 7, 2022</td>
</tr>
<tr>
<td>8. State Schedules Respondent Oral Presentation</td>
<td></td>
<td>February 9, 2022</td>
</tr>
<tr>
<td>9. Respondent Oral Presentation</td>
<td>8 a.m. - 4:30 p.m.</td>
<td>February 15-17, 2022</td>
</tr>
<tr>
<td>10. State Completion of Technical Response Evaluations</td>
<td></td>
<td>February 25, 2022</td>
</tr>
<tr>
<td>11. State Opening &amp; Scoring of Revenue Proposals</td>
<td>2:00 p.m.</td>
<td>February 28, 2022</td>
</tr>
<tr>
<td>12. Negotiations</td>
<td>4:30 p.m.</td>
<td>March 1-4, 2022</td>
</tr>
<tr>
<td>13. State Notice of Intent to Award Released and RFP Files Opened for Public Inspection</td>
<td>2:00 p.m.</td>
<td>March 8, 2022</td>
</tr>
<tr>
<td>14. End of Open File Period</td>
<td></td>
<td>March 15, 2022</td>
</tr>
<tr>
<td>15. State sends contract to Contractor for signature</td>
<td></td>
<td>March 21, 2022</td>
</tr>
<tr>
<td>16. Contractor Signature Deadline</td>
<td>2:00 p.m.</td>
<td>March 23, 2022</td>
</tr>
</tbody>
</table>

2.2. **The State reserves the right, at its sole discretion, to adjust the RFP Schedule of Events as it deems necessary.** Any adjustment of the Schedule of Events shall constitute an RFP amendment, and the State will communicate such to prospective Respondents from whom the State has received a Notice of Intent to Respond (refer to section 1.8.).
3. **RESPONSE REQUIREMENTS**

3.1. **Response Form**

A response to this RFP must consist of two parts, a Technical Response and a Revenue Proposal.

3.1.1. **Technical Response.** RFP Attachment 6.2., Technical Response & Evaluation Guide provides the specific requirements for submitting a response. This guide includes mandatory requirement items, operational summary including, general qualifications and experience items, and technical qualifications, experience, and approach items all of which must be addressed with a written response and, in some instances, additional documentation.

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

3.1.1.1. A Respondent must 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.

3.1.1.2. A response should be economically prepared, with emphasis on completeness and clarity. A response, as well as any reference material presented, must be written in English and must be written on standard 8 ½” x 11” pages (although oversize exhibits are permissible) and use a 12 point font for text. All response pages must be numbered.

3.1.1.3. All information and documentation included in a Technical Response should correspond to or address a specific requirement detailed in the RFP Attachment 6.2., Technical Response & Evaluation Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed extraneous and will not contribute to evaluations.

3.1.1.4. The State may determine a response to be non-responsive and reject it if:

a. the Respondent fails to organize and properly reference the Technical Response as required by this RFP and the RFP Attachment 6.2., Technical Response & Evaluation Guide; or

b. the Technical Response document does not appropriately respond to, address, or meet all of the requirements and response items detailed in the RFP Attachment 6.2., Technical Response & Evaluation Guide.

3.1.2. **Revenue Proposal.** A Revenue Proposal must be recorded on an exact duplicate of the RFP Attachment 6.3., Revenue Proposal & Scoring Guide.

**NOTICE:** If a Respondent fails to submit a Revenue proposal exactly as required, the State may deem the response to be non-responsive and reject it.

3.1.2.1. A Respondent must only record the proposed Revenue exactly as required by the RFP Attachment 6.3., Revenue Proposal & Scoring Guide and must NOT record any other rates, amounts, or information.
3.1.2.2. The proposed Revenue shall incorporate ALL costs for services under the contract for the total contract period, including any renewals or extensions.

3.1.2.3. A Respondent must sign and date the Revenue Proposal.

3.1.2.4. A Respondent must submit the Revenue Proposal to the State in a sealed package separate from the Technical Response (as detailed in RFP Sections 3.2.3., et seq.).

3.2. **Response Delivery**

3.2.1. A Respondent must ensure that both the original Technical Response and Revenue Proposal documents meet all form and content requirements, including all required signatures, as detailed within this RFP, as may be amended.

3.2.2. A Respondent must submit original Technical Response and Revenue Proposal documents and copies as specified below.

3.2.2.1. One (1) original Technical Response paper document labeled:

   "RFP # 32601-2200 TECHNICAL RESPONSE ORIGINAL"

   and one (1) digital copies of the Technical Response each in the form of one (1) digital document in “PDF” format properly recorded on its own otherwise blank, USB flash drive labeled:

   "RFP # 32601-2200 TECHNICAL RESPONSE COPY"

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

3.2.2.2. One (1) original Revenue Proposal paper document labeled:

   "RFP # 32601-2200 REVENUE PROPOSAL ORIGINAL"

   and one (1) copy in the form of a digital document in “PDF/XLS” format properly recorded on separate, blank, USB flash drive labeled:

   "RFP # 32601-2200 REVENUE PROPOSAL COPY"

   In the event of a discrepancy between the original Revenue Proposal document and the digital copy, the original, signed document will take precedence.

3.2.3. A Respondent must separate, seal, package, and label the documents and copies for delivery as follows:

3.2.3.1. The Technical Response original document and digital copies must be placed in a sealed package that is clearly labeled:

   "DO NOT OPEN… RFP #32601-2200 TECHNICAL RESPONSE FROM [RESPONDENT LEGAL ENTITY NAME]"

3.2.3.2. The Revenue Proposal original document and digital copy must be placed in a separate, sealed package that is clearly labeled:

   "DO NOT OPEN… RFP # 32601-2200 REVENUE PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]"
3.2.3.3. The separately, sealed Technical Response and Revenue Proposal components may be enclosed in a larger package for mailing or delivery, provided that the outermost package is clearly labeled:

“RFP # 32601-2200 SEALED TECHNICAL RESPONSE & SEALED REVENUE PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”

3.2.4. A Respondent must ensure that the State receives a response no later than the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events at the following address:

Karen Conway, Solicitation Coordinator
Division of General Services Central Procurement Office
WRS Tennessee Tower, 3rd Floor
312 Rosa L. Parks Avenue
Nashville, TN 37243-1102
Karen.Conway@tn.gov

3.3. **Response & Respondent Prohibitions**

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

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

3.3.3. A response must not propose alternative goods or services (i.e., offer services different from those requested and required by this RFP) unless expressly requested in this RFP. The State may consider a response of alternative goods or services to be non-responsive and reject it.

3.3.4. A Revenue Proposal must be prepared and arrived at independently and must not involve any collusion between Respondents. The State will reject any Revenue Proposal that involves collusion, consultation, communication, or agreement between Respondents. Regardless of the time of detection, the State will consider any such actions to be grounds for response rejection or contract termination.

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

3.3.6. A Respondent must not submit more than one Technical Response and one Revenue Proposal in response to this RFP, except as expressly requested by the State in this RFP. If a Respondent submits more than one Technical Response or more than one Revenue Proposal, the State will deem all of the responses non-responsive and reject them.

3.3.7. A Respondent must not submit a response as a prime contractor while also permitting one or more other Respondents to offer the Respondent as a subcontractor in their own responses. Such may result in the disqualification of all Respondents knowingly involved. This restriction does not, however, prohibit different Respondents from offering the same subcontractor as a part of their responses (provided that the subcontractor does not also submit a response as a prime contractor).
3.3.8. The State shall not consider a response from an individual who is, or within the past six (6) months has been, a State employee. For purposes of this RFP:

3.3.8.1. An individual shall be deemed a State employee until such time as all compensation for salary, termination pay, and annual leave has been paid;

3.3.8.2. A contract with or a response from a company, corporation, or any other contracting entity in which a controlling interest is held by any State employee shall be considered to be a contract with or proposal from the employee; and

3.3.8.3. A contract with or a response from a company, corporation, or any other contracting entity that employs an individual who is, or within the past six (6) months has been, a State employee shall not be considered a contract with or a proposal from the employee and shall not constitute a prohibited conflict of interest.

3.3.9. This RFP is also subject to Tenn. Code Ann. § 12-4-101—105.

3.4. Response Errors & Revisions

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

3.5. Response Withdrawal

A Respondent may withdraw a submitted response at any time before the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events by submitting a written request signed by an authorized Respondent representative. After withdrawing a response, a Respondent may submit another response at any time before the Response Deadline. After the Response Deadline, a Respondent may only withdraw all or a portion of a response where the enforcement of the response would impose an unconscionable hardship on the Respondent.

3.6. Additional Services

If a response offers goods or services in addition to those required by and described in this RFP, the State, at its sole discretion, may add such services to the contract awarded as a result of this RFP. Notwithstanding the foregoing, a Respondent must not propose any additional cost or Revenue amounts or rates for additional goods or services. Regardless of any additional services offered in a response, the Respondent’s Revenue Proposal must only record the proposed Revenue as required in this RFP and must not record any other rates, amounts, or information.

NOTICE: If a Respondent fails to submit a Revenue Proposal exactly as required, the State may deem the response non-responsive and reject it.

3.7. Response Preparation Costs

The State will not pay any costs associated with the preparation, submittal, or presentation of any response.
4. **GENERAL CONTRACTING INFORMATION & REQUIREMENTS**

4.1. **RFP Amendment**

The State at its sole discretion may amend this RFP, in writing, at any time prior to contract award. However, prior to any such amendment, the State will consider whether it would negatively impact the ability of potential Respondents to meet the response deadline and revise the RFP Schedule of Events if deemed appropriate. If an RFP amendment is issued, the State will convey it to potential Respondents who submitted a Notice of Intent to Respond (refer to RFP Section 1.8.). A response must address the final RFP (including its attachments) as amended.

