REQUEST FOR PROPOSALS
FOR
WIC EBT Processing

RFP # 34353-16222

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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

The State of Tennessee, Department of Health (TDH) Division of Family Health and Wellness Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Program is issuing this Request for Proposal for the purpose of selecting a qualified WIC EBT Host Processing contractor to implement and maintain the Electronic Benefits Transfer System.

The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) provides specific nutritious foods, nutrition and breastfeeding education, and referrals to pregnant, breastfeeding and postpartum women, as well as infants and children up to five (5) years of age who are determined to be at nutritional risk and meet income guidelines. The WIC Program is funded by the United States Department of Agriculture (USDA), governed by Federal Regulations contained in the Federal Register 7 CFR Part 246.

The Tennessee WIC Program uses a retail food delivery system to provide supplemental foods to Program participants. WIC food prescriptions and Cash Value Benefits (CVBs) are delivered to participants via WIC EBT Cards. The WIC EBT cards are issued to participants at the local WIC clinics and redeemed at WIC authorized retail vendors. Currently, there are approximately seven hundred eighty-three (783) authorized vendors. These retailers are a combination of large, national supermarket chains, smaller franchises, independently owned and operated stores, pharmacies, and commissaries. Chain stores account for two-thirds of the authorized vendor store locations. The Tennessee WIC Program serves approximately one hundred fourteen thousand (114,000) participants, in one hundred thousand (100,000) households monthly to whom WIC EBT cards are issued for specific food items.

Current WIC System Overview

WIC Management Information System performs the sequence of events that occur when an individual applies for and receives WIC benefits. The WIC MIS determines eligibility of the applicant, captures demographic data, creates, assigns and maintains benefit prescriptions and issues and maintains WIC cards for the WIC Participant and/or WIC household. The WIC MIS (or a separate WIC State Agency system) also performs the sequence of events that occur when a retailer applies for and is approved to be a WIC Vendor. The WIC MIS determines eligibility of the WIC Vendor, captures demographic data and establishes data collection, payment and adjustment processes with the WIC Vendor. The WIC MIS also establishes and maintains the Authorized Product List (APL) of food items for WIC purchases.

The WIC EBT system performs the sequence of events that occur when a WIC Cardholder makes a purchase with their WIC EBT Card to redeem WIC benefits at an authorized WIC Vendor. WIC EBT systems also capture and prepare transaction data for reconciliation and settlement with the WIC Vendor. The WIC MIS also provides data to enable WIC State Agencies to reconcile benefits.

WIC Online EBT processing uses a payment card that has a magnetic stripe to perform a series of Realtime transactions between the card acceptor device (CAD) at the WIC Vendor and the EBT Card Issuer Processor to approve the WIC EBT transaction. Each WIC EBT purchase request is sent to the EBT Card Issuer Processor for approval and includes the food items being purchased. To reconcile and settle completed transactions, approved purchases are totaled by the EBT Card Issuer Processor at the end of each processing day, and a WIC Auto-reconciliation file and an ACH payment file are created. The WIC Auto-
reconciliation file is sent to the WIC Vendor or their agent. Based on the ACH payment file, funds are deposited to the designated financial institution that holds the settlement account for the WIC Vendor. In a WIC Online EBT system, the WIC benefit data and the WIC Vendor and settlement data are housed on the WIC Online EBT system.

1.1.2. The estimated liability for the contract resulting from this RFP is five million six hundred twenty-eight thousand dollars ($5,628,000.00).

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 # 34353-16222**

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
   Department of General Services
   3rd Floor, WRS TN Tower
   312 Rosa L. Parks Ave.
   Nashville, TN 37243-1102
   615-532-3535
   Tara.E.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
Department of General Services
Central Procurement Office
3rd Floor, WRS TN Tower
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. It is encouraged for suppliers to submit bids digitally.

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

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

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

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

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

1.6. **Respondent Required Review & Waiver of Objections**

1.6.1. Each prospective Respondent must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.6., *Pro Forma* Contract, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called “questions and comments”).

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

1.6.3. Protests based on any objection to the RFP shall be considered waived and invalid if the objection has not been brought to the attention of the State, in writing, by the Written Questions & Comments Deadline.

1.7. **Pre-Response Conference**

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

The conference will be held at:

**Microsoft Teams meeting**

*Join on your computer or mobile app*

Click here to join the meeting

*Or call in (audio only)*

+1 629-209-4396,,446011036#

United States, Nashville

Phone Conference ID: 446 011 036#

Find a local number | Reset PIN

Learn More | Meeting options

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>November 1, 2021</td>
</tr>
<tr>
<td>2. Disability Accommodation Request Deadline</td>
<td>2:00 p.m.</td>
<td>November 4, 2021</td>
</tr>
<tr>
<td>3. Pre-response Conference</td>
<td>9:00 a.m.</td>
<td>November 5, 2021</td>
</tr>
<tr>
<td>4. Notice of Intent to Respond Deadline</td>
<td>2:00 p.m.</td>
<td>November 9, 2021</td>
</tr>
<tr>
<td>5. Written “Questions &amp; Comments” Deadline</td>
<td>2:00 p.m.</td>
<td>November 16, 2021</td>
</tr>
<tr>
<td>6. State Response to Written “Questions &amp; Comments”</td>
<td></td>
<td>November 23, 2021</td>
</tr>
<tr>
<td>7. Written “Questions &amp; Comments” Deadline</td>
<td></td>
<td>December 7, 2021</td>
</tr>
<tr>
<td>8. State Response to Written “Questions &amp; Comments”</td>
<td></td>
<td>December 14, 2021</td>
</tr>
<tr>
<td>9. Response Deadline</td>
<td>2:00 p.m.</td>
<td>February 4, 2022</td>
</tr>
<tr>
<td>10. State Completion of Technical Response Evaluations</td>
<td></td>
<td>February 16, 2022</td>
</tr>
<tr>
<td>11. State Opening &amp; Scoring of Cost Proposals</td>
<td>2:00 p.m.</td>
<td>February 17, 2022</td>
</tr>
<tr>
<td>12. Negotiations (Optional)</td>
<td>4:30 p.m.</td>
<td>February 17-February 24, 2022</td>
</tr>
<tr>
<td>13. State Notice of Intent to Award Released and RFP Files Opened for Public Inspection</td>
<td>2:00 p.m.</td>
<td>March 1, 2022</td>
</tr>
<tr>
<td>14. End of Open File Period</td>
<td></td>
<td>March 8, 2022</td>
</tr>
<tr>
<td>15. FNS Review and Approval of Contract</td>
<td></td>
<td>July 8, 2022</td>
</tr>
<tr>
<td>16. State sends contract to Contractor for signature</td>
<td></td>
<td>July 12, 2022</td>
</tr>
<tr>
<td>17. Contractor Signature Deadline</td>
<td>2:00 p.m.</td>
<td>July 14, 2022</td>
</tr>
</tbody>
</table>

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

3.1. **Response Form**

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

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

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

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

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

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

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

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

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

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

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

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

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

3.1.2.4. A Respondent must submit the Cost Proposal to the State on a separate e-mail or CD or USB flash drive from the Technical Response (as detailed in RFP Sections 3.2.3., et. seq).

### 3.2. Response Delivery

3.2.1. A Respondent must ensure that both the 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 their response as specified in one of the two formats below.

#### 3.2.2.1. Digital Media Submission

3.2.2.1.1. **Technical Response:**

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

“RFP # 34353-16222 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 # 34353-16222 TECHNICAL RESPONSE COPY”

The customer references should be delivered by each reference in accordance with RFP Attachment 6.2, Section B.17.

3.2.2.1.2. **Cost Proposal:**

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

“RFP # 34353-16222 COST PROPOSAL ”

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

#### 3.2.2.2. Email Submission

3.2.2.2.1. **Technical Response**

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

“RFP #34353-16222 TECHNICAL RESPONSE”
The customer references should be delivered by each reference in accordance with RFP Attachment 6.2., Section B.17.

3.2.2.2. Cost Proposal

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

“RFP #34353-16222 COST PROPOSAL”

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

3.2.3  For e-mail submissions, the Technical Response and Cost Proposal documents must be dispatched to the Solicitation Coordinator in separate e-mail messages.

For digital media submissions, a Respondent must separate, seal, package, and label the documents and copies for delivery as follows:

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

“DO NOT OPEN… RFP # 34353-16222 TECHNICAL RESPONSE FROM [RESPONDENT LEGAL ENTITY NAME]”

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

“DO NOT OPEN… RFP # 34353-16222 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 # 34353-16222 SEALED TECHNICAL RESPONSE & SEALED COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”

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

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

Tara Roark, Solicitation Coordinator
Department of General Services
Central Procurement Office
3rd Floor WRS TN Tower
312 Rosa L. Parks Avenue
Nashville, TN 37243-1102
615-532-3535
Tara.E.Roark@TN.gov

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

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

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

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

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

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

3.3.7. A Respondent must not submit a response as a prime contractor while also permitting one or more other Respondents to offer the Respondent as a subcontractor in their own responses. Such may result in the disqualification of all Respondents knowingly involved. This restriction does not, however, prohibit different Respondents from offering the same subcontractor as a part of their responses (provided that the subcontractor does not also submit a response as a prime contractor).

3.3.8. The State shall not consider a response from an individual who is, or within the past six (6) months has been, a State employee. For purposes of this RFP:

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

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

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

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

3.4. **Response Errors & Revisions**

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

3.5. **Response Withdrawal**

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

3.6. **Additional Services**

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

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

3.7. **Response Preparation Costs**

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

4.1. RFP Amendment

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

4.2. RFP Cancellation

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

4.3. State Right of Rejection

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

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

4.4. Assignment & Subcontracting

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

4.4.2. If a Respondent intends to use subcontractors, the response to this RFP must specifically identify the scope and portions of the work each subcontractor will perform (refer to RFP Attachment 6.2., Section B, General Qualifications & Experience Item B.14.).

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

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

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

4.5. Right to Refuse Personnel or Subcontractors

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

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

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

4.7.1. All persons, agencies, firms, or other entities that provide legal or financial opinions, which a Respondent provides for consideration and evaluation by the State as a part of a response to this RFP, shall be properly licensed to render such opinions.

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

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

4.8. **Disclosure of Response Contents**

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

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

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

4.9. **Contract Approval and Contract Payments**

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

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

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

4.9.3.2. All payments relating to this procurement will be made in accordance with the Payment Terms and Conditions of the Contract resulting from this RFP (refer to RFP Attachment 6.6., *Pro Forma* Contract, Section C).

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

4.10. **Contractor Performance**

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

4.11. **Contract Amendment**

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

Notwithstanding the above, *pro forma* Contract section A.6 provides for limited service “change orders” without a formal Contract Amendment upon the documented mutual agreement by the Parties.

4.12. **Severability**

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

The State reserves the right to initiate negotiations with the next ranked Respondent should the State cease doing business with any Respondent selected via this RFP process.
5. EVALUATION & CONTRACT AWARD

5.1. Evaluation Categories & Maximum Points

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

<table>
<thead>
<tr>
<th>EVALUATION CATEGORY</th>
<th>MAXIMUM POINTS POSSIBLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Qualifications &amp; Experience</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>35</td>
</tr>
<tr>
<td>(refer to RFP Attachment 6.2., Section C)</td>
<td></td>
</tr>
<tr>
<td>Cost Proposal</td>
<td>35</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 terms and conditions of a contract with the apparent best evaluated Respondent, the State reserves the right to bypass the apparent best evaluated Respondent and enter into terms and conditions contract negotiations with the next apparent best evaluated Respondent.
5.2.4. **Total Response Score.** The Solicitation Coordinator will calculate the sum of the Technical Response section scores and the Cost Proposal score and record the resulting number as the total score for the subject Response (refer to RFP Attachment 6.5., Score Summary Matrix).

