REQUEST FOR PROPOSALS
FOR
TENNESSEE TOBACCO QUITLINE SERVICES

RFP # 34352-50419

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1. **INTRODUCTION**

The State of Tennessee, Department of Health, 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**

Tobacco use is the leading cause of preventable death in Tennessee, claiming an average of 30 Tennesseans’ lives each day. As a result, many Tennesseans suffer from cancer, emphysema, heart disease, stroke, and other smoking-related diseases. The Tennessee Department of Health (TDH) considers preventing tobacco use to be an urgent public health concern and one of the top four priorities of the department to help improve the health of Tennesseans.

TDH funds the statewide toll-free Tennessee Tobacco Quitline (TTQL) which focuses on reduction and elimination of tobacco use and exposure to secondhand smoke. The purpose of the cessation program is aligned with Healthy People 2020 outcomes which focus on reducing the burden of tobacco-related deaths and adverse health outcomes because of exposure to secondhand smoke.

The Tobacco Use, Prevention and Control Program (TUPCP) manages the Tennessee Tobacco Quitline (TTQL), a free, statewide telephone- and digital-based tobacco cessation counseling program for tobacco users that began in 2001 as one effort to protect, promote, and improve the health and prosperity of people in Tennessee. Tobacco users contacting the TTQL may receive information about quitting, eligibility screening to receive a free two (2) week supply of Nicotine Replacement Therapy (NRT), referrals to local tobacco cessation programs, and their eligibility for up to five (5) proactive counseling sessions.

Tennessee’s adult tobacco use population is estimated to be approximately 1,142,278. In 2017, TTQL received 18,702 calls from Tennessee residents, averaging approximately 1,560 calls per month, with the highest volume occurring during the CDC’s TIPS from Former Smokers Campaign, which ran from January 9, 2017 to July 30, 2017. An average of 1,440 more calls per month were received during TIPS campaign months compared to the non-campaign months.

In 2017, the TTQL enrolled 4,866 unique individuals by phone or online. Of enrollees, 3,838 (78.9%) received either counseling or NRT services. Approximately 13 percent of individuals enrolled in TTQL services were referred by their medical provider.

<table>
<thead>
<tr>
<th>Service Type</th>
<th>Number</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone Counseling</td>
<td>4,071</td>
<td>76.0</td>
</tr>
<tr>
<td>Information Only</td>
<td>555</td>
<td>10.4</td>
</tr>
<tr>
<td>Online Counseling</td>
<td>637</td>
<td>11.9</td>
</tr>
<tr>
<td>Face to Face Counseling Referral</td>
<td>80</td>
<td>1.5</td>
</tr>
<tr>
<td>Calling for Someone Else (Proxy)</td>
<td>14</td>
<td>0.3</td>
</tr>
</tbody>
</table>

1. Campaign for Tobacco Free Kids, 2018
* “Encounter” refers to any patient interaction with TTQL services. A unique patient may access more than one type of service or the same service more than once during the calendar year.

1.1.2. The total maximum liability of the contract awarded, excluding renewal options, pursuant to this RFP is estimated not to exceed One Million Three Hundred Five Thousand Dollars ($1,305,000.00).

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 # 34352-50419

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:

Tara Roark, Solicitation Coordinator  
Division of General Services  
Central Procurement Office  
WRS Tennessee Tower, 3rd Floor  
312 Rosa L. Parks Avenue  
Nashville, TN 37243-1102  
(615) 532-1837  
Tara.Roark@TN.gov

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

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

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

Helen Crowley, Compliance Team Lead
Division of General Services
Central Procurement Office
WRS Tennessee Tower, 3rd Floor
312 Rosa L. Parks Avenue
Nashville, TN  37243-1102
(615) 741-3836
Helen.Crowley@tn.gov

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

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

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

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

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

1.4.8. The State reserves the right to determine, at its sole discretion, the appropriateness and adequacy of responses to written comments, questions, and requests related to this RFP. The State’s official, written responses will constitute an amendment of this RFP.

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

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

1.6. Respondent Required Review & Waiver of Objections

1.6.1. Each prospective Respondent must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.6., 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:

Central Procurement Office
Department of General Services
WRS Tennessee Tower, 3rd Floor, Conference Room G
312 Rosa L. Parks Avenue
Nashville, TN 37243-1102

Via WebEx:

Wednesday, Jul 24, 2019 1:00 pm | 1 hour | (UTC-06:00) Central Time (US & Canada)
Meeting number: 649 230 429
Password: Quitline
https://tngov.webex.com/tngov/j.php?MTID=md9d743a07559b1ca9b28b2136861af05

Join by video system
Dial 649230429@tngov.webex.com
You can also dial 173.243.2.68 and enter your meeting number.

Join by phone
+1-415-655-0003 US TOLL
Access code: 649 230 429

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>July 18, 2019</td>
</tr>
<tr>
<td>2. Disability Accommodation Request Deadline</td>
<td>2:00 p.m.</td>
<td>July 23, 2019</td>
</tr>
<tr>
<td>3. Pre-response Conference</td>
<td>1:00 p.m.</td>
<td>July 24, 2019</td>
</tr>
<tr>
<td>4. Notice of Intent to Respond Deadline</td>
<td>2:00 p.m.</td>
<td>July 25, 2019</td>
</tr>
<tr>
<td>5. Written “Questions &amp; Comments” Deadline</td>
<td>2:00 p.m.</td>
<td>August 1, 2019</td>
</tr>
<tr>
<td>6. State Response to Written “Questions &amp; Comments”</td>
<td></td>
<td>August 14, 2019</td>
</tr>
<tr>
<td>7. Response Deadline</td>
<td>2:00 p.m.</td>
<td>September 4, 2019</td>
</tr>
<tr>
<td>8. State Completion of Technical Response Evaluations</td>
<td></td>
<td>September 19, 2019</td>
</tr>
<tr>
<td>9. State Opening &amp; Scoring of Cost Proposals</td>
<td>8:30 a.m.</td>
<td>September 20, 2019</td>
</tr>
<tr>
<td>10. Negotiations (Optional)</td>
<td></td>
<td>September 20 - October 1, 2019</td>
</tr>
<tr>
<td>11. State Notice of Intent to Award Released and RFP Files Opened for Public Inspection</td>
<td>2:00 p.m.</td>
<td>October 2, 2019</td>
</tr>
<tr>
<td>12. End of Open File Period</td>
<td></td>
<td>October 9, 2019</td>
</tr>
<tr>
<td>13. State sends contract to Contractor for signature</td>
<td></td>
<td>October 10, 2019</td>
</tr>
<tr>
<td>14. Contractor Signature Deadline</td>
<td>2:00 p.m.</td>
<td>October 17, 2019</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 must use the RFP Attachment 6.2., Technical Response & Evaluation Guide to organize, reference, and draft the Technical Response by duplicating the attachment, adding appropriate page numbers as required, and using the guide as a table of contents covering the Technical Response.

3.1.1.2. A Technical Response should be economically prepared, with emphasis on completeness and clarity, and should NOT exceed 30 pages in length (maps, graphs, charts, as noted and included as an appendix will not count against this page limit). A response, as well as any reference material presented, must be written in English and must be written on standard 8½” x 11” pages (although oversize exhibits are permissible) and all text must be at least a 12 point font. 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 in a sealed package separate from the Technical Response (as detailed in RFP Sections 3.2.3., et seq.).

3.2. **Response Delivery**

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

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

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

   “RFP # 34352-50419 TECHNICAL RESPONSE ORIGINAL”

   and three (3) digital copies of the Technical Response each in the form of one (1) digital document in "PDF" format properly recorded on its own otherwise blank, USB flash drive labeled:

   “RFP # 34352-50419 TECHNICAL RESPONSE COPY”

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

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

   “RFP # 34352-50419 COST PROPOSAL ORIGINAL”

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

   “RFP # NUMBER COST PROPOSAL COPY”

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

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

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

   “DO NOT OPEN… RFP # 34352-50419 TECHNICAL RESPONSE FROM [RESPONDENT LEGAL ENTITY NAME]”
3.2.3.2. The Cost Proposal original document and digital copy must be placed in a separate, sealed package that is clearly labeled:

"DO NOT OPEN... RFP # 34352-50419 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 # 34352-50419 SEALED TECHNICAL RESPONSE & SEALED COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]"

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

Tara Roark, Solicitation Coordinator  
Division of General Services  
Central Procurement Office  
WRS Tennessee Tower, 3rd Floor  
312 Rosa L. Parks Avenue  
Nashville, TN 37243-1102

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.

3.4. **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.

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</td>
<td>30</td>
</tr>
<tr>
<td>(refer to RFP Attachment 6.2., Section B)</td>
<td></td>
</tr>
<tr>
<td>Technical Qualifications, Experience &amp; Approach</td>
<td>40</td>
</tr>
<tr>
<td>(refer to RFP Attachment 6.2., Section C)</td>
<td></td>
</tr>
<tr>
<td>Cost Proposal</td>
<td>30</td>
</tr>
<tr>
<td>(refer to RFP Attachment 6.3.)</td>
<td></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. 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 a contract with the apparent best evaluated Respondent, the State reserves the right to bypass the apparent best evaluated Respondent and enter into contract negotiations with the next apparent best evaluated Respondent.
5.2.4. **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 negotiation prior to Contract signing and, as a result, revise the *pro forma* contract terms and conditions or performance requirements in the State’s best interests, PROVIDED THAT such revision of terms and conditions or performance requirements shall NOT materially affect the basis of response 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 # 34352-50419 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:

RFP # 34352-50419
Page 17
**TECHNICAL RESPONSE & EVALUATION GUIDE**

**SECTION A: MANDATORY REQUIREMENTS.** The Respondent must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below.

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

<table>
<thead>
<tr>
<th>Item Ref.</th>
<th>Section A— Mandatory Requirement Items</th>
<th>Pass/Fail</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.1.</td>
<td>Provide the Statement of Certifications and Assurances (RFP Attachment 6.1.) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification.</td>
<td></td>
</tr>
<tr>
<td>A.2.</td>
<td>Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall cause to deliver goods or perform services under the contract has a possible conflict of interest (e.g., employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.</td>
<td></td>
</tr>
<tr>
<td>A.3.</td>
<td>Provide a current bank reference indicating that the Respondent’s business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.</td>
<td></td>
</tr>
<tr>
<td>A.4.</td>
<td>Provide a statement that the Respondent and any of its subsidiaries have not had a business relationship with the tobacco industry and/or the electronic nicotine delivery system industry in the past five (5) years.</td>
<td></td>
</tr>
<tr>
<td>Response Page # (Respondent completes)</td>
<td>Item Ref.</td>
<td>Section A—Mandatory Requirement Items</td>
</tr>
<tr>
<td>----------------------------------------</td>
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</tr>
<tr>
<td>A.5.</td>
<td>Provide evidence Respondent is a member of the North American Quitline Consortium (NAQC).</td>
<td></td>
</tr>
<tr>
<td>A.6.</td>
<td>Provide a statement that Respondent either possesses or has the means and access to a telephonic language line for other language options.</td>
<td></td>
</tr>
</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>Item Ref.</th>
<th>Section B— General Qualifications &amp; Experience Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>B.1.</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>
</tr>
<tr>
<td>B.2.</td>
<td>Describe the Respondent’s form of business (i.e., individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company) and business location (physical location or domicile).</td>
</tr>
<tr>
<td>B.3.</td>
<td>Detail the number of years the Respondent has been in business.</td>
</tr>
<tr>
<td>B.4.</td>
<td>Briefly describe how long the Respondent has been providing the goods or services required by this RFP.</td>
</tr>
<tr>
<td>B.5.</td>
<td>Describe the Respondent's number of employees, client base, and location of offices.</td>
</tr>
<tr>
<td>B.6.</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>
</tr>
<tr>
<td>B.7.</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 nolo contendere to any felony. If so, include an explanation providing relevant details.</td>
</tr>
<tr>
<td>B.8.</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>
</tr>
<tr>
<td>B.9.</td>
<td>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.</td>
</tr>
<tr>
<td>B.10.</td>
<td>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</td>
</tr>
<tr>
<td>Response Page # (Respondent completes)</td>
<td>Section B— General Qualifications &amp; Experience Items</td>
</tr>
<tr>
<td>---------------------------------------</td>
<td>---------------------------------------------------</td>
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<tr>
<td>04-01-19 RFP</td>
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<tr>
<td>21</td>
<td></td>
</tr>
</tbody>
</table>

C.2. IMPAIRMENT OF PERFORMANCE

**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.

**B.11.** 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.).

**B.12.** 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.

**B.13.** 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.

**B.14.** 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.

**B.15.** 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;
### Section B— General Qualifications & Experience Items

<table>
<thead>
<tr>
<th>Item Ref.</th>
<th>(iii) names and ownership characteristics (i.e., ethnicity, gender, service-disabled veterans, or disability) of anticipated subcontractors and supply contractors.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>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 <a href="https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&amp;XID=9810">https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&amp;XID=9810</a> for more information.</td>
</tr>
<tr>
<td></td>
<td>(d) Workforce. Provide the percentage of the Respondent’s total current employees by ethnicity and gender.</td>
</tr>
<tr>
<td></td>
<td>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.</td>
</tr>
</tbody>
</table>

#### B.16.

Provide a statement of whether or not the Respondent has any current contracts with the State of Tennessee or has completed any contracts with the State of Tennessee within the previous five (5) year period. If so, provide the following information for all of the current and completed contracts:

(a) the name, title, telephone number and e-mail address of the State contact knowledgeable about the contract;  
(b) the procuring State agency name;  
(c) a brief description of the contract’s scope of services;  
(d) the contract period; and  
(e) the contract number.  

NOTES:  
- Current or prior contracts with the State are not a prerequisite and are not required for the maximum evaluation score, and the existence of such contracts with the State will not automatically result in the addition or deduction of evaluation points.  
- Each evaluator will generally consider the results of inquiries by the State regarding all contracts noted.  

#### B.17.

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

- two (2) accounts Respondent currently services that are similar in size to the State; and  
- three (3) completed projects.  

References from at least three (3) different individuals are required to satisfy the requirements above, e.g., an individual may provide a reference about a completed project and another reference about a currently serviced account. The standard reference questionnaire, which must be used and completed, is provided at RFP Attachment 6.4. References that are not completed as required may be deemed non-responsive and may not be considered. The Respondent will be solely responsible for obtaining fully completed reference questionnaires and including them in the sealed Technical Response. In order to obtain and submit the completed reference questionnaires follow the process below.

(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:  
  - complete the reference questionnaire;  
  - sign and date the completed reference questionnaire;
RESPONDENT LEGAL ENTITY
NAME:

<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>(iii)</td>
<td>seal the completed, signed, and dated reference questionnaire within the envelope provided;</td>
</tr>
<tr>
<td></td>
<td>(iv)</td>
<td>sign his or her name in ink across the sealed portion of the envelope; and</td>
</tr>
<tr>
<td></td>
<td>(v)</td>
<td>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).</td>
</tr>
<tr>
<td></td>
<td>(d)</td>
<td>Do NOT open the sealed references upon receipt.</td>
</tr>
<tr>
<td></td>
<td>(e)</td>
<td>Enclose all sealed reference envelopes within a larger, labeled envelope for inclusion in the Technical Response as required.</td>
</tr>
</tbody>
</table>

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

B.18. 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.