4.2. **RFP Cancellation**

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

4.3. **State Right of Rejection**

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

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

4.4. **Assignment & Subcontracting**

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

4.4.2. If a Respondent intends to use subcontractors, the response to this RFP must specifically identify the scope and portions of the work each subcontractor will perform (refer to RFP Attachment 6.2., Section C, Technical Qualifications, Experience and Approach Items C.5.).

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

4.4.4. After contract award, a Contractor may only substitute an approved subcontractor at the discretion of the State and with the State's prior, written approval.

4.4.5. Notwithstanding any State approval relating to subcontracts, the Respondent who is awarded a contract pursuant to this RFP will be the prime contractor and will be responsible for all work under the Contract.

4.5. **Right to Refuse Personnel or Subcontractors**

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

The State will require the awarded Contractor to provide a Certificate of Insurance issued by an insurance company licensed or authorized to provide insurance in the State of Tennessee. Each Certificate of Insurance shall indicate current insurance coverages meeting minimum requirements as may be specified by this RFP. A failure to provide a current Certificate of Insurance will be considered a material breach and grounds for contract termination.

4.7. **Professional Licensure and Department of Revenue Registration**

4.7.1. 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 a part of a response to this RFP, shall be properly licensed to render such opinions.

4.7.2. Before the Contract resulting from this RFP is signed, the apparent successful Respondent (and Respondent employees and subcontractors, as applicable) must hold all necessary or appropriate business or professional licenses to provide the goods or services as required by the contract. The State may require any Respondent to submit evidence of proper licensure.

4.7.3. Before the Contract resulting from this RFP is signed, the apparent successful Respondent must be registered with the Tennessee Department of Revenue for the collection of Tennessee sales and use tax. The State shall not award a contract unless the Respondent provides proof of such registration or provides documentation from the Department of Revenue that the Contractor is exempt from this registration requirement. The foregoing is a mandatory requirement of an award of a contract pursuant to this solicitation. To register, please visit the Department of Revenue's Tennessee Taxpayer Access Point (TNTAP) website for Online Registration and the Vendor Contract Questionnaire. These resources are available at the following: [https://tntap.tn.gov/eservices/_/#1](https://tntap.tn.gov/eservices/_/#1)

4.8. **Disclosure of Response Contents**

4.8.1. All materials submitted to the State in response to this RFP shall become the property of the State of Tennessee. Selection or rejection of a response does not affect this right. By submitting a response, a Respondent acknowledges and accepts that the full response contents and associated documents will become open to public inspection in accordance with the laws of the State of Tennessee.

4.8.2. The State will hold all response information, including both technical and Revenue information, in confidence during the evaluation process.

4.8.3. Upon completion of response evaluations, indicated by public release of a Notice of Intent to Award, the responses and associated materials will be open for review by the public in accordance with Tenn. Code Ann. § 10-7-504(a)(7).

4.9. **Contract Approval and Contract Payments**

4.9.1. After contract award, the Contractor who is awarded the contract must submit appropriate documentation with the Department of Finance and Administration, Division of Accounts.

4.9.2. This RFP and its contractor selection processes do not obligate the State and do not create rights, interests, or claims of entitlement in either the Respondent with the apparent best-evaluated response or any other Respondent. State obligations pursuant to a contract award shall commence only after the Contract is signed by the State agency head and the Contractor and after the Contract is approved by all other state officials as required by applicable laws and regulations.
4.9.3. No payment will be obligated or made until the relevant Contract is approved as required by applicable statutes and rules of the State of Tennessee.

4.9.3.1. The State shall not be liable for payment of any type associated with the Contract resulting from this RFP (or any amendment thereof) or responsible for any goods delivered or services rendered by the Contractor, even goods delivered or services rendered in good faith and even if the Contractor is orally directed to proceed with the delivery of goods or the rendering of services, if it occurs before the Contract Effective Date or after the Contract Term.

4.9.3.2. All payments relating to this procurement will be made in accordance with the Payment Terms and Conditions of the Contract resulting from this RFP (refer to RFP Attachment 6.7., Pro Forma Contract, Section C).

4.9.3.3. If any provision of the Contract provides direct funding or reimbursement for the competitive purchase of goods or services as a component of contract performance or otherwise provides for the reimbursement of specified, actual costs, the State will employ all reasonable means and will require all such documentation that it deems necessary to ensure that such purchases were competitive and costs were reasonable, necessary, and actual. The Contractor shall provide reasonable assistance and access related to such review. Further, the State shall not remit, as funding or reimbursement pursuant to such provisions, any amounts that it determines do not represent reasonable, necessary, and actual costs.

4.10. Contractor Performance

The Contractor who is awarded a contract will be responsible for the delivery of all acceptable goods or the satisfactory completion of all services set out in this RFP (including attachments) as may be amended. All goods or services are subject to inspection and evaluation by the State. The State will employ all reasonable means to ensure that goods delivered or services rendered are in compliance with the Contract, and the Contractor must cooperate with such efforts.

4.11. Contract Amendment

After Contract award, the State may request the Contractor to deliver additional goods or perform additional services within the general scope of the Contract and this RFP, but beyond the specified Scope, and for which the Contractor may be compensated. In such instances, the State will provide the Contractor a written description of the additional goods or services. The Contractor must respond to the State with a time schedule for delivering the additional goods or accomplishing the additional services based on the compensable units included in the Contractor’s response to this RFP. If the State and the Contractor reach an agreement regarding the goods or services and associated compensation, such agreement must be effected by means of a contract amendment. Further, any such amendment requiring additional goods or services must be signed by both the State agency head and the Contractor and must be approved by other state officials as required by applicable statutes, rules, policies and procedures of the State of Tennessee. The Contractor must not provide additional goods or render additional services until the State has issued a written contract amendment with all required approvals.

4.12. Severability

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

4.13. 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 RFP process.
5. EVALUATION & CONTRACT AWARD

5.1. Evaluation Categories & Maximum Point Values

The State will consider and rank technical responses, calculate Revenue proposals and assign points in each of the evaluation categories detailed below (up to the maximum evaluation point values indicated) to each response deemed by the State to be responsive.

<table>
<thead>
<tr>
<th>EVALUATION CATEGORY</th>
<th>MAXIMUM POINT VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operational Summary</td>
<td>25</td>
</tr>
<tr>
<td>Technical Qualifications, Experience &amp; Approach</td>
<td>30</td>
</tr>
<tr>
<td>Oral Presentations</td>
<td>15</td>
</tr>
<tr>
<td>Revenue Proposal</td>
<td>30</td>
</tr>
</tbody>
</table>

5.2. Evaluation Process

The evaluation process is designed to award the contract resulting from this RFP not necessarily to the Respondent offering the highest Revenue, but rather to the Respondent deemed by the State to be responsive and responsible who offers the best combination of attributes based upon the evaluation criteria. (“Responsive Respondent” is defined as a Respondent that has submitted a response that conforms in all material respects to the RFP. “Responsible Respondent” is defined as a Respondent that has the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.)

5.2.1. Technical Response Evaluation. The Solicitation Coordinator and the Proposal Evaluation Team (consisting of three (3) or more State employees) will use RFP Attachments 6.2., 6.5. and 6.6., to manage the Technical Response Evaluation and maintain evaluation records.

5.2.1.1. The State reserves the right, at its sole discretion, to request Respondent clarification of a Technical Response or to conduct clarification discussions with any or all Respondents. Any such clarification or discussion will be limited to specific sections of the response identified by the State. The subject Respondent must put any resulting clarification in writing as may be required and in accordance with any deadline imposed by the State.

5.2.1.2. The Solicitation Coordinator will review each Technical Response to determine compliance with RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A—Mandatory Requirements. If the Solicitation Coordinator determines that a response failed to meet one or more of the mandatory requirements, the Proposal Evaluation Team will review the response and document the team’s determination of whether:

a. the response adequately meets RFP requirements for further evaluation;

b. the State will request clarifications or corrections for consideration prior to further evaluation; or,

c. the State will determine the response to be non-responsive to the RFP and reject it.
5.2.1.3. Proposal Evaluation Team members will independently evaluate each Responsive Technical Response and ordinally rank each proposal against each other for each section, taking into account all item responses in RFP Attachment 6.2., Technical Response & Evaluation Guide Sections B and C and Oral Presentation Section D. Proposal Evaluation Team members will individually record their rankings on the applicable RFP Attachment 6.5. – Evaluator Ranking Worksheet.

5.2.1.4. For each Responsive Technical Response evaluated, the Solicitation Coordinator will record each Proposal Evaluation Team member’s assigned rankings on RFP Attachment 6.6. Rank/Score Summary Matrix. The Solicitation Coordinator will then calculate the average rank for RFP Attachment 6.2., Technical Response & Evaluation Guide, Sections B and C and Oral Presentation Section D. and record the average rank on the Rank/Score Summary Matrix. No Respondent will receive the same rank. The lowest average rank will receive First place and the percentage of points associated with the best rank, the second lowest rank will receive Second place and the percentage of points associated with the second best rank, and so on. The Solicitation Coordinator will then assign percentage values and points based upon the methodology in RFP section 5.2.1.5. below.