5.3. **Contract Award Process**

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

5.3.2. The procuring agency head will determine the apparent best-evaluated Response. To effect a contract award to a Respondent other than the one receiving the highest evaluation process score, the head of the procuring agency must provide written justification and obtain the written approval of the Chief Procurement Officer and the Comptroller of the Treasury.

5.3.3. The State will issue a Notice of Intent to Award identifying the apparent best-evaluated response and make the RFP files available for public inspection at the time and date specified in the RFP Section 2, Schedule of Events.

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

5.3.4. The Respondent identified as offering the apparent best-evaluated response must sign a contract drawn by the State pursuant to this RFP. The Contract shall be substantially the same as the RFP Attachment 6.6., Pro Forma Contract. The Respondent must sign the contract by the Contractor Signature Deadline detailed in the RFP Section 2, Schedule of Events. If the Respondent fails to provide the signed Contract by this deadline, the State may determine that the Respondent is non-responsive to this RFP and reject the response.

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

5.3.6. If the State determines that a response is non-responsive and rejects it after opening Cost Proposals, the Solicitation Coordinator will re-calculate scores for each remaining responsive Cost Proposal to determine (or re-determine) the apparent best-evaluated response.
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 # 34353-16222

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### 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>RESPONDENT LEGAL ENTITY NAME:</th>
<th>Section A— Mandatory Requirement Items</th>
<th>Pass/Fail</th>
</tr>
</thead>
<tbody>
<tr>
<td>Response Page # (Respondent completes)</td>
<td>Item Ref.</td>
<td>A.1. Provide the Statement of Certifications and Assurances (RFP Attachment 6.1.) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification.</td>
</tr>
</tbody>
</table>
| | | A.2. Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall cause to deliver goods or perform services under the contract has a possible conflict of interest (e.g., employment by the State of Tennessee) and, if so, the nature of that conflict. 
NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award. | |
<p>| | | A.3. Provide a current bank reference indicating that the Respondent’s business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months. | |
| | | A.4. Provide two current positive credit references from vendors with which the Respondent has done business written in the form of standard business letters, signed, and dated within the past three (3) months. | |</p>
<table>
<thead>
<tr>
<th>Item Ref.</th>
<th>Section A— Mandatory Requirement Items</th>
<th>Pass/Fail</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.5</td>
<td>Provide a statement that the Respondent’s solution supports on-line administrative transactions from EBT Administrative Terminals.</td>
<td></td>
</tr>
<tr>
<td>A.6</td>
<td>Provide a statement that the Respondent's proposed WIC system is (i) a proven EBT functional system operating in another State and (ii) Universal Interface (UI) compliant.</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>Response Page # (Respondent completes)</th>
<th>Item Ref.</th>
<th>Section B—General Qualifications &amp; Experience Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>B.1.</td>
<td></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></td>
<td>Describe the Respondent’s form of business (i.e., individual, sole proprietor, corporation, nonprofit corporation, partnership, limited liability company) and business location (physical location or domicile).</td>
</tr>
<tr>
<td>B.3.</td>
<td></td>
<td>Detail the number of years the Respondent has been in business.</td>
</tr>
<tr>
<td>B.4.</td>
<td></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></td>
<td>Describe the Respondent's number of employees, client base, and location of offices.</td>
</tr>
<tr>
<td>B.6.</td>
<td></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></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></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>
</tbody>
</table>
| B.9.                                   |          | Provide a statement of whether there is any material, pending litigation against the Respondent that the Respondent should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this RFP or is likely to have a material adverse effect on the Respondent's financial condition. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it would impair the Respondent's performance in a contract pursuant to this RFP. 

NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the Respondent to submit proof of license for each person or entity that renders such opinions. |
| B.10.                                  |          | Provide a statement of whether there are any pending or in progress Securities Exchange Commission investigations involving the Respondent. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it will impair the Respondent's performance in a contract pursuant to this RFP. |
RFP ATTACHMENT 6.2. — SECTION B (continued)

### RESPONDENT LEGAL ENTITY

<table>
<thead>
<tr>
<th>Response Page # (Respondent completes)</th>
<th>Item Ref.</th>
<th>Section B— General Qualifications &amp; Experience Items</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the Respondent to submit proof of license for each person or entity that renders such opinions.</td>
</tr>
<tr>
<td></td>
<td>B.11.</td>
<td>Provide a brief, descriptive statement detailing evidence of the Respondent's ability to deliver the goods or services sought under this RFP (e.g., prior experience, training, certifications, resources, program and quality management systems, etc.).</td>
</tr>
<tr>
<td></td>
<td>B.12.</td>
<td>Provide a narrative description of the proposed project team, its members, and organizational structure along with an organizational chart identifying the key people who will be assigned to deliver the goods or services required by this RFP.</td>
</tr>
<tr>
<td></td>
<td>B.13.</td>
<td>Provide a personnel roster listing the names of key people who the Respondent will assign to meet the Respondent's requirements under this RFP along with the estimated number of hours that each individual will devote to that performance. Follow the personnel roster with a resume for each of the people listed. The resumes must detail the individual's title, education, current position with the Respondent, and employment history.</td>
</tr>
<tr>
<td></td>
<td>B.14.</td>
<td>Provide a statement of whether the Respondent intends to use subcontractors to meet the Respondent's requirements of any contract awarded pursuant to this RFP, and if so, detail: (a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each; (b) a description of the scope and portions of the goods each subcontractor involved in the delivery of goods or performance of the services each subcontractor will perform; and (c) a statement specifying that each proposed subcontractor has expressly assented to being proposed as a subcontractor in the Respondent's response to this RFP.</td>
</tr>
<tr>
<td></td>
<td>B.15.</td>
<td>Provide documentation of the Respondent's commitment to diversity as represented by the following: (a) Business Strategy. Provide a description of the Respondent's existing programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises. Please also include a list of the Respondent's certifications as a diversity business, if applicable. (b) Business Relationships. Provide a listing of the Respondent's current contracts with business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises. Please include the following information: (i) contract description; (ii) contractor name and ownership characteristics (i.e., ethnicity, gender, service-disabled veteran-owned or persons with disabilities); (iii) contractor contact name and telephone number. (c) Estimated Participation. Provide an estimated level of participation by business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities and small business enterprises if a contract is awarded to the Respondent pursuant to this RFP. Please include the following information: (i) a percentage (%) indicating the participation estimate. (Express the estimated participation number as a percentage of the total estimated contract value that will be dedicated to business with subcontractors and supply contractors having such ownership characteristics only and <strong>DO NOT INCLUDE DOLLAR AMOUNTS</strong>); (ii) anticipated goods or services contract descriptions; (iii) names and ownership characteristics (i.e., ethnicity, gender, service-disabled veterans, or disability) of anticipated subcontractors and supply contractors.</td>
</tr>
</tbody>
</table>
### Section B—General Qualifications & Experience Items

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

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

NOTE: Respondents that demonstrate a commitment to diversity will advance State efforts to expand opportunity to do business with the State as contractors and subcontractors. Response evaluations will recognize the positive qualifications and experience of a Respondent that does business with enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises and who offer a diverse workforce.

| 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.

| 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 ensuring they are e-mailed to the solicitation coordinator or including them in the sealed Technical Response. In order to obtain and submit the completed reference questionnaires following one of the two the processes below:

Written:

(a) Add the Respondent’s name to the standard reference questionnaire at RFP Attachment 6.4. and make a copy for each reference.

(b) Send a reference questionnaire and new, standard #10 envelope to each reference.

(c) Instruct the reference to:

(i) complete the reference questionnaire;

(ii) sign and date the completed reference questionnaire;

(iii) seal the completed, signed, and dated reference questionnaire within the envelope provided;

(iv) sign his or her name in ink across the sealed portion of the envelope; and |
<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>(v)</td>
<td></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>(d)</td>
<td></td>
<td>Do NOT open the sealed references upon receipt</td>
</tr>
<tr>
<td>(e)</td>
<td></td>
<td>Enclose all sealed reference envelopes within a larger, labeled envelope for inclusion in the Technical Response as required.</td>
</tr>
<tr>
<td>E-mail:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a)</td>
<td></td>
<td>Add the Respondent’s name to the standard reference questionnaire at RFP Attachment 6.4. and make a copy for each reference.</td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td>E-mail the reference with a copy of the standard reference questionnaire.</td>
</tr>
<tr>
<td>(c)</td>
<td></td>
<td>Instruct the reference to:</td>
</tr>
<tr>
<td>(i)</td>
<td></td>
<td>complete the reference questionnaire;</td>
</tr>
<tr>
<td>(ii)</td>
<td></td>
<td>sign and date the completed reference questionnaire;</td>
</tr>
<tr>
<td>(iii)</td>
<td></td>
<td>E-mail the reference directly to the Solicitation Coordinator by the RFQ Technical Response Deadline with the Subject line of the e-mail as “[Respondent Name]” Reference for RFP REFERENCE.</td>
</tr>
<tr>
<td>NOTES:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>•</td>
<td></td>
<td>The State will not accept late references or references submitted by any means other than the two which are described above, and each reference questionnaire submitted must be completed as required.</td>
</tr>
<tr>
<td>•</td>
<td></td>
<td>The State will not review more than the number of required references indicated above.</td>
</tr>
<tr>
<td>•</td>
<td></td>
<td>While the State will base its reference check on the contents of the reference e-mails or sealed reference envelopes included in the Technical Response package, the State reserves the right to confirm and clarify information detailed in the completed reference questionnaires, and may consider clarification responses in the evaluation of references.</td>
</tr>
<tr>
<td>•</td>
<td></td>
<td>The State is under no obligation to clarify any reference information</td>
</tr>
<tr>
<td>B.18.</td>
<td></td>
<td>Provide a statement and any relevant details addressing whether the Respondent is any of the following:</td>
</tr>
<tr>
<td>(a)</td>
<td></td>
<td>is presently debarred, suspended, proposed for debarment, or voluntarily excluded from covered transactions by any federal or state department or agency;</td>
</tr>
<tr>
<td>(b)</td>
<td></td>
<td>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;</td>
</tr>
<tr>
<td>(c)</td>
<td></td>
<td>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</td>
</tr>
<tr>
<td>(d)</td>
<td></td>
<td>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.</td>
</tr>
<tr>
<td>B.19.</td>
<td></td>
<td>Provide a narrative description as to whether or not the Respondent has ever been recognized as an EBT Service Provider by the Food and Nutrition Services (FNS). Please provide a list of MIS Contractor Companies and Electronic Benefits Transfer (EBT) contracts currently in progress and their completion status.</td>
</tr>
<tr>
<td>Respondent Legal Entity Name:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------------------------</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Response Page # (Respondent completes)</th>
<th>Item Ref.</th>
<th>Section B— General Qualifications &amp; Experience Items</th>
</tr>
</thead>
</table>

**SCORE (for all Section B—Qualifications & Experience Items above):**

(maximum possible score = 30)

