REQUEST FOR PROPOSALS
FOR
TENNESSEE DATA MANAGEMENT AND MONITORING SYSTEM FOR INDIVIDUALIZED LEARNING

RFP # 33101-2207433136FAF5

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1. **INTRODUCTION**

The State of Tennessee, Department of Education, 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 is soliciting a Tennessee Data Management and Monitoring System for Individualized Learning (“System”), a secure, web-based, third-party application for the collection, analysis, tracking, reporting, and monitoring of state and federal requirements for special populations. This System will be utilized by all Local Education Agencies (“LEAs”) for the purposes of creating Individualized Education Programs (“IEPs”) and other records for students with disabilities receiving services under the Individuals with Disabilities Education Act (“IDEA”), creating records for other special populations (e.g., students with disabilities under Section 504, English language learners, students with dyslexia, etc.), and reporting data required at the state or federal level.

Annually, the U.S. Department of Education’s Office of Special Education Programs (“OSEP”) requires that states report a variety of data, both results-based and compliance-based. Each state education agency is required to oversee and monitor the implementation of effective and compliant special education programs and provide performance reports and technical assistance to LEAs to empower them to provide services that exceed compliance measures.

The use of one, comprehensive System will provide on-demand access to student records, effectively organize and report data, and allow for both compliance and improvement focused analysis. It will allow the State to provide an accurate, comprehensive review of programs, highlight noteworthy items, provide individualized LEA-level assistance, identify problems effectively at the LEA and state levels, reduce the number of findings of non-compliance, empower LEAs and schools, and improve outcomes for students with disabilities or other unique learning needs. This automated System of data collection, aggregation, and disaggregation is an efficient method for the State to meet federal requirements and provide appropriate technical assistance to districts to serve these special populations.

The System must be user friendly, flexible, and fully customizable, with the ability to respond to changing mandates and satisfy reporting obligations at the local, state, and federal levels. It must also be entirely web-based, requiring no application specific software to be downloaded by users and accessible from any major web browser (e.g., Chrome, Firefox, Internet Explorer, etc.) from either Mac or PC to ensure that users may access the service readily, regardless of the platform their school system or organization utilizes. The System must be designed based on the content and processes specific to the State of Tennessee.

The System will be utilized by all 148 of the current LEAs, which includes more than 1,800 schools, almost one million students (13.5% identified as students with disabilities), and approximately 68,000 users (i.e., teachers, administrators, school psychologists, related service providers, and State staff). The System must be developed and ready for use by July 1, 2023.

1.1.2. The State’s total budget for a seven-year contract (five years with two one-year renewal options) is $12,180,000.00.

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

The RFP Attachment 6.6., *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 # 33101-2207433136FAF5

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:

   Nicholas Edwards | Director of Sourcing
   Central Procurement Office
   Tennessee Tower, 3rd Floor
   312 Rosa L. Parks Ave
   Nashville, TN 37243
   Office: (615) 741-1075
   Cell: (615) 630-8343
   Nicholas.Edwards@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:
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. It is encouraged for Respondents to submit bids digitally.

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 6.6., *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
Meeting ID: 212 939 403 180
Passcode: FDGord
Download Teams | Join on the web
Or call in (audio only)
+1 615-270-9704,,426869100#
United States, Nashville
Phone Conference ID: 426 869 100#
Find a local number | Reset PIN

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 (central time zone)</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. RFP Issued</td>
<td></td>
<td>September 1, 2022</td>
</tr>
<tr>
<td>2. Disability Accommodation Request Deadline</td>
<td>2:00 p.m.</td>
<td>September 7, 2022</td>
</tr>
<tr>
<td>3. Pre-response Conference</td>
<td>10:00 a.m.</td>
<td>September 8, 2022</td>
</tr>
<tr>
<td>4. Notice of Intent to Respond Deadline</td>
<td>4:30 p.m.</td>
<td>September 9, 2022</td>
</tr>
<tr>
<td>5. Written “Questions &amp; Comments” Deadline</td>
<td>2:00 p.m.</td>
<td>September 16, 2022</td>
</tr>
<tr>
<td>6. State Response to Written “Questions &amp; Comments”</td>
<td></td>
<td>September 30, 2022</td>
</tr>
<tr>
<td>7. Response Deadline</td>
<td>2:00 p.m.</td>
<td>October 28, 2022</td>
</tr>
<tr>
<td>8. State Schedules Respondent Oral Presentation</td>
<td></td>
<td>November 4, 2022</td>
</tr>
<tr>
<td>9. Respondent Oral Presentation</td>
<td></td>
<td>November 7-10, 2022</td>
</tr>
<tr>
<td>10. State Completion of Technical Response Evaluations</td>
<td></td>
<td>November 16, 2022</td>
</tr>
<tr>
<td>11. State Opening &amp; Scoring of Cost Proposals</td>
<td>9:00 a.m.</td>
<td>November 18, 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>December 2, 2022</td>
</tr>
<tr>
<td>14. End of Open File Period</td>
<td></td>
<td>December 9, 2022</td>
</tr>
<tr>
<td>15. State sends contract to Contractor for signature</td>
<td></td>
<td>December 12, 2022</td>
</tr>
<tr>
<td>16. Contractor Signature Deadline</td>
<td>4:30 p.m.</td>
<td>December 14, 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 Cost 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, 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 or cost information. If any pricing or cost 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 should duplicate and use the RFP Attachment 6.2., Technical Response & Evaluation Guide to organize, reference, and draft the Technical Response by duplicating the attachment, adding appropriate page numbers as required, and using the guide as a table of contents covering the Technical Response.

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.


NOTICE: If a Respondent fails to submit a cost 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 cost exactly as required by the RFP Attachment 6.3., Cost Proposal & Scoring Guide and must NOT record any other rates, amounts, or information.
3.1.2.2. The proposed cost 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 Cost Proposal.

3.1.2.4. A Respondent must submit the Cost Proposal to the State on a separate e-mail, CD, or USB flash drive 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 Technical Response and Cost Proposal files meet all form and content requirements, including all required signatures, as detailed within this RFP.

3.2.2. A Respondent must submit their response as specified in one of the two formats below.

3.2.2.1. Digital Media Submission

3.2.2.1.1. Technical Response

The Technical Response document should be in the form of one (1) digital document in “PDF” format properly recorded on its own otherwise blank, standard CD-R recordable disc or USB flash drive and should be clearly identified as the:

“RFP # 33101-2207433136FAF5 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, standard CD-R recordable disc or USB flash drive clearly labeled:

“RFP # 33101-2207433136FAF5 TECHNICAL RESPONSE COPY”

The customer references should be delivered by each reference in accordance with RFP Attachment 6.4. Reference Questionnaire.

3.2.2.1.2. Cost Proposal:

The Cost Proposal should be in the form of one (1) digital document in “PDF” or “XLS” format properly recorded on a separate, otherwise blank, standard CD-R recordable disc or USB flash drive clearly labeled:

“RFP # 33101-2207433136FAF5 COST PROPOSAL”

An electronic or facsimile signature, as applicable, on the Cost Proposal is acceptable.

3.2.2.2. E-mail Submission

3.2.2.2.1. Technical Response

The Technical Response document should be in the form of one (1) digital document in “PDF” format or other easily accessible digital format attached to an e-mail to the Solicitation Coordinator. Both the subject and file name should be clearly identified as follows:

“RFP # 33101-2207433136FAF5 TECHNICAL RESPONSE”

The customer references should be delivered by each reference in accordance with RFP Attachment 6.4. Reference Questionnaire.
3.2.2.2. Cost Proposal:
The Cost Proposal should be in the form of one (1) digital document in “PDF” or “XLS” format or other easily accessible digital format attached to an e-mail to the Solicitation Coordinator. Both the subject and file name should be clearly identified as follows:

“RFP # 33101-2207433136FAF5 COST PROPOSAL”

An electronic or facsimile signature, as applicable, on the Cost Proposal is acceptable.

3.2.3. For e-mail submissions, the Technical Response and Cost Proposal documents must be dispatched to the Solicitation Coordinator in separate e-mail messages. For digital media submissions, a Respondent must separate, seal, package, and label the documents and copies for delivery as follows:

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

“DO NOT OPEN… RFP # 33101-2207433136FAF5 TECHNICAL RESPONSE FROM [RESPONDENT LEGAL ENTITY NAME]”

3.2.3.2. The Cost Proposal must be placed in a separate, sealed package that is clearly labeled:

“DO NOT OPEN… RFP # 33101-2207433136FAF5 COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”

3.2.3.3. The separately, sealed Technical Response and Cost Proposal components may be enclosed in a larger package for mailing or delivery, provided that the outermost package is clearly labeled:

“RFP # 33101-2207433136FAF5 SEALED TECHNICAL RESPONSE & SEALED COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”

3.2.3.4. Any Respondent wishing to submit a Response in a format other than digital may do so by contacting the Solicitation Coordinator.

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:

Nicholas Edwards | Director of Sourcing
Central Procurement Office
Tennessee Tower, 3rd Floor
312 Rosa L. Parks Ave
Nashville, TN 37243
Office: (615) 741-1075
Cell: (615) 630-8343
Nicholas.Edwards@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 Cost 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 Cost 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 Cost Proposal must be prepared and arrived at independently and must not involve any collusion between Respondents. The State will reject any Cost 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 Cost 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 Cost 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 amounts or rates for additional goods or services. Regardless of any additional services offered in a response, the Respondent’s Cost Proposal must only record the proposed cost as required in this RFP and must not record any other rates, amounts, or information.

**NOTICE:** If a Respondent fails to submit a Cost 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 B, General Qualifications & Experience Item B.14.).

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

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 cost 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 6.6., 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.

Notwithstanding the above, pro forma Contract section A.22 provides for limited service “change orders” without a formal Contract Amendment upon the documented mutual agreement by the Parties.

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 Points

The State will consider qualifications, experience, technical approach, and cost in the evaluation of responses and award points in each of the categories detailed below (up to the maximum evaluation points indicated) to each response deemed by the State to be responsive.

<table>
<thead>
<tr>
<th>EVALUATION CATEGORY</th>
<th>MAXIMUM POINTS POSSIBLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Qualifications &amp; Experience (refer to RFP Attachment 6.2., Section B)</td>
<td>15</td>
</tr>
<tr>
<td>Technical Qualifications, Experience &amp; Approach (refer to RFP Attachment 6.2., Section C)</td>
<td>45</td>
</tr>
<tr>
<td>Oral Presentation or Field Test (refer to RFP Attachment 6.2., Section D)</td>
<td>10</td>
</tr>
<tr>
<td>Cost Proposal (refer to RFP Attachment 6.3.)</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 lowest cost, 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 the RFP Attachment 6.2., Technical Response & Evaluation Guide 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 Technical Response (that is responsive to the RFP) against the evaluation criteria in this RFP, and will score each in accordance with the RFP Attachment 6.2., Technical Response & Evaluation Guide.

5.2.1.4. For each response evaluated, the Solicitation Coordinator will calculate the average of the Proposal Evaluation Team member scores for RFP Attachment 6.2., Technical Response & Evaluation Guide, and record each average as the response score for the respective Technical Response section.

5.2.1.5. The Solicitation Coordinator will invite the top five highest scoring Respondents to make an Oral Presentation.

5.2.1.5.1. 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.

5.2.1.5.2. 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.

5.2.1.5.3. 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 or Field Tests.

5.2.1.5.4. The State will maintain an accurate record of each Respondent’s Oral Presentation session. The record of the Respondent’s Oral Presentation shall be available for review when the State opens the procurement files for public inspection.

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

5.2.1.5.6. 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.

5.2.1.6. Before Cost 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 Cost Proposal Evaluation and potential contract award, the team members will fully document the determination.
5.2.2. **Cost Proposal Evaluation.** The Solicitation Coordinator will open for evaluation the Cost Proposal of each Respondent deemed by the State to be responsive and responsible and calculate and record each Cost Proposal score in accordance with the RFP Attachment 6.3., Cost 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 costs, 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. Cost Negotiations: All Respondents, selected for negotiation by the State, will be given equivalent information with respect to cost negotiations. All cost negotiations will be documented for the procurement file. Additionally, the State may conduct target pricing and other goods or services level negotiations. Target pricing may be based on considerations such as current pricing, market considerations, benchmarks, budget availability, or other methods that do not reveal individual Respondent pricing. During target price negotiations, Respondents are not obligated to 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 Cost Proposal score and record the resulting number as the total score for the subject Response (refer to RFP Attachment 6.5., 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 6.6., 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 Cost Proposals, the Solicitation Coordinator will re-calculate scores for each remaining responsive Cost Proposal to determine (or re-determine) the apparent best-evaluated response.
RFP ATTACHMENT 6.1.