B.19. Provide a listing of any contracts that have been terminated by another State or Federal agency for cause within the past five (5) years and, if applicable, include an explanation for the termination.

SCORE (for all Section B—Qualifications & Experience Items above):
(maximum possible score = 30)
## 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:

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>little value</td>
</tr>
<tr>
<td>1</td>
<td>poor</td>
</tr>
<tr>
<td>2</td>
<td>fair</td>
</tr>
<tr>
<td>3</td>
<td>satisfactory</td>
</tr>
<tr>
<td>4</td>
<td>good</td>
</tr>
<tr>
<td>5</td>
<td>excellent</td>
</tr>
</tbody>
</table>

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

### RESPONDENT LEGAL ENTITY NAME:

<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></td>
<td>C.1.</td>
<td>Provide a narrative that illustrates the Respondent’s understanding of the State’s requirements and project schedule.</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.2.</td>
<td>Provide a narrative that illustrates how the Respondent will complete the scope of services, accomplish required objectives, and meet the State’s project schedule.</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.3.</td>
<td>Provide a narrative that illustrates how the Respondent plans to include continuous quality improvement within its service delivery. Provide specific examples.</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.4.</td>
<td>Provide a narrative that illustrates the logistics of how the Respondent plans to distribute materials, including NRT, to qualified callers.</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.5.</td>
<td>Provide a narrative that illustrates how the Respondent plans to provide excellent customer service to Quitline callers.</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.6.</td>
<td>Provide a description of the Respondent’s timeline for implementation (citing specific dates and deadlines) for the major implementation tasks (A.18 refer to Pro Forma Contract).</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.7.</td>
<td>Provide a narrative that illustrates how the Respondent plans to measure and report the performance standards. Section A.7.b. of the Pro Forma Contract.</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.8.</td>
<td>Provide a narrative that illustrates how the Respondent plans to train and monitor its call center staff. Section A.7. of the Pro Forma Contract.</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.9.</td>
<td>Provide evidence that Quitline Coaching Staff possesses a minimum of two (2) years of counseling experience,</td>
<td>3</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>
<td>------------</td>
<td>------------------</td>
<td>-------------------</td>
<td></td>
</tr>
<tr>
<td></td>
<td>preferably in Tobacco Cessation.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C.10.</td>
<td>Provide evidence that a Clinical Director and a Medical Director will be available to provide technical assistance and oversight of all Quitline services, and that each possess a current license for the State in which the Contractor is located.</td>
<td>4</td>
<td></td>
<td></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.

<table>
<thead>
<tr>
<th>Total Raw Weighted Score:</th>
<th>(sum of Raw Weighted Scores above)</th>
</tr>
</thead>
<tbody>
<tr>
<td>X 40</td>
<td>= SCORE:</td>
</tr>
</tbody>
</table>

Maximum Possible Raw Weighted Score
(i.e., 5 x the sum of item weights above)

State Use – Evaluator Identification:

State Use – Solicitation Coordinator Signature, Printed Name & Date:
**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.

<table>
<thead>
<tr>
<th>RESPONDENT SIGNATURE:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>PRINTED NAME &amp; TITLE:</td>
<td></td>
</tr>
<tr>
<td>DATE:</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Cost Item Description</th>
<th>Proposed Cost</th>
<th>State Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Evaluation Factor</td>
</tr>
<tr>
<td>Develop and implement the Quitline so that it is fully operational as detailed in Scope A.6. and A.7.</td>
<td>$ NUMBER / One-time Charge upon written approval of State</td>
<td>1</td>
</tr>
<tr>
<td>Develop system to provide technical assistance to medical professionals as detailed in Scope A.6.j.</td>
<td>$ NUMBER / One-time Charge upon written approval of the State</td>
<td>1</td>
</tr>
<tr>
<td>Develop and implement the Quitline website as detailed in Scope A.8.</td>
<td>$ NUMBER / One-time Charge upon written approval of the State</td>
<td>1</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>Administrative fee to cover expenses incurred for operation of the Quitline as detailed in Scope A.6. and A.7.; Operation and maintenance of the Quitline website as detailed in A.8.; the Submission of required and ad hoc reports as detailed in Scope A.13. through Scope A.15.</td>
<td>$ Number / Month</td>
<td>Evaluation Factor</td>
</tr>
<tr>
<td>Purchase and ship 2-week supply of NRT to eligible Quitline Clients as detailed in Scope A.6.n. through A.6.o.</td>
<td>$ NUMBER / Package</td>
<td>39</td>
</tr>
<tr>
<td>Purchase and ship up to 5 additional units of NRT to Women of Childbearing Age, Postpartum women, or individuals living in a home with a child under age one (1) who are eligible to receive NRT as detailed in Scope A.6.o.</td>
<td>$ NUMBER / Package</td>
<td>8000</td>
</tr>
<tr>
<td>Submission of approved QuitKit as detailed in Scope A.9.c.</td>
<td>$ NUMBER / Year</td>
<td>3</td>
</tr>
<tr>
<td>Shipment of approved QuitKit to registered Quitline Clients as detailed in Scope A.9.c.(1).</td>
<td>$ NUMBER / Quitkit</td>
<td>11,400</td>
</tr>
<tr>
<td>Submission of approved contingency plan as detailed in Scope A.15.</td>
<td>$ NUMBER / Plan One-time Charge upon written approval of State</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.

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

\[
\text{evaluation cost amount being evaluated (maximum section score)}
\]

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

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

The Respondent will be solely responsible for obtaining completed reference questionnaires as required (refer to RFP Attachment 6.2., Technical Response & Evaluation Guide, Section B, Item B.17.), and for enclosing the sealed reference envelopes within the Respondent’s Technical Response.
RFP # 34352-50419 REFERENCE QUESTIONNAIRE

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

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

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

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

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

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

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

(4) What is the level of your overall satisfaction with the reference subject as a vendor of the goods or services described above?

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

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>least satisfied</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
If you circled 3 or less above, what could the reference subject have done to improve that rating?

(5) 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.

(6) 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.

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

(8) In what areas of goods or service delivery does/did the reference subject excel?

(9) In what areas of goods or service delivery does/did the reference subject fall short?

(10) What is the level of your satisfaction with the reference subject’s project management structures, processes, and personnel?

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

1 2 3 4 5
least satisfied most satisfied

What, if any, comments do you have regarding the score selected above?
(11) Considering the staff assigned by the reference subject to deliver the goods or services described in response to question 3 above, how satisfied are you with the technical abilities, professionalism, and interpersonal skills of the individuals assigned?

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

1 2 3 4 5

least satisfied ____________ most satisfied ____________

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

(12) Would you contract again with the reference subject for the same or similar goods or services?

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

1 2 3 4 5

least satisfied ____________ most satisfied ____________

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

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

________________________________________________________________________

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

DATE:

________________________________________________________________________
## Score Summary Matrix

<table>
<thead>
<tr>
<th>Respondent Name</th>
<th>Respondent Name</th>
<th>Respondent Name</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Qualifications &amp; Experience</strong>&lt;br&gt;(maximum: 30)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Evaluator Name</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Evaluator Name</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Repeat as Necessary</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>AVERAGE:</td>
<td>AVERAGE:</td>
<td>AVERAGE:</td>
</tr>
<tr>
<td><strong>Technical Qualifications, Experience &amp; Approach</strong>&lt;br&gt;(maximum: 40)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Evaluator Name</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Evaluator Name</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Repeat as Necessary</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>AVERAGE:</td>
<td>AVERAGE:</td>
<td>AVERAGE:</td>
</tr>
<tr>
<td><strong>Cost Proposal</strong>&lt;br&gt;(maximum: 30)</td>
<td><strong>Score:</strong></td>
<td><strong>Score:</strong></td>
</tr>
<tr>
<td><strong>Total Response Evaluation Score:</strong>&lt;br&gt;(maximum: 100)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Solicitation Coordinator Signature, Printed Name & Date:
RFP # 34352-50419  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 HEALTH
AND
CONTRACTOR NAME

This Contract, by and between the State of Tennessee, Department of Health (“State”) and Contractor Legal Entity Name (“Contractor”), is for the provision of Tennessee Tobacco Quitline Services, as further defined in the “SCOPE.” State and Contractor may be referred to individually as a “Party” or collectively as the “Parties” to this Contract.

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

A. SCOPE

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

A.2. Definitions. For purposes of this Contract, definitions shall be as follows and as set forth in the Contract:

a. Abandoned Call – A call or other type of contact that is terminated by the person originating the contact before any conversation happens. In an outbound calling scenario, an Abandoned Call refers to a call that is disconnected by the automated dialer once live contact is detected but no Frontline Call Center Staff for Quitline Coach is available to take the call.

b. Callback Calls - returned calls made by the Contractor. Callback Calls may include calls made to address inquiries received via voice messages, fax referral or eReferral from healthcare providers and/or healthcare institutions, and through the online referral portal.

c. Children – Refers to individuals aged birth through seventeen (17) years of age.

d. Coach-Assisted Calls – Telephonic Tobacco Cessation counseling calls that occur between a Quitline Coach and a Quitline Client.

e. Co-Morbidity Data – Medical information that identifies more than one disease or condition is present in the same person at the same time. Conditions described as co-morbidities are often chronic or long-term conditions.

f. Consent – Permission for something to happen or agreement to do something.

g. Demographics – Information including:

   (1) Caller first name, last name;
   (2) Caller phone number with area code;
   (3) Caller alternate contact number;
   (4) Caller email;
   (5) Caller street address, city, zip code, region/county;
   (6) Age;
   (7) Race/ethnicity;
   (8) Gender;
   (9) Income;
   (10) Veteran status;
   (11) State of Tennessee employee status;
   (12) Insurance status and type (Medicaid [TennCare], Medicare, private insurance [including name of company], uninsured, unknown);
(13) Health status (including pregnancy status);
(14) Educational level;
(15) Language (English, Spanish, or Other [other spoken language should be documented]);
(16) Number of tobacco users in the home;
(17) Number of Children in the home;
(18) Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex (LGBTQI) consideration;
(19) Co-morbidity health conditions (diabetes, heart disease, cancer, etc.); and
(20) Identification of Priority Population.

Sale of caller contact information by the Contractor or its representative is strictly prohibited. Additional Quitline Client information may be later added as mutually agreed upon by the Contractor and the State. This intake data should be in adherence with the North American Quitline Consortium’s Minimal Data Set for Evaluating Quitlines (MDS).

h. Electronic Nicotine Delivery Systems ("ENDS") – Also called e-cigarettes, personal vaporizers, vape pens, e-cigars, e-hookah, or vaping devices, are battery-powered products that produce an aerosolized mixture containing flavored liquids and nicotine that is inhaled by the user.

i. Electronic Health Record ("EHR") – A real-time, patient-centered health history record that makes information available instantly and securely to authorized users. While an EHR does contain the medical and treatment histories of patients, an EHR system is built to go beyond standard clinical data collected in a provider’s office and can be inclusive of a broader view of a patient’s care.

j. Electronic Referral or eReferral – An electronic platform that enables the seamless transfer of patient information from a primary to a secondary practitioner's client management system.

k. Follow-Up Calls – Coaching calls/sessions that occur after a caller registers for telephone coaching and completes a quit plan. These provide ongoing cessation support while the caller is working through his or her quit attempt.

l. Food and Drug Administration ("FDA") - an agency within the U.S. Department of Health and Human Services. It consists of the Office of the Commissioner and four directorates overseeing the core functions of the agency: Medical Products and Tobacco, Foods and Veterinary Medicine, Global Regulatory Operations and Policy, and Operations.

m. Frontline Call Center Staff – Individuals responsible for screening incoming calls, completing intake, performing call backs, conducting three (3) month and seven (7) month Follow-Up Calls, and providing general information about the Tennessee Tobacco Quitline, as appropriate.

n. General Information Call – Calls received from individuals who are interested in receiving information about services offered by the Tennessee Tobacco Quitline, but who are not calling to receive coaching.

o. Healthy People 2020 – A ten (10) year goals and objectives program for health promotion and disease prevention developed by the U.S. Department of Health and Human Services.

p. Intake Call – Calls received from potential Quitline Clients which are then routed to Frontline Call Center Staff for immediate intake, and calls made by Frontline Call Center Staff to complete screening and registration of potential Quitline Clients referred through referral systems.
q. Interactive Voice Response – A technology that allows a computer to interact with humans through the use of voice and dual-tone multi-frequency tones via a keypad.

r. Loop Service – Works toward positive change by collecting data on Quitline call center staff performance with Participants and relaying the data back to personnel in a way that leads to correction based on the new information.

s. Minimal Data Set for Evaluating Quitlines (“MDS”) – A standard set of questions recommended and produced by the North American Quitline Consortium, allowing for the comparison and pooling of data within this quitline and across different state quitlines for evaluation and research purposes.

t. Nicotine Replacement Therapy (“NRT”) – FDA-approved products which deliver a small, steady dose of nicotine to help stop cravings and relieve symptoms that occur when a person is trying to quit tobacco use. These products include nicotine gum, nicotine inhaler, nicotine nasal spray, nicotine lozenges, and nicotine patches, and some are available without a prescription. They do not contain any of the other chemicals found in tobacco products. The Tennessee Tobacco Quitline provides eligible callers with a two (2) week supply of nicotine patches unless medically contraindicated or Quitline Client declines. Women of Childbearing Age and smokers living with children younger than 12 months of age may be eligible for additional NRT, up to a twelve (12) week supply.

u. North American Quitline Consortium (“NAQC”) – An international, non-profit organization which seeks to promote evidence-based tobacco quitline services in North America.

v. Other Callers – Calls received from individuals who are interested in receiving information about services offered by the Tennessee Tobacco Quitline, but who are not calling to receive coaching.

w. Participant – Any person who contacts or is referred to the Tennessee Tobacco Quitline for Tobacco Cessation services or information.

x. Postpartum – Describing a woman who has delivered an infant within the past three hundred and sixty-five (365) days or the time between an infant’s birth and first three hundred and sixty-five (365) days.

y. Priority Populations – Pregnant women who smoke, Women of Childbearing Age who smoke, smokers living with Children, Children and young adults who have initiated tobacco use, and those disparately affected by tobacco use, including but not limited to minorities, low-income, and low-education individuals.

z . Proactive Counseling Call(s) – One (1) or more Quitline Coach-initiated calls to complete a scheduled counseling session with a Quitline Client.

aa. Quitline Client – Tennessee residents, age thirteen (13) years or older, who are current or recent-past tobacco users (an individual who quit tobacco use within the last twelve [12] months) and enrolled in Tobacco Cessation coaching through the Tennessee Tobacco Quitline.