State Use – Evaluator Identification:
## TECHNICAL RESPONSE & EVALUATION GUIDE

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

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

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

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

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

<table>
<thead>
<tr>
<th>Response Page # (Respondent completes)</th>
<th>Item Ref.</th>
<th>Section C—Technical Qualifications, Experience &amp; Approach Items</th>
<th>Item Score</th>
<th>Evaluation Factor</th>
<th>Raw Weighted Score</th>
</tr>
</thead>
<tbody>
<tr>
<td></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 will manage the project, ensure completion of the scope of services, and accomplish required objectives within the State’s project schedule.</td>
<td>10</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.4.</td>
<td>Provide a narrative description of whether or not the Respondent has had experience with the transfer of a WIC EBT system with Management Information System (MIS) functionality.</td>
<td>15</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.5.</td>
<td>Describe the technical approach and functionality for the EBT system to interoperate with the TNWIC MIS system and WIC Mobile application.</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.6.</td>
<td>Provide a document that cross references the functional requirements of the Respondent’s proposed system to the WIC EBT functional requirements detailed in Pro Forma Contract Attachment 1.</td>
<td>10</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.7.</td>
<td>Provide a narrative that illustrates the Respondent’s establishment of the Retailer Help Desk.</td>
<td>10</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.8.</td>
<td>Please provide a description of the Respondent’s timeline for completion (citing, specific dates, timeframe for each step, and deadlines) for each of the major implementation tasks.</td>
<td>15</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.9.</td>
<td>Provide a narrative that illustrates the Respondent’s process for providing Stand Beside POS devices for 65 retailers.</td>
<td>15</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>C.10.</td>
<td>Provide a narrative that illustrates the Respondent’s understanding of a Data Warehouse and the use of the program AND access can be granted for State use.</td>
<td>20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Response Page # (Respondent completes)</td>
<td>Item Ref.</td>
<td>Section C—Technical Qualifications, Experience &amp; Approach Items</td>
<td>Item Score</td>
<td>Evaluation Factor</td>
<td>Raw Weighted Score</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>----------</td>
<td>---------------------------------------------------------------</td>
<td>------------</td>
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</tr>
</tbody>
</table>

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

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

Total Raw Weighted Score

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

\[ \text{Total Raw Weighted Score} \times 35 \]

= SCORE:

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>

| RESPONDENT LEGAL ENTITY NAME: |  |

<table>
<thead>
<tr>
<th>Cost Item Description</th>
<th>Proposed Cost</th>
<th>State Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Milestone 1:</strong> Successful completion of all Tasks 1 through Task 14, as described in Pro Forma Contract, Attachment 1</td>
<td>$ NUMBER / (one-time charge upon written approval of State)</td>
<td></td>
</tr>
<tr>
<td><strong>WIC EBT services, Cost Per Active Case per Case Month - WIC, as described in Pro Forma Contract, Attachment 1, Year 1</strong></td>
<td>$ NUMBER / (Cost Per Active Case per Case Month - WIC)</td>
<td>Est Cases per mth (70,000) x 12</td>
</tr>
<tr>
<td><strong>WIC EBT services, Cost Per Active Case per Case Month - WIC, as described in Pro Forma Contract, Attachment 1, Year 2</strong></td>
<td>$ NUMBER / (Cost Per Active Case per Case Month - WIC)</td>
<td>Est Cases per mth (77,003) x 12</td>
</tr>
<tr>
<td><strong>WIC EBT services, Cost Per Active Case per Case Month - WIC, as described in Pro Forma Contract, Attachment 1, Year 3</strong></td>
<td>$ NUMBER / (Cost Per Active Case per Case Month - WIC)</td>
<td>Est Cases per mth (84,703) x 12</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></td>
<td></td>
<td>Evaluation Factor</td>
</tr>
<tr>
<td>WIC EBT services, Cost Per Active Case per Case Month - WIC, as described in Pro Forma Contract, Attachment 1, Year 4</td>
<td>$ NUMBER / (Cost Per Active Case per Case Month - WIC)</td>
<td>Est Cases per month (93,173) x 12</td>
</tr>
<tr>
<td>WIC EBT services, Cost Per Active Case per Case Month - WIC, as described in Pro Forma Contract, Attachment 1, Year 5</td>
<td>$ NUMBER / (Cost Per Active Case per Case Month - WIC)</td>
<td>Est Cases per month (102,490) x 12</td>
</tr>
<tr>
<td>WIC EBT services, Cost Per Active Case per Case Month - WIC, as described in Pro Forma Contract, Attachment 1, Year 6</td>
<td>$ NUMBER / (Cost Per Active Case per Case Month - WIC)</td>
<td>Est Cases per month (112,739) x 12</td>
</tr>
<tr>
<td>WIC EBT services, Cost Per Active Case per Case Month - WIC, as described in Pro Forma Contract, Attachment 1, Year 7</td>
<td>$ NUMBER / (Cost Per Active Case per Case Month - WIC)</td>
<td>Est Cases per month (124,012) x 12</td>
</tr>
<tr>
<td>Change Order, as described in Attachment 6.6., Scope, Section A.6.</td>
<td>$ Amount per hour</td>
<td>1 Estimated Number of Hours</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.

\[
\text{lowest evaluation cost amount from all proposals} \times 35 = \text{SCORE}.
\]

*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.)
RFP # 34353-16222 REFERENCE QUESTIONNAIRE

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

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

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

- complete this questionnaire (either using the form provided or an exact duplicate of this document);
- sign and date the completed questionnaire; and follow either process outlined below:

  **Physical**
  - seal the completed, signed, and dated questionnaire in a new standard #10 envelope;
  - sign in ink across the sealed portion of the envelope; and
  - return the sealed envelope containing the completed questionnaire directly to the reference subject.

  **E-Mail**
  - email the completed Questionnaire to Tara Roark (Tara.E.Roark@tn.gov)

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

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

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

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

(4) 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.*

1 2 3 4 5
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></th>
<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>
<td></td>
</tr>
<tr>
<td><strong>TECHNICAL QUALIFICATIONS, EXPERIENCE &amp; APPROACH</strong>&lt;br&gt;(maximum: 35)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>COST PROPOSAL</strong>&lt;br&gt;(maximum: 35)</td>
<td><strong>SCORE:</strong></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>
<td></td>
</tr>
</tbody>
</table>

**EVALUATOR NAME**

REPEAT AS NECESSARY

AVERAGE:  
AVERAGE:  
AVERAGE:

**Solicitation Coordinator Signature, Printed Name & Date:**
RFP # 34353-16222 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.
This Contract, by and between the State of Tennessee, Department of Health ("State") and Contractor Legal Entity Name ("Contractor"), is for the provision of Development and Implementation of Tennessee Women, Infants, and Children (WIC) Management Information System (MIS) 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 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) 7 CFR 246 means the Federal regulations pertaining to WIC, as seen at the following website: http://www.ecfr.gov/cgi-bin/text-idx?SID=a42889f84f99d56ec18d77c9b463c613&node=7:4.1.1.1.10&rgn=div5
b) Active Case means a single household unit where benefit authorization activity (credits) are posted and made available during a calendar month.
c) Administrative Terminal means providing an on-line inquiry-only administrative terminal software that is Windows compatible or appropriate hardware and software.
d) American National Standards Institute (ANSI) means an independent, non-governmental organization, whose members determine standards for the United States.
e) Approved Product List means a food list that provides the federal requirements for WIC-eligible foods.
f) Authorized Representatives or Protective Payee means an individual designated to act responsibly on the clients behalf.
g) Automated Clearing House (ACH) means an electronic network for financial transactions in the United States.
h) Automated Response Unit (ARU) means allows participants to obtain information from a phone system without talking to an operator.
i) Banking Identification Number (BIN) means the first six (6) numbers on a bank card.
j) Card means the Tennessee WIC Electronic Benefits Transfer Card that is issued to WIC participants and can be used in WIC Authorized stores.
k) Card Issuers means the processing of WIC Online EBT shall be available 99.9% of the scheduled up-time, twenty-four (24) hours per day, and seven (7) days per week as specified in Section 6.1 of the WIC EBT Operating Rules at the following website: https://www.fns.usda.gov/wic/wic-ebt-technical-implementation-guide-and-operating-rules
l) Case Month means The thirty (30) to thirty-one (31) day period defined by the State where benefits are available to the WIC case household to be redeemed.
m) Cash Value Benefit (CVB) means a dollar value benefit for purchase of fruits and vegetables.
n) Central Processor means an application that provides all functionality and processing required to fully support the Tennessee State WIC EBT program.
o) Central Processing Site (CPS) means the main processor that executes instructions that make up a computer program.
p) Clients means individuals receiving assistance or participating in the WIC program.
q) Customer Service Representative (CSR) means a service representative who answers questions or requests related to the Electronic Benefits Transfer Card and/or benefits issued to the cardholder from WIC participants by phone.
r) Customer Service Help Desk means to provide a twenty-four (24) hours a day, seven (7) days per week toll-free, “1-800” number, the purpose of which is to provide current EBT account and benefit access information to clients.
s) Debit Switch means the client’s account is debited the appropriate quantity of WIC approved foods from the household account.
t) Electronic Benefits Transfer (EBT) Contractor means is the central host processor that allows purchase request messages be transmitted from the checkout lane to a host system that will in turn validate the purchase and return the approval/denial back to the checkout lane.
u) EBT System means an electronic system that allows a WIC participant to pay for food using WIC benefits.
v) Electronic Benefits Transfer (EBT) means is an electronic system that replaces paper vouchers with a card for food benefit issuance and redemption at authorized WIC grocery stores.
w) Food Delivery Portal (FDP) is the system WIC state agencies use to report vendor management activities per 7 CFR 246.12 (j) (5).
x) Food and Nutrition Service (FNS) means an agency within the USDA which establishes EBT systems processing requirements and criteria.
y) Functional Requirements Document (FRd) means a model WIC System which provides a comprehensive description of functions that can be automated to support the WIC program.
z) Head of Household/Primary Card Holder means the primary person designated for the household group.
aa) Information Technology (IT) means the use of systems for storing, retrieving, and sending information.
bb) International Standards Organization (ISO) means an independent, international, non-governmental organization, whose members determine standards for its member countries.
cc) Interactive Voice Response (IVR) means a computer technology which allows interaction with humans through the use of voice and dual tone multi-frequency signaling tones input via keypad.
dd) Issuance Period means the approved period of time WIC benefits to be redeemed.
ee) Local Agency and Central Office staff means staff who will be utilized to assist the EBT Contractor in the conduct of training and will provide support to the retailers as they go live with the new EBT system.
f) Management Information System (MIS) means a computerized information-processing system designed to support the activities of the organization.
g) Nonsufficient Funds (NSF) means the status of an account that does not have enough money to cover transactions.
h) Not to Exceed (NTE) means the price standards for individual WIC foods to set limits on payments for redeemed foods.
i) Performance Deficiency means a measure by which an action falls below expected standards.
jj) Personally Identifiable Information (PII) means any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means.
kk) Personal Identification Number (PIN) means is a number allocated to an individual and used to validate electronic transactions.
ll) Pilot means selecting a group of end users to test the system to determine if the program is ready for statewide implementation.
m) Pilot Test Plan means a plan developed to test the system and provide feedback before full implementation statewide.
n) Point of Sale (POS) means the place at which goods are retailed.
oo) Primary Account Number (PAN) means the card identifier found on the electronic benefit card.

pp) Protected Health Information (PHI) means the term given to health data created, received, stored, or transmitted by HIPAA-covered entities and their business associates.

qq) Price Look-Up Codes (PLU) means the codes used to identify bulk produce and related items such as nuts and herbs.

rr) Production means an application of production system design for the implementation of EBT.

ss) Problem Resolution and Escalation Procedures means the process by which the State reports system and operational problems to the Contractor, process by which the problems are resolved and the resolution reported back to the State.

tt) Proxies means individuals who have been authorized by a Client to make WIC purchases on their behalf.

uu) Reports Manual means a manual describing all standard reports to be generated by the Contractor providing a brief description of the data files provided to the State for internal report generation.