RFP # 33101-2207433136FAF5 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 6.6., 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 6.6., 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 Cost Proposal submitted in response to this RFP shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the 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:
### 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.

| RESPONSE LEGAL ENTITY NAME: | | | | |
|---|---|---|---|
| Response Page # (Respondent completes) | Item Ref. | Section A—Mandatory Requirement Items | Pass/Fail |
| | | The Response must be delivered to the State no later than the Response Deadline specified in the RFP Section 2, Schedule of Events. | |
| | | The Technical Response and the Cost Proposal documentation must be packaged separately as required (refer to RFP Section 3.2., et. seq.). | |
| | | The Technical Response must NOT contain cost or pricing information of any type. | |
| | | The Technical Response must NOT contain any restrictions of the rights of the State or other qualification of the response. | |
| | | A Respondent must NOT submit alternate responses (refer to RFP Section 3.3.). | |
| | | A Respondent must NOT submit multiple responses in different forms (as a prime and a subcontractor) (refer to RFP Section 3.3.). | |
| A.1. | | 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. | |
| A.2. | | 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. | |
<p>| A.3. | | 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 score for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will not be considered responsive.) | |
| A.4. | | Provide written confirmation that the Respondent has implemented, into a production environment, a special education data management system in a minimum of one state within the United States, and provide written | |</p>
<table>
<thead>
<tr>
<th>Response Page # (Respondent completes)</th>
<th>Item Ref.</th>
<th>Section A—Mandatory Requirement Items</th>
<th>Pass/Fail</th>
</tr>
</thead>
<tbody>
<tr>
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<td>confirmation from a previous or current customer that the Respondent has met these requirements.</td>
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<tr>
<td></td>
<td>A.5.</td>
<td>Provide written confirmation and evidence that the Respondent’s policies and procedures comply with the federal privacy laws, including Family Education Rights and Privacy Act of 1974 (20 U.S.C. § 1232g) (FERPA) and its accompanying regulations (34 C.F.R. 99); the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations; and the National School Lunch Act (79 P.L. 396, 60 Stat. 230). Acceptable evidence: Copies of privacy policies and procedures which required the Respondent to comply with federal policy laws and detail how compliance will be achieved and maintained.</td>
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</tbody>
</table>

State Use – Solicitation Coordinator Signature, Printed Name & Date:
### TECHNICAL RESPONSE & EVALUATION GUIDE

**SECTION B: GENERAL QUALIFICATIONS & EXPERIENCE.** The Respondent must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below. Proposal Evaluation Team members will independently evaluate and assign one score for all responses to Section B— General Qualifications & Experience Items.

<table>
<thead>
<tr>
<th>Response Page # (Respondent completes)</th>
<th>Item Ref.</th>
<th>Section B— General Qualifications &amp; Experience Items</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B.1.</strong></td>
<td>Detail the name, e-mail address, mailing address, telephone number, and facsimile number of the person the State should contact regarding the response.</td>
<td></td>
</tr>
<tr>
<td><strong>B.2.</strong></td>
<td>Describe the Respondent’s form of business (<em>i.e.</em>, individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company) and business location (physical location or domicile).</td>
<td></td>
</tr>
<tr>
<td><strong>B.3.</strong></td>
<td>Detail the number of years the Respondent has been in business.</td>
<td></td>
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<tr>
<td><strong>B.4.</strong></td>
<td>Briefly describe how long the Respondent has been providing the goods or services required by this RFP.</td>
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<tr>
<td><strong>B.5.</strong></td>
<td>Describe the Respondent’s number of employees, client base, and location of offices.</td>
<td></td>
</tr>
<tr>
<td><strong>B.6.</strong></td>
<td>Provide a statement of whether there have been any mergers, acquisitions, or change of control of the Respondent within the last ten (10) years. If so, include an explanation providing relevant details.</td>
<td></td>
</tr>
<tr>
<td><strong>B.7.</strong></td>
<td>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 <em>nolo contendere</em> to any felony. If so, include an explanation providing relevant details.</td>
<td></td>
</tr>
<tr>
<td><strong>B.8.</strong></td>
<td>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.</td>
<td></td>
</tr>
</tbody>
</table>
| **B.9.** | Provide a statement of whether there is any material, pending litigation against the Respondent that the Respondent should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this 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. |
<p>| <strong>B.10.</strong> | 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. |</p>
<table>
<thead>
<tr>
<th>Response Page # (Respondent completes)</th>
<th>Item Ref.</th>
<th>Section B— General Qualifications &amp; Experience Items</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>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.</td>
</tr>
<tr>
<td>B.11.</td>
<td></td>
<td>Provide a brief, descriptive statement detailing evidence of the Respondent’s ability to deliver the goods or services sought under this RFP (e.g., prior experience, training, certifications, resources, program and quality management systems, etc.).</td>
</tr>
<tr>
<td>B.12.</td>
<td></td>
<td>Provide a narrative description of the proposed project team, its members, and organizational structure along with an organizational chart identifying the key people who will be assigned to deliver the goods or services required by this RFP.</td>
</tr>
<tr>
<td>B.13.</td>
<td></td>
<td>Provide a personnel roster 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. Follow the personnel roster with a resume for each of the people listed. The resumes must detail the individual’s title, education, current position with the Respondent, and employment history.</td>
</tr>
<tr>
<td>B.14.</td>
<td></td>
<td>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.</td>
</tr>
<tr>
<td>B.15.</td>
<td></td>
<td>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.</td>
</tr>
</tbody>
</table>
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.

<table>
<thead>
<tr>
<th>Response Page # (Respondent completes)</th>
<th>Item Ref.</th>
<th>Section B—General Qualifications &amp; Experience Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>B.16.</td>
<td>Provide a statement of whether or not the Respondent has any current contracts with the State of Tennessee or has completed any contracts with the State of Tennessee within the previous five (5) year period. If so, provide the following information for all of the current and completed contracts:</td>
<td></td>
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<tr>
<td></td>
<td>(a) the name, title, telephone number and e-mail address of the State contact knowledgeable about the contract;</td>
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<td></td>
<td>(b) the procuring State agency name;</td>
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<td></td>
<td>(c) a brief description of the contract’s scope of services;</td>
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<td></td>
<td>(d) the contract period; and</td>
<td></td>
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<td></td>
<td>(e) the contract number.</td>
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</tbody>
</table>

| B.17. | 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 three (3) years, been convicted of, or had a civil judgment rendered against the contracting party from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; |
| | (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 three (3) year period preceding the contract had one or more public transactions (federal, state, or local) terminated for cause or default. |

SCORE (for all Section B—Qualifications & Experience Items above): (maximum possible score = 15)

State Use – Evaluator Identification:
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.

A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate and score the response to each item. Each evaluator will use the following whole number, raw point scale for scoring each item:

- 0 = little value
- 1 = poor
- 2 = fair
- 3 = satisfactory
- 4 = good
- 5 = excellent

The Solicitation Coordinator will multiply the Item Score by the associated Evaluation Factor (indicating the relative emphasis of the item in the overall evaluation). The resulting product will be the item’s Raw Weighted Score for purposes of calculating the section score as indicated.

<table>
<thead>
<tr>
<th>Response Page # (Respondent completes)</th>
<th>Item Ref.</th>
<th>Section C—Technical Qualifications, Experience &amp; Approach Items</th>
<th>Item Score</th>
<th>Evaluation Factor</th>
<th>Raw Weighted Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>C.1.</td>
<td></td>
<td>Provide a narrative that illustrates the Respondent’s understanding of the State’s requirements and project schedule.</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C.2.</td>
<td></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>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C.3.</td>
<td></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>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Describe specific review approaches that will be used for the various phases of the project, activities and provide examples of milestone deliverables.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Provide examples of tools and templates that the team will use during the term of this contract. Highlight any unique experience, capabilities or approaches that will help the State manage and monitor the project.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Provide a draft Project Management Plan with timeframe, implementation, testing, acceptance, and ongoing support.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C.4.</td>
<td></td>
<td>Provide a narrative that describes the proposed, high-level architecture and design of the System. The narrative should:</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Demonstrate an understanding of general program requirements and required System functions and components.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Describe the tools and technologies proposed for development and implementation of the System, including database server, web server and development language or tool standards.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>The Respondent must provide a pictorial representation of the proposed System architecture and design that illustrates the various System components, including internal and external user interfaces, database, and business logic layers.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item Ref.</td>
<td>Section C— Technical Qualifications, Experience &amp; Approach Items</td>
<td>Item Score</td>
<td>Evaluation Factor</td>
<td>Raw Weighted Score</td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td>---------------------------------------------------------------</td>
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<td>------------------</td>
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<td></td>
</tr>
<tr>
<td>C.5.</td>
<td>Provide a narrative that describes previous experience and method for designing and managing user roles that are defined, setup, and maintained within a currently managed system; Describe user thresholds (maximum volume) for similarly developed systems.</td>
<td></td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C.6.</td>
<td>Provide a narrative that describes the Respondent’s capability to handle the workload described in the Pro Forma Contract Scope of Services.</td>
<td></td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C.7.</td>
<td>Provide a thorough narrative that describes the capability to meet the obligations listed in the Pro Forma Contract’s Scope of Services (A.3 through A.17).</td>
<td></td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C.8.</td>
<td>Provide an overview of the Respondent’s approach to customizing a ready-made product or completely custom building a System to meet the provisions listed within the Pro Forma Contract Scope of Services. Describe any challenges in providing the deliverables within the scope and how they will be addressed.</td>
<td></td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C.9.</td>
<td>Provide a narrative that illustrates the Respondent’s understanding of the Individuals with Disabilities Education Act (&quot;IDEA&quot;), Individualized Education Programs (&quot;IEP&quot;), and federal special education data reporting requirements.</td>
<td></td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C.10.</td>
<td>Provide a narrative that describes user grouping and user roles that includes creation and administration as well as how the System is protected from non-authenticated/authorized users.</td>
<td></td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C.11.</td>
<td>Provide a narrative that describes the methods and approach the Respondent will employ to successfully transfer existing data from the current system, or if data transfer is not needed, the methods and approach the Respondent will employ to ensure that the existing data is able to be utilized as specified in the Contract.</td>
<td></td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C.12.</td>
<td>Provide a narrative that describes a training plan for State users and LEA users for initial implementation of the System and annually thereafter. Also, describe how training will be provided to new users outside of the designated training options.</td>
<td></td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C.13.</td>
<td>Describe how the reporting and analytics functionality within the System provides meaningful data for users at the school, LEA, and state levels and the process for developing additional reporting functionality within the System.</td>
<td></td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C.14.</td>
<td>Describe in detail the Respondent’s disaster recovery plan for the System including the means by which backup data will be stored and restored. Indicate the Respondent’s standards concerning the degree in which data can be lost in the case of disaster recovery and potential solutions for preventing lost data.</td>
<td></td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Response Page # (Respondent completes)</td>
<td>Item Ref.</td>
<td>Section C— Technical Qualifications, Experience &amp; Approach Items</td>
<td>Item Score</td>
<td>Evaluation Factor</td>
<td>Raw Weighted Score</td>
</tr>
<tr>
<td>--------------------------------------</td>
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<td>---------------------------------------------------------------</td>
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<td>--------------------</td>
</tr>
<tr>
<td>C.15.</td>
<td></td>
<td>Provide a narrative describing the System’s ability to integrate any data held with other current and future data systems.</td>
<td></td>
<td>3</td>
<td></td>
</tr>
</tbody>
</table>

The Solicitation Coordinator will use this sum and the formula below to calculate the section score. All calculations will use and result in numbers rounded to two (2) places to the right of the decimal point.

Total Raw Weighted Score: (sum of Raw Weighted Scores above)

\[
\text{Total Raw Weighted Score} = \frac{\text{Total Raw Weighted Score}}{45}
\]

Maximum Possible Raw Weighted Score (i.e., 5 x the sum of item weights above) \( \times 45 \) (maximum possible score) = SCORE:

State Use – Evaluator Identification:

State Use – Solicitation Coordinator Signature, Printed Name & Date:
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 oral presentation or field test response to each item. Each evaluator will use the following whole-number, raw point scale for scoring each item:

0 = little value 1 = poor 2 = fair 3 = satisfactory 4 = good 5 = excellent

The Solicitation Coordinator will multiply the Item Score by the associated Evaluation Factor (indicating the relative emphasis of the item in the overall evaluation). The resulting product will be the item’s raw, weighted score for purposes of calculating the section score as indicated.

### Oral Presentation Items

<table>
<thead>
<tr>
<th>Item Score</th>
<th>Evaluation Factor</th>
<th>Raw Weighted Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>D.1.</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>D.2.</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>D.3.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>D.4.</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>D.5.</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>D.6.</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>D.7.</td>
<td>3</td>
<td></td>
</tr>
</tbody>
</table>

**Total Raw Weighted Score** *(sum of Raw Weighted Scores above):

The Solicitation Coordinator will use this sum and the formula below to calculate the score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.*

\[
\text{total raw weighted score} = \frac{\text{maximum possible raw weighted score}}{\text{maximum section score}} \times 10
\]

**State Use – Evaluator Identification:**
COST PROPOSAL & SCORING GUIDE

NOTICE: THIS COST PROPOSAL MUST BE COMPLETED EXACTLY AS REQUIRED

COST PROPOSAL SCHEDULE—The Cost Proposal, detailed below, shall indicate the proposed price for goods or services defined in the Scope of Services of the RFP Attachment 6.6., Pro Forma Contract and for the entire contract period. The Cost Proposal shall remain valid for at least one hundred twenty (120) days subsequent to the date of the Cost 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 6.6.), “The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.”