bb. Quitline Coach – A trained counselor who provides intensive, telephonic tobacco interventions via Quitline. At minimum, Quitline Coaches must hold a bachelor’s degree in social work, psychology, or other behavioral health fields. In addition, coaching staff must have a minimum of two (2) years of counseling experience, preferably in Tobacco Cessation. Quitline Coaches are not defined by their professional affiliation or the field in which they are trained. Rather, Quitline Coaches possess the skills, knowledge, and training to provide effective interventions across a range of intensities, and often are affiliated with programs offering intensive treatment interventions or services.
cc. QuitKit – A State-approved informational packet which is mailed to individuals who have completed an intake assessment and have voiced interest in creating a Quit Plan and receiving support during the process of quitting tobacco use.

dd. Quit Date – The specific date that a Quitline Client plans to stop tobacco use.

ee. Quit Date Call – The call placed by a Quitline Coach no later than five (5) business days (excluding holidays) after a Quitline Client’s scheduled Quit Date. The call may include, but not be limited to, a review of the Quitline Client’s personalized Quit Plan, discussion of successes and ways to overcome challenges, and support and words of encouragement.

ff. Quit Plan – A customized plan developed by a Quitline Client, with assistance from a Quitline Coach, to aid in quitting tobacco use. The Quit Plan may include but not be limited to a Quit Date; strategies to keep the Quitline Client focused, confident, and motivated to quit; and identified challenges the Quitline Client will face as they quit and ways to overcome these challenges.

gg. Reactive Counseling Call – Any counseling provided as a result of tobacco user-initiated contact with the Quitline as described in section A.7.d.(3).i.

hh. Satisfaction Survey – Calls made by non-clinical surveyors that occur three (3) and seven (7) months post-enrollment to assess satisfaction with Quitline services and quit rates. A standard set of survey questions is asked during these calls.

ii. Self-Referral – A tobacco user who initiates contact with the Quitline via phone call or submitting a self-referral form through the online portal.

jj. Self-Service Options – The resources available to individuals preferring not to speak with a Quitline Coach. Self-Service Options may include, but not be limited to, an option to listen to a taped message, sign up for the Centers for Disease Control and Prevention’s (“CDC”) national Text2Quit service (or separate texting program), and/or the TTQL web based services.

kk. Telecommunication Device for the Deaf (TDD) – A teleprinter, an electronic device for text communication over a telephone line, that is designed for use by persons with hearing or speech difficulties.

ll. Tennessee Tobacco Quitline (“TTQL” or “Quitline”) – A telephone-based Tobacco Cessation service that provides individualized help to Tennessee residents who may be interested in quitting tobacco and which serves as a resource for Tobacco Cessation information.

mm. Text2Quit – A program to help people quit smoking and stay quit. It includes text messages, emails, and access to a personal web portal.

nn. Tobacco Cessation – The process of discontinuing smoking cigarettes, or the use of smokeless tobacco. Tobacco smoke contains nicotine, which is addictive and can cause dependence.

oo. Trading Partner Agreement – An agreement drawn up between two parties that have agreed to trade certain items or information. This agreement outlines the terms of the trade or trading process.

pp. Web-Based Services - The State-approved resources available to Tennesseans through www.tnquitline.org, including the online referral portal for professionals and individuals, the statewide Tobacco Cessation directory, a spending calculator, and other educational materials.
qq. Women of Childbearing Age – Women between the ages of fifteen (15) and forty-nine (49) years old.

A.3. Service Goal. To improve the health and quality of life for all Tennesseans by preventing and/or reducing the use of tobacco and to provide a resource for Tobacco Cessation information and support.

The Tennessee Department of Health ("TDH") funds the statewide toll-free TTQL which focuses on reduction and elimination of tobacco use and exposure to secondhand smoke. The purpose of the cessation program is aligned with the Healthy People 2020 overall goal of reducing the burden of illness, disability, and tobacco-related deaths as well as exposure to secondhand smoke.

A.4. Service Recipients. Tennesseans who use tobacco, as well as those at risk of suffering health problems due to secondhand exposure to tobacco products, including pregnant women who smoke, Women of Childbearing Age who smoke, smokers living with Children, and Children and young adults who have initiated tobacco use.

A.5. Service Description. The purpose of this Contract is to ensure continuity of services already provided on behalf of the State. The Contractor shall maintain the statewide, toll-free dial-in telephone-based assistance program, the Quitline, to assist callers to quit tobacco use by providing intake and assessment, brief intervention, and proactive counseling in English and Spanish, with language line services available for other language options. The Quitline shall continue to serve as the State’s access line for cessation information, tobacco use counseling, and referral to local resources. The Quitline services shall be available free of charge to all Tennesseans and shall use the telephone number 1-800-QUIT-NOW. A Telecommunication Device for the Deaf ("TDD") line shall be available to provide services to the hearing impaired. The Contractor shall ensure that the Quitline remains fully operational through the Term. At a minimum, the following services shall be provided:

a. For tobacco users and recent quitters, the Contractor shall complete intake and document caller contact information, zip code/region/county, age, race/ethnicity, gender, insurance status and type (Medicaid [TennCare], Medicare, commercial insurance, uninsured, unknown), education level, language (English, Spanish, or other), number of tobacco users in the home, number of children in the home, tobacco use history, and previous quit attempts.

b. For tobacco users, the Contractor shall assess and document current tobacco use, level of dependency, motivation and readiness to quit, use and type of NRT, and Priority Population status, if applicable.

c. For callers ready to quit within thirty (30) days, the Contractor shall provide:

(1) An immediate brief intervention;
(2) An offer to forward the caller to a counselor;
(3) An offer to mail a QuitKit– if the caller accepts, the Contractor shall print and mail the QuitKit, the design of which has been approved by the State, to the caller;
(4) A review of FDA-approved cessation medications and advice on availability of medication through Tennessee health plans and discount programs;
(5) Referrals to community-based services; and
(6) An offer to provide eight (8) Proactive Counseling calls within a timetable sensitive to relapse prevention, continuing four (4) to eight (8) weeks after a client’s quit date.

d. For callers not ready to quit, the Contractor shall provide:

(1) Appropriate motivational messages to promote effective quitting;
(2)  Materials appropriate for callers who are not ready to quit (such as information about the benefits of cessation and steps to take when the caller is ready to quit); and

(3)  Encouragement to call back when they are ready to quit.

e. The Contractor shall maintain the existing and approved fax referral program. If the Contractor identifies any changes that need to be made to the current fax referral feedback plan, revisions should be made and submitted by December 15, 2019 for State review and approval, and revised components shall be operational by December 30, 2019. The fax referral feedback plan requires that health care providers and the State receive a feedback report within seven (7) days after referring a Quitline Client by fax to the Quitline. At a minimum, the feedback report must include intake information as specified in Section A.5.a., as well as the outcome of the call as to whether the Participant was reached, enrolled in the Quitline program, declined enrollment, or wanted information only. All fax feedback data shall be reported to the State on an individual, not aggregate, basis.

f. The Contractor shall schedule Proactive Counseling Calls as appointments for a specific date and time. The Contractor shall attempt to reach fax-referred patients according to preferences stated on the fax form (i.e., on preferred day/time of day) and within three (3) business days.

g. The Contractor shall provide a live call center response to Quitline calls between 6am and 11pm Central Time, seven (7) days a week. The Contractor shall monitor calls to determine peak call times and shall modify live staffing hours to meet determined needs. The Contractor shall offer live staffing during weekday daytime and evening hours and, on weekends, during daytime hours. The Contractor shall not be required to provide live staffing on Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, but shall maintain live coverage on all other State holidays. The Contractor shall not alter these hours without prior approval from the State.

h. The Contractor shall provide trained behavioral health specialists who can service the call center in English and in Spanish (during open hours of Quitline Call Center), and shall provide language line services for other language options. The Contractor shall offer at least fifty (50) hours of orientation training to call center personnel and shall provide staff with on-going training in clinical and administrative protocols. The Contractor’s counselors shall receive weekly clinical supervision from a masters-level behavioral health specialist or from a certified tobacco specialist. The Contractor shall also ensure that call center staff have access to a medical doctor who can provide technical assistance and oversight.

i. The Contractor shall track and report services separately for self-referred callers and for tobacco users who have been fax-referred, or referred through an EHR by a health care provider, and shall assess differences between the four (4) groups.

j. The Contractor shall meet the performance standards found in Section A.7.b.

k. The Contractor shall conduct Follow-Up Calls with Quitline Clients at three (3) and seven (7) month intervals after the initial client call to verify tobacco use status of both fax-referred and self-referred callers to assess satisfaction, consumption reduction, quit attempts, and sustained quits.

l. Prior to the end of the Term, the Contractor shall work with the new Contractor during the transition period to ensure there is no gap in the collection of Satisfaction Surveys and testimonials from Quitline Clients during the three (3) month client Follow-Up Call. The Contractor shall attempt a twenty-five percent (25%) response rate in the Satisfaction Survey collection process. Methods of computing and reporting quit rates shall conform to CDC and NAQC recommendations which can be referenced at the following website: http://www.naquitline.org.
m. The Contractor shall maintain a Tennessee community resource and referral database, which shall include information on community resources, insurance coverage, health plan information, and tobacco control print and Internet resources. The State shall, through the Tennessee Tobacco Use Prevention and Control Program, provide updated information to the Contractor on an annual basis. The Contractor shall by December 30, 2019, update the database as mutually agreed upon with the State. If the State and the Contractor are unsuccessful in achieving mutual agreement, the State will make the final determination. The Contractor shall provide in the database sufficient information to match caller to resources by location and type of cessation service, time available, and specialized services for target populations.

A.6. **The Contractor shall:**

a. Maintain membership in the NAQC.

b. Provide an account representative as a single point of contact for communications with the State.

c. Provide office space on Contractor’s owned or leased property anywhere in the U.S. that can accommodate administrative, coaching, and support staff with the capacity to comply with HIPAA confidentiality standards.

d. Provide the following staffing:

   (1) Assure a ratio of at least one (1) supervisor to fifteen (15) Quitline Coaches.

   (2) Provide Frontline Call Center Staff who can answer calls in English and have telephonic access to a language line for other language options.

   (3) Provide coaching staff that can service the call center and have access to a language line for other language options. The coaching staff shall each have a bachelor’s degree in social work, psychology, or other behavioral health field. In addition, coaching staff must have a minimum of two (2) years of counseling experience, preferably in Tobacco Cessation.

   (4) The Contractor shall have a clinical director and a medical director available to provide technical assistance and oversight of the Quitline services, and each must have a current license for the state in which the Contractor is located.

e. Offer at least fifty (50) hours of orientation training prior to staff working with Participants or Quitline Clients with on-going staff training in clinical, administrative, and other protocols as recommended by NAQC. Training shall at a minimum cover tobacco dependence, motivational interviewing, combined behavioral intervention, addiction counseling, treatment planning, pharmacotherapy, relapse prevention, documentation/evaluation, professional resources (including tobacco-specific tips), and law/ethics. Training shall also include cultural competency targeting specific disparate populations, including individuals with mental illness and chronic illness, as well as Tennessee’s Priority Populations.

f. Staff performance on calls (measures will include quality improvement measures outlined in NAQC) shall be assessed monthly by the Contractor via the following link, (as may be updated from time to time): [https://www.naquitline.org/page/qi](https://www.naquitline.org/page/qi)

g. Maintain in conjunction with and as agreed upon by the State the free TTQL number, 1 800-QUIT-NOW, the website at [www.tnguittline.org](http://www.tnguittline.org), and any other digitally-based resources (i.e., email and/or text technology) made available to tobacco users in Tennessee. The toll free number and website will be maintained in accordance with paragraph A.8.b.
h. Adopt and implement NAQC recommended, evidenced-based protocols for the delivery of Quitline services including the Coach-Assisted Calls model, NRT eligibility, Quit Plan development, and information for tobacco users based on their stages of change, and provide support and education to individuals who have already quit but are at risk to relapse.

(1) Within three (3) weeks of the Effective Date, develop and submit to the State for written approval a file containing the evidence-based resources (or messaging) that will be utilized by staff to educate on the harms of tobacco use (including information on co-morbid health conditions as well as all delivery mechanisms, such as combustible, electronic, and chew) and the benefits of quitting all means of tobacco use.

(2) The Contractor shall only recommend FDA-approved methods of cessation.

i. Within sixty (60) calendars days of the Effective Date, the Contractor shall implement and thereafter maintain operation of an Interactive Voice Response (IVR) an automated quit tip telephone line with voice mail capacity to allow a caller to leave a message and select tobacco use cessation and a Loop Service. Once operational, the automated quit tip telephone line and IVR shall be available for caller use twenty-four (24) hours a day, seven (7) days a week and shall provide service during holidays.

(1) Reports on operations of the IVR shall be provided to the State within seven (7) days of being requested by the State.

(2) The Contractor shall provide a relational data model and associated documentation to aid in the State’s use of the stored data.

j. Within three (3) weeks of the Effective Date, develop and thereafter maintain a system to provide technical assistance to medical professionals, accepting eReferrals, telephone referrals, and online referrals, and including other online resources, as developed in conjunction with and approved in writing by the State. This system shall also promote the use of evidence-based assistance with quitting to healthcare providers.

k. Provide cessation coaching, information, and referral services to Tennessee residents, with language line services available for other language options, as needed. A TDD line shall be available to provide services to the hearing impaired.

l. Within three (3) weeks of the Effective Date, develop and host a computerized tracking system and relational database for tracking all Quitline Client information, including, but not limited to, Demographics, services provided, referrals, and Quitline Client outcomes. The Contractor shall maintain a relational database capable of linking individual Quitline Client characteristics (at intake) to services received, outcomes, and applicable provider referral information (e.g., provider name, organization). The Contractor shall create a system that has the capacity to produce reports on call center operations to include, at a minimum, call patterns by time of day, day of week, and date of month. The Contractor shall track the Quitline Client Demographics to include age, gender, race/ethnicity, zip code, education, number of children in the home, number of tobacco users in the home, insurance status and type (Medicaid [TennCare], Medicare, commercial insurance, uninsured, unknown), smoking history, current tobacco use status, level of dependency, Co-Morbidity Data, language (English, Spanish, or other), use and type of NRT, and motivation to quit. Additional Quitline Client information may be later added as mutually agreed upon by the Contractor and the State.

(1) The Contractor shall have capacity to document caller Demographics including, but not limited to, contact information, zip code/region/county, age, race/ethnicity, gender, income, veteran status, State of Tennessee employee status, insurance status and type (Medicaid [TennCare], Medicare, private insurance [including
name of company], uninsured, unknown), health status (including pregnancy status), educational level, language (English, Spanish, or other), number of tobacco users in the home, number of Children in the home, LGBTQI consideration, co-morbidity issues, and Priority Populations, if applicable. Additional Quitline Client information may be later added as mutually agreed upon by the Contractor and the State. This data should be gathered using MDS standard and optional, when directed by the State, intake questions.

(2) For tobacco users, the Contractor shall, in addition to Demographics, collect current consumption level (use status and intensity), quit attempts, motivation and readiness to quit, prior use and type of NRT, and Priority Population when appropriate. The Contractor shall also collect responses to the optional ENDS questions provided by the NAQC (https://cdn.ymaws.com/www.naquitline.org/resource/resmgr/MDS_TA/MDS_ENDS_Questions_Report_to.pdf).