5.2.1.5 Point totals for each section will be assigned by the Solicitation Coordinator as detailed in the formula below.

### RFP Attachment 6.2-Section B Operational Summary

<table>
<thead>
<tr>
<th>Place</th>
<th>Percentage of Maximum Section Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>100%</td>
</tr>
<tr>
<td>2nd</td>
<td>87.5%</td>
</tr>
<tr>
<td>3rd</td>
<td>75%</td>
</tr>
<tr>
<td>4th</td>
<td>62.5%</td>
</tr>
<tr>
<td>5th</td>
<td>50%</td>
</tr>
</tbody>
</table>

(Each rank beyond five (5) will require a reduction of twelve and a half percent (12.5%), as per the pattern above)

### RFP Attachment 6.2-Section C Technical Qualifications, Experience & Approach Items

<table>
<thead>
<tr>
<th>Place</th>
<th>Percentage of Maximum Section Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>100%</td>
</tr>
<tr>
<td>2nd</td>
<td>87.5%</td>
</tr>
<tr>
<td>3rd</td>
<td>75%</td>
</tr>
<tr>
<td>4th</td>
<td>62.5%</td>
</tr>
<tr>
<td>5th</td>
<td>50%</td>
</tr>
</tbody>
</table>

(Each rank beyond five (5) will require a reduction of twelve and a half percent (12.5%), as per the pattern above)

### RFP Attachment 6.2-Section D Oral Presentations

<table>
<thead>
<tr>
<th>Place</th>
<th>Percentage of Maximum Section Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>100%</td>
</tr>
<tr>
<td>2nd</td>
<td>87.5%</td>
</tr>
<tr>
<td>3rd</td>
<td>75%</td>
</tr>
<tr>
<td>4th</td>
<td>62.5%</td>
</tr>
<tr>
<td>5th</td>
<td>50%</td>
</tr>
</tbody>
</table>

(Each rank beyond five (5) will require a reduction of twelve and a half percent (12.5%), as per the pattern above)

**Formula to derive point total:**

\[
\text{Decimal of percentage value chosen} \times \text{Point Value of the Individual Section}
\]
For Example: 75% of 30 points will be calculated as 0.75x30.

5.2.1.5.1. Ties: In the event of a tie, a tied respondent will be awarded the percentage of maximum section points directly correlated to the rank for which they are eligible and the next non-tied respondent will receive the percentage associated with one rank removed from the otherwise next eligible rank.

For example, in the scenario in which there are three respondents and two of the respondents tie for 1st place, the two respondents tied for first would receive 100% of maximum points and the third respondent would receive 75% of maximum section points which is associated with 3rd place, as one position is occupied by two respondents.

5.2.1.6. The Solicitation Coordinator will invite each apparently responsive and responsible Respondent to make an Oral Presentation.

5.2.1.6.1. The Oral Presentations are mandatory. The Solicitation Coordinator will schedule Respondent Presentations during the period indicated by the RFP 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 RFP Section 2, Schedule of Events.

5.2.1.6.2. 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.

5.2.1.6.3. Oral Presentations provide an opportunity for Respondents to explain and clarify their responses and for the State to test to better understand the practical application of the good or service as applicable. Respondents must not materially alter their responses and Presentations will be limited to addressing the items detailed in RFP Attachment 6.2., Technical Response & Evaluation Guide. Respondent pricing shall not be discussed or provided during Oral Presentations.

5.2.1.6.4. 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.

5.2.1.6.5. Proposal Evaluation Team members will independently evaluate each Oral Presentation in accordance with the RFP Attachment 6.2., Technical Response & Evaluation Guide, Section D.

5.2.1.6.6. The Solicitation Coordinator will calculate and document the average of the Proposal Evaluation Team member scores for RFP Attachment 6.2., Technical Response & Evaluation Guide, Section D, and record that number as the score for Respondent’s Technical Response section.

5.2.1.7. Before Revenue Proposals are opened, the Proposal Evaluation Team will review the Technical Response Evaluation record and any other available information pertinent to whether or not each Respondent is responsive and responsible. If the Proposal Evaluation Team identifies any Respondent that does not meet the responsive and
responsible thresholds such that the team would not recommend the Respondent for Revenue Proposal Evaluation and potential contract award, the team members will fully document the determination.

5.2.2. **Revenue Proposal Evaluation.** The Solicitation Coordinator will open for evaluation the Revenue Proposal of each Respondent deemed by the State to be responsive and responsible and calculate and record each Revenue Proposal score in accordance with the RFP Attachment 6.3., Revenue Proposal & Scoring Guide.

5.2.3. **Clarifications and Negotiations:** The State reserves the right to award a contract on the basis of initial responses received, therefore, each response shall contain the Respondent's best terms and conditions from a technical and cost standpoint. The State reserves the right to conduct clarifications or negotiations with one or more Respondents. All communications, clarifications, and negotiations shall be conducted in a manner that supports fairness in response improvement.

5.2.3.1. 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 rounds. Each clarification sought by the State may be unique to an individual Respondent, provided that the process is conducted in a manner that supports fairness in response improvement.

5.2.3.2. Negotiations: The State may elect to negotiate with one or more Respondents by requesting revised responses, negotiating Revenue, or finalizing contract terms and conditions. The State reserves the right to conduct multiple negotiation rounds or no negotiations at all.

5.2.3.3. Revenue Negotiations: All Respondents, selected for negotiation by the State, will be given equivalent information with respect to Revenue negotiations. All Revenue 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 reduce their pricing to target prices, but no Respondent is allowed to increase prices.

5.2.3.4. If the State determines that it is unable to successfully negotiate terms and conditions of a contract with the apparent best evaluated Respondent, the State reserves the right to bypass the apparent best evaluated Respondent and enter into terms and conditions contract negotiations with the next apparent best evaluated Respondent.

5.2.4. **Total Response Score.** The Solicitation Coordinator will calculate the sum of the Technical Response section scores and the Revenue Proposal score and record the resulting number as the total score for the subject Response (refer to RFP Attachment 6.6., Rank/Score Summary Matrix).

5.3. **Contract Award Process**

5.3.1 The Solicitation Coordinator will submit the Proposal Evaluation Team determinations and scores to the head of the procuring agency for consideration along with any other relevant information that might be available and pertinent to contract award.

5.3.2. The procuring agency head will determine the apparent best-evaluated Response. To effect a contract award to a Respondent other than the one receiving the highest evaluation process score, the head of the procuring agency must provide written justification and obtain the written approval of the Chief Procurement Officer and the Comptroller of the Treasury.
5.3.3. The State will issue a Notice of Intent to Award identifying the apparent best-evaluated response and make the RFP files available for public inspection at the time and date specified in the RFP Section 2, Schedule of Events.

**NOTICE:** The Notice of Intent to Award shall not create rights, interests, or claims of entitlement in either the apparent best-evaluated Respondent or any other Respondent.

5.3.4. The Respondent identified as offering the apparent best-evaluated response must sign a contract drawn by the State pursuant to this RFP. The Contract shall be substantially the same as the RFP Attachment 6.7., *Pro Forma* Contract. The Respondent must sign the contract by the Contractor Signature Deadline detailed in the RFP Section 2, Schedule of Events. If the Respondent fails to provide the signed Contract by this deadline, the State may determine that the Respondent is non-responsive to this RFP and reject the response.

5.3.5. Notwithstanding the foregoing, the State may, at its sole discretion, entertain limited terms and conditions or pricing negotiations prior to Contract signing and, as a result, revise the *pro forma* contract terms and conditions or performance requirements in the State’s best interests. **PROVIDED THAT** such revision of terms and conditions or performance requirements shall NOT materially affect the basis of response evaluations or negatively impact the competitive nature of the RFP and contractor selection process.

5.3.6. If the State determines that a response is non-responsive and rejects it after opening Revenue Proposals, the Solicitation Coordinator will re-calculate scores for each remaining responsive Revenue Proposal to determine (or re-determine) the apparent best-evaluated response.
RFP # 32601-2200 STATEMENT OF CERTIFICATIONS AND ASSURANCES

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

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 RFP.
2. The Respondent will provide all services as defined in the Scope of the RFP Attachment 6.7., Pro Forma Contract for the total Contract Term.
3. The Respondent, except as otherwise provided in this RFP, accepts and agrees to all terms and conditions set out in the RFP Attachment 6.7., Pro Forma Contract.
4. The Respondent acknowledges and agrees that a contract resulting from the RFP shall incorporate, by reference, all proposal responses as a part of the Contract.
5. The Respondent will comply with:
   (a) the laws of the State of Tennessee;
   (b) Title VI of the federal Civil Rights Act of 1964;
   (c) Title IX of the federal Education Amendments Act of 1972;
   (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
   (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
6. To the knowledge of the undersigned, the information detailed within the response submitted to this RFP is accurate.
7. The response submitted to this RFP was independently prepared, without collusion, under penalty of perjury.
8. No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Respondent in connection with this RFP or any resulting contract.
9. Both the Technical Response and the Revenue Proposal submitted in response to this RFP shall remain valid for at least 120 days subsequent to the date of the Revenue Proposal opening and thereafter in accordance with any contract pursuant to the RFP.
10. The Respondent affirms the following statement, as required by the Iran Divestment Act Tenn. Code Ann. § 12-12-111: "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to §12-12-106." For reference purposes, the list is currently available online at: https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-library-/public-information-library.html.

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

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

SIGNATURE:

PRINTED NAME & TITLE:

DATE:

RESPONDENT LEGAL ENTITY NAME:

RFP # 32601-2200
The Respondent must sign and complete the Response to Legal Requirements below as required, and it must be included in the Technical Response (as required by RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A, Item A.3.).