vv) Retailer or Vendor means Tennessee Authorized WIC Grocers and pharmacies.

ww) Retailer Certifications means to ensure compliance with the specific processing parameters or requirements for WIC EBT.

xx) Retailer Enablement Plan means a plan to support the Vendors transitioning away from EBT-only POS equipment.

yy) Retailer Help Desk means to provide a twenty-four (24) hours a day, seven (7) days per week toll-free “1-800” number, the purpose of which is to provide retailer EBT support and program information.

zz) System Development and Technical Testing means the Contractor must schedule periodic reviews for the State’s review and written approval of the final product prior to UAT.

aaa) Tasks means actions to be provided by the Contractor.


ccc) Third Party Processor (TPP) means an independent processor that is contracted by a bank or processor to conduct some part of the transaction processing process.

ddd) TNWIC means the Tennessee Special Supplemental Nutrition MIS/EBT system for Women, Infants and Children.

eee) TNWIC Advisory Council means a committee comprised of Tennessee Department of Health leadership.

fff) User Acceptance Testing (UAT) means an application is tested, usually by or in conjunction with users, to ensure that the application is functioning according to specifications and defined requirements and is acceptable to the State.

ggg) Universal Interface Guidelines means a standard means of exchanging information between the WIC MIS and the Electronic Benefit Transfer system.

hhh) Universal Product Code (UPC) means the twelve (12) numerical digits uniquely assigned to each trade item.

iii) United States Department of Agriculture (USDA) means the U.S. Federal executive department responsible for developing and executing Federal laws related to farming, forestry, rural economic development, and food.

jjj) Virtual means accessed by a computer over a network.

kkk) Virtual Private Network (VPN) means a virtual network built on top of existing physical networks that can provide a secure communications mechanism for data and control information transmitted between networks.

lll) WIC means the State’s Special Supplemental Nutrition Program for Women, Infants and Children.

mmm) WIC EBT Operating Rules means the operation of WIC Electronic Benefit Transfer for all entities, including retail merchants authorized to provide WIC authorized food products for purchase by WIC participants.

nnn) WIC MIS-EBT Universal Interface Specifications (UI) means the functional requirements for
the Universal Interface between the WIC Management Information Systems (WIC MIS) and the WIC Electronic Benefit Transfer systems (WIC EBT system)

WIC Mobile Application means a type of application designed to run on a mobile device, which can be a smartphone.

WIC Retailer Policy and Procedure Manual means a resource handbook provided to retailers during installation explaining in detail retailer-related aspects of the WIC EBT program with step-by-step instructions for each transaction and all terminal administrative functions.

Work Plan means specifying a detailed approach to Task 3 through Task 15 as indicated in Attachment 1.

A.3. Service Goal: To provide EBT services for the State’s Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) in accordance with the most current versions of the 7 CFR 246, the WIC EBT Operating Rules, and the WIC EBT Technical Implementation Guide (TIG) and the 2012 WIC MIS-EBT Universal Interface Specifications, collectively known as “WIC Federal Requirements”.

A.4. Service Recipients: Individuals receiving assistance or participating in the WIC program.

A.5. Service Description:

a. The Contractor shall provide services as specified in Attachment 1 and incorporated herein by reference to provide Electronic Benefits Transfer services for the State’s EBT project.

b. The Contractor shall develop and deliver the deliverables using State approved MS Office products for each appropriate deliverable. The Contractor shall provide deliverables to the State in the electronic format agreed upon on award of Contract.

c. The Contractor shall submit to the State, within ten (10) business days of the Effective Date of the Contract, a comprehensive list of key personnel assigned to and responsible for each Task. The list shall include name, user credentials, access levels, job title, tasks/sub-task, email and phone. Should a change in key personnel be made during the term of the Contract, the Contractor shall present the replacement to the State who will have the right to refuse the replacement and request an alternative proposed replacement.

A.6. The State may, at its sole discretion and with written notice to the Contractor, request changes in the Scope that are necessary but were inadvertently unspecified in this Contract. The State will set the priority for the change order to ensure Contractor allocates for the appropriate resources for the change initiative.

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

(1) the effect, if any, of implementing the requested change(s) on all other services required under this Contract;

(2) the specific effort involved in completing the change(s);

(3) the expected schedule for completing the change(s);

(4) the maximum number of person hours required for the change(s); and
(5) the maximum cost for the change(s)—this maximum cost shall in no instance exceed the product of the person hours required multiplied by the appropriate payment rate proposed for such work.

The Contractor shall not perform any additional service until the State has approved the proposal. If approved, the State will sign the proposal, and it shall constitute a Change Order between the Contract Parties pertaining to the specified change(s) and shall be incorporated, hereby, as a part of this Contract.

b. Change Order Performance—Subsequent to creation of a Change Order, the Contractor shall complete the required services. The State will be the sole judge of the acceptable completion of work and, upon such determination, shall provide the Contractor written approval. The WIC program shall request a test or development environment outside of production to review the changes.

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

A.7. Data Storage/Backups. The Contractor will perform all backups and data storage in a physically secure location and with secure access controls to authorized personnel. Backup schedules will be maintained to ensure timely availability and integrity of data. All backup data containing Protected Health Information (PHI) and Personally Identifiable Information (PII) will be encrypted at all times (at rest and in transit).

A.8. VPN - Virtual Private Network. The State will provide a VPN to the Contractor for authorized users to connect to State resources from outside of the State's network as deemed necessary by the State.

A.9. Sanitization. To the extent applicable, the Contractor shall, upon expiration or termination of the Contract, for any reason, securely return all data received/created by the State or received/created by the Contractor, subcontractor, or agents on behalf of the State, to the State point of contact using a method mutually agreed upon by both Parties at the time of expiration or termination. The Contractor will then destroy all data in accordance with the current NIST SP800-88 Sanitization guidelines and provide the State with a "Letter of Destruction" within ten (10) business days after the destruction of data.

A.10. Security Measures- Compliance with Enterprise Information Security Policies: The Contractor is required to meet all the security controls stated in the Tennessee Enterprise Information Security Policies (https://www.tn.gov/finance/strategic-technology-solutions/strategic-technology-solutions/sts-security-policies.html) and conform to all applicable State and Federal laws regarding information security. As additional State and Federal security and regulatory requirements are imposed, the Contractor shall ensure that the environment content and applications are kept up to date with the emerging requirements.

A.11. State Responsibilities. The State shall ensure that benefits authorized are posted to the Contractor’s EBT System or otherwise accounted for in the State’s WIC MIS. As specified in the Universal Interface Guidelines, the State will audit the WIC benefit transactions posted to the Contractor’s EBT system
and verify the liability remaining in the Contractor’s EBT system at the end of the processing day for WIC benefits.

A.12. 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.13. Inspection and Acceptance. The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

B. TERM OF CONTRACT:

This Contract shall be effective on August 1, 2022 (“Effective Date”) and extend for a period of eighty-four (84) months after the Effective Date (“Term”). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

B.1. Term Extension. The State may extend the Term an additional period of time, not to exceed one hundred-eighty (180) days beyond the expiration date of this Contract, under the same terms and conditions, at the State’s sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of ninety (90) 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>Milestone</th>
<th>Deliverable</th>
<th>Cost (per milestone/total implementation cost)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Successful completion of all Tasks 1 through Task 14, Attachment 1</td>
<td>$</td>
</tr>
</tbody>
</table>

### WIC EBT SERVICES

<table>
<thead>
<tr>
<th>Contract Year 1</th>
<th>Contract Year 2</th>
<th>Contract Year 3</th>
<th>Contract Year 4</th>
<th>Contract Year 5</th>
<th>Contract Year 6</th>
<th>Contract Year 7</th>
</tr>
</thead>
<tbody>
<tr>
<td>8/1/22-7/31/23</td>
<td>8/1/23-7/31/24</td>
<td>8/1/24-7/31/25</td>
<td>8/1/25-7/31/26</td>
<td>8/1/26-7/31/27</td>
<td>8/1/27-7/31/28</td>
<td>8/1/28-7/31/29</td>
</tr>
</tbody>
</table>

Cost Per Active Case per Case Month - WIC

- $0 each Active Case per Case Month
- $0. each Active Case per Case Month
- $0. each Active Case per Case Month
- $0. each Active Case per Case Month
- $0. each Active Case per Case Month
- $0. each Active Case per Case Month
c. The Contractor shall be compensated for changes requested and performed pursuant to Contract Section A.6, without a formal amendment of this Contract based upon the payment rates detailed in the schedule below and as agreed pursuant to Section A.6, PROVIDED THAT compensation to the Contractor for such “change order” work shall not exceed SEVEN PERCENT (7%) of the sum of milestone payment rates detailed in Section C.3.b., above (which is the total cost for the milestones and associated deliverables set forth in Contract Sections A.5., through A.11.). If, at any point during the Term, the State determines that the cost of necessary “change order” work would exceed the maximum amount, the State may amend this Contract to address the need.

<table>
<thead>
<tr>
<th>Service Description</th>
<th>Amount (per compensable increment)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$ Amount per hour</td>
</tr>
</tbody>
</table>

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

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

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

Invoice Administrator
Attn: Alesha Reeves/Rahul Dodia
Email: Alesha.reeves@tn.gov and Rahul.dodia@tn.gov
Division of Family Health and Wellness
Tennessee Department of Health
8th Floor, Andrew Johnson Tower
710 James Robertson Pkwy.
Nashville, TN 37243

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

(1) Invoice number (assigned by the Contractor);
(2) Invoice date;
(3) Contract number (assigned by the State);
(4) Customer account name: Tennessee 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:

Program Contact:
Rahul Dodia – Project Manager
Supplemental Nutrition Programs
Division of Family Health and Wellness
Tennessee Department of Health
8th Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, Tennessee 37243
Email Address: rahul.dodia@tn.gov
Telephone #: (615)840-0392
FAX #: (615) 532-7189

Technical Contact:
David Tall, Deputy CIO,
Strategic Technology Solutions, Health and Social Services
Tennessee Department of Health
6th Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, Tennessee 37243
David.tall@tn.gov
Telephone : (615) 486-8376

The Contractor:

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

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

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

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

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

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

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

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

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

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

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

a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the
performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment 2, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.

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

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

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

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

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

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

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

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

D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.
D.16  **Patient Protection and Affordable Care Act.** The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless from any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.

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

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

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

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

D.20.  **HIPAA Compliance.** The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Contract.

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

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

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

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

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

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

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

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

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

c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and

d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

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

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

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

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

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

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

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

D.30. **Incorporation of Additional Documents.** Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes 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 non-contributory 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 non-contributory basis of the umbrella policy if the State is otherwise named as an additional insured.

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

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

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

a. Commercial General Liability ("CGL") Insurance

1) The Contractor shall maintain CGL, which shall be written on an ISO Form CG 00 01 occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises and operations products and completed operations, bodily injury, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). The Contractor shall maintain single limits not less than one million dollars ($1,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this policy or location of occurrence or the general aggregate limit shall be twice the required occurrence limit.

b. Workers’ Compensation and Employer Liability Insurance

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

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

2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:
i. The Contractor employs fewer than five (5) employees;

ii. The Contractor is a sole proprietor;

iii. The Contractor is in the construction business or trades with no employees;

iv. The Contractor is in the coal mining industry with no employees;

v. The Contractor is a state or local government; or


c. Automobile Liability Insurance

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

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

D.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 Contract, the special terms and conditions shall be subordinate to the 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. State Ownership of Goods. The State shall have ownership, right, title, and interest in all goods provided by Contractor under this Contract including full rights to use the goods and transfer title in the goods to any third parties.
E.4. **Software License Warranty.** Contractor grants a license to the State to use all software provided under this Contract in the course of the State’s business and purposes.