All data collected in the relational database in this Section shall be owned by the State.

m. Within three (3) weeks of the Effective Date, submit an implementation plan/system for continuous quality improvement and evaluation of outcome measures to be approved in writing by the State. The plan shall include collection of Quitline Client data at least during the three (3) month and seven (7) month Quitline Client Follow-Up Calls, as specified in Scope A.7.f. The Contractor shall develop and submit for prior review and written approval by the State outcome measures consistent with the NAQC’s MDS for follow-up evaluation which can be referenced here: http://www.naquitline.org. The Contractor shall continue to maintain the approved plan for continuous quality improvement and Quitline Client outcome evaluation.

n. Offer a two (2)-week supply of NRT to eligible Quitline Clients. The Contractor shall develop and submit an NRT protocol to the State for review and written approval within three (3) weeks of the Effective Date. The Contractor shall include TennCare’s preferred drug list (“PDL”) as provided by the State in the NRT protocol (see Attachment 1). This Attachment may be modified as required by the State. The NRT protocol may be updated as required throughout the Contract without a formal amendment. The Contractor shall assume full responsibility for screening individuals for eligibility, receiving medical authorization from the Quitline Client’s physician when necessary, and ordering and shipping NRT. Quitline Clients eligible to receive NRT are eighteen (18) years of age or older, have completed intake as detailed in Scope A.7.d.(2), are ready to quit tobacco within the next thirty (30) business days, have completed at least one (1) Coach-Assisted Call, are not pregnant, and have no contraindications. NRT shall be mailed directly to the Quitline Client’s home. The Contractor shall have the NRT plan operational within thirty (30) calendar days of the Effective Date.

o. Within three (3) weeks of the Effective Date, develop and submit to the State for written approval a specialized protocol to be referenced by coaching staff assigned to provide counseling services to callers that identify as pregnant/Postpartum women, being a Woman of Childbearing Age, or individuals, regardless of gender, residing in a home with a child under age one (1) year. The protocol must be based on data from evidence-based research protocols as outlined in the NAQC recommendations. The Contractor shall include components of the protocol as specified in Attachment 2; however, enhancements are expected. Attachment 2 is provided as an example of the State’s current protocol. The protocol must be implemented within sixty (60) calendar days of the Effective Date.

All Quitline Clients meeting this criteria deemed eligible for NRT shall receive the initial two (2) week supply of NRT, as appropriate. The Contractor shall purchase and ship NRT for qualifying Women of Childbearing Age, Postpartum women, and Quitline Clients who, regardless of gender, are residing in a home with a child under the age of one (1) year and who enroll in Quitline cessation counseling services. Callers meeting these criteria
may receive up to an additional five (5) issuances of NRT, each with a two (2) week supply, annually. The Contractor shall describe procedures for qualifying for the additional NRT to support the Quitline Client’s quit attempt(s). The specialized protocol shall adhere to NAQC guidance and document procedures for providing appropriate strength of NRT and adjusting the NRT dosage levels as Quitline Clients progress through their Coach-Assisted Call sessions.

A.7. Quitline Call Center Operations.

a. The Contractor shall provide live call center responses to the TTQL calls from 6am to 11pm Central Time seven (7) days a week. The Contractor shall monitor calls to determine peak call times and shall modify live staffing hours to meet determined needs. The Contractor shall not be required to provide live staffing on Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, but shall maintain live coverage on all other State holidays. The Contractor shall submit the hours of operation and live staffing to the State for written approval within thirty (30) calendar days of the Effective Date and shall not alter these hours without prior written approval from the State.

b. The Contractor shall meet the following performance standards for call center operations:

1. A weekly Abandoned Call rate of no more than five percent (5%);
2. At least ninety-five percent (95%) of incoming calls during operating hours will receive a live response weekly;
3. Ninety percent (90%) of calls will be answered within thirty (30) seconds weekly;
4. One hundred percent (100%) of QuitKits and other materials disseminated by the Contractor will be mailed within three (3) business days, excluding holidays and Sundays, of a call to the TTQL;
5. A weekly average of at least ninety-five percent (95%) of Quit Date Calls must be attempted (not completed) no later than five (5) business days, excluding holidays, after the Quitline Client’s scheduled Quit Date;
6. A weekly average of at least ninety-five percent (95%) of callers receiving a live response and, if interested in speaking with a Quitline Coach, will be transferred directly to a Quitline Coach after completion of registration/intake; and
7. A monthly average of at least a fifty percent (50%) response rate at three (3) month and seven (7) month Satisfaction Survey calls.

The Contractor shall notify the State whenever call center performance dips below the aforementioned standards for operations. The Contractor shall communicate the corrective action(s) that will be taken to address any deficiencies as outlined in the quality improvement plan, Scope A.6.m.

c. The Contractor shall require all Quitline Frontline Call Center Staff to ask the following question to each caller and track the response in the computerized tracking system and relational databases:

“I am going to read a list of some of the reasons that people give for trying to quit tobacco use. As I read each one, please tell me if that reason was influential in your decision to try to quit tobacco. You may have more than one reason to try to quit.

1. Concern for what tobacco could do to your future health;
2. Concern for what tobacco is presently doing to your health;
3. Pressure from family and friends;
4. Messages received from television, radio, Internet, bus wraps, billboards, or print material; or
5. None of the above.”
d. The Contractor shall provide services described by one of the following categories: Callback Calls, Intake Calls, Coach-Assisted Calls, General Information Calls, and Self-Service Options.

(1) **Callback Calls.** The Contractor shall respond to all inquiries within twenty-four (24) hours. The Contractor shall manage and respond to inquiries received via voice messages, fax referral or eReferral from healthcare providers and/or healthcare institutions, and through the online referral portal. These calls may be handled by Frontline Call Center Staff or coaching staff, as appropriate. If the inquiry is from a tobacco user, the response will consist of placing an outbound call to determine and respond to service needs, providing information about service options via email, fulfilling requests for NRT following an intake and coaching session, and/or emailing/mailing of self-help materials. If the inquiry is from a healthcare provider or healthcare institution, the response will include either placing an outbound call to determine service needs, providing information on service options via email or mail, or other related information.

(2) **Intake Calls.** The Contractor shall provide Frontline Call Center Staff to complete screening and registration of first-time callers and Participants referred through referral systems described in Scope A.7.e. During the Intake Call, the Contractor shall determine desired services and the services for which the caller is eligible, and complete registration. Screening and registration must include, but are not limited to, obtaining answers to the MDS questions and documenting all Demographics, as specified in Scope A.2.f., and responses to the optional ENDS questions provided by the NAQC (https://cdn.ymaws.com/www.naqquitline.org/resource/resmgr/MDS_TA/MDS_ENDS_Questions_Report_to.pdf), as may be updated from time to time.

i. The Contractor shall identify whether the caller is:

   a. Interested in creating a Quit Plan and receiving support during the process of quitting;
   b. Not ready to quit but would like to speak with a Quitline Coach to receive information about services;
   c. A recent-past tobacco user and would like to receive information about services; or
   d. A friend or family member of a tobacco user(s) who would like to receive professional advice or information about services.

ii. The Contractor shall obtain Consent if the caller identifies as a current tobacco user and/or recent-past tobacco user and expresses willingness to participate in Coach-Assisted Calls, follow-up services, and evaluation. The Contractor shall obtain separate Consent from tobacco users to share information with their referring healthcare provider or insurance company. The Contractor shall obtain Consent from all Other Callers who express willingness to receive professional advice and/or information about services.

Within forty-five (45) calendar days of the Effective Date, the Contractor shall submit to the State for review and written approval a system description for obtaining and storing Participant and Quitline Client proof of Consent.

iii. The Contractor will then assign Consented callers to the Coach-Assisted Call queue. The Contractor will assign Consented callers that identify as pregnant/Postpartum women, being a Woman of Childbearing Age, or individuals, regardless of gender, residing in a home with a child under age one (1) year to the Coach-Assisted Call queue specifically for pregnant/Postpartum women and Women of Childbearing Age.
iv. If a caller is unable to continue with their first coaching session after intake is complete, the Contractor shall schedule the initial Coach Assisted Call for a specific date and time, occurring within three (3) business days of the Intake Call, or on the next date available to the Quitline Client.

(3) **Coach-Assisted Calls.** The Contractor shall provide up to five (5) comprehensive Coach-Assisted Calls to Tennessee residents who are current or recent-past tobacco users, ages thirteen (13) years and older. Coach-Assisted Calls, whether initial or follow-up, shall include discussion of a personalized Quit Plan, quit tips, referrals to community-based services, problem solving, strategies for managing cravings, and other evidence-based strategies. The intervention shall be agreed upon by the Contractor and the State and based upon evidence-based research protocols as outlined by NAQC recommendations.

i. Coach-Assisted Calls shall include:

   a. Reactive Counseling Call: A tobacco user-initiated call to the TTQL that results in immediate intake and a session with a Quitline Coach that includes cognitive behavioral counseling intervention.

   b. Proactive, or multi-contact, Counseling Call(s): One (1) or more Quitline Coach-initiated call(s) to the enrolled Quitline Client to complete scheduled cessation counseling that shall include cognitive-behavioral interventions and one or more additional Quitline Coach-initiated follow-up contact(s) with the Quitline Client at relapse-sensitive times to assess quit status and to support the continued quit attempt. The design of these multiple-contact coaching services shall be based upon research showing effectiveness in inducing behavior change and shall conform to NAQC and the U.S. Public Health Service’s Clinical Practice Guideline on Treating Tobacco Use and Dependence, [https://www.ahrq.gov/professionals/clinicians-providers/guidelines-recommendations/tobacco/clinicians/references/quickref/index.html](https://www.ahrq.gov/professionals/clinicians-providers/guidelines-recommendations/tobacco/clinicians/references/quickref/index.html), as may be updated from time to time. The State may decide to provide additional or fewer sessions based upon Quitline Client need, Priority Populations, and program funding. Each Quitline Client is eligible to schedule a maximum of five (5) Proactive Counseling Calls for up to thirty (30) minutes each.

ii. For Coach-Assisted Calls with tobacco users who have voiced interest in creating a Quit Plan and receiving support during the process of quitting, the Quitline Coach shall at a minimum:

   a. Describe services offered by the Quitline;

   b. Review eligibility to receive a free two (2) week supply of NRT;

   c. Refer Quitline Client to community-based services;

   d. Refer Quitline Client without insurance to Tennessee’s Health Insurance Exchange or equivalent resource;

   e. For Quitline Clients with private insurance or any other known benefit review FDA-approved cessation medications and advise Quitline Client to reach out to their health plan’s cessation program for additional pharmacotherapy benefits, as appropriate;

   f. For Quitline Clients with Medicaid/TennCare – review TennCare’s PDL and discuss which brands of FDA-approved cessation medications are covered; and

   g. Mail Quitline Client one (1) QuitKit, other informational materials, and two (2) week supply of NRT, as appropriate.
iii. For Coach-Assisted Calls with tobacco users who are not ready to quit but have requested more information, the Quitline Coach shall at a minimum:

a. Describe services offered by the TTQL;
b. Deliver evidence-based motivational messages to promote effective quitting;
c. Mail materials appropriate for individuals who are not ready to quit;
d. Orient individuals to internet-based cessation resources and the use of telephonic recorded informational and motivational messages; and
e. Encourage individuals to call back when they are ready to quit.

iv. For Coach-Assisted Calls with recent-past tobacco users, the Quitline Coach shall at a minimum:

a. Describe services offered by the TTQL;
b. Deliver relapse prevention intervention;
c. Review eligibility to receive a free two (2) week supply of NRT;
d. Refer individuals without insurance to Tennessee’s Health Insurance Exchange or equivalent resource;
e. Refer individuals to community-based services;
f. For individuals with private insurance or any other known benefit review FDA-approved cessation medications and advise individuals to reach out to their health plan’s cessation program for additional pharmacotherapy benefits, as appropriate;
g. For individuals with Medicaid/TennCare – review TennCare’s PDL and discuss which brands of FDA-approved cessation medications are covered; and
h. Mail individuals who opt to enroll in coaching services one (1) QuitKit, other informational materials, and two (2) week supply of NRT, as appropriate.

v. For Coach-Assisted Calls with friends and family of tobacco users, the Quitline Coach shall at a minimum:

a. Briefly advise on helping a tobacco user quit;
b. Offer to mail informational materials, as appropriate; and
c. Share information about the Web-Based Services.

vi. For Coach-Assisted Calls with tobacco users, as well as those who have recently quit, the Quitline Coach should encourage these individual to follow up with their personal healthcare provider.

(4) General Information Calls. General Information Calls shall be answered by Frontline Call Center Staff. General Information Calls are received from callers who request general information about services, but who are not calling to enroll in TTQL services.

i. For clinicians and healthcare providers, the Contractor shall at a minimum:

a. Provide fax referral and eReferral program information; and
b. Mail informational materials, including printed cessation materials, upon request.

ii. For Other Callers, the Contractor shall provide at a minimum:

a. A brief, appropriate response.
b. All media inquiries requesting information and interviews shall be referred to the State.

c. Complaints about media messages or TTQL services shall be documented and reported to the State.

d. Refer callers without insurance to Tennessee’s Health Insurance Exchange or equivalent resource;

e. For individuals with private insurance or any other known benefit review FDA-approved cessation medications and advise individuals to reach out to their health plan’s cessation program for additional pharmacotherapy benefits, as appropriate;

f. For individuals with Medicaid/TennCare – review TennCare’s PDL and discuss which brands of FDA-approved cessation medications are covered by their plan.

(5) Self-Service Options. The Contractor shall make several Self-Service Options available for Participants who prefer not to speak with a Quitline Coach, including the option to listen to automated quit tips, sign up for the CDC national Text2Quit service, use a separate texting program, or access Web-Based Services. Text2Quit and Web-Based Services may be provided as stand-alone support or utilized in conjunction with Coach-Assisted Calls.

Based on Participant preference, email and/or text technology may also be used as part of the intervention (e.g., call reminders, between-call check-ins with Quitline Coaches, etc.). The Contractor shall describe how TTQL services will align with Text2Quit. Approaches used shall be based upon research showing their effectiveness in inducing behavior change and follow the NAQC and U.S. Public Health Service’s Clinical Practice Guideline on Treating Tobacco Use and Dependence, https://www.ahrq.gov/professionals/clinicians-providers/guidelines-recommendations/tobacco/clinicians/update/index.html as may be updated from time to time. The Contractor shall provide rationale for the approaches used. All approaches require review and written approval by the State.

e. The Contractor shall implement and maintain a fax referral program an Electronic Referral program, and an online referral program as specified in this Section.

The Contractor shall continue operation, promotion, and revisions of the fax referral form. The Contractor shall continuously update components of the online referral portal for use by tobacco users, recent-past tobacco users, healthcare providers, healthcare institutions, insurance companies, and employers interested in referring an individual to the TTQL. Updates shall occur for the entire Term of the Contract. Upon written approval by the State of any revision to the referral services, the Contractor shall provide an update notice via email to the State, healthcare providers, healthcare institutions, and other registered users within twenty-four (24) business hours of the implementation of the update.