The Respondent shall provide a Yes or No statement to the following scenarios. A “Yes” response indicates that the situation does apply to a Respondent and a “No” response indicates that the situation does NOT apply to a Respondent. If a Respondent answers yes, they shall provide a detailed statement describing their reason for answering Yes. Failure to disclose information may result in a response being found non-responsive or lead to immediate contract cancellation. The State, at its own discretion reserves the right to review the answers provided to the Response to Legal Requirements and deem a Respondent non-responsive. Additionally, the State reserves the right to issue clarifications to a Respondent based upon their responses.

1. Provide a statement of whether the Respondent or, to the Respondent’s knowledge, any of the Respondent’s employees, agents, independent contractors, or subcontractors, involved in the delivery of goods or performance of services on a contract pursuant to this RFP, have been convicted of, pled guilty to, or pled nolo contendere to any felony. If so, include an explanation providing relevant details.

   Yes (provide reasoning for this answer)
   No

2. 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.

   Yes (provide reasoning for this answer)
   No

3. 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 RFP 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 RFP. 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 license for each person or entity that renders such opinions.

   Yes (provide reasoning for this answer)
   No

4. Provide a statement of whether there are any pending or in progress Securities Exchange Commission investigations involving the Respondent. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it will impair the Respondent’s performance in a contract pursuant to this RFP. 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 license for each person or entity that renders such opinions.

   Yes (provide reasoning for this answer)
   No

5. Provide a statement and any relevant details addressing whether the Respondent is any of the following:

   (a) is presently debarred, suspended, proposed for debarment, or voluntarily excluded from covered transactions by any federal or state department or agency;
   (b) has within the past five (5) 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;
(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
(d) has within a five (5) year period preceding the contract had one or more public transactions (federal, state, or local) terminated for cause or default.

Yes___ (provide reasoning for this answer)
No_____

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

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

________________________________________
SIGNATURE:

________________________________________
PRINTED NAME & TITLE:

________________________________________
DATE:

________________________________________
RESPONDENT LEGAL ENTITY NAME:
### TECHNICAL RESPONSE & EVALUATION GUIDE

**SECTION A: MANDATORY REQUIREMENTS.** 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.

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

<table>
<thead>
<tr>
<th>Item Ref.</th>
<th>Section A— Mandatory Requirement Items</th>
<th>Pass/Fail</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.1</td>
<td>Provide the Statement of Certifications and Assurances (RFP Attachment 6.1.) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification.</td>
<td></td>
</tr>
<tr>
<td>A.2</td>
<td>Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall cause to deliver goods or perform services under the contract has a possible conflict of interest (e.g., employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.</td>
<td></td>
</tr>
<tr>
<td>Response Page # (Respondent completes)</td>
<td>Item Ref.</td>
<td>Section A— Mandatory Requirement Items</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>-----------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td>A.3.</td>
<td></td>
<td>Provide the 6.1.B. Response to Legal Requirements completed and signed by an individual empowered to bind the Respondent to the veracity of the statements. Respondents answering &quot;yes&quot; to any of the questions in 6.1.B. must provide a detailed explanation. The State reserves the right to review the Respondent's answers provided to the 6.1.B. Response to Legal Requirements and determine whether a Respondent is responsive. Additionally, the State reserves the right to issue clarifications to a Respondent based upon their responses.</td>
</tr>
<tr>
<td>A.4.</td>
<td></td>
<td>Detail the name, e-mail address, mailing address, telephone number, and if applicable, facsimile number of the person the State should contact regarding the response.</td>
</tr>
<tr>
<td>A.5.</td>
<td></td>
<td>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.</td>
</tr>
<tr>
<td>A.6.</td>
<td></td>
<td>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.</td>
</tr>
<tr>
<td>A.7.</td>
<td></td>
<td>Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit rating for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will not be considered responsive.)</td>
</tr>
</tbody>
</table>

State Use – Solicitation Coordinator Signature, Printed Name & Date:
SECTION B: OPERATIONAL SUMMARY. The Respondent shall address pertinent items detailed below and provide the information and documentation as required in order for the Operational Summary to be ranked.

Proposal Evaluation Team members will individually evaluate and assign a unique rank for each of the responses to Section B - Operational Summary. Evaluator rankings will be recorded on applicable RFP Attachment 6.5 – Evaluator Ranking Worksheet.

<table>
<thead>
<tr>
<th>Item Ref.</th>
<th>Section B - Operational Summary</th>
</tr>
</thead>
</table>
| B.1.      | In ten (10) pages or less and in accordance with the Response Requirements of RFP Section 3 provide an Operational Summary based upon the requirements contained herein. Provide a narrative describing the Respondent’s experience and ability in providing the required goods or services required by this RFP. Detail how the Respondent intends to utilize their business’ structure, employees and any office locations to meet the required goods or services of this RFP. Additionally, provide a description of the proposed project team, its members and organizational structure, identifying key people who will be assigned to deliver the goods or services in the process. Lastly, provide a personnel roster and resumes listing the names of key people who the Respondent will assign to meet the Respondent’s requirements under this RFP along with the estimated number of hours that each individual will devote to that performance. The resumes of the personnel must detail the individual’s title, education, current position with the Respondent, and employment history. Resumes may be attached to the 10-page narrative, separate from the narrative.
   Insert additional items as necessary into the narrative above.
   
   *Please note that Resumes will not count towards the ten (10) page limit on this section*

| 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 providing the goods or services required by this RFP.

| B.5.      | Describe the Respondent’s number of employees, client base, and location of all offices and any affiliated businesses.
## TECHNICAL RESPONSE & EVALUATION GUIDE

### SECTION C: TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH

The Respondent must address all items (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.

Proposal Evaluation Team members will individually evaluate and assign a unique rank for each of the responses to Section C – Technical Qualifications, Experience & Approach Items. Evaluator rankings will be recorded on applicable RFP Attachment 6.5. – Evaluator Ranking Worksheet.

### Item Reference Table

<table>
<thead>
<tr>
<th>Item Ref.</th>
<th>Section C – Technical Qualifications, Experience &amp; Approach Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>C.1.</td>
<td>Provide a narrative that illustrates the Respondent’s understanding of the State’s requirements and project schedule.</td>
</tr>
<tr>
<td>C.2.</td>
<td>Provide a narrative that illustrates how the Respondent will complete the scope of services, accomplish required objectives, and meet the State’s project schedule.</td>
</tr>
<tr>
<td>C.3.</td>
<td>Provide a narrative that illustrates how the Respondent will manage the project, ensure completion of the scope of services, and accomplish required objectives within the State’s project schedule.</td>
</tr>
</tbody>
</table>
| C.4.      | Provide documentation of the Respondent’s commitment to diversity as represented by the following:
|           | (a) Business Strategy. Provide a description of the Respondent’s existing programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises. Please also include a list of the Respondent’s certifications as a diversity business, if applicable.
|           | (b) Business Relationships. Provide a listing of the Respondent’s current contracts with business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises. Please include the following information:
|           | (i) contract description;
|           | (ii) contractor name and ownership characteristics (i.e., ethnicity, gender, service-disabled veteran-owned or persons with disabilities);
|           | (iii) contractor contact name and telephone number.
|           | (c) Estimated Participation. Provide an estimated level of participation by business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities and small business enterprises if a contract is awarded to the Respondent pursuant to this RFP. Please include the following information:
|           | (i) a percentage (%) indicating the participation estimate. (Express the estimated participation number as a percentage of the total estimated contract value that will be dedicated to business with subcontractors and supply contractors having such ownership characteristics only and DO NOT INCLUDE DOLLAR AMOUNTS);
|           | (ii) anticipated goods or services contract descriptions;
|           | (iii) names and ownership characteristics (i.e., ethnicity, gender, service-disabled veterans, or disability) of anticipated subcontractors and supply contractors. |

NOTE: In order to claim status as a Diversity Business Enterprise under this contract, businesses must be certified by the Governor’s Office of Diversity Business.
Enterprise (Go-DBE). Please visit the Go-DBE website at https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810 for more information.

(d) **Workforce.** Provide the percentage of the Respondent's total current employees by ethnicity and gender.

**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, service-disabled veterans, persons with disabilities, and small business enterprises and who offer a diverse workforce.

| C.5. | Provide a statement of whether the Respondent intends to use subcontractors to meet the Respondent's requirements of any contract awarded pursuant to this RFP, and if so, detail:
|      | (a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each;
|      | (b) a description of the scope and portions of the goods each subcontractor involved in the delivery of goods or performance of the services each subcontractor will perform; and (c) a statement specifying that each proposed subcontractor has expressly assented to being proposed as a subcontractor in the Respondent's response to this RFP. |

| C.6. | Provide a statement addressing whether the Respondent was nominated or awarded any industry awards based upon work completed for organizations similar in size to the State. |
TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION D: ORAL PRESENTATION. The Respondent must address ALL Oral Presentation Items (below).

A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate and score the presentation response to each item.

Proposal Evaluation Team members will individually evaluate and assign a unique rank for each of the responses to Section D – Oral Presentation. Evaluator rankings will be recorded on applicable RFP Attachment 6.5. – Evaluator Ranking Worksheet.