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

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

E.7. **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.8. **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.9. **Lobbying.** The Contractor certifies, to the best of its knowledge and belief, that:

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

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.
E.10. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor’s Response to 34353-16222 (Attachment 4) and resulting in this Contract.

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

E.11. 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.

E12. 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.13. **Federal Funding Accountability and Transparency Act (FFATA).** This Contract requires the Contractor to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Contractor provides information to the State as required.

The Contractor shall comply with the following:

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

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

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

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

   iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Securities and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm).

   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.14. 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 control 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: THIRTY (30) MINUTES

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: EIGHT (8) HOURS

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

E. 15. Debarment and Suspension (Executive Orders 12549 and 12689)
A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. (2 CFR 200, Subpart F, Appendix II)


E.17. **Clean Air and Federal Water Pollution Act.** Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). (2 CFR 200, Subpart F, Appendix II)

E.18. **Anti-Lobbying Act.** This Act prohibits the recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal government in connection with a specific contract, grant, or loan. As required by Section 1352, Title 31 of the Code and implemented at 2 CFR 200, Subpart F, Appendix II, for persons entering into a grant or cooperative agreement over $100,000, as defined at 31 U.S.C. 1352, the applicant certifies that:
   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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 the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;
   b. If any funds other than federal 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 this federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions;
   c. The undersigned shall require that the language of this certification be include in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

E.19. **Americans with Disabilities Act.** This Act (28 CFR Part 35, Title II, Subtitle A) prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public and State and local governments, except public transportation services.

E.20. **Drug-Free Workplace Statement.** The Federal government implemented 41 U.S. Code § 8103, Drug-free workplace requirements for Federal grant recipients in an attempt to address the
problems of drug abuse on the job. It is a fact that employees who use drugs have less productivity, a lower quality of work, and a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, the following guidelines have been adopted:

a. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace.
b. Violators may be terminated or requested to seek counseling from an approved rehabilitation service.
c. Employees must notify their employer of any conviction of a criminal drug statute no later than five days after such conviction.
d. Contractors of federal agencies are required to certify that they will provide drug-free workplaces for their employees.

Transactions subject to the suspension/debarment rules (covered transactions) include grants, subgrants, cooperative agreements, and prime contracts under such awards. Subcontracts are not included. Also, the dollar threshold for covered procurement contracts is $25,000. Contracts for Federally required audit services are covered regardless of dollar amount.


a. Title to intangible property (see §200.59 Intangible property) acquired under a Federal award vests upon acquisition in the non-Federal entity. The non-Federal entity must use that property for the originally-authorized purpose, and must not encumber the property without approval of the Federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in §200.313 Equipment paragraph (e).
b. The non-Federal entity may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.
c. The non-Federal entity is subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements.”
d. The Federal Government has the right to:
   1. Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and
   2. Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME:
# Detailed Scope of Work

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The Contractor shall provide all following Tasks as detailed in this Attachment 1.

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

a) 7 CFR 246 means the Federal regulations pertaining to WIC, as seen at the following website:
   https://www.ecfr.gov/cgi-bin/text-idx?SID=a42889f84f99d56ec18d77c9b463c613&node=7.4.1.1.10&rgn=div5

b) Active Case means a single household unit where benefit authorization activity (credits) are posted and made available during a calendar month.

c) Administrative Terminal means providing an on-line inquiry-only administrative terminal software that is Windows compatible or appropriate hardware and software.

d) American National Standards Institute (ANSI) means an independent, non-governmental organization, whose members determine standards for the United States.

e) Approved Product List means a food list that provides the federal requirements for WIC-eligible foods.

f) Authorized Representatives or Protective Payee means an individual designated to act responsibly on the clients behalf.

g) Automated Clearing House (ACH) means an electronic network for financial transactions in the United States.

h) Automated Response Unit (ARU) means allows participants to obtain information from a phone system without talking to an operator.

i) Banking Identification Number (BIN) means the first six (6) numbers on a bank card

j) Card means the Tennessee WIC Electronic Benefits Transfer Card that is issued to WIC participants and can be used in WIC Authorized stores.

k) Card Issuers means the processing of WIC Online EBT shall be available 99.9% of the scheduled up-time, twenty-four (24) hours per day, and seven (7) days per week as specified in Section 6.1 of the WIC EBT Operating Rules at the following website:

l) Case Month means the thirty (30) to thirty-one (31) day period defined by the State where benefits are available to the WIC case household to be redeemed.

m) Cash Value Benefit (CVB) means a dollar value benefit for purchase of fruits and vegetables

n) Central Processor means an application that provides all functionality and processing required to fully support the Tennessee State WIC EBT program.

o) Central Processing Site (CPS) means the main processor that executes instructions that make up a computer program.

p) Clients means individuals receiving assistance or participating in the WIC program.

q) Customer Service Representative (CSR) means a service representative who answers questions or requests related to the Electronic Benefits Transfer Card and/ or benefits issued to the cardholder from WIC participants by phone.

r) Customer Service Help Desk means to provide a twenty-four (24) hours a day, seven (7) days per week toll-free, “1-800” number, the purpose of which is to provide current EBT account and benefit access information to clients.

s) Debit Switch means the client’s account is debited the appropriate quantity of WIC approved foods from the household account.

t) Electronic Benefits Transfer (EBT) Contractor means is the central host processor that allows purchase request messages be transmitted from the checkout lane to a host system that will in turn validate the purchase and return the approval/denial back to the checkout lane.

u) EBT System means an electronic system that allows a WIC participant to pay for food using WIC benefits.

v) Electronic Benefits Transfer (EBT) means is an electronic system that replaces paper vouchers with a card for food benefit issuance and redemption at authorized WIC grocery stores.

w) Food Delivery Portal (FDP) is the system WIC state agencies use to report vendor management activities per 7 CFR 246.12 (j) (5).

x) Food and Nutrition Service (FNS) means an agency within the USDA which establishes EBT systems processing requirements and criteria.

y) Functional Requirements Document (FReD) means a model WIC System which provides a comprehensive description of functions that can be automated to support the WIC program

z) Head of Household/Primary Card Holder means the primary person designated for the household group.

Information Technology (IT) means the use of systems for storing, retrieving, and sending information.
aa) International Standards Organization (ISO) means an independent, international, non-governmental organization, whose members determine standards for its member countries.
bb) Interactive Voice Response (IVR) means a computer technology which allows interaction with humans through the use of voice and dual tone multi-frequency signaling tones input via keypad.
c) Issuance Period means the approved period of time WIC benefits to be redeemed.
d) Local Agency and Central Office staff means staff who will be utilized to assist the EBT Contractor in the conduct of training and will provide support to the retailers as they go live with the new EBT system.
e) Management Information System (MIS) means a computerized information-processing system designed to support the activities of the organization.
f) Nonsufficient Funds (NSF) means the status of an account that does not have enough money to cover transactions.
g) Not to Exceed (NTE) means the price standards for individual WIC foods to set limits on payments for redeemed foods.
h) Performance Deficiency means a measure by which an action falls below expected standards.
i) Personally Identifiable Information (PII) means is any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means.
j) Personal Identification Number (PIN) means is a number allocated to an individual and used to validate electronic transactions.
k) Pilot means selecting a group of end users to test the system to determine if the program is ready for statewide implementation.
l) Pilot Test Plan means a plan developed to test the system and provide feedback before full implementation statewide.
m) Point of Sale (POS) means the place at which goods are retailed.
n) Primary Account Number (PAN) means the card identifier found on the electronic benefit card.
o) Protected Health Information (PHI) means the term given to health data created, received, stored, or transmitted by HIPAA-covered entities and their business associates.
p) Price Look-Up Codes (PLU) means the codes used to identify bulk produce and related items such as nuts and herbs.
q) Production means an application of production system design for the implementation of EBT.
r) Problem Resolution and Escalation Procedures means the process by which the State reports system and operational problems to the Contractor, process by which the problems are resolved and the resolution reported back to the State.
s) Proxies means individuals who have been authorized by a Client to make WIC purchases on their behalf.
t) Reports Manual means a manual describing all standard reports to be generated by the Contractor providing a brief description of the data files provided to the State for internal report generation.
u) Retailer or Vendor means Tennessee Authorized WIC Grocers and pharmacies. Tasks means actions to be provided by the Contractor.
v) Retailer Certifications means to ensure compliance with the specific processing parameters or requirements for WIC EBT.
w) Retailer Enablement Plan means a plan to support the Vendors transitioning away from EBT-only POS equipment.
x) Retailer Help Desk means to provide a twenty-four (24) hours a day, seven (7) days per week toll-free “1-800” number, the purpose of which is to provide retailer EBT support and program information.
y) System Development and Technical Testing means the Contractor must schedule periodic reviews for the State's review and written approval of the final product prior to UAT.
z) Tasks means actions to be provided by the Contractor.
bbb) Third Party Processor (TPP) means an independent processor that is contracted by a bank or processor to conduct some part of the transaction processing process.
ccc) TNWIC means the Tennessee Special Supplemental Nutrition MIS/EBT system for Women, Infants and Children.
ddd) TNWIC Advisory Council means a committee comprised of Tennessee Department of Health leadership.
eee) User Acceptance Testing (UAT) means an application is tested, usually by or in conjunction with users, to ensure that the application is functioning according to specifications and defined requirements
and is acceptable to the State.

ff) Universal Interface Guidelines means a standard means of exchanging information between the WIC MIS and the Electronic Benefit Transfer system.

ggg) Universal Product Code (UPC) means the twelve (12) numerical digits uniquely assigned to each trade item.

hhh) United States Department of Agriculture (USDA) means the U.S. Federal executive department responsible for developing and executing Federal laws related to farming, forestry, rural economic development, and food.

iii) Virtual means accessed by a computer over a network.

jjj) Virtual Private Network (VPN) means a virtual network built on top of existing physical networks that can provide a secure communications mechanism for data and control information transmitted between networks.

kkk) WIC means the State’s Special Supplemental Nutrition Program for Women, Infants and Children.

lll) WIC EBT Operating Rules means the operation of WIC Electronic Benefit Transfer for all entities, including retail merchants authorized to provide WIC authorized food products for purchase by WIC participants.

mmm) WIC MIS-EBT Universal Interface Specifications (UI) means the functional requirements for the Universal Interface between the WIC Management Information Systems (WIC MIS) and the WIC Electronic Benefit Transfer systems (WIC EBT system)

nnn) WIC Mobile Application means a type of application designed to run on a mobile device, which can be a smartphone.

ooo) WIC Retailer Policy and Procedure Manual means a resource handbook provided to retailers during installation explaining in detail retailer-related aspects of the WIC EBT program with step-by-step instructions for each transaction and all terminal administrative functions.

ppp) Work Plan means specifying a detailed approach to Task 3 through Task 15 as indicated in Attachment 1.

**TASK 1 – PROJECT INITIATION, PLANNING AND MANAGEMENT**

The EBT Contractor shall provide a project initiation meeting to include the plans that will guide and track the project’s progress and initiate project status reporting.

The following subtasks have been identified as necessary to this phase effort:

**Project Initiation Meeting and Memorandum**

No later than fourteen (14) days after the Contract Effective Date, the EBT Contractor must attend a two (2) day project initiation meeting via virtual meeting platform. The EBT Contractor’s project manager and other key Contractor staff as deemed necessary must participate in the meeting. Within five (5) working days of the meeting, the EBT Contractor must deliver to the State for written approval, a technical memorandum documenting a summary of all decisions, agreements, understandings, and contingencies arising from the project initiation meeting. Any revisions to the project objectives, timeline or scope in the technical memorandum must be approved in writing by the State.