(1) Quitline Fax Referral System Operations. The Contractor shall implement and maintain a fax referral program for use by Tennessee’s healthcare providers, healthcare institutions, and insurance companies to refer individuals to the TTQL by fax, using a fax referral form provided by the State. The Contractor shall operate the fax referral program as one (1) of three (3) critical components of the TTQL referral system.

i. By December 1, 2019, the Contractor shall submit a plan, including reporting format, for State review and written approval for the implementation of fax feedback reports to healthcare providers, healthcare institutions, and insurance companies that adopt the TTQL fax referral program. The Contractor shall have the fax feedback plan
operational within forty-five (45) calendar days after approval by the State.

ii. The fax referral plan shall require that healthcare providers, healthcare institutions, and insurance companies receive a feedback report within seven (7) business days after referring a Participant by fax to the TTQL. At a minimum, the feedback report must include intake information as specified in Scope A.7.d.(2) and the outcome of the call (whether or not the Participant was reached, enrolled in the TTQL program, declined enrollment, or wanted information only). If enrollment is completed, a cumulative report shall be generated and provided to referring entities every month thereafter until the Quitline Client has completed his/her five (5) Coach-Assisted Calls, requests termination of services, or remains unresponsive after at least three (3) call attempts. All fax data shall be reported to the State in aggregate and on a monthly basis.

(2) **Quitline Electronic Referral (eReferral) System Operations.** The Contractor shall implement, promote, maintain, and host an Electronic Referral program for use by the healthcare providers to refer patients to the TTQL via EHR. In doing so, the Contractor shall work with a minimum of at least one Tennessee healthcare institution, subject to approval by the State and the agreement of said Tennessee healthcare institution. The Contractor shall operate the eReferral program as one (1) of three (3) critical components of the TTQL referral system.

i. The Contractor shall, within forty-five (45) calendar days of the Effective Date, submit a plan including a Trading Partner Agreement between the Contractor and the healthcare institution for review and written approval for implementing and maintaining the bi-directional EHR referral system at the Tennessee healthcare institution and shall have the electronic feedback plan operational within one hundred twenty (120) calendar days of the Effective Date.

ii. At a minimum, the Contractor shall follow and implement NAQC’s Guide for Implementing eReferrals using Certified EHRs, found here, as may be updated from time to time:

The Electronic Referral plan shall require that healthcare providers and healthcare institutions receive a feedback report within seven (7) business days of referring an individual to the TTQL via eReferral. At a minimum, the feedback report must include intake information as specified in Scope A.7.d.(2) and the outcome of the call (whether or not the Participant was reached, enrolled in the TTQL program, declined enrollment, or wanted information only). If enrollment is completed, cumulative reports shall be generated and provided to referring entities every month thereafter until Quitline Client has completed his/her five (5) Coach-Assisted Calls, requests termination of services, or remains unresponsive after at least three (3) call attempts. All eReferral data shall be reported to the State in aggregate and on a monthly basis.

iii. Regarding eReferrals, the Contractor shall reference the guidelines at the following NAQC link, as may be updated from time to time:

(3) **Online Referral Portal Operations.** The Contractor shall implement and maintain an online referral portal program on www.tnquitline.org. A Self-Referral option shall be made available for tobacco users and recent-past tobacco users.
A professional-referral option shall be made available for healthcare providers, healthcare institutions, insurance companies, and employers interested in referring an individual to the TTQL. The Contractor shall operate the online referral portal system as one (1) of three (3) critical components of the TTQL referral system.

i. The Contractor shall, no later than December 1, 2019, submit an online referral portal plan, including reporting format, for State review and written approval for implementing the online referral portal on www.tnquitline.org for use by tobacco users, recent-past tobacco users, healthcare providers, healthcare institutions, and employers interested in referring an individual to the TTQL. This portal shall be operational within forty-five (45) calendar days of approval by the State.

Upon successfully creating an online referrer account, the end-user shall be granted immediate access to request services for him/herself (if a self-referrer account is created) and to refer tobacco users for services (if a professional-referrer account is created).

iii. The online referral plan shall require that healthcare providers and healthcare institutions receive a feedback report within seven (7) business days of referring a Participant to the TTQL via online portal. At a minimum, the feedback report must include intake information as specified in Scope A.7.d.(2) and the outcome of the call (whether or not the Participant was reached, enrolled in the TTQL cessation services, declined enrollment, or wanted information only). If enrollment is completed, cumulative reports shall be generated for Quitline Clients and provided to referring entities every month thereafter until Quitline Client has completed his/her five (5) Coach-Assisted Calls, requests termination of services, or remains unresponsive after at least three (3) call attempts. All online referral data shall be reported to the State in aggregate and on a monthly basis.

(4) The Contractor will follow up with referred Participants by making a minimum of three (3) and a maximum of five (5) attempts to reach them to complete an Intake Call. One hundred percent (100%) of the time, the initial attempt to schedule a Proactive Counseling Call shall be made according to preferences stated on the referral notification (that is, on preferred day/time of day) and/or within three (3) business days of receipt of referral.

After the second attempt to contact the Participant to complete the Intake Call, the Contractor will vary callback times to include nights and weekends in order to increase chances of contact. The Contractor will obtain an alternate contact number from all callers (i.e., friend, relative, etc.).

f. The Contractor shall utilize Frontline Call Center Staff to conduct Follow-Up Calls with Quitline Clients at the third (3rd) and seventh (7th) month after at least one (1) Reactive or Proactive Counseling Call has occurred. The Contractor shall verify the Quitline Client’s tobacco use status, including consumption reduction, quit attempts, and sustained quits, and assess satisfaction with the provided services and document Quitline Client testimonials. Methods of computing and reporting quit rates shall conform to CDC and NAQC recommendation which can be referenced at the following website: http://www.naquitline.org. The Contractor shall review and update the satisfaction questions by June 30 of each subsequent year of the Contract.


a. Upon Contract approval, the State shall provide the Contractor the branding template and coding needed for the TTQL website header and footer. The Contractor will be
responsible for applying the template and submitting the page to the State for written approval within forty-five (45) calendar days of the Effective Date.

b. The Contractor shall, within sixty (60) calendar days of the Effective Date, establish and maintain the website, www.tnquitline.org, which serves as a resource for Tobacco Cessation resources and an internet-based quit site for tobacco users seeking assistance with quitting. The website will have sections for three (3) specific audiences: tobacco users looking for help, family and friends or “just looking,” and healthcare professionals. Within tobacco users, specialized materials shall be made available for Tennessee Priority Populations. The Contractor shall make all online services available in English and Spanish. The website shall also include links to other national tobacco use cessation and prevention-based websites. Links to the online referral portal and to the fax referral form shall be available on the website.

c. Any tobacco resources, associated services, materials, and protocols that the Contractor posts to the TTQL website shall be pre-approved in writing by the State before being published.

A.9. Quitline Outreach Promotion.

a. The State will coordinate the development and implementation of state-sponsored media to promote the TTQL to the general public. The State will provide as much advance notice as possible to the Contractor about media placement and media events. The State will strive to provide at least two (2) weeks’ notice on all paid media campaign activities; however it may not be possible to provide advance notice on all media activities, particularly those conducted at the community level.

b. Occasionally the TTQL will receive calls to request speakers for community events as well as educational items, such as promotional TTQL cards or educational brochures. The State is responsible for connecting the community with speakers and for distributing brochures and the TTQL cards. The Contractor shall track and email such requests to the State within three (3) business days of receipt.

c. The Contractor shall develop and thereafter update the QuitKit. The Contractor shall provide a draft for review and written approval by the State no later forty-five (45) calendar days after the Effective Date. A file containing the approved print/production ready QuitKit shall be made available to the State within forty-five (45) calendar days of State approval.

(1) The QuitKit shall be distributed to smokers who have voiced interest in creating a Quit Plan and receiving support during the process of quitting. The Contractor shall offer the QuitKit in multiple distribution options, including an electronic copy for e-mailing and a hard copy for traditional mail. The printed version shall be provided to any Quitline Client who prefers a hard copy or does not have access to email. All requests for QuitKits shall be tracked. The Contractor shall consult with the State prior to fulfilling orders received from healthcare providers, healthcare institutions, or employers who call to the TTQL to request QuitKits in quantities greater than ten (10).

(2) The Contractor shall review and submit recommended updates to the State for QuitKit support materials. Contractor shall make State-approved updates to the QuitKit support materials by April 30 of each Contract year.

A.10. Troubleshooting Notification. All service operations of the TTQL must function as specified in this Contract. At the point that the Contractor becomes aware that the TTQL is not functioning as specified, the Contractor shall notify the State contact person identified in Contract Section D.2. within one (1) hour if the outage occurs during normal business hours. If the TTQL is not functional on a weekend, night, or holiday, the Contractor shall notify the State the next business day by 9:00 a.m. Central Time. The Contractor shall notify the State at least forty-eight (48) hours
in advance of planned system downtime due to required system maintenance and report the anticipated length of time the system will be offline. Where possible, scheduled maintenance shall occur outside of scheduled hours of operation.

A.11. Standing Meeting. The State and Contractor shall convene by phone for meetings weekly during the first six (6) weeks of the Contract (at a minimum) at a mutually agreed-upon date and time. The Contractor shall prepare and provide the State with a written report at least twenty-four (24) hours in advance of the scheduled meeting. The written report shall include updates on the TTQL call center service measures listed below.

The Contractor shall report on the following measures during the weekly calls:

a. Live call answer rate for week prior;
b. Cumulative percentage of intakes completed and resulting in a Quit Plan;
c. Cumulative total of fax referrals received during current month;
d. Cumulative total of online portal referrals received during current month;
e. Status of Follow-Up Calls, referrals, Quit Plans, voicemail messages, and second attempt calls for current month;
f. Cumulative percentage of satisfaction with the TTQL for current month;
g. Special projects update; and
h. The Contractor shall identify call center performance measures that dip below aforementioned standards described in Scope A.7.b. The Contractor shall detail the corrective action(s) that will be taken to address those deficiencies as outlined in the Contractor’s approved quality improvement plan.

After the first six (6) weeks of the Contract, the State and Contractor shall convene for monthly meetings (at a minimum) at a mutually agreed-upon date and time. Additional calls may be scheduled at the discretion of the State. The Contractor shall prepare and email meeting minutes to the State no more than one (1) business day after the monthly meeting occurs, excluding weekends and holidays. All data captured by the Contractor and provided to the State in this Section shall be owned by the State.

A.12. Service Reporting – Monthly. The Contractor shall submit cumulative monthly reports in a format approved by the State and detailing all calls received and services provided. Reports shall be received by the State at least twenty-four (24) hours prior to the scheduled monthly meeting. The Contractor shall report services and follow-up results separately for self-referred, online-referred, fax-referred, and eReferred Quitline Clients and shall assess differences between the four (4) groups. For tracking consistency, all data elements must be reported each month. The Contractor shall also submit a de-identified data set in a mutually agreed-upon format which includes the NAQC-recommended MDS (http://www.naquitline.org). The Contractor shall develop and submit the proposed format to the State for written approval within forty-five (45) calendar days of the Effective Date. At a minimum, the Contractor shall detail the following information in each report:

a. Call volume as the total number of all calls handled by the call center: live answer calls, dropped/Abandoned Calls, afterhour calls, and the total number and percent of calls by service provided (at a minimum: information only, assigned to a Quitline Coach, did not complete intake/declined enrollment, completed intake/enrolled, referred to a local resource, QuitKit distribution);
b. Call center operations including call patterns by time of day, day of week and date of month, speed to answer/waiting time for callers, unanticipated call volume, the number of
calls received during times when a live answer was not available and Abandoned Call rates, and status of complaint resolutions;

c. Client Demographics obtained at intake/assessment to include zip code/region/county, age, race/ethnicity, gender, income, veteran status, State of Tennessee employee status, insurance status and type (Medicaid [TennCare], Medicare, private insurance [including name of company], uninsured, unknown), referral source, health status (including pregnancy status), educational level, language (English, Spanish, or other), number of tobacco users in the home, number of Children in the home, LGBTQI consideration, co-morbidity issues, and Priority Population status, if applicable;

d. Tobacco behaviors including tobacco products used (cigarette, spit/chew, ENDS, other), current tobacco use status, level of dependency, motivation to quit, use and type of NRT, and Priority Population status;

e. The number of “hits” or visitors to the TTQL website and the number of website visitors who complete enrollment through the website;

f. Client outcomes including, at a minimum, change in tobacco use behaviors/consumption levels, quit rates three (3) and seven (7) months after initial call, and results of Satisfaction Surveys;

g. Promotional activity including distribution of cessation materials and information requests, and the effect of media campaign(s) on call volume and enrollment (whether volume and enrollment have increased, decreased, or remained the same). The data shall be presented at state, regional, and county levels. The report shall include discussion of monthly comparisons, trends, and other information relevant to optimal service delivery and impact of promotional activity; and

h. Other data or reporting as reasonably requested by the State.

All data captured by the Contractor and provided to the State in this Section shall be owned by the State. The Contractor shall submit monthly reports within fifteen (15) calendar days of the end of each calendar month and at least twenty-four (24) hours in advance of the monthly scheduled meetings.

A.13. Service Reporting – Quarterly. The Contractor shall submit quarterly reports in a format approved by the State detailing all calls received and services provided, with data stated by month. The Contractor shall report services and follow-up results separately for self-referred, online-referred, fax-referred, and eReferred Quitline Clients and shall assess differences between the four (4) groups. For tracking consistency, all data elements must be reported for the three (3) months covered by the quarterly report. The Contractor shall also submit a de-identified data set in a mutually agreed-upon format which includes the NAQC-proposed MDS. The Contractor shall, within forty-five (45) calendar days of the Effective Date, develop and submit the proposed formats to the State for written approval. At a minimum, the Contractor shall detail the following information, by month, in each quarterly report:

a. Call volume as the total number of all calls handled by the call center, live answer calls, dropped/Abandoned Calls, after-hour calls, and the total number and percent of calls by services provided (at a minimum: information only, assigned to a Quitline Coach, did not complete intake/declined enrollment, completed intake/enrolled, referred to a local resource, referred to a CDC or national resource, QuitKit distribution);

b. Call center operations including call patterns by time of day, day of week and date of month, speed to answer/waiting time for callers, the number of calls received during times when a live answer was not available and Abandoned Call rates, and status of complaint resolutions;
c. Quitline Client Demographics obtained at intake/assessment to include zip code/region/county, age, race/ethnicity, gender, income, veteran status, State of Tennessee employee status, insurance status and type (Medicaid [TennCare], Medicare, private insurance [including name of company], uninsured, unknown), referral source, health status (including pregnancy status), educational level, language (English, Spanish, or other), number of tobacco users in the home, number of Children in the home, LGBTQI consideration, co-morbidity issues, and Priority Population status, if applicable;

d. Tobacco behaviors including tobacco products used (cigarette, spit/chew, ENDS, other), current tobacco use status, level of dependency, motivation to quit, use and type of NRT, and Priority Population status;

e. The number of “hits” or visitors to the TTQL website and the number of website visitors who completed enrollment through the website;

f. Client outcomes including, at a minimum, change in tobacco use behaviors/consumption levels, quit rates at three (3) and seven (7) months from the initial call date, and results of Satisfaction Surveys;

g. Promotional activity including distribution of cessation materials and information requests, and the effect of media campaign(s) on call volume and enrollment (whether volume and enrollment have increased, decreased, or remained the same). The data shall be presented at state, regional, and county levels. The report shall include discussion of monthly comparisons, trends, and other information relevant to optimal service delivery and impact of promotional activity; and

h. Other data or reporting as reasonably requested by the State.