<table>
<thead>
<tr>
<th>RESPONDENT LEGAL ENTITY NAME:</th>
</tr>
</thead>
</table>

**Section D - Oral Presentation Items**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>D.1.</td>
<td>Presentation and personal introduction by Respondent of its staff designated under B.1. to render the services set forth in the RFP including personnel background information.</td>
</tr>
<tr>
<td>D.2.</td>
<td>Presentation of the Response for the services set forth in the RFP.</td>
</tr>
<tr>
<td>D.3.</td>
<td>Respondent's presentation of creative and design recommendations as well as Respondent's planned implementation of said design on the State’s Official Vacation Guide.</td>
</tr>
<tr>
<td>D.4.</td>
<td>Respondent’s presentation shall include a minimum of three (3) samples of publications produced by the Respondent.</td>
</tr>
</tbody>
</table>
17. REVENUE PROPOSAL & SCORING GUIDE

NOTICE: THIS REVENUE PROPOSAL MUST BE COMPLETED EXACTLY AS REQUIRED

REVENUE PROPOSAL SCHEDULE— The Revenue Proposal, detailed below, shall indicate the proposed price for goods or services defined in the Scope of Services of the RFP Attachment 6.7., Pro Forma Contract and for the entire contract period. The Revenue Proposal shall remain valid for at least one hundred twenty (120) days subsequent to the date of the Revenue Proposal opening and thereafter in accordance with any contract resulting from this RFP. All monetary amounts shall be in U.S. currency and limited to two (2) places to the right of the decimal point.

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

Notwithstanding the cost items herein, pursuant to the second paragraph of the Pro Forma Contract section C.1. (refer to RFP Attachment 6.7.), “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 Revenue Proposal must be signed, in the space below, by an individual empowered to bind the Respondent to the provisions of this RFP and any contract awarded pursuant to it. If said individual is not the President or Chief Executive Officer, this document must attach evidence showing the individual’s authority to legally bind the Respondent.

<table>
<thead>
<tr>
<th>Respondent Signature:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Printed Name &amp; Title:</td>
<td></td>
</tr>
<tr>
<td>Date:</td>
<td></td>
</tr>
</tbody>
</table>

| Respondent Legal Entity Name: |  |

<table>
<thead>
<tr>
<th>Revenue Item Description</th>
<th>Proposed Revenue Share</th>
<th>State Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Evaluation Factor</td>
</tr>
<tr>
<td>Percent of gross advertising revenue pursuant to Pro Forma contract section C.3.a which shall be payable to the State</td>
<td>__________%</td>
<td>60</td>
</tr>
<tr>
<td>Percent of gross advertising revenue pursuant to Pro Forma contract for other advertising section C.3.b. which shall be payable to the State</td>
<td>__________ %</td>
<td>30</td>
</tr>
<tr>
<td>Percent of gross advertising revenue for duratans advertising pursuant to Pro Forma contract section C.3.c. which shall be payable to the State</td>
<td>__________%</td>
<td>5</td>
</tr>
<tr>
<td>Percent of gross advertising revenue for Other Means of Advertising which may be available pursuant to Pro Forma contract section C.3.d. which shall be payable to the State.</td>
<td>__________</td>
<td>5</td>
</tr>
<tr>
<td>Respondent Legal Entity Name:</td>
<td>Revenue Item Description</td>
<td>Proposed Revenue Share</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>--------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td></td>
<td>Evaluation Factor</td>
<td>Evaluation Revenue (Revenue x factor)</td>
</tr>
</tbody>
</table>

**Evaluation Cost Amount** (sum of evaluation costs above):
The Solicitation 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.

\[
\text{highest evaluation Revenue amount from all proposals} \times 30 \quad (\text{maximum section score}) = \text{SCORE:}
\]

\[
\text{evaluation cost amount being evaluated}
\]

State Use – Solicitation Coordinator Signature, Printed Name & Date:
REFERENCE QUESTIONNAIRE

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

The Respondent will be solely responsible for obtaining completed reference questionnaires as detailed below, and for enclosing the sealed reference envelopes within the Respondent’s Technical Response.

Provide references from individuals who are not current State employees of the procuring State Agency for projects similar to the goods or services sought under this RFP and which represent:

- two (2) contracts Respondent currently services that are similar in size and scope to the services required by this RFP; and
- three (3) completed contracts that are similar in size and scope to the services required by this RFP.

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 individual contact reference provided for each contract or project shall not be a current State employee of the procuring State agency. Procuring State agencies that accept references from another State agency shall document, in writing, a plan to ensure that no contact is made between the procuring State agency and a referring State agency. The standard reference questionnaire, should be used and completed, and is provided on the next page of this RFP Attachment 6.4.

The Respondent will be solely responsible for obtaining 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.

(a) Add the Respondent’s name to the standard reference questionnaire at RFP Attachment 6.4. and make a copy for each reference.
(b) Send a reference questionnaire and new, standard #10 envelope to each reference.
(c) Instruct the reference to:
   (i) complete the reference questionnaire;
   (ii) sign and date the completed reference questionnaire;
   (iii) seal the completed, signed, and dated reference questionnaire within the envelope provided;
   (iv) sign his or her name in ink across the sealed portion of the envelope; and
   (v) return the sealed envelope 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).
(d) Do NOT open the sealed references upon receipt.
(e) Enclose all sealed reference envelopes within a larger, labeled envelope for inclusion in the Technical Response as required.

NOTES:
- The State will not accept late references or references submitted by any means other than that which is described above, and each reference questionnaire submitted must be completed as required.
- The State will not review more than the number of required references indicated above.
- While the State will base its reference check on the contents of the sealed reference envelopes included in the Technical Response package, the State reserves the right to confirm and clarify information detailed in the completed reference questionnaires, and may consider clarification responses in the evaluation of references.
- The State is under no obligation to clarify any reference information.
RFP # 32601-2200 REFERENCE QUESTIONNAIRE

REFERENCE SUBJECT: RESPONDENT NAME (completed by Respondent before reference is requested)

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

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

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

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

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

<table>
<thead>
<tr>
<th>NAME:</th>
</tr>
</thead>
<tbody>
<tr>
<td>TITLE:</td>
</tr>
<tr>
<td>TELEPHONE #:</td>
</tr>
<tr>
<td>E-MAIL ADDRESS:</td>
</tr>
</tbody>
</table>

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

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

(6) How satisfied are you with the reference subject’s ability to perform based on your expectations and according to the contractual arrangements?

REFERENCE SIGNATURE:
(by the individual completing this request for reference information)

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

DATE: ____________________________
EVALUATOR RANKING WORKSHEET – TECHNICAL RESPONSE

Section B Operational Summary
Proposal Evaluation Team members will individually evaluate and assign below a unique rank for each of the identified responses to Section B — Operational Summary.

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Ordinal Rank 1,2,3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Respondent 1</td>
<td>Rank Number</td>
</tr>
<tr>
<td>Respondent 2</td>
<td>Rank Number</td>
</tr>
<tr>
<td>Respondent 3</td>
<td>Rank Number</td>
</tr>
</tbody>
</table>

Section C Technical Qualifications, Experience and Approach Items
State Evaluator will individually evaluate and assign below a unique rank for each Respondent's response to Section C — Technical Qualifications, Experience and Approach Items.

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Ordinal Rank 1,2,3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Respondent 1</td>
<td>Rank Number</td>
</tr>
<tr>
<td>Respondent 2</td>
<td>Rank Number</td>
</tr>
<tr>
<td>Respondent 3</td>
<td>Rank Number</td>
</tr>
</tbody>
</table>

Section D Oral Presentations
Proposal Evaluation Team members will individually evaluate and assign below a unique rank for each Respondent's response to Section D — Oral Presentations.

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Ordinal Rank 1,2,3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Respondent 1</td>
<td>Rank Number</td>
</tr>
<tr>
<td>Respondent 2</td>
<td>Rank Number</td>
</tr>
<tr>
<td>Respondent 3</td>
<td>Rank Number</td>
</tr>
</tbody>
</table>

State Use-Solicitation Coordinator Signature, Printed Name and Date
# Rank/Score Summary Matrix

<table>
<thead>
<tr>
<th>OPERATIONAL SUMMARY: (max section points: 25)</th>
<th>RESPONDENT 1</th>
<th>RESPONDENT 2</th>
<th>RESPONDENT 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evaluator 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evaluator 2</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Evaluator 3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evaluator 4</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evaluator 5</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AVERAGE RANK: Points Awarded based upon Average Rank</th>
<th>AVERAGE RANK: Points Awarded based upon Average Rank</th>
<th>AVERAGE RANK: Points Awarded based upon Average Rank</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Percentage of maximum section points 1st Place = 100% 2nd Place = 87.5% 3rd Place = 75% (decrease by 12.5% for each further respondent)</th>
<th>RESPONDENT 1</th>
<th>RESPONDENT 2</th>
<th>RESPONDENT 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evaluator 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evaluator 2</td>
<td></td>
<td></td>
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<td>Evaluator 3</td>
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<td></td>
<td></td>
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<tr>
<td>Evaluator 4</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evaluator 5</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AVERAGE RANK: Points Awarded based upon Average Rank</th>
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<th>AVERAGE RANK: Points Awarded based upon Average Rank</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>TECHNICAL QUALIFICATIONS, EXPERIENCE &amp; APPROACH (maximum points: 30)</th>
<th>RESPONDENT 1</th>
<th>RESPONDENT 2</th>
<th>RESPONDENT 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evaluator 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evaluator 2</td>
<td></td>
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<tr>
<td>Evaluator 3</td>
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<td></td>
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<tr>
<td>Evaluator 4</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evaluator 5</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AVERAGE RANK: Points Awarded based upon Average Rank</th>
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<th>AVERAGE RANK: Points Awarded based upon Average Rank</th>
</tr>
</thead>
</table>

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<thead>
<tr>
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<th>RESPONDENT 1</th>
<th>RESPONDENT 2</th>
<th>RESPONDENT 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evaluator 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evaluator 2</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ORAL PRESENTATIONS: (max section points: 15)</th>
<th>RESPONDENT 1</th>
<th>RESPONDENT 2</th>
<th>RESPONDENT 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evaluator 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evaluator 2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evaluator 3</td>
<td>AVERAGE RANK:</td>
<td>#DIV/0!</td>
<td>AVERAGE RANK:</td>
</tr>
<tr>
<td>-------------</td>
<td>--------------</td>
<td>---------</td>
<td>--------------</td>
</tr>
<tr>
<td>Evaluator 4</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evaluator 5</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Percentage of maximum section points
1st Place = 100%
2nd Place = 87.5%
3rd Place = 75%
(decrease by 12.5% for each further respondent)

Points Awarded based upon Average Rank

Points Awarded based upon Average Rank

Points Awarded based upon Average Rank

REVENUE PROPOSAL:
(max section points: 30)

SCORE:

SCORE:

SCORE:

TOTAL RESPONSE EVALUATION SCORE:
(maximum: 100)

#DIV/0!