This Cost Proposal must be signed, in the space below, by an individual empowered to bind the 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.

| RESPONDENT SIGNATURE: |
| PRINTED NAME & TITLE: |
| DATE: |
| RESPONDENT LEGAL ENTITY NAME: |

<table>
<thead>
<tr>
<th>Cost Item Description</th>
<th>Proposed Cost</th>
<th>State Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>System Requirements Gathering Phase; Pro Forma Contract Scope of Services A.3.-A.12.</td>
<td>$</td>
<td>/ upon completion</td>
</tr>
<tr>
<td>System Development/Configuration Phase; Pro Forma Contract Scope of Services A.3.-A.12.</td>
<td>$</td>
<td>/ upon completion</td>
</tr>
<tr>
<td>System Testing and Training Phase Pro Forma Contract Scope of Services A.13.-A.15.</td>
<td>$</td>
<td>/ upon completion</td>
</tr>
<tr>
<td>System Rollout Phase; Pro Forma Contract Scope of Services A.3.-A.17.</td>
<td>$</td>
<td>/ upon completion</td>
</tr>
<tr>
<td>System Maintenance and Support; Pro Forma Contract Scope of Services A.16.</td>
<td>$</td>
<td>/ per month</td>
</tr>
<tr>
<td>Cost Item Description</td>
<td>Proposed Cost</td>
<td>State Use Only</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------------</td>
<td>---------------</td>
<td>----------------</td>
</tr>
<tr>
<td>System Hosting; Pro Forma Contract Scope of Services A.9.</td>
<td>$ / per month</td>
<td>78</td>
</tr>
<tr>
<td>Addition of Applications to the System; Pro Forma Contract Scope of Services A.3.</td>
<td>$ / per application</td>
<td>5</td>
</tr>
<tr>
<td>Annual Project Management Plan A.7.</td>
<td>$ / per year</td>
<td>6</td>
</tr>
<tr>
<td>Additional Reports (not included in the initial implementation): Pro Forma Contract Scope of Services A.10.</td>
<td>$ / per report</td>
<td>25</td>
</tr>
<tr>
<td>Annual Training and Training Materials (i.e., manuals, presentations, modules, etc.); Pro Forma Contract Scope of Services A.15.</td>
<td>$ / per year</td>
<td>6</td>
</tr>
<tr>
<td>Scope changes via Change Order; A.20.</td>
<td>$ / per hour</td>
<td>1</td>
</tr>
<tr>
<td>Customization Services via Statement of Work; A.21.</td>
<td>$ / per hour</td>
<td>1</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.

\[
\text{SCORE:} = \frac{\text{lowest evaluation cost amount from all proposals} \times 30}{\text{evaluation cost amount being evaluated}}
\]

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. 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.

In order to obtain and submit the completed reference questionnaires following one of the two processes below.

Written:
(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.

Email:
(a) Add the Respondent’s name to the standard reference questionnaire at RFP Attachment 6.4 and make a copy for each reference.
(b) E-mail a reference questionnaire to each reference.
(c) Instruct the reference to:
   (i) complete the reference questionnaire;
   (ii) sign and date the completed reference questionnaire;
   (iii) E-mail the reference directly to the Solicitation Coordinator by the RFP Technical Response Deadline with the Subject line of the e-mail as “[Respondent’s Name] Reference for RFP # 33101-2207433136FAF5”.

NOTES:
- The State will not accept late references or references submitted by any means other than the two which are 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 reference e-mails or 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 # 33101-2207433136FAF5 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 and follow either process outlined below;

Physical:
- 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.

E-Mail:
- e-mail the completed questionnaire to: Nicholas.Edwards@tn.gov

(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:

__________________________________________________________
<table>
<thead>
<tr>
<th>Respondent Name</th>
<th>Respondent Name</th>
<th>Respondent Name</th>
</tr>
</thead>
</table>
| **GENERAL QUALIFICATIONS & EXPERIENCE**  
  (maximum: 15) |                |                |
| EVALUATOR NAME  |                |                |
| EVALUATOR NAME  |                |                |
| REPEAT AS NECESSARY |            |                |
| AVERAGE:       | AVERAGE:       | AVERAGE:       |
| **TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH**  
  (maximum: 45) |                |                |
| EVALUATOR NAME  |                |                |
| EVALUATOR NAME  |                |                |
| REPEAT AS NECESSARY |            |                |
| AVERAGE:       | AVERAGE:       | AVERAGE:       |
| **ORAL PRESENTATION**  
  (maximum: 10) |                |                |
| EVALUATOR NAME  |                |                |
| EVALUATOR NAME  |                |                |
| REPEAT AS NECESSARY |            |                |
| AVERAGE:       | AVERAGE:       | AVERAGE:       |
| **COST PROPOSAL**  
  (maximum: 30) | SCORE:         | SCORE:         | SCORE:         |
| TOTAL RESPONSE EVALUATION SCORE:  
  (maximum: 100) |                |                |
| Solicitation Coordinator Signature, Printed Name & Date: |                |                |
RFP ATTACHMENT 6.6.

RFP # 33101-22074333136FAF5 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 EDUCATION
AND
CONTRACTOR NAME

This Contract, by and between the State of Tennessee, Department of Education (“State”) and Contractor Legal Entity Name (“Contractor”), is for the provision of Tennessee Data Management and Monitoring System for Individualized Learning, as further defined in the “SCOPE.” State and Contractor may be referred to individually as a “Party” or collectively as the “Parties” to this Contract.

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

A. SCOPE:

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

A.2. Definitions: Defined terms shall be as follows or as set forth in the terms and conditions of the Contract:

a. Cloud-based Service: a system comprised of the following essential characteristics:
   (1) On-demand self-service. A consumer can independently and unilaterally provision computing capabilities, such as compute time, network connectivity and storage, as needed automatically without requiring human interaction with each service’s provider.
   (2) Broad network access. Capabilities are available over the network and accessed through standard mechanisms that promote use by heterogeneous thin or thick client platforms.
   (3) Resource pooling. The provider’s computing resources are pooled to serve multiple consumers using a multi-tenant model, with different physical and virtual resources dynamically assigned and reassigned according to consumer demand. There is a sense of location independence in that the customer generally has no control or knowledge over the exact location of the provided resources but may be able to specify location at a higher level of abstraction (e.g., country, state, region or datacenter). Examples of computing resources include storage, processing (computing), memory, network bandwidth, and virtual machines.
   (4) Rapid elasticity. Capabilities can be rapidly and elastically provisioned, in some cases automatically, to quickly scale out and rapidly released to quickly scale in. To the consumer, the capabilities available for provisioning often appear to be unlimited and can be purchased in any quantity at any time.
   (5) Measured Service. Cloud systems automatically control and optimize resource use by leveraging a metering capability at some level of abstraction appropriate to the type of service (e.g., storage, compute, bandwidth, active user accounts, etc.). Resource usage can be monitored, controlled, and reported, providing transparency for both the provider and consumer of the utilized service.

b. Compliance Monitoring (Monitoring): a process conducted by the State to ensure compliance with state and federal education laws.
c. Corrective Action: A set of workflow steps a local education agency is required to complete to confirm the correction of Noncompliant Findings that are discovered during the Monitoring.
d. Critical: any issue or request due to a System failure that blocks completion of a business transaction or corrupts business data and has no work around.
e. Dashboard: an easy to read, real-time user interface, showing a graphical presentation of the current status (snapshot) and historical trends of an organization’s key performance indicators such as, but not limited to, counts of students with disabilities by disability category and least restrictive environment counts of students with disabilities to enable instantaneous and informed decisions to be made at a glance.
f. **Data Management and Monitoring System (System):** a secure, web-based, third-party application for the collection, analysis, tracking, reporting, and monitoring of state and federal requirements for special education.

g. **Education Information System (EIS):** the State data collection system for grades pre-K through 12.

h. **Family Educational Rights and Privacy Act (FERPA):** a federal law (20 U.S.C. § 1232g; 34 C.F.R. 99) that protects the privacy of student education records, which applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

i. **Focus Area:** a set of grouped Review Items pertaining to a common Monitoring subject.

j. **High Priority:** an issue or request that is Critical or time-sensitive that shall be addressed immediately with a solution or response within 24 hours of notification.

k. **Individuals with Disabilities Education Act (IDEA):** a federal law (20 U.S.C. § 33; 34 C.F.R. 300) ensuring educational services to children with disabilities which governs how states and public agencies provide early intervention, special education, and related services to eligible infants, toddlers, children, and youth with disabilities.

l. **IDEA Part B:** the section of IDEA that deals with preschool (ages three through five not in kindergarten) and school age (in kindergarten through age 21) programs for children with disabilities.

m. **IDEA Part C:** the section of IDEA that deals with a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers (ages birth to three) with disabilities and their families.

n. **Individualized Education Program (IEP):** a written document that is developed for each eligible child with a disability which follows the procedures to develop, review, and revise as outlined in the IDEA Part B regulations at 34 CFR 300.320-300.328.

o. **Local Education Agency (LEA):** a school district or entity which operates local public primary and/or secondary schools, which for the purpose of this contract includes charter schools, special schools, and State agencies that operate schools.

p. **Low Priority:** an issue or request that is non-Critical and should be addressed in a reasonable timeframe determined by the State.

q. **Monitoring Cycle:** a period in which Monitoring occurs.

r. **Monitoring Results Report:** a plan or report developed through Monitoring to share Findings, recommendations, and steps to correct Findings.

s. **Noncompliant Finding (Finding):** a Review Item that does not meet State and federal requirements.

t. **Project Management Plan:** a project and communication plan developed to serve as the guiding project development and support document or project management tool composed of all activities, the links between them, priorities, expected outputs, time frames, and those responsible for carrying out each activity.

u. **Query Tool:** a web-based tool to allow designated users access to current and historic data captured within the System.

v. **Response Criteria:** a minimum set of guidance that an LEA is required to meet to ensure compliance.

w. **Response Item:** a specific question in the Student Record Review Protocol.

x. **Review Item:** a high-level description or topic of a Response Item.

y. **Storage Bank:** a set of uploaded data elements to be stored and used to recall specific information in the System.

z. **Student Record Review Protocol (Protocol):** A set of minimum compliance measures categorized by Response Items and Focus Areas, a set of Response Criteria, and related documents needed to meet the compliance.

aa. **Tennessee Early Intervention Data System (TEIDS):** a real-time, web-based data system which houses the official educational record for children eligible in IDEA Part C.

bb. **User Acceptance Testing:** a phase allowing the State to test the System as it will be delivered in which the Contractor will document any performance or outcome issues to correct before production.

cc. **Wave:** a period within the Monitoring Cycle where LEAs are assigned to complete the Monitoring requirements.

dd. **Work List Queue (Queue):** a list of actions to be completed by the user.
A.3. By July 1, 2023, the Contractor shall provide a fully customized System consisting of multiple applications, including, at minimum, applications for data collection and reporting, Monitoring, records creation, Medicaid reimbursement, and progress reporting. The Contractor shall add applications if requested by the State.

A.4. General Information
   a. The Contractor shall create and provide online applications that function in all major internet browsers (e.g., Google Chrome, Mozilla Firefox, Microsoft Edge, Safari, etc.) in the current and last two (2) versions without any paid software or plugins required to access/view/use the applications.
   b. The System shall have one log-in interface by which all applications can be accessed.
   c. All reports, upload, and download components of the applications shall function without the purchase of special software.
   d. The System shall have a flexible interface which allows for seamless System updates, to be made by the Contractor. Such updates include, but are not limited to, format changes to documents, additional data fields for federal or State required reporting purposes, and additional student documents or reports. Any updates due to changes to federal or State requirements shall be provided at no additional cost.
   e. The System shall include an electronic document feature which allows the user to upload, organize, index, and store information to the student’s file. This feature shall accommodate all current and common file types and ensure that all documentation uploaded to a student’s file remains with that student file, even if the student transfers to another LEA or is inactivated in the System. State branding, as specified by the State, shall be included in all applications in the System.
   f. The System shall have a repository/reference area to allow State-level users to post/upload guidance resources available to view by all users.
   g. All administrative materials shall be provided to the State in Microsoft Word and/or Excel unless another format is approved by the State.
   h. The Contractor shall provide the ability to add new LEAs and manage current LEA data in the System.
   i. The System shall have a change log that shows which user made a change to any portion of an application.
   j. The System shall be able to report when LEAs complete a required process in the application.
   k. An electronic signature option shall be available for applications.
   l. The Contractor shall provide a lead project manager who will serve as a liaison between the State and the Contractor for the System. Additional project managers for each application may also be assigned.

A.5. Technical Specifications: The Contractor shall provide a solution that runs in a Cloud-based Service and meets the technical requirements outlined in this Contract.
   a. All Contractor environments shall be Cloud based and provide ability to integrate with State applications (e.g., ePlan, EIS, etc.).
   c. The Contractor environments shall provide data and access security across environments.
   d. The Contractor environments shall have the ability to integrate to State systems using methods such as but not limited to API, data file and ETL (extract, transform, load) processes that are approved by the State.
   e. The Contractor shall have the ability to monitor for data quality of critical data elements to ensure programmatic compliance. Data quality standards, rules, and alerting mechanism shall be proposed and built in consultation with the State.
   f. The Contractor shall provide a solution that supports integration and:
      (1) Shall be mapped to an interface with the Ed-Fi data model standard, providing data interoperability with the State standard.
(2) Shall maintain ongoing product roadmap enhancements necessary to stay compatible with emerging Ed-Fi data model standard changes.