All data provided to the State in Scope A.14. shall be owned by the State. The Contractor shall submit the quarterly reports to the State on the following schedule for each year of the Term:

<table>
<thead>
<tr>
<th>Period Covered</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1 through September 30</td>
<td>October 31</td>
</tr>
<tr>
<td>October 1 through December 31</td>
<td>January 31</td>
</tr>
<tr>
<td>January 1 through March 31</td>
<td>April 30</td>
</tr>
<tr>
<td>April 1 through June 30</td>
<td>July 31</td>
</tr>
</tbody>
</table>

A.14. **Service Reporting – Annual.** The Contractor shall submit an annual project summary report for all calls received and services provided in a format approved by the State, with data stated by month. The Contractor shall report services and follow-up results separately for self-referred, online-referred, fax-referred, and eReferred Quitline Clients and shall assess differences between the four (4) groups. The Contractor shall also submit a de-identified data set in a mutually agreed upon format including the NAQC-proposed MDS. The Contractor shall, within forty-five (45) calendar days of the Effective Date, develop and submit the proposed formats to the State for written approval. At a minimum, the Contractor shall provide the following information in the annual project summary report:

a. Call volume as the total number of all calls handled by the call center, live answer, dropped/Abandoned Calls, afterhours calls, the total number and percent of calls by services Provided (at a minimum: information only, assigned to a Quitline Coach, did not complete intake/declined enrollment, completed intake/enrolled, referred to local resource, QuitKit distribution);

b. Call center operations including call patterns by time of day, day of week, and date of month, speed to answer/waiting time for callers, satisfaction and service utilization, the number of calls received during times when a live answer was not available, and Abandoned Call rates;
c. Client Demographics obtained at intake/assessment to include zip code/region/county, age, race/ethnicity, gender, income, veteran status, State of Tennessee employee status, insurance status and type (Medicaid [TennCare], Medicare, private insurance [including name of company], uninsured, unknown), referral source, health status (including pregnancy status), educational level, language (English, Spanish, or other), number of tobacco users in the home, number of Children in the home, LGBTQI consideration, co-morbidity issues, and Priority Population status, if applicable.

d. Tobacco behaviors including tobacco products used (cigarette, spit/chew, ENDS, other), current tobacco use status, level of dependency, motivation to quit, use and type of NRT, and Priority Population status;

e. The number of “hits” or visitors to the TTQL website and the number of website visitors who completed enrollment through the website;

f. Quitline Client outcomes including, at a minimum, change in tobacco use behaviors/consumption levels, quit rates at three (3) and seven (7) months after the initial call, and results of Satisfaction Surveys;

g. Promotional activity including distribution of cessation materials and information requests, and the effect of media campaign(s) on call volume and enrollment (whether volume and enrollment have increased, decreased, or remained the same). The data shall be presented at state, regional, and county levels. The report shall include discussion of monthly comparisons, trends, and other information relevant to optimal service delivery and impact of promotional activity;

h. Other data or reporting as reasonably requested by the State to allow the State to monitor call volume and effectiveness of media campaigns, or to perform other data analyses, as agreed upon by the Contractor and the State; and

i. Written annual process outcome and impact evaluation of the TTQL including continuous quality improvement, recommendations for changes or adjustments in TTQL protocols, processes, materials, and/or operations, and identification of any obstacles to the effectiveness of the program (i.e., year to date comparison data, trends, breakdowns by counties, and insurance status).

j. All data captured by the Contractor and provided to the State in this Section shall be owned by the State. The Contractor shall submit annual summary reports on the following schedule:

<table>
<thead>
<tr>
<th>Period Covered</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>November 1, 2019 through April 30, 2020</td>
<td>May 31, 2020</td>
</tr>
<tr>
<td>May 1, 2020 through April 30, 2021</td>
<td>May 31, 2021</td>
</tr>
<tr>
<td>May 1, 2021 through April 30, 2022</td>
<td>May 31, 2022</td>
</tr>
</tbody>
</table>

A.15. Contingency Plan: Surge in Capacity. TIPS From Former Smokers, Tennessee Quit Week, and other media campaigns and events that promote Tobacco Cessation may result in an influx of calls to the Quitline. The State will provide as much advance notice as possible to the Contractor about media placement and media events. The State will strive to provide at least two (2) weeks’ notice on all paid media campaign activities; however, it may not be possible to provide advance notice on all media activities, particularly those conducted at the community level. During times of high demand, the Contractor shall have a contingency plan in place which shall provide guidance on how to maintain optimal operations during times of increased demand. The Contractor shall consider the evidence generated from research and evaluation to inform service offerings during such times, [https://c.ymcdn.com/sites/naquitline.site-ym.com/resource/resmgr/Reports-NAQC/NAQCGuidanceBriefrev2.pdf](https://c.ymcdn.com/sites/naquitline.site-ym.com/resource/resmgr/Reports-NAQC/NAQCGuidanceBriefrev2.pdf). The Contractor must notify the State when the contingency plan is activated and when it is deactivated. Within three (3) weeks of the Effective Date, the proposed plan shall be submitted to the State for review and written approval. The mutually agreed-upon plan shall be in place within sixty (60) calendar days of the Effective Date.
A.16. **Turnover of Quitline Services.** The Contractor shall provide assistance to the State in the turnover of the TTQL services to a new contractor prior to the end of the Contract or in the event of termination of the Contract for any reason. The Contractor shall prepare and submit a detailed turnover plan to the State for review and written approval within six (6) months of the Effective Date or as requested by the State in the event of termination of the Contract for any reason. The plan shall define the turnover approach, define all individual tasks, and provide a schedule by calendar day for the turnover effort. The Contractor shall:

a. Cooperate with the State and the incoming contractor to ensure a smooth transition of services;

b. Collaborate with the State and the incoming contractor to implement the turnover plan;

c. Accomplish all approved tasks and deliver all requested materials to the State within the approved timeframe provided in the approved turnover plan;

d. Provide to the State any TTQL files, applications, and documentation and other pertinent information that will facilitate an orderly transition of services;

e. Surrender any and all data collected during the course of this Contract and destroy all retained files within forty-five (45) calendar days of Contract expiration or termination; and

f. Within forty-five (45) calendar days of turnover completion, the Contractor shall submit a final report to the State summarizing turnover results and detailing completion.

A.17. **Service Deliverables**

<table>
<thead>
<tr>
<th>Deliverable</th>
<th>Contract Section</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identified revisions to current fax referral feedback plan submitted to the State for review and approval</td>
<td>A.5.e.</td>
<td>December 15, 2019</td>
</tr>
<tr>
<td>Revised fax referral program to be operational</td>
<td>A.5.e.</td>
<td>December 30, 2019</td>
</tr>
<tr>
<td>Update a Tennessee community resource and referral database</td>
<td>A.5.m.</td>
<td>December 30, 2019</td>
</tr>
<tr>
<td>Submit to the State for approval evidence-based resources to educate on the harms of tobacco use and benefits of quitting</td>
<td>A.6.h.(1)</td>
<td>Within three (3) weeks of Effective Date</td>
</tr>
<tr>
<td>Implement an Integrated Voice Response (IVR)</td>
<td>A.6.i.</td>
<td>Within sixty (60) calendar days of Effective Date</td>
</tr>
<tr>
<td>Develop system to provide technical assistance to medical professionals, accepting eReferrals, telephone referrals, and online referrals, and including online resources</td>
<td>A.6.j.</td>
<td>Within three (3) weeks of Effective Date</td>
</tr>
<tr>
<td>Develop and host a computerized tracking system and relational database for tracking all Quitline Client information</td>
<td>A.6.l.</td>
<td>Within three (3) weeks of Effective Date</td>
</tr>
<tr>
<td>Submit to the State an implementation plan/system for continuous quality improvement and evaluation of outcome measures</td>
<td>A.6.m.</td>
<td>Within three (3) weeks of Effective Date</td>
</tr>
<tr>
<td>Develop and submit to the State an NRT protocol</td>
<td>A.6.n.</td>
<td>Within three (3) weeks of Effective Date</td>
</tr>
<tr>
<td>NRT plan to be operational</td>
<td>A.6.n.</td>
<td>Within thirty (30)</td>
</tr>
<tr>
<td>Deliverable</td>
<td>Contract Section</td>
<td>Date</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>------------------</td>
<td>--------------------------------------------------------------------</td>
</tr>
<tr>
<td>Develop and submit to the State a specialized protocol to be referenced by coaching staff assigned to provide counseling services to callers that identify as pregnant/Postpartum women, being a Woman of Childbearing Age, or individuals, regardless of gender, residing in a home with a child under age one (1) year.</td>
<td>A.6.o.</td>
<td>Within three (3) weeks of Effective Date</td>
</tr>
<tr>
<td>Implementation of protocol to be referenced by coaching staff assigned to provide counseling services to callers that identify as pregnant/Postpartum women, being a Woman of Childbearing Age, or individuals, regardless of gender, residing in a home with a child under age one (1) year.</td>
<td>A.6.o.</td>
<td>Within sixty (60) calendar days of Effective Date</td>
</tr>
<tr>
<td>Submit to the State for approval the hours of operation and live staffing</td>
<td>A.7.a.</td>
<td>Within thirty (30) calendar days of Effective Date</td>
</tr>
<tr>
<td>Submit to the State for approval a system description for obtaining and storing Participant and Quitline Client proof of Consent</td>
<td>A.7.d.(2).ii.</td>
<td>Within forty-five (45) calendar days of Effective Date</td>
</tr>
<tr>
<td>Submit to the State for approval a plan for implementation of fax feedback reports to healthcare providers, healthcare institutions, and insurance companies that adopt the TTQL fax referral program</td>
<td>A.7.e.(1).i.</td>
<td>December 1, 2019</td>
</tr>
<tr>
<td>Fax feedback plan to be operational</td>
<td>A.7.e.(1).i.</td>
<td>Within forty-five (45) calendar days of approval by the State</td>
</tr>
<tr>
<td>Submit to the State for approval a plan and Trading Partner Agreement between the Contractor and dhealthcare institution for implementing and maintaining bi-directional HER referral system at the Tennessee healthcare institution</td>
<td>A.7.e.(2).i.</td>
<td>Within forty-five (45) calendar days of Effective Date</td>
</tr>
<tr>
<td>Electronic feedback plan to be operational</td>
<td>A.7.e.(2).i.</td>
<td>Within one hundred twenty (120) calendar days of Effective Date</td>
</tr>
<tr>
<td>Submit to the State for approval an online referral portal plan</td>
<td>A.7.e.(3).i.</td>
<td>December 1, 2019</td>
</tr>
<tr>
<td>Online referral portal to be operational</td>
<td>A.7.e.(3).i.</td>
<td>Within forty-five (45) calendar days of approval by the State</td>
</tr>
<tr>
<td>Apply branding template and submit page to State for approval</td>
<td>A.8.a.</td>
<td>Within forty-five (45) days of Effective Date</td>
</tr>
<tr>
<td>Establish and maintain <a href="http://www.tnquitline.org">www.tnquitline.org</a></td>
<td>A.8.b.</td>
<td>Within sixty (60) calendar days of Effective Date</td>
</tr>
<tr>
<td>Develop the QuitKit and submit to the State for approval</td>
<td>A.9.c.</td>
<td>Within forty-five (45) days of Effective Date</td>
</tr>
<tr>
<td>File containing approved print/production ready QuitKit made available to the State</td>
<td>A.9.c.</td>
<td>Within forty-five (45) days of Effective Date</td>
</tr>
<tr>
<td>Deliverable</td>
<td>Contract Section</td>
<td>Date</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------</td>
<td>------------------</td>
<td>-------------------------------------------</td>
</tr>
<tr>
<td>Contractor to make State-approved updates to the QuitKit</td>
<td>A.9.c.(2)</td>
<td>By April 30th of each Contract year</td>
</tr>
<tr>
<td>Service Reporting – Monthly Develop and submit proposed format to the State</td>
<td>A.12.</td>
<td>Within forty-five (45) calendar days of Effective Date</td>
</tr>
<tr>
<td>Service Reporting – Quarterly Develop and submit proposed format to the State</td>
<td>A.13.</td>
<td>Within forty-five (45) calendar days of Effective Date</td>
</tr>
<tr>
<td>Service Reporting – Annual Develop and submit proposed format to the State</td>
<td>A.14.</td>
<td>Within forty-five (45) calendar days of Effective Date</td>
</tr>
<tr>
<td>Submit the Contingency Plan to the State for approval</td>
<td>A.15.</td>
<td>Within three (3) weeks of Effective Date</td>
</tr>
<tr>
<td>Contingency Plan to be in place</td>
<td>A.15.</td>
<td>Within sixty (60) calendar days of Effective Date</td>
</tr>
<tr>
<td>Develop and submit detailed turnover plan to the State for approval</td>
<td>A.16.</td>
<td>Within six (6) months of Effective Date or as requested by the State</td>
</tr>
</tbody>
</table>

A.18. **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.19. **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 November 1, 2019, (“Effective Date”) and ending on April 30, 2022 (“Term”). The State shall have no obligation for goods 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 sixty (60) 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</th>
</tr>
</thead>
<tbody>
<tr>
<td>Develop and implement the Quitline so that it is fully operational as detailed in Scope A.6. and A.7.</td>
<td>$ Number One-time Charge upon written approval of State</td>
</tr>
<tr>
<td>Develop system to provide technical assistance to medical professionals as detailed in Scope A.6.j.</td>
<td>$ Number One-time Charge upon written approval of State</td>
</tr>
<tr>
<td>Develop and implement the Quitline website as detailed in Scope A.8.</td>
<td>$ Number One-time Charge upon written approval of State</td>
</tr>
<tr>
<td>Administrative fee to cover expenses incurred for operation of the Quitline as detailed in Scope A.6. and A.7.; Operation and maintenance of the Quitline website as detailed in A.8.; the Submission of required and ad hoc reports as detailed in Scope A.12. through Scope A.14.</td>
<td>$ Number / Month</td>
</tr>
<tr>
<td>Purchase and ship 2-week supply of NRT to eligible Quitline Clients as detailed in Scope A.6.n. through A.6.o.</td>
<td>$ Number / Package</td>
</tr>
<tr>
<td>Purchase and ship up to 5 additional units of NRT to Women of Childbearing Age, Postpartum women, or individuals living in a home</td>
<td>$ Number / Package</td>
</tr>
</tbody>
</table>
with a child under age one (1) who are eligible to receive NRT as detailed in Scope A.6.o.