#DIV/0!

#DIV/0!

Solicitation Coordinator Signature, Printed Name & Date:
RFP # 32601-2200 PRO FORMA CONTRACT

The Pro Forma Contract detailed in following pages of this exhibit contains some “blanks” (signified by descriptions in capital letters) that will be completed with appropriate information in the final contract resulting from the RFP.
CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF TOURIST DEVELOPMENT
AND
PROCURING PARTY NAME

This Contract, by and between the State of Tennessee, Department of Tourist Development ("State") and Procuring Party Legal Entity Name hereinafter referred to as the “Procuring Party,” is for the provision of revenue generating services, being the development, production and shipping of the State of Tennessee’s Official Vacation Guide and for the sale of advertising through various mechanisms, as further defined in the “SCOPE.”

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 Procuring Party 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. Definitions. For purposes of this Contract, definitions shall be as follows and as set forth in the Contract:

   a. “Advertorial” means a magazine type advertisement that gives information about a product in the style of an editorial or objective journalistic article.
   b. “Certified Tennessee location” means a location that is contained within the borders of Tennessee.
   c. “Enhanced Listing” means a listing that includes additional word count and/or an image included within the listing.
   d. “Final Proof” means a proof created by the printer for approval by the publisher before going to press for printing.
   e. “Official Vacation Guides or Vacation Guide” means the publication endorsed by the State to provide in-depth travel information, inspirational articles and photos to those considering or planning a trip to Tennessee.
   f. “Qualified Printing Professional” means the Procuring Party’s creative design lead, editor or publisher who has a minimum of five (5) years of experience of producing print publications.
   g. “Reader Service Card” means a reply card inserted in a magazine to be used by readers to request marketing materials from businesses that advertise in the Vacation Guide.
   h. “Self-Mailer” means any piece of direct mail that does not require an envelope.

A.3. The Procuring Party shall ensure that the Vacation Guide is a self-supporting publication with no funding coming from the State. The Procuring Party shall be responsible for the cost to develop, produce, and ship the Vacation Guide. The Procuring Party shall be responsible for all revenue from the advertising of the Vacation Guide and advertising in other travel-related sources. The Procuring Party shall provide the State a comprehensive schedule for all phases of planning, design, advertising, production, and delivery for each annual edition of the Vacation Guide.

A.4. Production Services for the Vacation Guide. The Procuring Party shall be responsible for advertising-supported development and production of the State of Tennessee’s Official Vacation Guide.

   a. The Procuring Party shall comply with the with all applicable laws in performing the services required by this Contract, including T.C.A. § 12-5-102 and T.C.A. § 12-7-103. The State shall notify the Procuring Party as to any changes via email during the contract term.

   b. The Procuring Party shall be responsible for the supervision of the Procuring Party’s staff and vendors to ensure the quality of the Vacation Guide through every stage of production from concept to printing and delivery, subject to the written, final approval by the State. The State reserves the right to examine the quality of the work in progress at any stage, to be on site during production of the Vacation Guide and as otherwise needed to give final approval of press forms.
c. The Procuring Party shall ensure that the Vacation Guide is one hundred eighty (180) to two hundred twenty (220) pages plus the cover sheet and map. The Procuring Party shall ensure that the Vacation Guide maintains an approximate ratio, with two (2) to four (4) percent variance as approved by State, of thirty-five percent (35%) advertising to sixty-five percent (65%) editorial content. The State and the Procuring Party shall review the maximum number of pages in the preceding year’s Vacation Guide prior to publication of the Vacation Guide. If the State requires the Procuring Party to change more than ten percent (10%) in the total page count, the change shall be approved by the State and the Procuring Party, as provided in Section E.6 of this Contract.

d. The Procuring Party shall provide, at a minimum, the following information for an agreed upon number of free listings in the Vacation Guide: name, address, phone number, e-mail, online reservation address, web address, and basic amenities. The Contractor shall provide additional copy for tourism and travel-related businesses, as determined by the State.

e. The Procuring Party shall limit placement of advertising within editorial pages of the Vacation Guide with the exception of listings.

f. The Procuring Party shall utilize the latest available Official Tennessee State Highway Map from the Tennessee State Department of Transportation in the format of GIF files on CD produced in Map Publisher Program and/or other applicable program as agreed upon by the Parties for inclusion in the Vacation Guide.

g. The Procuring Party shall, at the request of the State, change the regional maps within the publication layout with a different size and format than that used in the current edition of the Vacation Guide.

h. The State, in its sole discretion, may provide recommendations, suggested contacts, reference materials and approved photography to assist in editing and preparation of the editorial content of the Vacation Guide.

i. The Procuring Party shall have three (3) photo shoots each year as directed by the State and each shoot shall consist of:
   i. photographs of a designated grand region of Tennessee;
   ii. in the spring, summer, and fall seasons of the year; and,
   iii. provide photographic material for the Vacation Guide and the Vacation Guide cover.

   The Procuring Party shall be allowed to augment the State’s available photography with images produced by outside sources, provided there is no cost to the State and all necessary permissions are obtained. The Procuring Party shall ensure that all photography supplied pursuant to this Contract is geographically located in Tennessee.

j. The Procuring Party shall be responsible for acquiring all necessary approvals, authorizations and licenses for intellectual property to use any and all materials subject to the Contract which are contained in the Vacation Guide and/or displayed through any advertisement mediums.

k. The Procuring Party shall number all pages in the Vacation Guide and compile two (2) indexes, one listed by city and one listed by advertiser, and number each such index appropriately. The Procuring Party shall match the titles given in the table of contents with the correct page numbers in the Vacation Guide.

l. The Procuring Party’s masthead shall give appropriate credit to the State and must appear in advertising-supported space and not in the State’s editorial space.

m. The Procuring Party shall ensure that the State has unlimited author’s alteration rights on all proofs. The Procuring Party shall provide corrected page proofs which include all listings and editorial copy and a proof with ads, copy and graphics in position prior to the final color proof.
n. The Procuring Party shall, prior to the production schedule deadline for each project, make changes in design, theme and other editorial comment to the Vacation Guide as directed by the State and at no cost to the State.

o. The Procuring Party shall print the Vacation Guide upon receipt of written approval of the Final Proof from the State shall the Procuring Party commence printing.

p. The Procuring Party shall include in the Vacation Guide’s design a Self-Mailer and include the appropriate indicia on all copies of the Vacation Guide.

q. The Procuring Party shall provide an electronic, downloadable version capable of featuring additional rich media available on the State’s website, tnvacation.com, as well as five hundred thousand (500,000), printed, annual Tennessee Vacation Guides for each calendar year, in a manner as prescribed by the State. If the State requires a change in the number of copies of the Vacation Guide of more than ten percent (10%), the Procuring Party shall request the change using the change order process set forth in Section E.6. of this Contract. If the change is Ten Percent (10%) or less, the State shall notify the Procuring Party ninety (90) days prior to the printing of the Vacation Guide and said increased or decreased quantity shall not trigger Section E.6.

r. The Procuring Party shall have a Qualified Printing Professional at the location where the Vacation Guide is to be printed. The Qualified Printing Professional shall ensure that the printed guides are printed on the agreed upon paper weight, of the expected color quality, contrast and free from any marring caused by the printing process. This Qualified Printing Professional will also enforce the agreed upon timeline for printing, packaging, and delivery of the guides.

s. The Procuring Party shall deliver the Vacation Guide, on the first working day following December 15th of each year or upon a mutually agreed upon date as set out in writing by the Parties.

t. The Procuring Party shall provide the State any overruns of the required five hundred thousand (500,000) Vacation Guides at no cost to the State. The Procuring Party shall not sell any copies of the Vacation Guide or ship any copies of the Vacation Guide to any entity other than the State or its designee(s).

u. The Procuring Party shall comply with the following technical specifications for the Tennessee Vacation Guide unless otherwise approved in writing by the State.

   1. Trim Size: Bound and trim size a minimum of 7 ¾” X 10 ½” not to exceed a size that can be placed in a 9” X 12” envelope, plus the thickness of the publication spine with copy on the spine. Postal indicia space to be included which complies with U.S. Postal regulations.

   2. Quantity: Five Hundred Thousand (500,000) per the criteria established in A.3.q.


   5. Stock: 7-point, #2 gloss cover, 45# grade 4 gloss text, 80 bright.

   6. Separations: Computer to plate (CTP). All four-color subjects are to reproduce with minimum of 150-line screen.

   7. Proofs: High-resolution color proofs before printing.

   8. Packaging: Vacation Guides must be packed so that the total weight of the corrugated box does not exceed thirty (30) pounds each. Each box must be labeled as to contents with an exact count as well as be an appropriate size to fit the weight of Vacation Guides per box.
9. **Pallet Skids:** The maximum pallet height for storage of the Vacation Guides and any other travel-related materials shall be no more than Fifty-Four Inches (54") so that such materials will properly fit on the Department of Tourist Development’s warehouse shelves.

v. The Procuring Party shall be responsible for responding to all complaints from Advertisers regarding advertising, service, and processing of complaints for adjustments. The Procuring Party shall provide the State a monthly report listing complaints from Advertisers and shall list all complaints received in the calendar month, including the name and location of the business/person making the complaint and the action taken to resolve the complaint.