**TASK 2 – WORK PLAN**

Tennessee has developed a team of Local Agency and Central Office staff who will be utilized to assist the EBT Contractor in the conduct of training and will provide support to the retailers as they go live with the new EBT system. This task will be considered complete after the State provides written approval that the training was completed and acceptable.

The EBT Contractor must deliver a written Work Plan which shall detail its approach to Task 3 through Task 15. The Work Plan must detail, in Gantt format, the overall project schedule that includes all tasks as described to include Contractor milestones, State tasks and checkpoints. The EBT Contractor must present the Work Plan for review and approval by the State within 30 days after Contract Effective Date.
The EBT Contractor must be onsite or at a mutually agreed upon virtual platform to conduct a review of the proposed transfer system's functionality in comparison to the State requested enhancements and modifications to identify required revisions to the EBT system. The EBT Contractor shall utilize the USDA Functional Requirements Document (FReD) for the system being transferred as the baseline for review and definition of system functionality.

**Transaction Service Requirements (FNS Standards).**
The Contractor will comply with the software and automated data processing equipment ownership rights prescribed in federal regulations and as further clarified or negotiated with the State and the federal government. The Contractor is responsible for ensuring that the EBT system meets the processing requirements and criteria established by FNS.

**Governing Regulations and Guidelines.**
The Contractor shall ensure that the EBT system meets performance and technical standards outlined in Federal regulations, the WIC EBT Operating Rules, and the TIG in the areas of:

a. System processing speeds  
b. Availability and reliability  
c. Security  
d. Ease-of-use  
e. Minimum Card requirements  
f. Performance  
g. Minimum transaction set

Conflicts within the governing regulations and guidelines regarding a specific standard will be resolved by the State. If the State determines that any change in rules or regulations necessitates any additional work by the Contractor, the State may authorize increased payment to the Contractor via a contract amendment.

**Processing Speed Requirements.**
The Contractor shall comply with all relevant processing speed requirements as stated in the TIG.

**EBT System Availability.**
Card Issuers processing WIC Online EBT shall be available 99.9% of the scheduled up-time, twenty-four (24) hours per day, and seven (7) days per week as specified in Section 6.1 of the WIC EBT Operating Rules:  

Scheduled uptime shall mean the time the database is available and accessible for transaction processing and shall exclude scheduled downtime for routine maintenance. Development and maintenance work associated with Contractor’s EBT system may be performed offshore, but system data must be maintained within the United States. Contractor will not be granted access to the State network from an offshore location for the purposes of support and maintenance. Vendor remote access can only be approved from a location within the United States.

The Contractor shall attach particular importance to providing the State advance notification of scheduled system downtime. This notification shall be at least thirty (30) calendar days prior to scheduled system downtime and must be provided in writing. The Contractor shall notify the State in advance of scheduled downtime for routine maintenance, which shall occur during off-peak transaction periods. The Contractor shall provide the State with any scheduled downtime outside of the time required for routine maintenance and obtain the State’s approval for such downtime.

The Contractor shall provide immediate notification to the State in the event of unscheduled downtime, to include the reason(s) for the unscheduled downtime, the course of action to be taken to resolve the issue(s) causing the downtime, and an estimate as to when the system will again be available.

**Standards for System Accuracy.**
The Contractor’s EBT System central computer shall permit no more than two (2) inaccurate EBT transactions for every 10,000 EBT transactions processed. The transactions to be included in measuring system accuracy shall include:

a. All WIC transactions occurring at POS terminals and processed through the host computer, and
b. Credits to EBT accounts.

**Interoperability Requirement.**

The EBT system must interface with the selected Management Information System (MIS). The MIS will be USDA/FNS FReD compliant and EBT functional System:

**POS Transaction Sets.**

The Contractor shall accept EBT transactions from POS devices or integrated cash register systems.

At a minimum, the following transaction types shall be processed:

a. Purchase
b. Balance inquiry
c. Voids or cancellations
d. Reversals

**Voids or Cancellations.**

The Contractor shall have the capability to allow voided or cancelled transactions in accordance with the following process: a transaction may be voided/cancelled by a retailer at a POS device. The void/cancellation message will include the trace number, the exact dollar amount, and other identifying information from the original transaction. The Contractor shall accurately process the void or cancellation transaction and have the effect of the void/cancelled transaction immediately and appropriately reflected in the client’s EBT account.

**Reversals.**

The Contractor shall reverse a POS if for some reason the completion of the transaction cannot take place at the originating POS device (e.g., communication failure with the device and/or a device malfunction, or a late response from the Contractor). The entity (specifically the third-party processor (TPP), authorized retailer/benefit acquirer, or the POS device) within the response chain where the transaction error is recognized will generate a reversal message back to the Contractor. As defined within the EBT International Standards Organization (ISO) message specifications, the reversal message will include the trace number, the items purchased, exact dollar amount of items purchased, and other identifying information from the original transaction. The Contractor shall have the capability to accurately process the reversal transaction and have the results reflected immediately and appropriately in the client’s account.

**Key-entered Transactions.**

The Contractor shall accept and process EBT transactions where the PAN has been manually entered (key-entered) into the POS device. Transactions may be key entered at times when a Card presented by a client is damaged and/or the POS device is unable to accurately read the magnetic stripe. The validation of the client’s PIN is still required on key-entered transactions. If a PIN pad is defective or for other reasons a PIN does not accompany the transaction to the EBT host for processing, the Contractor shall deny the transaction.

The Contractor shall adopt other security measures to prevent client and retailer abuse/misuse of the key-entry feature. For the Contractor provided stand-beside system, the Contractor shall ensure that the PAN printed on the transaction receipt is truncated. For integrated systems, the Contractor shall verify during retail certification that the PAN printed on the transaction receipt is truncated. The Contractor shall ensure that the PAN printed on the transaction receipt is truncated. The Contractor must be able
to selectively disable or deny the capability of an EBT-only POS device from completing key-entered transactions. The Contractor shall track, and report to the State upon request, key-entered transactions by Card number and by retailer site. The Contractor shall respond to client reports of malfunctioning or defective equipment at retailer sites, including EBT-only POS devices.

Fraud Investigation.

The Contractor shall support the creation and maintenance of EBT accounts for use in fraud investigations. Fraud accounts shall be set up through the Administrative Terminal. Benefit authorizations for these accounts will only be added through the EBT Administrative Terminal Application. Fraud accounts will only contain a primary client and will not contain Authorized Representatives or Protective Payee.

In order to assist in ongoing investigations, the State must have access to the State agency administrative terminals for selected staff. Additionally, the Administrative Terminal application shall support the adding of benefits to assist in fraud investigation. The Contractor must provide on-line inquiry-only administrative terminal software that is Windows compatible or appropriate hardware and software to the locations identified by FNS. This will include a method to interface with the EBT host from multiple locations through dial-up or other means. This access enables inquiry on specific Card and/or retailer details.

Investigative Assistance.

The Contractor shall advise, assist and appropriately act to aid the State in detection and investigations of abuses by stores, clients or workers, including but not limited to, reporting unusual activity. The Contractor shall cooperate with State and Federal agencies responsible for compliance with laws and regulations for all programs supported under this contract. The Contractor shall assist the FNS Compliance Branch, USDA Office of Inspector General (OIG), Internal Revenue Service (IRS), Secret Service, State OIG, and local law enforcement in fraud monitoring and investigation activities. The State will notify the Contractor of any coordinating responsibilities for investigations under this contract. Access to information concerning these matters shall be held in confidence by the Contractor so that the investigations are not compromised.

The Contractor shall provide, at a minimum, the following functions to support investigations:

a. Creation of cases and Cards to be used by investigators.

b. Posting benefits to the investigative cases, possibly on an irregular basis as needed by the investigators.

c. Training, Card issuance, and PIN selection for investigators.

d. Providing data on the investigative cases showing the amounts funded to the cases and the transaction histories of the funds on a monthly basis.

e. Providing data, as needed, for evidentiary purposes within two business days of request.

f. Providing technical assistance to any authorized investigative agency conducting a fraud review or investigation; and

g. Providing personnel to authenticate and explain records for grand jury or trial purposes

Merchant Validation (WIC Retailer Number).

The Contractor shall validate the transactions originated at a WIC authorized retail location. The Contractor shall maintain a database of authorization numbers for all WIC authorized retailers in accordance with the Retailer Validation Requirements specified in 7 CFR §246. The Contractor must access the WIC MIS daily to obtain updates concerning authorized vendors. The Contractor shall verify the retailer identification number is that of a WIC-authorized retailer prior to completing its processing of a transaction.

Benefit Authorization.

The Contractor shall receive and process all WIC authorizations transmitted by the State. The Contractor shall process benefit authorizations and post the authorized WIC benefit items to the appropriate EBT accounts, based on the unique Household ID, WIC benefit type, and unique authorization number.
generated by the State for each benefit authorization. The number and type of WIC benefit authorizations shall not be limited by the Contractor nor shall the Contractor impose increased costs on the State for adding new WIC benefit types, e.g. FMNP.

Benefit Availability.

The Contractor shall post monthly ongoing WIC benefits as available on a schedule prescribed by the State. The State shall provide an availability date, which is included in the benefit detail record passed to the Contractor. On the specified availability date, benefits shall be accessible by the client no later than 2:00 a.m. Central Time. Any other benefit record is considered an update and should be made available to the client according to the benefit availability dates provided by the WIC MIS. If the WIC MIS provides a begin date that is the current day or in the past, then the benefits shall be available immediately subject to successful processing of the message from the WIC MIS and provided that the end date has not been reached.

The Contractor shall maintain on-line individual accounts for clients to access benefit information. The Contractor shall also provide at least one additional method for clients to access their benefit information such as Interactive Voice Response (IVR), text message, or some other State-approved method of contact.

Removal of Monthly Benefits.

WIC benefits do not carry over from one Issuance Period to the next. Contractor must purge any client benefits that remain after each monthly benefit period.

Data Transmission Protocol.

The Contractor shall accept and process transactions in a file formate prescribed by the State. The State will require compliance with the WIC MIS-EBT Universal Interface:


Transaction Processing.

The Contractor shall be responsible for the authorization of client-initiated transactions. The Contractor shall have the capability to receive and process client transactions from point of sale (POS) devices. The Contractor shall ensure that clients access their benefits only at POS terminals or integrated cash register systems in State authorized vendor locations. Clients may be entitled to benefits under a number of programs. Each transaction must be allocated to the appropriate benefit type.

a. The Contractor’s process for transaction authorization will require:

1. Accepting transactions coming from an authorized transaction acquirer.
2. Authorizing or denying transactions.
3. Sending response messages back to the transaction acquirer authorizing or rejecting client transactions.
4. Logging the authorized/denied transactions for subsequent settlement and reconciliation processing, transaction reporting, and for viewing through transaction history.

b. The EBT system will go through a series of checks and processes to determine whether a transaction being initiated by a client should be approved. These checks shall include determining whether:

1. The merchant has a valid WIC authorization number;
2. The Card number (PAN) is verified and the Card is active;
3. The PIN is verified as being entered correctly;
4. The account is active; and
5. The EBT account holds sufficient food balances in order to satisfy the transaction request.
6. The benefits occur within the case month as authorized by the State.
7. The UPC matches with the active UPC’s on the current Approved Product List (APL) maintained by the Contractor’s EBT host system.

If any one of the above conditions is not met, the Contractor shall deny the transaction. If the maximum number of consecutive failed Personal Identification Number (PIN) entry attempts has been exceeded, the Contractor shall deny the transaction. The system must return a message to the retailer/provider indicating the reason for denial (e.g., invalid PAN, invalid PIN, NSF, etc.).