(3) Shall provide application program interfacing into functional domains where needed.

(4) Shall provide application program interfaces or bulk data replication supporting the extraction of data for external reporting, where needed.

(5) Shall provide application program interface artifacts documenting the design and structure.

g. The Contractor shall provide a solution that supports the State’s single sign on solution using OAuth2 standards (integration with Azure AD).

h. The Contractor’s SSO capability shall require the following:

1. Ability to authorize a user.
2. Ability to authenticate a user.
3. Ability for the State to manage user access and approval.
4. Ability for the State to manage and control security role setup.
5. Ability to provide the State with audit logs of user access.

i. The Contractor shall provide application environments for the use of development, testing and production delivery of application.

j. The Contractor shall provide an overview of how the solution operates in the Cloud-based Service upon execution of the Contract and shall meet the technical requirements to run on the Cloud Service.

k. The Contractor shall provide secure data integration processing capabilities that allow for the solution to integrate any data held within State data systems within twenty-one (21) calendar days of notification by the State unless an alternate date is approved by the State.

l. The Contractor shall provide, for State approval, a visual library for the solution, including the style guide, icons, colors, and indicators used across the application to define objects and actions, including but not limited to wait indicators, processing indicators, success indicators, action needed indicators, failure, and error messages.

m. The Contractor shall maintain a 99.86% uptime on an annual basis, exclusive of agreed upon planned maintenance windows, downtime due to force majeure, or other State approved downtime windows.

A.6. Project Phases and Deliverables: The Contractor shall perform work according to key project phases. The phases and their associated deliverables shall be identified by the Contractor and approved by the State, in the Project Management Plan. At a minimum, the Contractor shall include a requirement gathering phase, a development/configuration phase, a testing phase, training phase, and rollout phase that includes an implementation date milestone.

a. The Contractor shall work closely with the State to fully review and define each phase of the Project and all required deliverables, which will be detailed in the Project Management Plan.

b. The Contractor shall complete implementation of the System within six (6) months of the Effective Date, unless otherwise agreed to by the State.

c. Payment milestones are contingent upon the State’s approval of all phase deliverables. The State shall review all deliverables to determine fitness of use according to the following process:

1. As requested by the State, the Contractor shall conduct a walkthrough of the deliverable prior to submission with appropriate State staff.

2. Following submission of a deliverable, the Contractor shall adhere to the following process:

   i. State Review. The State shall review and either approve or reject each deliverable. A rejection shall be accompanied by a list of deficiencies.

   ii. Contractor Update(s). The Contractor shall make any changes identified by the State and resubmit the deliverable.

   iii. State Acceptance. Following submission (or resubmission), acceptance of the Contractor’s deliverable shall be communicated via the approved correspondence process. No deliverable shall be considered final or eligible for payment until it has been formally accepted by the State.

3. The standard timeframe for review shall be as follows:
i. The State shall complete its review within ten (10) calendar days. The Contractor shall have seven (7) calendar days from receiving State review to perform required updates.

(4) In the event the State finds deficiencies in a deliverable, the review timeframe shall be re-started upon the resubmission of a corrected deliverable to the State.

(5) The required minimum deliverables for each phase shall include the following:

<table>
<thead>
<tr>
<th>Phase</th>
<th>Descriptions of Deliverables</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirements Gathering</td>
<td>Prioritized List of features and functions required for the application</td>
</tr>
<tr>
<td></td>
<td>Process Flows for operational use of the application</td>
</tr>
<tr>
<td>Development/Configuration</td>
<td>Documentation of any configurations required for the application to function as requested (if applicable)</td>
</tr>
<tr>
<td></td>
<td>User Stories/Acceptance criteria for development items (if applicable)</td>
</tr>
<tr>
<td></td>
<td>Training Plan and training documents</td>
</tr>
<tr>
<td>Rollout</td>
<td>Rollout schedule</td>
</tr>
<tr>
<td></td>
<td>Go-Live Support model</td>
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</tbody>
</table>

A.7.  

**Project Management Plan and Schedule:** The Contractor shall prepare, for State review and approval, a detailed Project Management Plan which incorporates the schedules for the deliverables of this Contract. The Project Management Plan shall include all activities related to the creation and/or customization of the System and shall be submitted within fifteen (15) business days after the Effective Date and by or before January 1 of each subsequent year.

a. The Project Management Plan shall indicate the essential steps leading to a functional System and include the steps for all project work tasks and deliverables including initiation and completion dates, task responsibilities, and activities with the State.

b. The Project Management Plan shall describe all activities related to System development, Contractor support processes, reports, and logistics, including each stage of production.

c. The Project Management Plan shall provide due dates for each activity and indicate areas of responsibility for the Contractor and the State.

d. The Project Management Plan shall detail the communication and reporting needs for this Contract which addresses: information to be communicated including format, content, and level of detail; person responsible for communicating the information; person or groups who will receive the information; methods or technologies used to convey the information such as memoranda, e-mail, and on-site communication; frequency of the communication; escalation process - identifying time frames and the management change (names) or escalation of issues that cannot be resolved at a non-leadership staff level; and guidelines for project status meetings, project team meetings, e-meetings, etc.

e. The Project Management Plan shall serve as a managing document to be used by the State to assure timely completion of tasks as scheduled and outlined in a key dates section. The Project Management Plan shall be maintained and updated as a fluid, ongoing project document for the Term of the Contract.

f. Changes to the approved Project Management Plan shall be made in collaboration with the State and approved by the State. The Contractor shall submit a revised Project Management Plan for State approval within forty-eight (48) hours after the requested change.

g. The Contractor shall establish a secure SharePoint or secure file transfer protocol (SFTP) website for use in maintaining the Project Management Plan and other communications, including posting administrative materials and reporting information for review.

h. All deliverables shall not be considered delivered and final until written approval is given to the Contractor via email or other electronic methods by the State. Such consideration
as delivered and final shall not abrogate or diminish the rights and duties as detailed in A.24. Inspection and Acceptance.

i. The Contractor shall review the Project Management Plan at minimum annually, or more frequently if requested by the State, to determine any adjustments, identify risks to project execution, and communicate potential options to mitigate identified risk.

j. The Contractor shall not disseminate any written information, materials, or deliverables associated with this Contract to the public or any other third party without the State’s written approval

A.8. User Access: The System shall include a user-type access control feature to restrict users to specific functions and all users must be associated with a designated user type. The System shall accommodate a minimum 75,000 users with concurrent use.

a. The Contractor shall ensure that LEAs are restricted from adjusting the applications.

b. The Contractor shall develop and implement an electronic user access agreement, as approved by the State, which must be signed electronically by the user before the user is permitted to log into the System, and semi-annually thereafter. This electronic user access agreement must be compliant with this Contract, state and federal law, including FERPA. The agreement must be submitted to the State for approval thirty (30) days prior to the implementation on January 1 and July 1 of each year. In the event that there are any conflicting terms in the user access agreement with this Contract, this Contract’s terms shall control and supersede any and all conflicting terms.

c. The Contractor shall adhere to the State’s policy that third-party vendors (excluding approved subcontractors or State vendors) shall not have access to the System and the Contractor shall not access the System for purposes not explicitly stated in this Scope.

(1) The Contractor shall not create custom user types or modify user types and permissions without written approval from the State.

(2) The Contractor shall supply the State with a list of its employees that have access to the System on July 1 of each year or upon request. The Contractor shall notify the State in writing when an employee has been removed or added to include the date of addition or removal along with a justification. The Contractor shall not grant access to employees who do not work directly with System.

d. The Contractor shall be responsible for any development needed in the Contractor’s system to integrate to the State Azure AD SSO platform. The Contractor’s system shall utilize State SSO credentials and security groups to provide access to the application.

e. The State reserves the right to create and modify all user types and permissions at its discretion.

f. The State shall have access to create, grant, revoke, and edit access for new and current users at both the State and LEA level through the SSO platform.

g. The LEA user types shall be assigned to a specific LEA through the submission of the user access form.

h. The user information section shall contain, at a minimum, fields for username, email address first name, last name, phone number, and title.

i. The System shall allow users to be assigned more than one user type and to be associated with one or more LEAs.

j. The System shall allow multiple users to have the same role.

k. The System shall provide user-level audit trail information to track a creation date, revocation date, and last log-in time.

l. The System shall contain a history log and change log that records: each change made, the user who saved the change, comparison between a previous version and current version of text, and a timestamp of when the changes occurred.

m. The System shall log users out after a State-specified amount of time of inactivity (i.e., inactivity timeout).
n. User access reports shall be available for download by the State and include all capture user data, all roles assigned to each user, creation date, revocation date (if applicable), and last log-in timestamp.

A.9. **Emails and Automated Messages:** The System shall have the capability to send emails individually or in batch groups and to automatically email or alert specific sets of users.
   a. The System shall have the capability to send secure emails.
   b. The System shall include the capability to email LEA and State users regarding deadlines and movement through the System.
   c. The System shall include the capability for LEA users to email outside of the LEA (e.g., emails to parents for signatures, IEP team meeting reminders).
   d. The System shall maintain a record of emails sent and allow for responses to the email (e.g., confirmation of information contained in the email).
   e. The State shall have the ability to edit verbiage, turn on or turn off the automated sending of emails or alerts, and set the user roles that will receive each type of notification.
   f. The Contractor shall set up email alert options to notify users for the items specified by the State.

A.10. **Data Collection, Management, and Reporting:** The Contractor shall create, maintain, and update an application to collect, manage, and report, at the individual student level, the LEA level, and the State level.
   a. The Contractor shall collect and maintain an accurate database that can be utilized in all applications of the System.
      (1) Data shall be collected and shared among the various applications, and any additional applications shall be able to access the data collected in the System.
      (2) All data gathered shall update to an aggregate database and be capable of creating interactive reports.
      (3) The System shall be capable of organizing data by multiple fields, including but not limited to State-defined date ranges, record status (e.g., active, inactive), type of program, student name, LEA, school, grade level, race, disability, placement, age, and case manager.
      (4) Search options shall be available for all data fields collected, and these options shall be available at a variety of levels based upon user type.
      (5) The System shall be designed for data to be entered into the database only once and reused by the various applications.
      (6) The database shall be maintained and updated to accommodate additional data fields as determined by the State.
      (7) The Contractor shall supply the State with the ability to modify specified fields or lists within the System. This ability shall not interfere with any reports or the functionality of the System itself.
      (8) All collected data shall be exportable as per the assigned user type.
      (9) The System shall have interactive capability so that users at both LEA and State levels enter information into the applications.
      (10) The Contractor shall employ back-up and recovery data systems to ensure System integrity. The System shall be protected from cyber-attack and corruption in accordance with the terms and conditions of this Contract, including Section E.7.
      (11) Access to data shall be managed through the user type. Generally, State-level users will have access to statewide data and data from all LEAs; LEA-level users will only have access to data in the assigned LEA.
      (12) All data shall be able to be searched, viewed, and reported at both aggregate and disaggregate levels.
   b. The Contractor shall create, maintain, and update calculations for all reports and data sets identified in the System.
(1) The business rules for each calculation shall be submitted and approved by the State. All initial calculations and any revisions must be submitted to the State for review and approval in advance of release in order to ensure accuracy and must be tested and verified prior to release.

(2) Calculation revisions shall be made within five (5) business days after written notification and request of the State or by the effective date of the change, whichever comes first.

(3) The Contractor shall maintain the State’s funding options algorithm, in accordance with requirements provided by the State, within the System that correlates with specific services documented in each student’s IEP and revise as needed.

c. The Contractor shall create, maintain, and update a variety of standardized, interactive reports accessible and downloadable at both the State and LEA level.

(1) Report options shall be available on any data field collected in the System.

(2) The business rules used to create each report shall be submitted to and approved by the State. All initial reports, subsequent additional reports, and programming changes shall be submitted to the State for review and approval in advance in order to ensure that the data fields, screen layouts, and report layouts meet the State’s reporting requirements. Submissions and approvals shall be made via email.

(3) The Contractor shall provide reports as requested by the State. These requests will be classified as either High Priority or Low Priority and should be provided based upon the timelines outlined in the definitions.

(4) The System shall contain a Query Tool, accessible at both the State and LEA levels, that will capture and report data using parameters that are not included in other reports. This tool shall pull both historical and current data and contain all fields from all data tables within the database. This feature shall be available at the aggregate, LEA level, and student level.

(5) User access reports shall be available for download by the State and include all capture user data, all roles assigned to each user, creation date, revocation date (if applicable), and last log-in timestamp.

d. The Contractor shall supply a Dashboard feature that provides a snapshot of real-time data per selected fields at both the state and LEA levels. The data fields to be displayed shall be determined by the State.

e. The System shall calculate data for the State funding formula and send extract files to the State EIS and any other data systems necessary. This process shall be updated at no additional cost if the mechanism for state funding changes.

f. The Contractor shall provide semi-monthly secure data uploads from TEIDS of the IDEA Part C early childhood transition data to the System.

g. The Contractor shall ensure that any data provided by the LEA that is needed for Medicaid reimbursement is available for reporting.