A.5. **Advertising Services – Vacation Guide.** The Procuring Party shall be responsible for generating advertising sales necessary to cover all costs of printing, inserting the bound-in state map, and shipping of the Vacation Guide designed and produced by the Procuring Party as provided in Sections A.4. and A.6.

a. The Procuring Party shall develop and provide a media kit and rate card, providing the compilation of advertising products as well as arrived upon cost for the Vacation Guide subject to Section A.4. of the Contract.

b. The Procuring Party shall employ at minimum two (2) full time sales representatives that are based in Tennessee and have a working knowledge of the Tennessee tourism industry.

c. The Procuring Party shall solicit advertising from all destination marketing organizations and attractions in all ninety-five (95) counties of Tennessee order to present the most geographic balance possible.

d. The Procuring Party shall provide free listings to federal or state entities that are committed to promoting travel and tourism inside the state of Tennessee, including but not limited to: destination marketing organizations, convention and visitors bureaus, chambers of commerce, federal and state parks, state recreation areas, sites designated as historic, and all advertisers. The Procuring Party shall ensure that free listings are part of the editorial content of the publication and must be subsidized by The Procuring Party's advertisement sales.

e. The Procuring Party shall have the right to sell Enhanced Listings or display advertisements. The Procuring Party shall ensure that enhanced advertising space is included in the Procuring Party’s allotted advertisement space.

f. Upon receiving prior written approval of the State, the Procuring Party may sell Advertorials that contain special inserts, including a fold-out map, an ad that folds out into multiple panels or card inserted between pages and/or sponsored content.

g. The Procuring Party shall provide five (5) business days from submission to the State, for State to inspect and approve or deny advertising materials, media releases and other publicity/marketing items when the State’s name is mentioned or language, signs, markings or symbols are used, which could be inferred or implied to represent the State. This process shall also be utilized in application of Section A.7.

h. The Procuring Party shall only publish advertisements in the Vacation Guide or services set out through Section A.7. of businesses that provide a direct service to the traveling and/or tourism public that are licensed to operate within in the State of Tennessee, unless specifically approved by the State in writing.

i. The Procuring Party shall conduct an initial advertising screening to ensure that all advertisements comply with the terms and conditions of this Contract. The State reserves the right to reject any and all advertisements in this Contract.

j. The Procuring Party shall ensure that all ads sold pursuant to this Contract, are high-quality, non-political, and suitable for a reader of any age, including children.
k. The Procuring Party shall be responsible for marketing, billing, collection, payments and all other activities in association with the sale of advertisements herein and Section A.7.

l. The Procuring Party shall include a Reader Service Card in the Vacation Guide. The Procuring Party shall be responsible for processing all Reader Service Cards throughout the year and should have an established online system for advertiser to access their leads twenty-four (24) hours a day, seven (7) days a week.

A.6. Shipping Services – Vacation Guide. The Procuring Party shall be responsible for the shipment of the printed materials from the printer to the State’s warehouse, and or chosen facility. The Procuring Party shall ensure that:

a. Postal Information in the proper form in the appropriate location shall be included on each Vacation Guide as approved by State.

b. Delivery: It is important to load pallets facing on the truck so they can be unloaded at the warehouse by a tow motor. Contact the Department of Tourist Development to give a minimum of two (2) weeks’ notice prior to delivery so arrangements can be made for receiving. Shipper must contact the Assistant Commissioner of Welcome Centers at 615-741-9035 and the Stores Manager Warehouse Logistics at 615-350-3071, at least twenty-four (24) hours prior to delivery on a business day to schedule a delivery at the Department of Tourist Development’s warehouse, Attn: Central Stores. Delivery will be made by appointment only and accepted only if each delivery is scheduled in accordance with these specifications.


a. The Procuring Party shall render only advertising sales services, excluding development, production, shipping services, other than photography as set forth in Section A.4. of this Contract, on the following:

1. The State’s website;

2. State Welcome Center duratrans signs; and

3. Other means of advertising which may be available.

b. The Procuring Party shall manage and serve all digital advertising using a platform that has been approved by the State. The Procuring Party shall provide quarterly analytic reporting to advertisers and State.

c. The Procuring Party shall have at least one (1), dedicated, full-time advertising and data manager on staff to work with the sales representatives and the industry on questions regarding digital advertising results.

A.8. Database Collection Services. The Procuring Party shall report, utilizing the services provided by the State’s digital contractor, results of the industry’s digital advertising. The Procuring Party shall:

a. Use a database provided by the State containing information about Tennessee tourism events, places, and other travel-related attractions and services identified in the 2022 Tennessee Official Vacation Guide.

b. Establish and maintain a system for data collection and editing to ensure the accuracy of all listings by no later than September 15th of each year, used in the Vacation Guide, on the www.tnvacation.com website (including microsites), mobile applications and sites, Welcome Center duratrans signs, and any other advertising or potential advertising set forth in this Contract. The data collected for listings will be used in the Vacation Guide, the State website, mobile applications and sites, Welcome Center duratrans signs and/or any other form of advertising should include but not be limited to, the business name, address, telephone number, description and amenities, e-mail address, website address, and on-line reservation address, if available. The data collection system should provide a reasonable period of time for the
participation of destination marketing organizations and/or other tourism industry organizations to verify the accuracy of the data collected and to determine if any additions, deletions or changes should be made to the listings.

c. Integrate the database collection with the State’s digital contractor.

d. Provide the State with the database which shall include up to date information on advertisers and partners included with the Vacation Guide at the end of each calendar year that shall include updates to the database throughout the year. The Procuring Party shall ensure that the database is available to the State throughout the term of the Contract.

A.9. Windup. Upon completion of this Contract or termination of this Contract, all information and material gathered or produced for the Vacation Guide shall become the property of the State, other than photography, as set forth in Section A.4.i. of this Contract. The Procuring Party shall document efforts made to effectuate sales and actual sales rendered for the Vacation Guide and shall provide to the State.

A.10. Reporting and Reconciliation. The Procuring Party shall provide monthly accountings and reconciliations for all checks to be accompanied with a reconciliation to the State that includes the total of all revenue collected showing the source(s) of such revenue and monies payable to the State.

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 generally 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. There shall be no cost to the State for the performance of services under this Contract as described in Section A of this Contract.
C.2. Advertising Rates. The advertising rate schedules and/or commissions which are to be approved by the State in advance annually detail what the Procuring Party will charge for advertising services for the Vacation Guide, the State website, Welcome Center duratrans signs, and any other advertising as identified in the future. All rates shall be firm upon acceptance by the State other than for a previously approved adjustment by a percentage increase of no more than Five Percent (5%) of the rate(s) charged in the preceding year of the Contract during the Term. The Procuring Party must provide information relied upon by the industry and data to support any proposed rate schedule increase and any such adjustment must be pre-approved in writing by the State.

C.3. It is agreed that the Procuring Party shall be the recipient of all payments for advertising sales permitted under this Contract, and each month, the Procuring Party shall remit the following to the State along with documentation of all revenue received from advertising sales during the month:

a. Vacation Guide: The State will be paid ___% of the gross revenue from the sale of advertising space in the Vacation Guide.

b. State web site, www.tnvacation.com: The State will be paid ___% of the gross revenue from the sale of advertising space on the State's web site, and any other applicable site, where costs to develop and produce are not the responsibility of the Procuring Party.

c. State Welcome Center duratrans signs: The State will be paid ___% of the gross revenue from the sale of advertising space on State Welcome Center duratrans, where the costs to develop and produce are not the responsibility of the Procuring Party.

d. Other Means of Advertising, which may be available: While not identified at this time, but to forecast for future planning the State wishes to address any other advertising means which may be identified in the future. The State will be paid ___% of the gross revenue from the sale of advertising space from advertising.

C.4. Remittance Requirements: The Procuring Party shall remit payment to the State, as detailed in Section A.10., to:

Department of Tourist Development, General Counsel
312 Rosa L. Parks Ave., 13th Fl.
Nashville, TN 37243
Alicia.Widrig@tn.gov
Telephone # (615) 741-9065

C.5. During each semi-annual accounting time period, the Procuring Party shall report to the State as required in Section A.11. The initial, semi-annual accounting period will end on [insert month] [insert date], 2022, and continue thereafter every six (6) months until the end of the Contract with the exception of the final accounting period which shall end on [insert month] [insert date], 2027, unless otherwise terminated in accordance with the terms and conditions of the Contract.

C.6. 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.7. 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. **STANDARD TERMS AND CONDITIONS:**

D.1. **Required Approvals.** The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

D.2. **Modification and Amendment.** This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

D.3. **Termination for Convenience.** The Contract may be terminated by either party by giving written notice to the other, at least thirty (30) days before the effective date of termination. Said termination shall not be deemed a breach of contract by the State. Should the State exercise this provision, the State shall have no liability to the Procuring Party. Should either the State or the Procuring Party exercise this provision, the Procuring Party shall be required to compensate the State for satisfactory, authorized services completed as of the termination date and shall have no liability to the State except for those units of service which can be effectively used by the Procuring Party. The final decision, as to what these units of service are, shall be determined by the State. In the event of disagreement, the Procuring Party may file a claim with the Tennessee Claims Commission in order to seek redress. Upon such termination, the Procuring Party shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.4. **Termination for Cause.** If either party fails to properly perform or fulfill its obligations under this Contract in a timely or proper manner or violates any terms of this Contract, the other party shall have the right to immediately terminate the Contract. The Procuring Party shall compensate the State for completed services.