If any attempted item purchase exceeds the Not to Exceed (NTE) amount, the authorized vendor shall be paid at the NTE amount for the store’s assigned peer group.

Performance Standards.

1. **EBT System Availability:** The EBT System shall be available 99.9% of the time (excluding scheduled maintenance). The EBT System is not considered “down” if it continues to automatically process benefit authorizations, whether electronically or via the Automated Response Unit. Performance Deficiency: Failure of the EBT System to be available 99.9% of the time, measured on a monthly basis.

2. **Settlement and ACH Processes:** The timeframe for ACH settlement window shall be met 98% of the time. Performance Deficiency: Failure to meet timeframe for ACH settlement window 98% of time, measured on a monthly basis.

3. **Benefit Availability:** Daily benefit received by 12:01 a.m. CT and shall be in each participant’s account by 5:00 a.m. Performance Deficiency: Failure to have benefits available by 5:00 am CT for two or more days within a calendar month.

4. **EBT Switching Services:** The Debit Switch service shall be available 99.8% in any calendar month after deducting for scheduled downtime or downtime resulting from the failure of communication lines or telecommunications equipment out of the control of the Contractor. Performance Deficiency: Failure to provide Debit Switch Availability 99.8% of the time in any calendar month.

5. **Transaction Response Time:** Client EBT-only POS transactions shall be completed in 20 seconds. Processing response time shall be measured at the POS terminal from the time the “enter” or “send” key is pressed to the receipt and display of authorization or disapproval information. Performance Deficiency: Failure to complete 98% of client EBT only POS transactions within 20 seconds, measured on a monthly basis.

6. **Inaccurate Transaction:** There shall be no more than two (2) inaccurate transactions per every 10,000. Performance Deficiency: Failure to maintain an accuracy standard of no more than two (2) errors per every 10,000, measured on a monthly basis.

7. **Participant and Retailer Customer Service Help Desks:** 85% of all calls shall be answered within four (4) rings (4 rings are defined as 25 seconds.) and 97% of all calls to Customer Service Representatives (CSR) shall be answered within two (2) minutes. This measure must include calls unanswered due to abandonment after two (2) minutes. Performance Deficiency: Failure to answer 85% of calls within four (4) rings measured over a 3-month period. Failure to answer 97% of all calls to CSR within two (2) minutes, measured over a three (3)-month period.

8. **Host Response Time for Administrative Terminal Transactions:** Host response time for administrative terminal transactions shall not exceed two (2) seconds 98% of the time. Performance Deficiency: Failure to respond to administrative terminal transactions within two (2) seconds 98% of the time, measured on a monthly basis.
Reporting Data Availability: The Contractor shall meet all reporting data availability requirements. Performance Deficiency: Failure to make available reporting data to the State within the required timeframes shall result in inspection and evaluation by the State. If the State determines Performance Standards have not been met, the Contractor shall provide to the State written documentation of the performance deficiency and applicable resolutions. The State will employ all reasonable means to ensure that performance standards rendered are in compliance with the Contract, and the Contractor shall cooperate with such efforts.

System Interface with WIC Mobile Application.
The Contractor shall provide either a flat file exchange or real time application programming interface (API) to allow for a WIC Mobile Application to query, at a minimum, participant benefit balances, redemption history, Approved Product List, and WIC Vendor locations.

System Security.
The Contractor shall implement a system security which:

a. Provides the ability to execute secure, authenticated, two-way transactions; 
b. Prohibits access to State data unless such access is expressly approved by the State; 
c. Maintains and ensures data integrity, confidentiality, and privacy; 
d. Ensures transaction validation and security; 
e. Addresses issues such as misuse or fraud, including resolution options; 
f. Ensures implementation and maintenance of security guidelines, protocols, and procedures; 
g. Provides an audit trail for identifying all network security breaches and attempted breaches; 
h. Reports to the State any breach or compromise of security following discovery; 
i. Accommodates scheduled and unscheduled audits of the security system by State and Federal personnel or their designees; and 
j. Ensures full cooperation with government agencies in the event of security breaches.

System Documentation:
The transfer (with modifications) of a new system to Tennessee WIC EBT includes not only the modified software but the updated system documentation as well. Respondents must demonstrate that they are well-versed in industry standard system documentation methodologies and willing and capable of updating their system documentation as needed to reflect any modifications made to the system. The State agrees to accept the most current system documentation as the baseline documentation for the version of the system bid that will be modified with the addition of changes and enhancements to reflect the modifications made to the system as requested by the State. All references to the selected system are to be replaced with a reference to the State. Any functionality added, modified, or deleted from the base application is to be noted as such in each document. In addition, the existing system training materials and user manuals will require revision to reflect any system modifications made.

TASK 4 – SYSTEM TESTING AND READINESS CERTIFICATION

System Qualification Test.
The EBT Contractor shall provide an independent test group within its organization to test the entire E B T system when testing of all system modules and subsystems has been completed. The EBT Contractor’s system qualification tests shall determine whether the system complies with standards, satisfies functional, technical, and operational requirements, and confirms that both individual system modules and the entire system perform in accordance with the functional requirements and technical specifications. During this test period, the EBT Contractor must check system documents and training manuals for accuracy, validity, completeness and usability. The E B T Contractor shall ensure, during this test, that the software performance, response time, and ability of the system to operate under stressed conditions and maximum load are tested. The E B T Contractor must at the same time test external system interfaces and the ability of the system to correctly process data converted from
the TNWIC system. The EBT Contractor shall document all findings during the test and compile a system qualification test analysis report for delivery to the State. As with the integration subsystem test, the EBT Contractor may need to run subsystem integration testing several times and shall deem it complete when the test has run with zero errors.

Regression Testing.

The EBT Contractor must perform regression testing to re-test a system component (unit, module, or subsystem) following any modification and verify that the problem was corrected without adverse side effects and to ensure the component still complies with its requirements. Regression testing also refers to rerunning the entire system qualification test after errors have been corrected. The EBT Contractor shall perform regression testing to ensure that unanticipated errors have not been introduced elsewhere in the system by another error correction activity.

EBT Card Production and Distribution.

The Contractor shall supply magnetic stripe Cards to the State’s WIC clinics based on a distribution plan provided by the State. The Contractor shall provide the State access to a centralized Card issuance management database for the purpose of tracking. The Contractor will distribute magnetic stripe Cards that support electronic transactions to approximately 129 WIC clinic sites for onsite and on-demand benefit issuance. The EBT system shall provide online, real time access to clients’ EBT accounts.

a. The Contractor shall ensure that the EBT Card produced for the EBT system complies with the International Standards Organization (ISO) 7813 and American National Standards Institution (ANSI) standards relating to Cards used for financial transactions.

b. Contractor shall ensure that the EBT Card supplied includes the following design features:

   1. The face of the Card shall include the following:

      a) The Primary Account Number (PAN) which must be in black thermal print;
      b) The TNWIC name;
      c) A four-color printing process; and
      d) Fine line printing.

   2. The back of the Card must include the following features:

      a) A high-coercivity magnetic stripe;
      b) A tamper evident signature panel;
      c) The statement, “Do Not Write PIN on Card”;
      d) The toll-free numbers for Cardholder and Retailer/Merchant Assistance;
      e) An address where the Card is to be returned if found;
      f) Nondiscrimination statement (short version).

c. The Contractor shall provide EBT Cards containing a 16-digit PAN that utilizes the State’s BIN as identified by the State. The State is applying for a BIN for WIC use. The process by which the Contractor calculates the PAN for issued Cards shall not interfere with the existing Card base being utilized by the State’s clients.

d. The Contractor may revise the current EBT Card design with approval of the State. Cards shall be provided to the clinic in an inactive status.

Issuance of Replacement Cards.

The Contractor shall provide for the State to issue replacement Cards in WIC clinics in response to calls from clients reporting lost or stolen Cards to the Customer Service Help Desk. The Contractor shall deactivate Cards that are reported lost or stolen immediately.
a. The Contractor shall transfer the existing PIN to the replacement Card.

b. Each client shall be able to report a compromised PIN by calling the Customer Service Help Desk. The system shall allow the client to select his or her own PIN by using the single call Automated Response Unit PIN Select procedure.

c. The Contractor shall provide the State with access to all Card generation.

Client PIN Selection.

Clients shall have the option at any time to select their own Personal Identification Number (PIN) by using an Automated Response Unit (ARU) PIN Selection. The Contractor shall develop a secure ARU PIN selection procedure that requires the client to make only one call. The one call, automated PIN selection function must require positive verification of the cardholder’s identification using demographic data such as the primary cardholder’s date of birth, and/or the primary cardholder’s case number. In addition, for those cardholders who have pass code protection on their case, this pass code shall be verified. Proxies are required to use and verify the demographic information as provided by the WIC MIS.

Periodic Reviews.

During the System Development and Technical Testing task, the EBT Contractor must schedule periodic reviews for the State’s review and written approval of the final product prior to UAT. The EBT Contractor shall measure overall progress, status, and work products (screens, reports, etc.) and allow the State to see the product of system modifications prior to the submission of the system for UAT. The EBT Contractor must provide an opportunity to clarify and correct any modifications made to the system that do not correctly address the intended functional modification. The EBT Contractor shall provide prototype reviews and demonstrations for each system modification as they become available. When the system meets the functional requirements and technical specifications, the EBT Contractor must provide the State with a written certification that the system is ready for User Acceptance Testing (UAT). The certification must include detailed information on all errors identified during migration testing and their remedies. The certification must verify that the EBT Contractor staff are able to conduct full system testing from start to finish with no identified outstanding errors. The EBT Contractor shall provide this certification only after it has determined that the system has passed all tests with no known errors.

In order to demonstrate the system readiness for UAT, the EBT Contractor must perform a key function system walkthrough onsite or a mutually agreed upon virtual platform with the TNWIC Project Manager and other agency staff. In this demonstration, the EBT Contractor must prove that the system can perform all functions, at a minimum, with zero errors.

Upon written approval from the State, the EBT Contractor shall proceed with UAT when the State determines there are no errors (other than cosmetic errors) during the demonstration.

Administrative Terminal Training. Training shall include, at a minimum, written instructions, information and/or examples relating to user security, screen navigation and searches, as well as procedures for changing Card status, resetting PINs, processing repayments, changing client benefit status, adding new cases and clients, maintaining client details, changing case status, and issuing benefits. Training shall also include an explanation of all screens and data fields used in the Contractor’s Administrative Terminal security system.

**TASK 5 – SYSTEM TRANSFER**

In this task, the EBT Contractor shall conduct the system modification/potential development and comprehensive technical testing of the modifications to the application. The EBT Contractor shall not initiate this activity until the State provides written approval of the system documentation. This project phase ends with a EBT Contractor demonstration of an error-free system operation and system certification of readiness for UAT. The transfer system shall meet the requirements in the FNS-USDA FReD as well as those detailed below:
The Contractor shall provide services for the transfer, modification, configuration, interface testing, and implementation for WIC EBT. The Contractor shall provide a Tennessee WIC EBT that employs modern web technology, standard WIC elements, open system architecture, modular components, and fully interoperate with the State’s WIC MIS system, using HL7 standards. The EBT Contractor shall ensure that the Tennessee WIC EBT complies with FNS laws and regulations and with the most recent version of the FReD found on the FNS website, subject to change, as well as all other policies and guidance found at:


Upon written approval of the system design documentation by the State, the EBT Contractor shall convene a development and testing phase initiation meeting to be attended by designated State staff and the EBT Contractor. The EBT Contractor shall schedule for system development and testing and highlight Tennessee activities during the project phase. Prior to the meeting, the EBT Contractor shall prepare and deliver to the State for its written approval, a development and technical testing plan, which will serve as the basis for the meeting presentation. Within five (5) working days after the meeting, the EBT Contractor shall provide a technical memorandum documenting all agreements, understandings and contingencies resulting from the system development initiation meeting.