A.11. **Compliance Monitoring:** The System shall provide an application specifically designed for the State to use for collection, analysis, tracking, and reporting of federal and State Monitoring data at both student and LEA levels.

a. The Contractor shall build and maintain an editable Storage Bank to house and organize the Protocol, organized by Response Item, Focus Area, and Review Item, Response Criteria, and document requirement field. The current Protocol will be provided to the Contractor by the State. The Protocol will be revised annually by the State and provided to the Contractor for update in the application.

(1) Based on the information received and working in conjunction with the State, the Contractor shall create a standard Excel or CSV format for the State to use in order for data to be accepted by the application to update the Protocol housed in the application.
(2) The Storage Bank shall have the ability to reprioritize, add, edit, and delete Protocol data by Excel or CSV upload.

(3) The Storage Bank shall have the ability to store Finding verbiage at the Focus Area level and student-level to be used in the Monitoring Results Report and reporting phase.

b. The Contractor shall develop an algorithm for the selection of student records to be monitored for the LEAs selected for Monitoring each year, which shall be approved by the State and updated as requested.

(1) The State shall determine the number of records to be monitored for each LEA and must have the ability to adjust this number by LEA or Wave.

(2) The State shall be able to run the algorithm independently of the Contractor if desired.

(3) The algorithm shall, at a minimum, be able to return records with the following parameters:
   i. Exclusion of service plans
   ii. Exclusion of out-of-state transfer students
   iii. Records that are active in the LEA for at least 90 days
   iv. Records that have not been included in a Monitoring in last two (2) years
   v. School
   vi. Age
   vii. Race
   viii. Disability
   ix. Setting
   x. Case managers
   xi. Isolation or restraint

c. The Contractor shall develop a process for LEAs to review and confirm the list of selected records, and access to this information shall be controlled by user types set by the State.

(1) This process shall include instructions and the ability for the LEA to confirm the biographical data uploaded is accurate and matches their records and confirm that the student is actively enrolled in the LEA.

(2) If inaccurate, the LEA shall have the ability to send a message or add a comment to notify a specified State-level user type, and the Contractor shall provide an alternate record.

(3) The list shall be viewable at the State-level, with all LEAs and associated student records displayed via a Search feature and at the LEA-level,

d. The Contractor shall develop a process for the student record review based upon the Protocol.

(1) A set of Focus Area review questions shall be standardized across all LEAs with the ability to review, edit, add, or delete questions and set a list of answers for each question before each Monitoring Cycle.

(2) Based on answers selected in the Focus Area review, the application shall logically display only the applicable Protocol Response Items.

(3) Some categories of questions shall appear based on age, type of IEP, assessment type, homebound status, or other Focus Area questions as determined by the State prior to each Monitoring Cycle.

e. The Contractor shall provide a logic-embedded form that connects with the Protocol to display the applicable Review Items organized as listed in the Protocol.

(1) Only users with the appropriate access may view this form.

(2) In addition to the data listed, an editable response dropdown field and comment section shall be available for each item. Dropdown responses of “no” shall require the user to make a comment to explain their answer, whereas responses other than “no” may bypass making a comment.

(3) If a comment is made, the application shall show the timestamp and user who made the comment.
f. The Contractor shall develop a process for the generation of a Monitoring Results Report based upon the results of the student record review.
   (1) The Monitoring Results Report shall be generated and organized by student ID, Response Item, category, action steps, required documentation, and any State comments written.
   (2) The results verbiage must generate from the Storage Bank.
   (3) Any Response Items designated as a Finding shall appear on the Monitoring Results Report.
   (4) The Monitoring Results Report shall generate from the pre-populated bank of verbiage but shall also be editable so that the designed user type can change pre-populated verbiage, dates, deadlines, instructions, and any other verbiage on the report.
   (5) A final, non-editable Monitoring Results Report shall be available for view by the LEA.
   (6) The ability for the State and LEA to confirm and acknowledge receipt of the Monitoring Results Report shall be included.

g. The Contractor shall develop a process for documenting the completion of the Corrective Actions required by the Monitoring Results.
   (1) LEAs shall be able to select when a Corrective Action occurred (via a date picker), describe the correction in greater detail and upload evidence, and submit the Corrective Actions to the State.
   (2) Designated State-level user types shall have the ability to review and approve the corrections or send them back to the LEA.
   (3) The Monitoring Results Report shall remain open until all items are approved by the designated State-level user type. Upon completion of all of the Corrective Action steps, the Monitoring Results Report will be closed.
   (4) Automated email reminders shall be sent periodically while a Monitoring Results Report is open, and an email/message sent when the Monitoring Results Report is closed.

h. A Queue shall be provided to all users assigned to a Monitoring user type. The Queue shall be displayed upon entry to the application to alert the user of action needed.

i. The Contractor shall write, test, and implement the necessary programming to incorporate the ability to store files or links to files on third-party applications identified by the State to ensure that final copies of any Monitoring Results Reports, closure letters, and comprehensive Findings reports are stored by LEA.
   (1) As a result of the functionality, users of other State third-party applications shall have the ability to seamlessly retrieve copies of files from the LEA document repository within the application at both the State and LEA levels.
   (2) The Contractor shall work collaboratively with the provider(s) of the other State third-party applications to gain the necessary information and understanding to complete the incorporation.

A.12. **Student Records Creation**: The Contractor shall develop an application for the creation of student-level records for all processes required by IDEA and state law (e.g., evaluation and eligibility documents, an IEP and amendments, an IEP progress report, procedural safeguard documents, a service plan for parentally placed private school students, early childhood records, restraint/isolation records, etc.) and for all processes required for other populations with unique learning needs (e.g., 504 plans, service plans for students enrolled in non-public schools, individual learning plans for English learners, health records, etc.). The State will provide templates for each record.
   a. The records creation process shall be user-focused and follow the workflow steps developed for the application and each of the records created.
   b. The application shall be logic-embedded so that documents needed will generate automatically and/or be flagged for completion.
c. All records created shall include compliance and validation features that indicate when fields are incomplete, when data are entered incorrectly, when items are due, or other compliance and validation features as requested by the State. The System shall:
   (1) Provide compliance symbols at the user, school, and student levels, and
   (2) Have the capability to email end users with compliance related information.

d. An error check system shall be provided to ensure that records are complete and compliant.

e. The workspace for the creation of the record shall mirror the printed version of the record whenever possible.

f. Records shall prepopulate with any data fields that have already been entered, adhering to the enter data once principle of data systems.

g. A standardized, automatic naming system shall be used so that records are consistently named when saved and can be accessed in other applications within the System.

h. A translation feature shall be provided for select records, and translation shall be available in a variety of languages, as determined by the State.

A.13. **Staging and Testing:** The Contractor shall provide a staging site to test the initial implementation and all updates or modifications to the System.

   a. The staging site shall be available to the State and LEAs for testing at least one (1) month prior to initial implementation and at least two (2) weeks prior to any updates or modifications.

   b. User Acceptance Testing shall occur with a set of State-level users determined by the State prior to implementation of the System and at the request of the State.

   c. All testing on the Contractor’s side shall be completed in a non-production environment before moving the System to production.

   d. The State-level testing site shall mirror the System as it will function to all users upon initial implementation and for all updates or modifications.

   e. The Contractor shall demonstrate during the testing window that the System or application of the System being tested is fully operational.

   f. The Contractor shall resolve any issues discovered during the testing window prior to the “go live” date by providing a final review of the System and receiving acceptance from the State.

   g. The Contractor shall ensure there are sufficient personnel available during testing and go live windows and will add personnel as needed to ensure all testing and go live deadlines are met.

A.14. **Data Migration and Continuity:** To the extent applicable, the Contractor shall ensure all historical data on the existing Tennessee IEP data management system is uploaded to the System and shall:

   a. Provide a detailed plan indicating the essential steps necessary to transition between the Contractor and the existing vendor. The Contractor shall:
      (1) Include the steps and timeline for the transition to avoid any disruption of services, deliverables to students, teachers, schools, LEAs and the State.
      (2) Work with the existing vendor as required by the State during the transition period.

   b. The Contractor shall have all data completely and accurately transferred as outlined in the Project Management Plan, but in no case later than June 1, 2023. The Contractor is responsible for ensuring the System has the capacity to accept transferred data and will be liable for any data not transferred by June 1, 2023.

   c. The Contractor shall cooperate fully with the State and the State’s vendors for any services that will impact or overlap with this Contract.
d. The Contractor shall cooperate fully with the State and any future vendor designated by the State to transition to any potential new Contract. This includes ensuring a smooth transition of data, records, content, and all other program documentation back to the State (and successor vendor) at the conclusion of the Contract Term.

A.15. **Training:** The Contractor shall provide training to the State and LEAs for the initial implementation of the System and annually throughout the term of the Contract.
   a. The Contractor shall provide in-person training of State staff of all components of the System for initial implementation and at least annually thereafter.
      (1) The Contractor shall provide training at least one (1) month before initial implementation and at least two (2) weeks before any changes or updates. The Contractor shall provide an annual review of the System, even if no changes have been made.
      (2) The Contractor shall provide training to new employees at any time upon request from the State.
   b. The Contractor shall provide LEA-level training on the System for initial implementation and annually thereafter. This training shall be a combination of in-person, on-line, and on-demand options at the discretion of the State.
      (1) The Contractor shall provide a minimum of eight (8) in-person trainings across the state for the initial implementation and a minimum of four (4) in-person trainings annually thereafter. The Contractor is responsible for all planning and costs associated with these trainings.
      (2) The Contractor shall provide a minimum of monthly on-line training options for the initial implementation and a minimum of quarterly options thereafter.
      (3) The Contractor shall develop a minimum of twenty (20) on-demand training options (i.e., video modules) that can be accessed through the System.
      (4) These modules shall be the property of the State of Tennessee and shall be modified by the Contractor for no additional charge at the request of the State.
   c. The Contractor shall provide user manuals for specified user types. These manuals shall be available in the System upon the release and revised as needed.
      (1) The manuals shall be submitted to the State for review, revision, and approval before publication.
      (2) Revisions of the manuals shall be provided within two (2) weeks of System modifications.
   d. All materials and presentations used for training shall be reviewed and approved by the State prior to use and shall include State branding.
      (1) The Contractor shall follow the State style guide, fonts, colors, icons, etc.
      (2) The timeframe for submission of the materials will be determined by the State based upon the level of review needed.
   e. Any materials or presentations used to train shall be provided to the State in a usable electronic format (.pptx for PowerPoints, .docx for Word documents). The State shall have a perpetual, nontransferable, nonexclusive, and royalty-free right and license to use these materials and presentations.

A.16. **Maintenance and Technical Support:** The Contractor shall provide maintenance, including updates and enhancements, and technical support for all applications in the Systems.
   a. All updates to the System shall be discussed with the State and confirmed with written State approval at least thirty (30) State business days before any changes are made, excluding those determined Critical. Critical updates shall be made immediately or on a timeframe agreed upon by the State.
   b. Any maintenance to the System that would make it unavailable to users between 7 a.m. CT and 5 p.m. CT shall be approved by the State.
   c. The Contractor shall develop a process that is approved by the State for requesting updates and reporting technical support issues.
(1) The requests shall be classified as High Priority or Low Priority and addressed accordingly.

(2) If the specified deadline cannot be met, the Contractor shall provide a description of how the problem will be corrected and the date it will be corrected, to be approved by the State.

(3) The Contractor shall ensure that personnel qualified to address the request are present at the initial meeting to avoid delays in completion.

d. The Contractor will correct all System deficiencies or discrepancies identified as required by the State, in accordance with the problem resolution procedures.

e. Updates required due to federal or state mandated changes shall be a High Priority.

f. The Contractor shall maintain a secure message board page within the System and provide technical support to State employees to help resolve message board posts.

   (1) The message board provides a messaging system wherein users can post a message, and the State or Contractor can respond electronically and copy other relevant users. An email notification shall be sent to the recipient.

   (2) The message board shall also provide the ability for the State and the Contractor to email all users.

   (3) The Contractor shall review the message board and respond to messages according to the designation (i.e., High Priority or Low Priority) made by the State.

   (4) The Contractor shall provide support for the message board when State personnel are unavailable.

g. The Contractor shall provide dedicated support for the System between 7 a.m. and 5 p.m. CDT, Monday through Friday throughout the term of this Contract.

h. The Contractor shall provide a mechanism, as approved by the State, that is available 24/7 for LEAs and the State to report system outages and other issues, particularly at night and on the weekend.

i. The Contractor shall provide timely technical support during high-volume times to include, but not limited to, the beginning and end of each school year. The State will determine what constitutes a high-volume time and may request availability for those times.

j. The Contractor shall meet with the State at least monthly to discuss updates and for technical support of each application provided.

k. The Contractor shall offer, as part of the maintenance services, all publicly available improvements and functionality of the System, as well as any new functions incorporated based on another state’s request, or that were part of the Contractor’s own improvement to System performance or features. These shall be approved by the State before implementation.