D.5. **Subcontracting.** Neither the Procuring Party nor the State shall assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the other. If such subcontracts are approved, they shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings).

D.6. **Conflicts of Interest.** The Procuring Party warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Procuring Party in connection with any work contemplated or performed relative to this Contract other than as required by section A. of this Contract.

D.7. **Nondiscrimination.** The State and the Procuring Party hereby agree, warrant, and assure 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 State or the Procuring Party on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law.

D.8. **Records.** The Procuring Party shall maintain documentation for its transactions with the State under this Contract. The books, records, and documents of the Procuring Party, insofar as they relate to work performed or money paid under this Contract, shall be maintained for a period of five (5) full years from the final date of this Contract and shall be subject to audit, at any reasonable time and upon reasonable notice, by the state agency, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
D.9. **Strict Performance.** Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

D.10. **Independent Contractor.** The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

Claims against the State of Tennessee, or its employees, or injury damages expenses or attorney’s fees are heard and determined by the Tennessee Claims Commission or the Tennessee Board of Claims in the manner prescribed by law (Tennessee Code Annotated, Sections 9-8-101 et seq., 9-8-301 et seq., and 9-8-401 et seq.). Damages recoverable against the State of Tennessee shall be expressly limited to claims paid by the Board of Claims or the Claims Commission pursuant to Tennessee Code Annotated, Section 9-8-301 et seq.

D.11. **State Liability.** The State shall have no liability except as specifically provided in this Contract.

D.12. **Force Majeure.** The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.

D.13. **State and Federal Compliance.** The Procuring Party and the State shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.

D.14. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Procuring Party agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Procuring Party acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.

D.15. **Completeness.** This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

D.16. **Severability.** If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

D.17. **Headings.** Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

D.18. **HIPAA Compliance.** The State and Procuring Party 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”).

a. Procuring Party 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. Procuring Party 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 Procuring Party 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 Procuring Party 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 such information without entering into a business associate agreement or signing another such document.

d. The Procuring Party will indemnify the State and hold it harmless for any violation by the Procuring Party 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.19. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Procuring Party by the State or acquired by the Procuring Party on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Procuring Party to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

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

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

D.20 Insurance. Contractor shall maintain insurance coverage as specified in this Section. The State reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor’s failure to maintain or submit evidence of insurance coverage, as required, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall immediately notify the State. All insurance companies providing coverage must be: (a) acceptable to the State; (b) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (c) rated A- / VII or better by A.M. Best. All coverage must be on a primary basis and noncontributory with any other insurance or self-insurance carried by the State. Contractor agrees to name the State as an additional insured on any insurance policy with the exception of workers’ compensation (employer liability) and professional liability (errors and omissions) insurance. All policies must contain an endorsement for a waiver of subrogation in favor of the State. Any deductible or self insured retention ("SIR") over fifty thousand dollars ($50,000) must be approved by the State. The deductible or SIR and any premiums are the Contractor’s sole responsibility. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

To achieve the required coverage amounts, a combination of an otherwise deficient specific policy and an umbrella policy with an aggregate meeting or exceeding the required coverage amounts is
acceptable. For example: If the required policy limit under this Contract is for two million dollars ($2,000,000) in coverage, acceptable coverage would include a specific policy covering one million dollars ($1,000,000) combined with an umbrella policy for an additional one million dollars ($1,000,000). If the deficient underlying policy is for a coverage area without aggregate limits (generally Automobile Liability and Employers’ Liability Accident), Contractor shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area. In the event that an umbrella policy is being provided to achieve any required coverage amounts, the umbrella policy shall be accompanied by an endorsement at least as broad as the Insurance Services Office, Inc. (also known as “ISO”) “Noncontributory—Other Insurance Condition” endorsement or shall be written on a policy form that addresses both the primary and noncontributory basis of the umbrella policy if the State is otherwise named as an additional insured.

Contractor shall provide the State a certificate of insurance (“COI”) evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer’s National Association of Insurance Commissioners (NAIC) number and be signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) business days prior to the Effective Date and again thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that subcontractors are included under the Contractor’s policy. At any time, the State may require Contractor to provide a valid COI. The Parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead Contractor shall provide a certificate of self-insurance or a letter, on Contractor’s letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses. The State reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. 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 or its insurer, 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.

The insurance obligations under this Contract shall be: (1)—all the insurance coverage and policy limits carried by the Contractor; or (2)—the minimum insurance coverage requirements and policy limits shown in this Contract; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and minimum required policy limits, which are applicable to a given loss, shall be available to the State. No representation is made that the minimum insurance requirements of the Contract are sufficient to cover the obligations of the Contractor arising under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.

a. Commercial General Liability (“CGL”) Insurance

1) The Contractor shall maintain CGL, which shall be written on an ISO Form CG 00 01 occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises and operations products and completed operations, bodily injury, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The Contractor shall maintain single limits not less than one million dollars ($1,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this policy or location of occurrence or the general aggregate limit shall be twice the required occurrence limit.
b. Workers’ Compensation and Employer Liability Insurance

1) For Contractors statutorily required to carry workers’ compensation and employer liability insurance, the Contractor shall maintain:

   i. Workers’ compensation in an amount not less than one million dollars ($1,000,000) including employer liability of one million dollars ($1,000,000) per accident for bodily injury by accident, one million dollars ($1,000,000) policy limit by disease, and one million dollars ($1,000,000) per employee for bodily injury by disease.

2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:

   i. The Contractor employs fewer than five (5) employees;
   ii. The Contractor is a sole proprietor;
   iii. The Contractor is in the construction business or trades with no employees;
   iv. The Contractor is in the coal mining industry with no employees;
   v. The Contractor is a state or local government; or

c. Automobile Liability Insurance

1) The Contractor shall maintain automobile liability insurance which shall cover liability arising out of any automobile (including owned, leased, hired, and non-owned automobiles).

   The Contractor shall maintain bodily injury/property damage with a limit not less than one million dollars ($1,000,000) per occurrence or combined single limit. Professional Liability Insurance

d. Professional Liability Insurance

i. Professional liability insurance shall be written on an occurrence basis or on a claims-made basis. If this coverage is written on a claims-made basis, then:

   1. The retroactive date must be shown, and must be on or before the earlier of the Effective Date of the Contract or the beginning of Contract work or provision of goods and services;
   2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) full years from the date of the final Contract payment; and
   3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date on or prior to the Contract Effective Date, the Contractor must purchase “extended reporting” or “tail coverage” for a minimum of five (5) full years from the date of the final Contract payment.

ii. Any professional liability insurance policy shall have a limit not less than one million dollars ($1,000,000) per claim and two million dollars ($2,000,000) in the aggregate; and
iii. If the Contract involves the provision of services by medical professionals, a policy limit not less than three million ($3,000,000) per claim and three million dollars ($3,000,000) in the aggregate for medical malpractice insurance.

E. SPECIAL TERMS AND CONDITIONS:

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.

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

The State:

Alicia C. B Widrig, General Counsel
Department of Tourist Development
312 Rosa L. Parks Ave., 13th Fl.
Nashville, TN 37243
Telephone # (615) 741-9065
Email: Alicia.Widrig@tn.gov

The Procuring Party:

Procuring Party Contact Name & Title
Procuring Party Name
Address
Email Address
Telephone # Number
FAX # Number

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

E.3. Tennessee Department of Revenue Registration. The Procuring Party shall be registered with the Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this Contract.

E.4. Debarment and Suspension. The Procuring Party 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 offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

 c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Procuring Party 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, disqualified, or presently fall under any of the prohibitions of sections a-d.

E.5. License. Contractor grants a non-exclusive, perpetual license to the State to use all materials provided under this Contract in the course of the State’s business and purposes, including all images provided by Contractor that are in the Vacation Guide, on the State website at www.tnvacation.com, microsites, mobile applications, and social media sites.

E.6. Additional lines, items, or options. At its sole discretion, the State may make written requests to the Contractor to add lines, items, or options that are needed and within the Scope but were not included in the original Contract. Such lines, items, or options will be added to the Contract through a Memorandum of Understanding (“MOU”), not an amendment.

a. After the Contractor receives a written request to add lines, items, or options, the Contractor shall have ten (10) business days to respond with a written proposal. The Contractor’s written proposal shall include:

(1) The effect, if any, of adding the lines, items, or options on the other goods or services required under the Contract;
(2) Any pricing related to the new lines, items, or options;
(3) The expected effective date for the availability of the new lines, items, or options; and
(4) Any additional information requested by the State.

b. The State may negotiate the terms of the Contractor’s proposal by requesting revisions to the proposal.

c. To indicate acceptance of a proposal, the State will sign it. The signed proposal shall constitute a MOU between the Parties, and the lines, items, or options shall be incorporated into the Contract as if set forth verbatim.

d. Only after a MOU has been executed shall the Contractor perform or deliver the new lines, items, or options.

IN WITNESS WHEREOF,

PROCURING PARTY LEGAL ENTITY NAME:

______________________________  ______________________________
PROCURING PARTY SIGNATURE      DATE

DEPARTMENT OF TOURIST DEVELOPMENT:

______________________________  ______________________________
MARK EZELL, COMMISSIONER        DATE