<table>
<thead>
<tr>
<th>Submission of approved QuitKit as detailed in Scope A.9.c.</th>
<th>$ Number / Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shipment of approved QuitKit to registered Quitline Clients as detailed in Scope A.9.c.(1).</td>
<td>$ Number / QuitKit</td>
</tr>
<tr>
<td>Submission of approved contingency plan as detailed in Scope A.15.</td>
<td>$ Number</td>
</tr>
</tbody>
</table>

One-time Charge upon written approval of State

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) calendar days after goods or services have been provided to the following address:

By email: Liz.Johnson@tn.gov

By regular mail:

Liz Johnson, Tobacco Prevention Program Director
Tennessee Department of Health
Division of Family Health and Wellness
Andrew Johnson Tower, 8th Floor
710 James Robertson Parkway
Nashville, TN 37243
(615) 253-2991

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: Department of Health, Division of Family Health and Wellness;
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:

Liz Johnson, Tobacco Prevention Program Director  
Tennessee Department of Health  
Division of Family Health and Wellness  
Andrew Johnson Tower, 8th Floor  
710 James Robertson Parkway  
Nashville, TN 37243  
(615) 253-2991  
Liz.Johnson@tn.gov

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) calendar days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State’s exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.

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

D.7. **Assignment and Subcontracting.** The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written


approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor’s obligations under this Contract.

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

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

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

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

a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment 3, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.

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

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

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

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

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

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

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

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

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

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

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

D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death.
D.19. **Hold Harmless.** The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys' 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 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 (Attachment 4), 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 Attachments 1-4;

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, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

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

a. Commercial General Liability ("CGL") Insurance

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.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.
E. SPECIAL TERMS AND CONDITIONS

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

E.2. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of Tenn. Code Ann.§§ 12-7-101, et seq., shall be printed pursuant to this Contract unless a printing authorization number has been obtained and affixed as required by Tenn. Code Ann. §12-7-103(d).

E.3. Additional lines, items, or options. At its sole discretion, the State may make written requests to the Contractor to add lines, items, or options that are needed and within the Scope but were not included in the original Contract. Such lines, items, or options will be added to the Contract through a Memorandum of Understanding ("MOU"), not an amendment.

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

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

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

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

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

E.4. 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: one (1) hour.

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: sixteen (16) hours].
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.5. Prohibited Advertising or Marketing.** The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.

**E.6. Environmental Tobacco Smoke.** Pursuant to the provisions of the federal “Pro-Children Act of 1994” and the Tennessee “Children’s Act for Clean Indoor Air of 1995,” the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post “no smoking” signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.

**E.7. 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.8. 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.9. 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))
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.10. 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.11. **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.12. **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.13. **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.

IN WITNESS WHEREOF,

**CONTRACTOR LEGAL ENTITY NAME:**

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

**DEPARTMENT OF HEALTH:**

<table>
<thead>
<tr>
<th>LISA PIERCEY, MD, MBA, FAAP, COMMISSIONER</th>
<th>DATE</th>
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</table>
### XVI. SMOKING CESSATION AGENTS

<table>
<thead>
<tr>
<th>Preferred Drugs</th>
<th>Non-Preferred Drugs</th>
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</thead>
<tbody>
<tr>
<td>bupropion SR OTC</td>
<td>nicotine polacrilex lozenge OTC</td>
</tr>
<tr>
<td>Chantix OTC</td>
<td>nicotine transdermal patch OTC</td>
</tr>
<tr>
<td>nicotine polacrilex gum OTC</td>
<td></td>
</tr>
</tbody>
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* Note that agents not listed on PDL may be considered non-preferred
Protocol: Quitline Intake and Coach-Assisted Calls with Women of Childbearing Age, Pregnant/Postpartum Women, and Individuals, Regardless of Gender, Residing in a Home With a Child Under the Age of One (1) Year

Upon completion of intake and obtaining Consent, Frontline Call Center Staff shall assign Women of Childbearing Age, pregnant or Postpartum women, and individuals residing in a home with a child under the age of one (1) to the Coach-Assisted Call queue specifically for this population. Postpartum is defined in section A.2.v, and Women of Childbearing Age is defined in section A.2.kk.

The Contractor shall provide up to six (6) comprehensive Coach-Assisted Calls to Women of Childbearing Age or pregnant women who identify as current or recent-past tobacco users and up to five (5) comprehensive Coach-Assisted Calls to Postpartum women and all other Quitline Clients, regardless of gender, residing in a home with a child under the age of one (1) year. If a Quitline Client is unable to continue with their first Coach-Assisted Call session after completing intake, the Contractor will schedule a follow-up session for a specific date and time, occurring within three (3) days of the intake call. Coaching calls, whether initial or follow-up, may include development of a personalized quit plan, quit tips, referrals to community-based services, information on health plan coverage for tobacco dependence treatment, problem solving, strategies for managing cravings, stress management, and other evidence-based strategies. The intervention and spacing of Coach-Assisted Calls with women shall be agreed upon by the Contractor and the State and based upon evidence-based research protocols as outlined by NAQC recommendations. Coach-Assisted Calls shall include:

Reactive or Single-Contact Counseling Services: One (1) tobacco user-initiated Coach-Assisted Call that includes cognitive behavioral counseling intervention.

Proactive or Multi-Contact Counseling Services: One (1) or more coach-initiated counseling call(s) that shall include cognitive-behavioral counseling interventions and one or more additional Coach-initiated follow-up contact(s) with the Quitline Client at relapse-sensitive times to assess quit status and to support the continued quit attempt. The design of these multiple-contact coaching services shall be based upon research showing effectiveness in inducing behavior change and in line with NAQC and the U.S. Public Health Service’s Clinical Practice Guideline on Treating Tobacco Use and Dependence, https://www.ahrq.gov/professionals/clinicians-providers/guidelinesrecommendations/tobacco/clinicians/update/index.html. The State may decide to provide additional or fewer sessions based upon Quitline Client need, Priority Population status, and program funding.

Coach-Assisted Call with Women of Childbearing Age

The Coach shall at minimum:

a. Confirm woman’s age for eligibility;
b. Describe services offered by the Quitline;
c. Review eligibility to receive NRT;
d. Refer Quitline Client to community-based services;
e. Refer Quitline Client without insurance to Tennessee’s Health Insurance Exchange or equivalent resource;
f. For Quitline Clients with private insurance or any other known benefit – review FDA-approved cessation medications and advise Quitline Client to reach out to their health plan’s cessation program for additional pharmacotherapy benefits, as appropriate;
g. For Quitline Clients with Medicaid/TennCare – Review TennCare’s PDL and discuss which brands of FDA-approved cessation medications are covered;
h. Screen Quitline Client for eligibility to receive up to twelve (12) weeks of NRT through the Tennessee Quitline; and
i. Mail Quitline Client one (1) QuitKit and other informational materials, as appropriate.
Coach-Assisted Call during Pregnancy

The Coach shall at a minimum:

a. Confirm that the woman is pregnant and record mother’s due date;
b. Describe services offered by the QuitLine;
c. Refer the woman to the Pregnancy Smoking Cessation Program at her local health department and other available cessation programs in her area;
d. Offer opportunity to sign-up to receive digitally-based resources (i.e., text messages or e-mails) for up to one (1) year after delivery;
e. Mail Quitline Client a welcome packet, including welcome letter, one (1) QuitKit, and pregnancy information; and
f. Two (2) weeks prior to due date, the Coach shall call the Quitline Client. If necessary, the Contractor shall deliver relapse prevention.

Coach-Assisted Call during Postpartum

The Coach shall at a minimum:

a. Discuss various topics during calls, including but not limited to benefits of quitting, partner and household smoking, relapse prevention, risks of secondhand smoke exposure, health benefits of quitting for mother and infant, and addressing potential or underlying issues such as Postpartum depression and stress management;
b. Refer Quitline Client to community-based services;
c. If Quitline Client began receiving tobacco cessation coaching during pregnancy but continues to use tobacco Postpartum, she may be eligible for a twelve (12) week supply of NRT (requires a medical consent from TN licensed healthcare provider if nursing); and
d. If the mother continues to use tobacco at the conclusion of the five (5) Postpartum coaching sessions:
   (1) Refer Quitline Clients without insurance to Tennessee’s Health Insurance Exchange or equivalent resource;
   (2) For Quitline Clients with private insurance or any other known benefit – review the FDA-approved cessation medications and advise Quitline Client to reach out to their health plan’s cessation program for additional pharmacotherapy benefits, as appropriate; and
   (3) For Quitline Clients with Medicaid/TennCare – Review TennCare’s PDL and discuss which brands of FDA-approved cessation medications are covered.

Coach-Assisted Call with Individual, Regardless of Gender, Residing in a Home with a Child Under Age One (1)

The Coach shall at minimum:

a. Confirm that Quitline Client resides in a home with a child under age one (1);
b. Describe services offered by the Quitline;
c. Review eligibility to receive NRT;
d. Refer Quitline Client to community-based services;
e. Refer Quitline Client without insurance to Tennessee’s Health Insurance Exchange or equivalent resource;
f. For Quitline Clients with private insurance or any other known benefit – review FDA-approved cessation medications and advise Quitline Client to reach out to their health plan’s cessation program for additional pharmacotherapy benefits, as appropriate;
g. For Quitline Clients with Medicaid/TennCare – Review TennCare’s PDL and discuss which brands of FDA-approved cessation medications are covered;
h. Screen Quitline Client for eligibility to receive up to twelve (12) weeks of NRT through the Tennessee Quitline; and
i. Mail Quitline Client one (1) QuitKit and other informational materials, as appropriate.
## ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

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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**
BUSINESS ASSOCIATE AGREEMENT AND SERVICE LEVEL AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (hereinafter agreement) is between Tennessee Department of Health (hereinafter Covered Entity) and BUSINESS ASSOCIATE AND CONTRACT # (hereinafter Business Associate). Covered Entity and Business Associate may be referred to herein individually as “Party” or collectively as “Parties.”

BACKGROUND

Covered Entity acknowledges that it is subject to the Privacy Rule (45 C.F.R. Parts 160 and 164) promulgated by the United States Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191.

Business Associate acknowledges that effective February 17, 2010, the American Recovery and Reinvestment Act of 2009 (Pub. L.111-5), pursuant to Title XIII of Division A and Title IV of Division B, entitled the “Health Information Technology for Economic and Clinical Health” (HITECH) Act, which modifies the HIPAA Privacy and Security Rules, subjects and obligates the Business Associate to protect patient health information to the same extent and manner as the Covered Entity under the Privacy Rule (45 C.F.R. Parts 160 and 164) promulgated by the United States Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191. 45 C.F.R. §§ 164.308, 164.310, 164.312, and 164.316 shall apply to a business associate of a covered entity in the same manner that these sections apply to the covered entity.

In the course of executing Service Contracts, Business Associate may come into contact with, use, or disclose Protected Health Information (PHI) (defined in Section 1.7 below). Said Service Contracts are hereby incorporated by reference and shall be taken and considered as a part of this document the same as if fully set out herein. In accordance with the federal privacy regulations set forth at 45 C.F.R. Part 160 and Part 164, Subparts A and E, which require Covered Entity to have a written contract with each of its Business Associates, the Parties wish to establish satisfactory assurances that Business Associate will appropriately safeguard PHI and, therefore, execute this Agreement.

1. DEFINITIONS

1.1. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 C.F.R. §§ 160.103, 164.304, 164.501 and 164.504.

1.2. “Breach” shall mean the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security or privacy of the protected health information except where an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information. 42 U.S.C.A. § 17921.

1.3. “Breach of the security system” under T.C.A. § 47-18-2107 means unauthorized acquisition of unencrypted computerized data that materially compromises the security of confidentiality or integrity of personal information maintained by the information holder.

1.4. “Designated Record Set” shall have the meaning set out in its definition at 45 C.F.R. § 164.501.

1.5. “Electronic Health Record” shall have the same meaning as set forth in the HITECH Act; “Electronic Protected Health Information” shall have the same meaning as set forth in 45 C.F.R. § 160.103, limited to the information that the Business Associate creates, receives, maintains, or transmits for or on behalf of the Covered Entity.
1.6. “Health Care Operations” shall have the meaning set out in its definition at 45 C.F.R. § 164.501.

1.7. “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

1.8. “Information Holder” means any person or business that conducts business in this state, or any agency of the state of Tennessee or any of the political subdivisions, that owns or stores computerized data that includes personal information. T.C.A. § 47-18-2107(a)(2).

1.9. “Personal Information” means an individual’s first name or first initial and last name, in combination with any one (1) or more of the following data elements, when either the name or the data elements are not encrypted: social security number, drivers license number, or account number, credit or debit card number; in combination with required security code, access code, or password that would permit access to an individual’s financial account. T.C.A. § 47-18-2107(a)(3)(A)

1.10. “Privacy Officer” shall have the meaning as set out in its definition at 45 C.F.R. § 164.530(a) (1).

1.11. “Privacy Rule” shall mean the Standards for Privacy for Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, subparts A and E.

1.12. “Protected Health Information” shall have the same meaning as the term “protected health information” in 45 C.F.R. § 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

1.13. “Required By Law” shall have the same meaning as the term “required by law” in 45 C.F.R. § 164.501.

1.14. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his/her designee.

1.15. “Security Event” shall mean an immediately reportable subset of security incidents which would include:

   a) a suspected penetration of Business Associate’s information system of which the Business Associate becomes aware but for which it is not able to verify within FORTY-EIGHT (48) HOURS (of the time the Business Associate became aware of the suspected incident) that PHI or other confidential data was not accessed, stolen, used, disclosed, modified, or destroyed;

   b) any indication, evidence, or other security documentation that the Business Associate’s network resources, including, but not limited to, software, network routers, firewalls, database and application servers, intrusion detection systems or other security appliances, may have been damaged, modified, taken over by proxy, or otherwise compromised, for which Business Associate cannot refute the indication within FORTY-EIGHT (48) HOURS of the time the Business Associate became aware of such indication;

   c) a breach of the security of the Business Associate’s information system(s)(see definition 1.3 above), by unauthorized acquisition, including, but not limited to, access to or use, disclosure, modification or destruction, of unencrypted computerized data and which incident materially compromises the security, confidentiality, or integrity of PHI; and/or
d) the unauthorized acquisition, including, but not limited to, access to or use, disclosure, modification or destruction, of unencrypted PHI or other confidential information of the covered Entity by an employee or authorized user of Business Associate’s system(s) which materially compromises the security, confidentiality, or integrity of PHI or other confidential information of the Covered Entity.

e) a security incident involving 500 or more patients shall be reported to HHS immediately and a security incident involving less than 500 patients shall be reported to HHS annually.

If data acquired (including, but not limited, to access to or use, disclosure, modification or destruction of such data) is in encrypted format but the decryption key which would allow the decoding of the data is also taken, the parties shall treat the acquisition as a breach for purposes of determining appropriate response.

1.16. “Security Incident” shall mean the attempt or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

1.17. “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information” at 45 C.F.R. Parts 160 and 164, Subparts A and C.

1.18. “Services Agreement” shall mean any present or future agreements, either written or oral, between Covered Entity and Business Associate under which Business Associate provides services to the covered entity which involves the use or disclosure of Protected Health Information. The services Agreement is amended by and incorporates the terms of the business associate agreement.

1.19. “Unsecured Protected Health Information” is protected health information that is not rendered unusable, unreadable or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in the guidance issued under 42 U.S.C.A. § 17932(h)(2) decoding of the data is also taken, the parties shall treat the acquisition as a breach for purposes of determining appropriate response.