A.17. **System Hosting and Storage:** The Contractor shall host and store all current and historical data transferred to and retained in the System. Such data shall be stored with all requirements of law and this Contract including E.7.

   a. The System shall have the ability to store all current and historical data for the duration of a student’s educational record.

   b. Reports generated based upon federal and state rules, regulations, and laws shall be retained in the System indefinitely.

   c. The Contractor shall maintain nightly backups of all data and provide evidence of restoration testing using the regularly performed nightly backups.

A.18. All data, information and metadata collected by the State, furnished by the State to the Contractor, or collected by the Contractor in the course of the performance of work under this Contract shall be and remain the property of the State, and the Contractor shall neither have nor acquire any rights, title, interest or licenses therein by virtue of this Contract, excepting only a
limited license to use the data for purposes reasonably required for the performance of duties under this Contract and subject to confidentiality requirements with respect to the data.

a. The Contractor shall not utilize the data collected through this Contract, including with LEA users, except as specified in this Contract or approved by the State in writing.

A.19. The State retains full, final, and perpetual ownership rights to all content and materials developed by the Contractor for the State, or furnished by the State to the Contractor, for use in the System (e.g., user access forms, LEA resources).

a. No content, including forms, reports, etc., shall be modified or added to the System without approval from the State.

A.20. The State may request that the Contractor perform customization services under either of the following circumstances:

a. Prior to the State’s written acceptance of the completion of the System implementation, the State determines that functionality requested by the State was not specified in the original RFP, Contract, or specifications attached thereto. Such customizations shall be effected through a Change Order.

b. After the State’s written acceptance of the completion of the implementation phase, the State requires customizations to the software that the State determines were not specified in the original RFP, Contract, or specifications attached thereto. Such customizations shall be effected through a statement of work.

Examples of such customization requests include the following:

a. Code-level changes to the application
b. Changes in API configurations
c. Changes to the configuration functionality that arose as a result of customizations of other areas of the System.
d. Enhancements that the Contractor has made to other contracted systems for the State to determine if these enhancements are desired for use in Tennessee.

The State shall request customization services in accordance with either: (1) the Change Order process (A.21.), for changes prior to acceptance of implementation phase; or (2) the SOW process (A.22.), for changes identified after acceptance of the implementation phase. In either case the State shall compensate the Contractor in accordance with Contract Sections C.3.c. and C.3.d.

A.21. The State may, at its sole discretion and with written notice to the Contractor, request changes in the Scope that are necessary but were inadvertently unspecified in this Contract.

a. Change Order Creation—After receipt of a written request for additional services from the State, the Contractor shall respond to the State, within a maximum of ten (10) business days, with a written proposal for completing the service. Contractor’s proposal must specify:

   (1) the effect, if any, of implementing the requested change(s) on all other services required under this Contract;
   (2) the specific effort involved in completing the change(s);
   (3) the expected schedule for completing the change(s);
   (4) the maximum number of person hours required for the change(s); and
   (5) the maximum cost for the change(s)—this maximum cost shall in no instance exceed the product of the person hours required multiplied by the appropriate payment rate proposed for such work.

The Contractor shall not perform any additional service until the State has approved the proposal. If approved, the State will sign the proposal, and it shall constitute a Change Order between the Contract Parties pertaining to the specified change(s) and shall be incorporated, hereby, as a part of this Contract.
b. Change Order Performance—Subsequent to creation of a Change Order, the Contractor shall complete the required services. The State will be the sole judge of the acceptable completion of work and, upon such determination, shall provide the Contractor written approval.

c. Change Order Remuneration—The State will remunerate the Contractor only for acceptable work. All acceptable work performed pursuant to an approved Change Order, without a formal amendment of this Contract, shall be remunerated in accordance with and further limited by Contract Section C.3.c., PROVIDED THAT, the State shall be liable to the Contractor only for the cost of the actual goods or services provided to complete the necessary work, not to exceed the maximum cost for the change detailed in the Change Order. In no instance shall the State be liable to the Contractor for any amount exceeding the maximum cost specified by the Change Order authorizing the goods or services. Upon State approval of the work, the Contractor shall invoice the State in accordance with the relevant provisions of this Contract.


a. The State shall provide the Contractor with a Statement of Work ("SOW") describing the required services. The SOW will include, at a minimum, the following:

(1) SOW Date
(2) SOW Number
(3) Description of the project
(4) Required labor category, track and skill set
(5) Begin and End Dates
(6) Location where work will be performed
(7) Hardware and software provided by the State, if applicable
(8) Definition of completed work.

NOTE: The SOW must not have any terms and conditions.

b. Most services shall be performed within normal State business hours (8:00 AM to 4:30 PM CT); excluding weekends and State holidays. However, the State may require the Contractor personnel to work hours outside the normal State business hour timeframe. These hours will be mutually agreed to by the parties; however, the State will have final approval. A Contractor shall not be compensated for overtime hours worked without prior written approval from the State and then only at the payment rate submitted in response to the related SOW.

c. The State’s SOW, and subsequent purchase order ("PO"), will be the sole authorization for the requested services. The State will not sign or accept Contractor/manufacturer documents or agreements related to a specific services engagement.

d. The Contractor shall respond to the SOW with a written “Project Offer” that must include the following:

(1) complete description of the work to be performed as the Contractor understands it;
(2) the Contractor personnel’s proposed labor category, track and skill set;
(3) confirmation that necessary hardware and software provided by the State, if applicable;
(4) the Contractor must also provide a “not to exceed” total cost for the work in question. The State shall pay no more than, and the Contractor will not be required to provide services in excess of, this cost for the services engagement, unless the resulting SOW is amended by the State due to requirement changes, which may increase the maximum potential compensation due the Contractor for the requested services. The Contractor shall provide supporting documentation which lists the number of hours and materials, if applicable, that constitute the “not to exceed” cost;
(5) the Project Offer must not contain any terms and conditions.
e. The Contractor must accept SOW requests by email and must provide Project Offers by email as requested by the State. If the Project Offer will take longer than five (5) business days to compile, communication regarding the nature of the delay, along with a reasonable revised turnaround time request, must be sent within the five (5) business days window. Project Offers will remain in effect for thirty (30) calendar days and shall not include any tax from which the State is exempt.

f. The State shall be the sole determinate of the acceptability of work performed and delivered by the Contractor’s consultants. The Contractor shall not invoice the State until the State has provided the Contractor with written confirmation that the contractor’s work agreed to in the SOW is acceptable.

g. SOW Termination.

   (1) The State may terminate a SOW for convenience without cause and for any reason subject to the same notice provisions in Section D.5. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State and for services completed in accordance with the terms of the SOW as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor performed by the Contractor in accordance with the terms of the applicable SOW. In no event shall the State’s exercise of its right to terminate the applicable SOW for convenience relieve the Contractor of any liability to the State for any damages or claims arising under the SOW.

   (2) If any SOW is terminated pursuant to this Contract Section, this Contract shall continue to apply to all other SOWs that have not been terminated.

   (3) This section shall not limit the State’s right to terminate the Contract for convenience or cause in accordance with Sections D.5. and D.6. of this Contract.

A.23. 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.24. 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:

B.1. This Contract shall be effective for the period beginning on January 1, 2023, (“Effective Date”) and ending on December 31, 2027, (“Term”). The State shall have no obligation for goods delivered or services provided by the Contractor prior to the Effective Date.

B.2. Renewal Options. This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to two (2) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State’s sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of eight-four (84) months.

B.3. Term Extension. The State may extend the Term an additional period of time, not to exceed one hundred-eighty (180) days beyond the expiration date of this Contract, under the same terms and conditions, at the State’s sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of eight-four (84) months.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Written Dollar Amount ($Number) (“Maximum Liability”). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

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

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

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

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

<table>
<thead>
<tr>
<th>Goods or Services Description</th>
<th>Amount (per compensable increment)</th>
</tr>
</thead>
<tbody>
<tr>
<td>System Requirements Gathering Phase; Pro Forma Contract Scope of Services A.3.-A.12.</td>
<td>$ / upon completion</td>
</tr>
<tr>
<td>System Development/Configuration Phase; Pro Forma Contract Scope of Services A.3.-A.12.</td>
<td>$ / upon completion</td>
</tr>
<tr>
<td>System Testing and Training Phase Pro Forma Contract Scope of Services A.13.-A.15.</td>
<td>$ / upon completion</td>
</tr>
<tr>
<td>System Rollout Phase; Pro Forma Contract Scope of Services A.3.-A.17.</td>
<td>$ / upon completion</td>
</tr>
</tbody>
</table>
System Maintenance and Support; Pro Forma Contract Scope of Services A.16. $ / per month
System Hosting; Pro Forma Contract Scope of Services A.9. $ / per month
Addition of Applications to the System; Pro Forma Contract Scope of Services A.3. $ / per application
Annual Project Management Plan A.7. $ / per year
Additional Reports (not included in the initial implementation): Pro Forma Contract Scope of Services A.10. $ / per report
Annual Training and Training Materials (i.e., manuals, presentations, modules, etc.); Pro Forma Contract Scope of Services A.15. $ / per year

c. The Contractor shall be compensated for changes requested and performed pursuant to Contract Section A.20, without a formal amendment of this contract based upon the payment rates detailed in the schedule below and as agreed pursuant to said Section A.21, PROVIDED THAT compensation to the Contractor for such “change order” work shall not exceed seven percent (7%) of the sum of milestone payment rates detailed in Section C.3.b., above (which is the total cost for milestones set forth in Contract Sections A.3, A.9, A16.) If, at any point during the contract period, the State determines that the cost of necessary “change order” work would exceed the said maximum amount, the State may amend this Contract to address the need. The State is under no obligation to request work from the Contracting State Agency in any specific dollar amounts or to request any work at all from the Contracting State Agency during any period of this Contract.

<table>
<thead>
<tr>
<th>Service Description</th>
<th>Amount (per compensable increment)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scope changes via Change Orders; A.21.</td>
<td>$ Number / per hour</td>
</tr>
</tbody>
</table>

**NOTE:** The Contractor shall not be compensated for travel time to the primary location of service provision.

d. The Contractor shall be compensated for changes requested and performed pursuant to Contract Section A.21, customization services, without a formal amendment of this Contract based upon the payment rates detailed in the schedule below and as agreed pursuant to Section C, PROVIDED THAT compensation to the Contractor for such customization work shall not exceed five hundred sixty thousand dollars and zero cents ($560,000.00). If, at any point during the Term, the State determines that the cost of necessary customization services would exceed the maximum amount, the State may amend this Contract to address the need.

<table>
<thead>
<tr>
<th>Service Description</th>
<th>Amount (per compensable increment)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customization Services via SOW; A.21.</td>
<td>$ Number / per hour</td>
</tr>
</tbody>
</table>

**NOTE:** The Contractor shall not be compensated for travel time to the primary location of service provision.

C.4. **Travel Compensation.** The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.
C.5. Invoice Requirements. The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month, and no later than thirty (30) days after goods or services have been provided to the following address:

Crystal McCarver, Director of Contract Monitoring
Tennessee Department of Education
Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243
Crystal.McCarver@tn.gov
(615) 483-5060

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

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

b. Contractor’s invoices shall:

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

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

C.6. Payment of Invoice. A payment by the State shall not prejudice the State’s right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.
C.7. **Invoice Reductions.** The Contractor’s invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.

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

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

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

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

D. **MANDATORY TERMS AND CONDITIONS:**

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

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

The State:

Crystal McCarver, Director of Contract Monitoring  
Tennessee Department of Education  
Andrew Johnson Tower  
710 James Robertson Parkway  
Nashville, TN 37243  
Crystal.McCarver@tn.gov  
(615) 483-5060

The Contractor:

Contractor Contact Name & Title  
Contractor Name  
Address  
Email Address  
Telephone # Number  
FAX # Number
All instructions, notices, consents, demands, or other communications shall be considered effective upon receipt or recipient confirmation as may be required.

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

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

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

D.6. **Termination for Cause.** If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"), the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.

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

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

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

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

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

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

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

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

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

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

D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

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

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

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

D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.

D.16 Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act (“PPACA”) with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless from any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.

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

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

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

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

D.20. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Health Information Technology for

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Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Contract.

a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.

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

c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.

d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.

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

D.22. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.

D.23. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;

b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

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

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded, disqualified, or presently fall under any of the prohibitions of sections a-d.

D.24. **Force Majeure.** “Force Majeure Event” means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event and, only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor’s representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor’s performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees for the affected obligations until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.

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

D.26. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 408.

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

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

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

D.30. **Incorporation of Additional Documents.** Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor’s
duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:

a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;

b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes Attachment A and Attachment B;

c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;

d. the State solicitation, as may be amended, requesting responses in competition for this Contract;

e. any technical specifications provided to proposers during the procurement process to award this Contract; and

f. the Contractor's response seeking this Contract.

D.31. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, et seq., addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Contract. The Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

D.32. 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 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).

2) 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.

d. Professional Liability Insurance

1) 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:
   
i. 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;
   
ii. 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
   
iii. 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.

2) 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

3) 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.

d. Technology Professional Liability (Errors & Omissions)/Cyber Liability Insurance

1) The Contractor shall maintain technology professional liability (errors & omissions)/cyber liability insurance appropriate to the Contractor’s profession in an amount not less than ten million dollars ($10,000,000) per occurrence or claim and ten million dollars ($10,000,000) annual aggregate, covering all acts, claims, errors, omissions, negligence, infringement of intellectual property (including copyright, patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, information theft, damage to destruction of or alteration of electronic information, breach of privacy perils, wrongful disclosure and release of private information, collection, or other
negligence in the handling of confidential information, and including coverage for related regulatory fines, defenses, and penalties.

2) Such coverage shall include data breach response expenses, in an amount not less than ten million dollars ($10,000,000) and payable whether incurred by the State or Contractor, including but not limited to consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services and expenses in the performance of services for the State or on behalf of the State hereunder.

e. Crime Insurance
1) The Contractor shall maintain crime insurance, which shall be written on a "loss sustained form" or "loss discovered form" providing coverage for third party fidelity, including cyber theft and extortion. The policy must allow for reporting of circumstances or incidents that may give rise to future claims, include an extended reporting period of no less than two (2) years with respect to events which occurred but were not reported during the term of the policy, and not contain a condition requiring an arrest or conviction.

2) Any crime insurance policy shall have a limit not less than one million dollars ($1,000,000) per claim and one million dollars ($1,000,000) in the aggregate. Any crime insurance policy shall contain a Social Engineering Fraud Endorsement with a limit of not less than two hundred and fifty thousand dollars ($250,000). This insurance may be written on a claims-made basis, but in the event that coverage is cancelled or non-renewed, the Contractor shall purchase an extended reporting or "tail coverage" of at least two (2) years after the Term.

D.33. Major Procurement Contract Sales and Use Tax. Pursuant to Tenn. Code Ann. § 4-39-102 and to the extent applicable, the Contractor and the Contractor's subcontractors shall remit sales and use taxes on the sales of goods or services that are made by the Contractor or the Contractor's subcontractors and that are subject to tax.

D.34. 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 Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Contract.

D.35. Boycott of Israel. The Contractor certifies that it is not currently engaged in, and covenants that it will not, for the duration of the Contract, engage in a Boycott of Israel, as that term is defined in Public Chapter No. 775.

E. SPECIAL TERMS AND CONDITIONS:

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

E.2. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response.
to 33101-22074333136FAF5 (Attachment B) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor’s performance of this commitment by providing, as requested, a monthly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, service-disabled veterans, and persons with disabilities. Such reports shall be provided to the State of Tennessee Governor’s Office of Diversity Business Enterprise in the TN Diversity Software available online at: https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810.

E.3. **Intellectual Property Indemnity.** The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State concerning or arising out of any claim of an alleged patent, copyright, trade secret or other intellectual property infringement. In any such claim or action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any settlement or final judgment, and the Contractor shall be responsible for all legal or other fees or expenses incurred by the State arising from any such claim. The State shall give the Contractor notice of any such claim or suit, however, the failure of the State to give such notice shall only relieve Contractor of its obligations under this Section to the extent Contractor can demonstrate actual prejudice arising from the State’s failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106.

E.4. **Software License Warranty.** Contractor grants a license to the State to use all software provided under this Contract in the course of the State’s business and purposes.

E.5. **Software Support and Maintenance Warranty.** Contractor shall provide to the State all software upgrades, modifications, bug fixes, or other improvements in its software that it makes generally available to its customers.

E.6. **Extraneous Terms and Conditions.** Contractor shall fill all orders submitted by the State under this Contract. No purchase order, invoice, or other documents associated with any sales, orders, or supply of any good or service under this Contract shall contain any terms or conditions other than as set forth in the Contract. Any such extraneous terms and conditions shall be void, invalid and unenforceable against the State. Any refusal by Contractor to supply any goods or services under this Contract conditioned upon the State submitting to any extraneous terms and conditions shall be a material breach of the Contract and constitute an act of bad faith by Contractor.

E.7. **Contractor Hosted Services Confidential Data, Audit, and Other Requirements**

a. “Confidential State Data” is defined as data deemed confidential by State or Federal statute or regulation. The Contractor shall protect Confidential State Data as follows:

   (1) The Contractor shall ensure that all Confidential State Data is housed in the continental United States, inclusive of backup data.

   (2) The Contractor shall encrypt Confidential State Data at rest and in transit using the current version of Federal Information Processing Standard (“FIPS”) 140-2 validated encryption technologies.

   (3) The Contractor and the Contractor’s processing environment containing Confidential State Data shall either (1) be in accordance with at least one of the following security standards: (i) International Standards Organization (“ISO”) 27001; (ii) Federal Risk and Authorization Management Program (“FedRAMP”); or (2) be subject to an annual engagement by a CPA firm in accordance with the standards of the American Institute of Certified Public Accountants (“AICPA”) for a System and Organization Controls for service organizations (“SOC”) Type II audit. The State shall approve the SOC audit control objectives. The Contractor shall provide proof of current ISO certification or FedRAMP authorization for the
Contractor and Subcontractor(s), or provide the State with the Contractor’s and Subcontractor’s annual SOC Type II audit report within 30 days from when the CPA firm provides the audit report to the Contractor or Subcontractor. The Contractor shall submit corrective action plans to the State for any issues included in the audit report within 30 days after the CPA firm provides the audit report to the Contractor or Subcontractor.

If the scope of the most recent SOC audit report does not include all of the current State fiscal year, upon request from the State, the Contractor must provide to the State a letter from the Contractor or Subcontractor stating whether the Contractor or Subcontractor made any material changes to their control environment since the prior audit and, if so, whether the changes, in the opinion of the Contractor or Subcontractor, would negatively affect the auditor’s opinion in the most recent audit report.

No additional funding shall be allocated for these certifications, authorizations, or audits as these are included in the Maximum Liability of this Contract.

(4) The Contractor must annually perform Penetration Tests and Vulnerability Assessments against its Processing Environment. “Processing Environment” shall mean the combination of software and hardware on which the Application runs. “Application” shall mean the computer code that supports and accomplishes the State’s requirements as set forth in this Contract. “Penetration Tests” shall be in the form of attacks on the Contractor’s computer system, with the purpose of discovering security weaknesses which have the potential to gain access to the Processing Environment’s features and data. The “Vulnerability Assessment” shall be designed and executed to define, identify, and classify the security holes (vulnerabilities) in the Processing Environment. The Contractor shall allow the State, at its option, to perform Penetration Tests and Vulnerability Assessments on the Processing Environment.

(5) Upon State request, the Contractor shall provide a copy of all Confidential State Data it holds. The Contractor shall provide such data on media and in a format determined by the State.

(6) Upon termination of this Contract and in consultation with the State, the Contractor shall destroy all Confidential State Data it holds (including any copies such as backups) in accordance with the current version of National Institute of Standards and Technology (“NIST”) Special Publication 800-88. The Contractor shall provide a written confirmation of destruction to the State within ten (10) business days after destruction.

b. Minimum Requirements

(1) The Contractor and all data centers used by the Contractor to host State data, including those of all Subcontractors, must comply with the State’s Enterprise Information Security Policies as amended periodically. The State’s Enterprise Information Security Policies document is found at the following URL: https://www.tn.gov/finance/strategic-technology-solutions/strategic-technology-solutions/sts-security-policies.html.

(2) The Contractor agrees to maintain the Application so that it will run on a current, manufacturer-supported Operating System. “Operating System” shall mean the software that supports a computer’s basic functions, such as scheduling tasks, executing applications, and controlling peripherals.

(3) If the Application requires middleware or database software, Contractor shall maintain middleware and database software versions that are at all times fully...
compatible with current versions of the Operating System and Application to ensure that security vulnerabilities are not introduced.

c. Comptroller Audit Requirements

Upon reasonable notice and at any reasonable time, the Contractor and Subcontractor(s) agree to allow the State, the Comptroller of the Treasury, or their duly appointed representatives to perform information technology control audits of the Contractor and all Subcontractors used by the Contractor. Contractor will maintain and cause its Subcontractors to maintain a complete audit trail of all transactions and activities in connection with this Contract. Contractor will provide to the State, the Comptroller of the Treasury, or their duly appointed representatives access to Contractor and Subcontractor(s) personnel for the purpose of performing the information technology control audit.

The information technology control audit may include a review of general controls and application controls. General controls are the policies and procedures that apply to all or a large segment of the Contractor’s or Subcontractor’s information systems and applications and include controls over security management, access controls, configuration management, segregation of duties, and contingency planning. Application controls are directly related to the application and help ensure that transactions are complete, accurate, valid, confidential, and available. The audit shall include the Contractor’s and Subcontractor’s compliance with the State’s Enterprise Information Security Policies and all applicable requirements, laws, regulations or policies.

The audit may include interviews with technical and management personnel, physical inspection of controls, and review of paper or electronic documentation.

For any audit issues identified, the Contractor and Subcontractor(s) shall provide a corrective action plan to the State within 30 days from the Contractor or Subcontractor receiving the audit report.

Each party shall bear its own expenses incurred while conducting the information technology controls audit.

d. Business Continuity Requirements. The Contractor shall maintain set(s) of documents, instructions, and procedures which enable the Contractor to respond to accidents, disasters, emergencies, or threats without any stoppage or hindrance in its key operations (“Business Continuity Requirements”). Business Continuity Requirements shall include:

(1) "Disaster Recovery Capabilities" refer to the actions the Contractor takes to meet the Recovery Point and Recovery Time Objectives defined below. Disaster Recovery Capabilities shall meet the following objectives:

i. Recovery Point Objective ("RPO"). The RPO is defined as the maximum targeted period in which data might be lost from an IT service due to a major incident: 2-4 hours

ii. Recovery Time Objective ("RTO"). The RTO is defined as the targeted duration of time and a service level within which a business process must be restored after a disaster (or disruption) in order to avoid unacceptable consequences associated with a break in business continuity: 8-12 hours

(2) The Contractor and the Subcontractor(s) shall perform at least one Disaster Recovery Test every three hundred sixty-five (365) days. A "Disaster Recovery Test" shall mean the process of verifying the success of the restoration procedures that are executed after a critical IT failure or disruption occurs. The
Disaster Recovery Test shall use actual State Data Sets that mirror production data, and success shall be defined as the Contractor verifying that the Contractor can meet the State’s RPO and RTO requirements. A “Data Set” is defined as a collection of related sets of information that is composed of separate elements but can be manipulated as a unit by a computer. The Contractor shall provide written confirmation to the State after each Disaster Recovery Test that its Disaster Recovery Capabilities meet the RPO and RTO requirements.

E.8. **Family Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency and Accountability Act.** The Contractor shall comply with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232(g)) and its accompanying regulations (34 C.F.R. § 99) (“FERPA”). The Contractor warrants that the Contractor is familiar with FERPA requirements and that it will comply with these requirements in the performance of its duties under this Contract. The Contractor agrees to cooperate with the State, as required by FERPA, in the performance of its duties under this Contract. The Contractor agrees to maintain the confidentiality of all education records and student information. The Contractor shall only use such records and information for the exclusive purpose of performing its duties under this Contract. The obligations set forth in this Section shall survive the termination of this Contract.

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

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

E.9. **Lobbying.** The Contractor certifies, to the best of its knowledge and belief, that:

a. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.
E.10. **Liquidated Damages.** If any of the following occurs, ("Liquidated Damages Event"), the State may assess damages on Contractor ("Liquidated Damages").

- The Contractor fails to deliver the initial Project Management Plan within fifteen (15) business days of Contract execution or annually thereafter.
- The Contractor fails to deliver the System by the agreed upon deadline with the State.
- The Contractor fails to provide a functioning user access system.
- The Contractor fails to provide a staging site for testing at least one (1) month prior to implementation or two (2) weeks prior to updates or modifications.
- The Contractor fails to collect data or have data available for access.
- The Contractor fails to employ accurate calculations for reports and data sets.
- The Contractor fails to provide a System that generates the interactive reports specified.
- The Contractor fails to backup data and/or data is lost.
- The Contractor fails to provide an algorithm that correctly identifies records to be reviewed.
- The Contractor fails to provide a functioning process for student record reviews based upon the Protocol.
- The Contractor fails to provide a functioning process to generate Monitoring Results Reports.
- The Contractor fails to provide a functioning process for Corrective Actions to be documented by the LEA.
- The Contractor fails to provide a System that can generate all the records as specified by the State.
- The Contractor fails to maintain a 99.86% uptime on an annual basis, exclusive of agreed upon planned maintenance windows, downtime due to force majeure, or other State approved downtime windows.
- In case of failure, the Contractor fails to restore the system to the defined RPO (Recovery Point Objective) with the RTO (Recovery Time Objective) window.
- The Contractor fails to have all the data completely and accurately transferred by June 1, 2023.

The State shall notify the Contractor of amounts to be assessed as Liquidated Damages. The Parties agree that due to the complicated nature of the Contractor’s obligations under this Contract it would be difficult to specifically designate a monetary amount for Contractor’s failure to fulfill its obligations regarding the Liquidated Damages Event as these amounts are likely to be uncertain and not easily proven. Contractor has carefully reviewed the Liquidated Damages contained in Attachment C and agrees that these amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of a Liquidated Damages Event, and are a reasonable estimate of the damages that would occur from a Liquidated Damages Event. The Parties agree that the Liquidated Damages represent solely the damages and injuries sustained by the State in losing the benefit of the bargain with Contractor and do not include any injury or damage sustained by a third party. The Contractor agrees that the Liquidated Damages are in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or any other sections of this Contract.