2. **OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE (PRIVACY RULE)**

2.1. Business Associate agrees to fully comply with the requirements under the Privacy Rule applicable to “business associates,” as that term is defined in the Privacy Rule and not use or further disclose Protected Health Information other than as permitted or required by this Agreement, Service Contracts as required by law. In case of any conflict between this Agreement and Service Contracts, this Agreement shall govern.

2.2. Business Associate agrees to implement administrative, including policies, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any PHI, including EPHI, that it creates, receives, maintains, or that it transmits on behalf of the covered entity to prevent use or disclosure of PHI other than as provided for by this Agreement. Said safeguards shall include, but are not limited to, requiring employees to agree to use or disclose PHI only as permitted or required by this Agreement and taking related disciplinary actions for inappropriate use or disclosure as necessary.

2.3. Business Associate shall, following a breach of unsecured PHI, as defined in the HITECH Act, immediately notify the Covered Entity pursuant to the terms of 45 C.F.R. § 164.410, cooperate in the Covered Entity’s analysis procedures, including risk assessment, if requested. A breach shall be treated as discovered by the Business Associate as of the first day on which such breach is known or should have been known or, by exercising reasonable diligence, would have been known to Business Associate. Business Associate will provide notification to the Covered Entity
without unreasonable delay and in no event later than twenty-four (24) hours of any suspected or actual breach of security, intrusion, or unauthorized use or disclosure. Such notification will contain the elements required in 45 C.F.R. § 164.410; and

2.4. Business Associate shall, pursuant to the HITECH Act and its implementing regulations, comply with all additional applicable requirements of the Privacy Rule, including those contained in 45 C.F.R. §§ 164.502(e) and 164.504(e)(1)(ii), at such time as the requirements become applicable to Business Associates. Business Associate will not accept payment in exchange for PHI, subject to the exceptions contained in the HITECH Act, without a valid authorization from the applicable patient/individual. Business associate shall not engage in any communication which might be considered marketing under the HITECH Act. Further, business Associate shall, pursuant to the HITECH Act and its implementing regulations, comply with applicable requirements of the Security Rule, contained in 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316, at such time as the requirements are applicable to Business Associates.

2.5. Business Associate shall within ten (10) days of a written request from the Covered Entity and its agents or subcontractors allow the Covered Entity to conduct a reasonable inspection of the facility, systems, books, records agreements, policies and procedures relating to the use, or disclosure of protected health information pursuant to this Agreement for the purpose of monitoring compliance with the terms of this Agreement.

2.6. Business Associate shall require any agent, including a subcontractor, to whom it provides PHI received from, created or received by, Business Associate on behalf of Covered Entity or that carries out any duties for the Business Associate involving the use, custody, disclosure, creation of, or access to PHI, to agree, by written contract with Business Associate, to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

2.7. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement. Business Associate agrees to require its employees, agents, and subcontractors to immediately report, to Business Associate, any use or disclosure of Protected Health Information in violation of this Agreement, and to report to Covered Entity any use or disclosure of the PHI not provided by or agreed upon in this Agreement.

2.8. If Business Associate receives PHI from Covered Entity in a Designated Record Set, then Business Associate agrees to provide access, at the request of Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524, provided that Business Associate shall have at least thirty (30) days from Covered Entity’s notice to provide access to, or deliver such information.

2.9. If Business Associate receives Protected Health Information from Covered Entity in a Designated Record Set, then Business Associate agrees to make any amendments to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to the 45 C.F.R. §164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity, provided that Business Associate shall have at least thirty (30) days from Covered Entity notice to make an amendment.

2.10. Business Associate agrees to make its internal practices, books, and records including policies and procedures and Protected Health Information, relating to the use and disclosure of PHI received from, created by or received by Business Associate on behalf of, Covered Entity available to the Covered Entity or to the Secretary of the United States Department of Health in Human Services or the Secretary’s designee, in a time and manner designated by the Covered Entity or the Secretary, for purposes of determining Covered Entity’s or Business Associate’s compliance with the Privacy Rule.
2.11. Business Associate agrees to document disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosure of PHI in accordance with 45 C.F.R. §164.528.

2.12. Business Associate agrees to provide Covered Entity or an Individual, in time and manner designated by Covered Entity, information collected in accordance with this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528, provided that Business Associate shall have at least thirty (30) days from Covered Entity notice to provide access to, or deliver such information which shall include, at minimum, (a) date of the disclosure; (b) name of the third party to whom the Protected Health Information was disclosed and, if known, the address of the third party; (c) brief description of the disclosed information; and (d) brief explanation of the purpose and basis for such disclosure.

2.13. Business Associate agrees it must limit any use, disclosure, or request for use or disclosure of PHI to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request in accordance with the requirements of the Privacy Rule. Business Associate understands and agrees that the definition of “minimum necessary” has not been established by HHS guidance and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes “minimum necessary.”

2.14. Business Associate agrees it must use reasonable efforts to limit any use, disclosure, or request for use or disclosure of PHI to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request in accordance with the requirements of the Privacy Rule.

2.15. Covered Entity may, pursuant to the Privacy Rule, reasonably rely on any requested disclosure as the minimum necessary for the stated purpose when the information is requested by Business Associate.

2.16. Business Associate acknowledges that if Business Associate is also a covered entity, as defined by the Privacy Rule, Business Associate is required, independent of Business Associate's obligations under this Agreement, to comply with the Privacy Rule's minimum necessary requirements when making any request for PHI from Covered Entity.

2.17. Business Associate agrees to adequately and properly maintain all Protected Health Information received from, or created or received on behalf of, Covered Entity, document subsequent uses and disclosures of such information by Business Associate as may be deemed necessary and appropriate by the Covered Entity, and provide Covered Entity with reasonable access to examine and copy such records and documents during normal business hours of Business Associate.

2.18. Business Associate agrees that Covered Entity may at any time review Business Associate's privacy policies and procedures to determine whether they are consistent with Covered Entity's policies, procedures, and privacy practices, and shall promptly notify Business Associate in writing regarding any modifications Covered Entity may reasonably believe are needed in order to meet Covered Entities requirements.

2.19. If Business Associate receives a request from an individual for a copy of the individual's Protected Health Information, and the Protected Health Information is in the sole possession of the Business Associate, Business Associate will provide the requested copies to the individual and notify the Covered Entity of such action. If Business Associate receives a request for PHI in the possession of the Covered Entity, or receives a request to exercise other individual rights as set forth in the Privacy Rule, Business Associate shall notify Covered Entity of such request and
forward the request to Covered Entity. Business Associate shall then assist Covered Entity in responding to the request.

2.20. Business Associate agrees to fully cooperate in good faith with and to assist Covered Entity in complying with the requirements of the Privacy Rule.

3. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE (Security Rule)

3.1. Business Associate agrees to fully comply with the requirements under the Security Rule applicable to “business associates” as such terms is defined in the Security Rule. In case of any conflict between this Agreement and Service Contracts, this agreement shall govern.

3.2. Business Associate Agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the covered entity as required by the Security Rule. This includes specifically, but not limited to, the utilization of technology commercially available at the time to the Business Associate to protect the Covered Entity’s PHI against any reasonably anticipated threats or hazards. The Business Associate understands that it has an affirmative duty to perform a regular review or assessment of security risks, conduct active risk management and supply best efforts to assure that only authorized persons and devices access its computing systems and information storage, and that only authorized transactions are allowed. The Business Associate will maintain appropriate documentation of its compliance with the Security Rule.

3.3. Business Associate shall ensure that any agent, including a subcontractor, to whom it provides electronic PHI received from, maintained, or created for Covered Entity or that carries out any duties for the Business Associate involving the use, custody, disclosure, creation of, or access to PHI supplied by Covered Entity, shall execute a bilateral contract (or the appropriate equivalent if the agent is a government entity) with Business Associate, incorporating the same restrictions and conditions in this Agreement with Business Associate regarding PHI.

3.4. Tennessee Consumer Notice of System Breach. Business Associate understands that the Covered Entity is an “information holder” (as may be Business Associate) under the terms of T.C.A. § 47-18-2107, and that in the event of a breach of the Business Associate’s security system as defined by that statute and Definition 1.7 of this agreement, the Business Associate shall indemnify and hold the Covered Entity harmless for expenses and/or damages related to the breach. Such obligations shall include, but is not limited to, the mailed notifications to any Tennessee resident whose personal information is reasonably believed to have been acquired by an unauthorized individual. In the event that the Business Associate discovers circumstances requiring notification of more than a thousand (1,000) persons at one time, the person shall also notify, without unreasonable delay, all consumer reporting agencies and credit bureaus that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. §1681a, of the timing distribution and content of the notices. Substitute notice as defined T.C.A. § 47-18-2107(e)(2) and (3), shall not be permitted except as approved in writing in advance by the Covered Entity. The parties agree that PHI includes data elements in addition to those included by “personal information” under T.C.A. § 47-18-2107, and agree that Business Associate’s responsibilities under this paragraph shall include all PHI and PII.

3.5. Reporting of Security Incidents. The Business Associate shall track all security incidents as defined by HIPAA. The Business Associate shall reasonably use its own vulnerability assessment of damage potential and monitoring to define levels of Security Incidents and responses for Business Associate’s operations. However, the Business Associate shall expediently notify the Covered Entity’s Privacy Officer of any Security Incident which would constitute a Security Event as defined by this Agreement, including any “breach of the security of the system” under T.C.A. § 47-18-2107, in a preliminary report within two (2) business days of any unauthorized acquisition
including, but not limited to, use, disclosure, modification, or destruction of PHI by an employee or otherwise authorized user of its system of which it becomes aware with a full report of the incident not less than five (5) business days of the time it became aware of the incident.

3.5.1 Business Associate shall identify in writing key contact persons for administration, data processing, Marketing, Information Systems and Audit Reporting within thirty (30) days of execution of this Agreement. Business Associate shall notify Covered Entity of any reduction of in-house staff persons during the term of this Agreement in writing within ten (10) business days.

3.6. Contact for Security Event Notice. Notification for the purposes of Sections 2.7, 3.4 and 3.5 shall be in writing made by certified mail or overnight parcel within two (2) business days of the event, with supplemental notification by facsimile and/or telephone as soon as practicable, to the designated Privacy Official of the Covered Entity in accordance to 8.5 Notices and Communications.

3.7. Security Compliance Review upon Request. Business Associate agrees to make its internal practices, books, and records, including policies and procedures relating to the security of electronic PHI received from, created by or received by Business Associate on behalf of Covered Entity, available to the Covered Entity or to the Secretary of the United States Department of Health in Human Services or the Secretary's designee, in a time and manner designated by the requester, for purposes of determining Covered Entity's or Business Associate's compliance with the Security Rule.


4. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

4.1. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in Service Contracts, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

4.2. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information as required for Business Associate's proper management and administration or to carry out the legal responsibilities of the Business Associate. In the event a party to this Agreement receives a subpoena, court order, or other demand for the information in this Agreement, the receiving party shall immediately inform the other party in writing concerning the demand.

4.3. Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are required by law, or provided that, if Business Associate discloses any Protected Health Information to a third party for such a purpose, Business Associate shall enter into a written agreement with such third party requiring the third party to: (a) maintain the confidentiality of Protected Health Information and not to use or further disclose such information except as Required By Law or for the purpose for which it was disclosed, and (b) notify Business Associate of any instances in which it becomes aware in which the confidentiality of the Protected Health Information is breached.

4.4. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 42 C.F.R. § 164.504(e)(2)(I)(B).
5. OBLIGATIONS OF COVERED ENTITY

5.1. Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. § 164.520, as well as any changes to such notice.

5.2. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses.

5.3. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use of Protected Health Information.

6. PERMISSIBLE REQUESTS BY COVERED ENTITY

6.1. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

7. TERM AND TERMINATION

7.1. Term. This Agreement shall be effective as of the date on which it is signed by both parties and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, Section 7.3 below shall apply.

7.2. Termination for Cause.

7.2.1. This Agreement authorizes and Business Associate acknowledges and agrees Covered Entity shall have the right to immediately terminate this Agreement and Service Contracts in the event Business Associate fails to comply with, or violates a material provision of, requirements of the Privacy Rule or this Agreement.

7.2.2.1. If Business Associate has breached a material term of this Agreement and remedy is not possible or if Business Associate does not remedy a curable breach or end the violation within a reasonable time as specified by, and at the sole discretion of, Covered Entity, Covered Entity may immediately terminate this Agreement and Service Contracts.

7.2.2.2. If neither remedy nor termination is feasible, Covered Entity shall report the violation to the Secretary of the United States Department of Health in Human Services or the Secretary’s designee.

7.3. Effect of Termination.
7.3.1. Except as provided in Section 7.3.2 below, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of, Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

7.3.2. In the event that Business Associate determines that returning or destroying the Protected Health Information is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction unfeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is unfeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction unfeasible, for so long as Business Associate maintains such Protected Health Information.

8. MISCELLANEOUS

8.1. Regulatory Reference. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.

8.2. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191. Business Associate and Covered Entity shall comply with any amendment to the Privacy Rule, the Health Insurance Portability and Accountability Act, Public Law 104-191, and related regulations upon the effective date of such amendment, regardless of whether this Agreement has been formally amended.

8.3. Survival. The respective rights and obligations of Business Associate under Section 7.3. of this agreement shall survive the termination of this Agreement.

8.4. Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule.

8.5. Notices and Communications. All instructions, notices, consents, demands, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered by hand, by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below, or to such other party, facsimile number, or address as may be hereafter specified by written notice.

COVERED ENTITY:

Tennessee Department of Health
Timothy Gregory, Privacy Officer
710 James Robertson Parkway (5th Floor) Nashville, TN 37243
Email: Timothy.Gregory@tn.gov
Telephone: 615-741-1969
Fax: 615-253-3926

Tennessee Department of Health
Mike Moak, Security Officer
710 James Robertson Parkway (6th Floor) Nashville, TN 37243
Email: Mike.Moak@tn.gov
All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the date of hand delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the facsimile machine at the receiving location and receipt is verbally confirmed by the sender.

8.6. **Strict Compliance.** No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect, or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement.

8.7. **Severability.** With respect to any provision of this Agreement finally determined by a court of competent jurisdiction to be unenforceable, such court shall have jurisdiction to reform such provision so that it is enforceable to the maximum extent permitted by applicable law, and the Parties shall abide by such court's determination. In the event that any provision of this Agreement cannot be reformed, such provision shall be deemed to be severed from this Agreement, but every other provision of this Agreement shall remain in full force and effect.

8.8. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee.

8.9. **Compensation.** There shall be no remuneration for performance under this HIPAA Business Associate Agreement except as specifically provided by, in, and through, contractual relationships referenced herein.

**IN WITNESS WHEREOF,**

**TENNESSEE DEPARTMENT OF HEALTH:**

___________________________________________________________________________

LISA PIERCEY, MD, MBA, FAAP, COMMISSIONER  Date
<table>
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<tr>
<th>BUSINESS ASSOCIATE LEGAL ENTITY NAME:</th>
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