The State is not obligated to assess Liquidated Damages before availing itself of any other remedy. The State may choose to discontinue Liquidated Damages and avail itself of any other remedy available under this Contract or at law or equity.

E.11. **Personally Identifiable Information.** While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Contract, "PII" includes “Nonpublic Personal Information” as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its...
employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor’s policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify or ensure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State’s direction at any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

The Contractor shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Contractor ("Unauthorized Disclosure") that come to the Contractor’s attention. Any such report shall be made by the Contractor within twenty-four (24) hours after the Unauthorized Disclosure has come to the attention of the Contractor. Contractor shall take all necessary measures to halt any further Unauthorized Disclosures. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract or otherwise available at law. The obligations set forth in this Section shall survive the termination of this Contract.

E.12. Federal Funding Accountability and Transparency Act (FFATA). This Contract requires the Contractor to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Contractor provides information to the State as required.

The Contractor shall comply with the following:

a. Reporting of Total Compensation of the Contractor’s Executives.

(1) The Contractor shall report the names and total compensation of each of its five most highly compensated executives for the Contractor’s preceding completed fiscal year, if in the Contractor’s preceding fiscal year it received:

i. 80 percent or more of the Contractor’s annual gross revenues from federal procurement contracts and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

ii. $25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S.

As defined in 2 C.F.R. § 170.315, “Executive” means officers, managing partners, or any other employees in management positions.

(2) Total compensation means the cash and noncash dollar value earned by the executive during the Contractor’s preceding fiscal year and includes the following (for more information see 17 C.F.R. § 229.402(c)(2)):

i. Salary and bonus.

ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings on deferred compensation which is not tax qualified.

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

b. The Contractor must report executive total compensation described above to the State by the end of the month during which this Contract is awarded.

c. If this Contract is amended to extend the Term, the Contractor must submit an executive total compensation report to the State by the end of the month in which the term extension becomes effective.

d. The Contractor will obtain a Data Universal Numbering System (DUNS) number and maintain its DUNS number for the term of this Contract. More information about obtaining a DUNS Number can be found at: http://fedgov.dnb.com/webform/

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

E.13. License. State hereby grants to Contractor the non-exclusive, non-transferable license, privilege and authority to use the Property in connection with the project as approved, set out in this Contract at Section A.4.e. all other rights being reserved to State for the Term of this contract as provided below.

a. Property. The “Property” licensed State Seal and Tennessee Department of Education logo mark:
i. Exclusivity. None.

ii. Territory. Worldwide.

b. **Term.** Contractor shall begin to use the Property as set out in Contract Section A.4.e and shall cease upon termination of the Contract unless otherwise agreed to herein.

c. **Use Limitations and Collateral Materials.** The Property may be used on signs, promotional materials, marketing materials, Contractor’s visitor website, and/or as otherwise set out in Contract [insert Contract #], Section A.4.e. The License also includes the right to create and use promotional, advertising and packing material in connection with marketing of the services. In advertising and promoting with use of the Property, Contractor shall seek prior approval as set out in this Section. The Contractor does not have any rights to use the Property on any consumer products or merchandise rights.

d. **Use of Signage and Other Materials.** Upon expiration of this License, Contractor shall cease use of the Property on current materials. If this License is terminated earlier than contemplated by this Contract, Contractor and State shall negotiate in good faith the wind up of the License.

e. **Sub-licensing.** Sub-licensing is not allowed.

f. **Approvals.** All use of the Property shall require State’s prior written approval. Failure to obtain approvals at all stages shall be cause for termination of Contractor’s use of the Property, only, and not the remainder of the Contract unless failure to use the Property results in a material breach.

g. **Intellectual Property Notices.** The Property shall always be displayed with the “®” symbol and the following notice shall appear, where space permits, on all marketing or collateral materials bearing the Property:

The State Seal and Tennessee Department of Education logo is a registered trademark and is used under license to the Contractor.

h. **Exclusive Property of State.** The Property is and shall remain the exclusive property of State and all rights arising from the use of the Property, shall inure to State. Contractor acknowledges that it does not now have and in the future will not assert any right, title or interest of any kind or nature whatsoever in or to the Property nor will it change or contest any of State’s rights therein.
i. **Royalty Rate.** This License shall be royalty free.

IN WITNESS WHEREOF,

**CONTRACTOR LEGAL ENTITY NAME:**

<table>
<thead>
<tr>
<th>CONTRACTOR SIGNATURE</th>
<th>DATE</th>
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PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

**TENNESSEE DEPARTMENT OF EDUCATION:**

<table>
<thead>
<tr>
<th>DR. PENNY SCHWINN, COMMISSIONER</th>
<th>DATE</th>
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**ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

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<tr>
<td>EDISON VENDOR IDENTIFICATION NUMBER:</td>
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The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

**CONTRACTOR SIGNATURE**

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. Attach evidence documenting the individual’s authority to contractually bind the Contractor, unless the signatory is the Contractor’s chief executive or president.

**PRINTED NAME AND TITLE OF SIGNATORY**

**DATE OF ATTESTATION**
<table>
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<tr>
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<td>Enter assessed monetary amount if the Liquidated Damages Event occurs (e.g., one thousand dollars ($1,000.00) for each day beyond the deadline that any service deliverable is not completed).</td>
<td>Explain how the liquidated damages amount was selected. Reminder: assessment amounts should be a reasonable estimate of the damages that would occur from the Liquidated Damages Event.</td>
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<td>1. A.5. Technical Specifications- The Contractor fails to maintain a 99.86% uptime on an annual basis, exclusive of agreed upon planned maintenance windows, downtime due to force majeure, or other State approved downtime windows.</td>
<td>The Contractor shall reduce annual hosting invoice costs by eight thousand and five hundred dollars ($8,500) for each percentage below the required service level.</td>
<td>System availability is needed to ensure end users have access to resources within System 24 X 7 X 365.</td>
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<td>2. A.7. Project Management Plan and Schedule- The Contractor fails to deliver the initial Project Management Plan within 15 business days of Contract execution or annually thereafter.</td>
<td>$13,000 for each business day beyond the established data for submission that the initial Project Management Plan or annual Project Management Plan is not submitted to the State; not to exceed five (5) business days ($65,000)</td>
<td>The Project Management Plan is imperative to the initial implementation of the System and must be developed before any work can begin. A delay in the submission would result in a delay in the implementation schedule. A delay in the development of the annual Project Management Plan would result in a delay in changes or updates that may be necessary for the functioning of the System, which could result in failing to meet required reporting timelines.</td>
</tr>
<tr>
<td>3. A.7. Project Management Plan and Schedule-The Contractor fails to deliver the System by the agreed upon deadline with the State.</td>
<td>$65,000 for each business day beyond the go-live date that the System is not operational; not to exceed five (5) days ($325,000)</td>
<td>A functioning System is essential to the scope of this Contract. A delay in the implementation of the system would cause a significant disruption to LEAs. The inability to collect data, create records, and generate reports could produce a lack of compliance with state and federal requirements and potentially result in loss of funding.</td>
</tr>
<tr>
<td>4. A.8. User Access- The Contractor fails to provide a functioning user access system.</td>
<td>$13,000 for each business day that users are unable to access the system; not to exceed five (5) business days ($65,000)</td>
<td>Lack of access to the System would result in the inability to utilize the various applications, resulting in the need to duplicate the work in other ways including manually.</td>
</tr>
<tr>
<td>5. A.13. Staging and Testing- The Contractor fails to provide a staging site for testing at least one (1) month prior to</td>
<td>$13,000 for each business day beyond the established delivery date that the staging site is not available for testing; not to</td>
<td>The implementation involves a specific timeline, and it is imperative that the System be tested thoroughly before</td>
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Implementation or two (2) weeks prior to updates or modifications. exceed five (5) business days ($65,000) implementation to avoid as many potential problems as possible. A delay in access to the staging site would delay the implementation and updates that impact meeting state and federal reporting requirements.

6. A.10. (a) Data Collection - The Contractor fails to collect data or have data available for access. $13,000 for each business day that data is unable to be collected or accessed, except during normal maintenance times; not to exceed five (5) business days ($65,000) Data collection and access is a critical element of the System, and the inability to collect data or make it available impacts the ability of the State to utilize the data for various state and federal requirements. Duplicate work will be needed to complete these requirements.

7. A.10 (b) Data Management- The Contractor fails to employ accurate calculations for reports and data sets. $13,000 for each business day that the calculations are not correct; not to exceed five (5) business days ($65,000) The calculations employed are essential and critical to the utilization of the System for state and federal reporting requirements. There are specified timelines for this required reporting, and a delay in the accurate calculations would result in the need to calculate the information by other means and require additional manpower while also potentially leading to disruptions in reporting requirements.

8. A.10. (c) Reporting- The Contractor fails to provide a System that generates the interactive reports specified. $13,000 for each business day that the report functions are not available or provide inaccurate reports; not to exceed five (5) business days ($65,000) The reports are essential and critical to the utilization of the System for state and federal reporting requirements. The inability to run reports would cause a disruption to report data that must be provided to OSEP. This delay would result in the need to calculate the information by other means and create a significant burden for the State.

9. A.10 (e) Storage- The Contractor fails to backup data and/or data is lost. $65,000 for each occurrence of data loss, not to exceed five (5) occurrences ($325,000) The loss of data would place a significant financial burden on the State and the LEAs due to the resources needed to reenter the lost data. A disruption in the data could cause issues with state and local funding.
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10. A.11. (b) Compliance Monitoring-The Contractor fails to provide an algorithm that correctly identifies records to be reviewed.

- **Liquidated Damages Amount**: $13,000 for each business day beyond the established delivery date; not to exceed five (5) business days ($65,000)
- **Method used to estimate**: The identification of records is the first step of the Monitoring process, and a delay in the accurate functioning of the algorithm would result in a delay in the beginning of the process. Due to the timeliness of the process, a delay could cause significant burdens on the State and the LEAs.

11. A.11. (d) Compliance Monitoring-The Contractor fails to provide a functioning process for student record reviews based upon the Protocol.

- **Liquidated Damages Amount**: $13,000 for each business day that the application is unavailable for use beyond the established delivery date, except for normal maintenance times; not to exceed five (5) business days ($65,000)
- **Method used to estimate**: This is the essential function of the Monitoring application. An issue with its functioning would halt the monitoring process, and the State would incur significant labor costs to complete a paper review instrument, rather than an electronic, streamlined instrument.

12. A.11. (e) Compliance Monitoring-The Contractor fails to provide a functioning process to generate Monitoring Results Reports.

- **Liquidated Damages Amount**: $13,000 for each business day that Monitoring Results Reports cannot be generated beyond the established delivery date: not to exceed five (5) business days ($65,000)
- **Method used to estimate**: The inability to generate the reports would result in the need to develop another means to communicate the results and place a significant burden on the State.

13. A.11. (f) Compliance Monitoring- The Contractor fails to provide a functioning process for Corrective Actions to be documented by the LEA.

- **Liquidated Damages Amount**: $13,000 for each business day that the process for Corrective Actions is unavailable beyond the established delivery date; not to exceed five (5) business days ($65,000)
- **Method used to estimate**: The inability to document completion of Corrective Actions in the System would result in the need to develop another means for documentation reviews and place a significant burden on the State and LEAs.

14. A.12. Student Records Creation-The Contractor fails to provide a System that can generate all the records as specified by the State.

- **Liquidated Damages Amount**: $65,000 for each business day beyond the go-live date that the System is not operational; not to exceed five (5) days ($325,000)
- **Method used to estimate**: The student records creation is imperative to meet federal and state requirements, and a failure would be a significant disruption to the ability of the State and the LEAs to meet with needs of students as required by law.

15. A.12. Technical Specifications- The Contractor fails to maintain a 99.86% uptime on an annual basis, exclusive of agreed upon planned maintenance windows, downtime due to force majeure, or other State approved downtime windows.

- **Liquidated Damages Amount**: The Contractor shall reduce annual hosting invoice costs by eight thousand and five hundred dollars ($8,500) for each percentage below the required service level.
- **Method used to estimate**: System availability is needed to ensure end users have access to resources within System 24 X 7 X 365.
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16. E.7. Recovery Point Objective - In case of failure, the Contractor fails to restore the system to the defined RPO (Recovery Point Objective) within the RTO (Recovery Time Objective) window.

- $550 for each hour Contractor fails to restore the system beyond RTO. For each 24 hr period beyond the RPO, the Contractor shall reduce annual hosting invoice costs by an equal corresponding percentage.
- System availability is needed to ensure end users have access to resources within System 24 X 7 X 365.

17. A.14. Data Migration and Continuity-The Contractor fails to have all the data completely and accurately transferred by June 1, 2023.

- $65,000 for each business day beyond June 1, 2023, that the data is not transferred due to Contractor’s fault; not to exceed five (5) days or ($325,000)
- The transfer of the current data to the new System is vital to the functioning and use of the System. A failure to accurately and completely transfer the data would be a significant disruption to the ability of the State and the LEAs to meet with needs of students as required by law.