**System Modification.**

The EBT Contractor must modify the system to meet the new functional requirements and conduct thorough technical testing of the system prior to presentation for User Acceptance Testing.

The EBT Contractor shall formally advise the State that the system is ready for UAT when development and internal testing is finished, and a thorough system qualification test of all system functionality has been performed with zero errors. The EBT Contractor shall assure that this advisement includes the conversion routines for converting records from the legacy EBT system, as this system functionality will also be tested during the UAT. The EBT Contractor shall provide for generating the test data and test cases to be used for its own system qualification test.

**System Interfaces and Technical Testing.**


The EBT system shall:

a. Pass demographic and benefit data to the EBT system, which will maintain WIC household EBT accounts, maintain Card information, acquire and validate WIC redemption transactions from the Vendors, process payments to the Vendors, and supply the WIC MIS with redemption data for reporting and reconciliation; and

b. Encompass data and system features to include identification of Head of Household/Primary Card Holder, PAN capture, record Card replacement, foster child identification, family demographics and income, food packages by category/subcategory/unit of measure, historical record of food packages issued, and PAN linkage to food package issuance.

c. The State Agency application contains functions for statewide reporting, vendor management, financial management, to include communications with the host processor for EBT, food instrument reconciliation and program integrity.

d. The system shall provide an interface for a WIC Mobile Application.
The Contractor shall update its system documentation replacing all references with a reference to the Tennessee WIC EBT System and allowing that any functionality added, modified, or deleted from the base transfer application be so noted in all documents. The EBT Contractor will revise all existing training materials and/or user manuals to reflect system modifications made for Tennessee WIC EBT.

**TASK 6 – SYSTEM AND DATA CONVERSION**

**System Conversion.**

The EBT Contractor must provide a field-by-field mapping (including how the values will be converted) from the TNWIC system in Tennessee to the new EBT system, detailing:

- Any assumptions or proposed calculations involved in the conversion;
- Default values for required fields that do not exist in the TNWIC system or a method to allow for missing data until all participants are in the new system;
- Methods for handling anomalies in the data between the systems (data elements with incompatible length and/or type between the systems, or data elements with stricter edit requirements in the new system that fail those edits in the old); and,
- How data elements that have been assigned default values by the automated conversion procedures will be populated with actual data once automated conversion is complete for a site.

The EBT Contractor in cooperation with the MIS Contractor must detail any data “clean up” procedures that can effectively improve the conversion effort. The Conversion must take into account possible exceptions to full conversion of the databases. The EBT Contractor shall detail here exception reports that will be produced by the conversion programs and provide for a fully auditable conversion of data files. The EBT Contractor must comprehensively address all State WIC data, inclusive of the vendor, financial, schedule, clinic and client data in TNWIC and describe how each type of data will be converted. The Contractor must justify any existing data that may not be converted for use in the new system.

During UAT, Production and Pilot, the EBT Contractor must ensure that the central processor application provides all functionality and processing required to fully support the Tennessee State WIC EBT Program. The Central Processor application must, at a minimum, meet the following services:

- A specified set of data for use during UAT as designated by the State
- Provide on-line access to the functionality in the state agency for operations, analysis, and the generation of reports.
- Provide all file maintenance, including backups, archiving of data, and maintenance of database synchronization between system modules on a daily basis.
- Assure all data communications between the Central Processor, and the State’s central office.
- Provide the software and support required to exchange data with other state and federal programs electronically. This electronic data exchange shall meet the requirements of the financial transactions with the EBT services and the USDA/FNS minimum data set and Food Deliver Portal (FDP) report. Other data exchange, such as comma separated value files with selected border states’ and tribal agencies’. Interoperability incorporating HL7 with other State systems shall require the exchange of data as well.
• Provide all system enrollment, reconciliation, expenditures, vendor and other required reports in the media required and according to the agreed upon schedule.

The EBT Contractor shall maintain responsibility for system operations, at a minimum, until Pilot is complete. The EBT Contractor shall provide operations on-site at the State’s offices or via a mutually agreed upon virtual platform throughout the UAT and Pilot.

**TASK 7 – ASSESSMENT OF DISASTER RECOVERY**

The Contractor shall have a disaster recovery plan that addresses the recovery of the Tennessee EBT System approved by the State, and that is tested by the Contractor annually. The State may request copies of the plan and test results at any point in time during the Contract, and if so, will make the request in writing. Should the State make such a request, the Contractor shall provide the State with copies of said documents within thirty (30) days of the State’s written request.

In the event that a disaster occurs at the Contractor’s site which houses the Tennessee EBT System, the Contractor shall execute its Disaster Recovery plan accordingly. The Contractor shall continue to meet the Performance Standards defined in Task 3.

In the event of a disaster at the State’s data center, the Contractor shall provide support to the State in the recovery of the State’s MIS data and systems to ensure that benefits provided to clients are not interrupted. Said support may include, at a minimum, providing connectivity to the State’s back-up site to support the transmission of data files and reports between the State and the EBT Contractor.

**TASK 8 – SYSTEM PILOT INITIATION MEETING AND MEMORANDUM**

Within two (2) weeks following successful completion of the UAT, the EBT Contractor shall attend a meeting at the State WIC office or a mutually agreed upon virtual platform for approximately 2 (two) days with, at a minimum, the TNWIC Project Manager, the MIS contractor’s project manager, and other key State and Contractor staff as necessary. The EBT Contractor shall discuss and review the project plan, schedule, and tasks for the implementation of the system pilot. Within five (5) working days of the meeting, the EBT Contractor must provide to the State for its written approval, a technical memorandum documenting all agreements, understandings and contingencies, resulting from the system pilot initiation meeting.

Using the approved Pilot Test Plan, the EBT Contractor shall support and facilitate the system pilot test. Once the system has passed UAT and has been approved by the State and FNS, the EBT Contractor shall provide a pilot test in at least one (1) Tennessee county health department and associated clinic, one (1) Region and in the WIC central office.

The EBT Contractor shall conduct the pilot test to verify that the system works correctly in conditions of actual use. The EBT Contractor shall not proceed to pilot until it is confident that there is very little possibility of an unsuccessful outcome to the pilot and has written approval from the State to proceed.

The EBT Contractor shall oversee the pilot test of the new WIC EBT System at the state central office. The EBT Contractor shall be onsite during pilot test for, at a minimum, the first 1 (one) week at the pilot site designated by the State. The EBT Contractor and the State shall mutually agree upon the locations for the pilot during the project initiation meeting, and mutually agree that the pilot is expected to last for two (2) calendar weeks prior to the evaluation and one (1) additional week while preparations are made for rollout to the remaining agencies.

The EBT Contractor shall assist in the daily operation of the Central Processing Site during the pilot period, assigning designated staff members to provide consultation and assistance as needed. This task shall be considered completed after the State approves in writing that the Pilot was completed and successful.

**TASK 9 - SYSTEM TRAINING.**

To prepare the staff, the EBT Contractor must conduct an in-person or Virtual system orientation training for the group prior to initiation of the detailed design sessions. The EBT Contractor must address
all system operations that are changing from the current system and must provide the same training plan, materials and approach that will be employed for future activities, including UAT, and rollout. The EBT Contractor shall provide two (2) business days of in-person or mutually agreed upon virtual training platform for State designated staff. The training shall take place at a time and central location determined by the State. The system training must include all functional security plans that outlines the protocols.

The EBT Contractor must:

- describe the types of training and the audiences for each,
- provide a description of training materials and training methodology,
- include a detailed list of topics to be covered for each type of training,
- and describe the methodology for evaluation of training effectiveness.

The EBT Contractor must provide, at a minimum, state office user training, central system operator training, as delineated throughout this document. The EBT Contractor must incorporate changes to WIC policies and procedures into state and local user training by consultation with State WIC staff. The EBT Contractor must indicate in the Training Plan the overall schedule including the number of days and preliminary agendas for the trainings. The EBT Contractor must provide an overview of tools and materials to be employed in the trainings including workbooks, handouts, evaluative materials, and any training systems to be utilized. The EBT Contractor must identify the proposed training staff in its written Training Plan.

**TASK 10 - SYSTEM IMPLEMENTATION**

Upon completion of system modification/potential development and testing and achievement of certification of readiness for UAT, the EBT Contractor must prepare all the necessary software for the EBT application. This may include coordinating installation with the State’s Strategic Technology Solutions (STS) staff and integrating with the server into existing environments if needed (e.g. Active Directory, NDS, and firewalls).

The EBT Contractor must coordinate the installation of the system on the Vendor’s servers. The EBT Contractor must coordinate the installation of the system at the agreed upon operations site. The system installation must include an operational system and a test bed system. The system installation must be conducted sufficiently in advance of the initiation of UAT to ensure system availability for the scheduled testing. This task will be considered complete when the State verifies in writing that the system and software are functioning correctly.

The EBT Contractor shall facilitate and support user acceptance testing and shall remedy all errors identified during testing. The EBT Contractor shall provide on-site support for the duration of UAT at the State office. The EBT Contractor shall be on site or on mutually agreed upon virtual platform to participate in a UAT Phase initiation meeting, convened by the State office Staff to review the UAT plan, schedule, tasks, and risks with, at a minimum, the MIS implementation Contractor, and who will manage the UAT. Within two (2) working days of the meeting the EBT Contractor must deliver a technical memorandum documenting all agreements, understandings, and contingencies arising from the UAT initiation meeting to the State who will distribute to all contractors and the State. It is expected that the EBT implementation Contractor will submit a technical memorandum also documenting all agreements, understandings, and contingencies.

The Contractor shall assure system implementation covers each of the following activities:

1. Retailer Management
2. Implementation of transaction acquirers (TPPs) and retailers
3. POS device deployment and installation

The system implementation shall assure the processes to be used for implementation, testing, and contingency plans for problems and issues are addressed that may occur during implementation.

Retailer Certifications.
The Contractor shall conduct the Retailer Certifications and the State may participate in these certifications. Retailer Certifications means the State will ensure the Contractor is in compliance with the specific processing parameters or requirements for WIC EBT. If necessary, to provide upgraded stand beside POS devices for WIC EBT, the Contractor shall coordinate all stand-beside vendor installations and training activities. Stand-beside equipment shall be shipped to the vendor and training shall be performed through a train-the-trainer process, providing training for the store manager and/or designated staff so they, in turn, can provide training to their individual staff. All training will be completed and validated using the State-specific checklist ensuring vendors are thoroughly skilled in terminal operation. For those vendors who elect to process WIC EBT transactions through their integrated ECR, EBTC staff shall be available to address general questions.

The Contractor shall comply with existing key management standards as well as USDA/FNS standards related to key management. The Contractor will provide procedures for PIN and key security within thirty (30) calendar days of contract execution.

The EBT Contractor must provide comprehensive system training to the end-users who will conduct acceptance testing. The training must address all system operations and be based on the training plan, materials, and approach that will be employed for pilot and rollout training.

This task shall be considered complete when the State approves in writing that the UAT user training was complete and successful.

**TASK 11 – RETAILER MANAGEMENT**

**Retailer Training.**

The Contractor shall provide training and training material to all WIC authorized retailers with EBT-only POS devices participating in the EBT program and shall provide “train the trainer” materials for chain stores. The Contractor shall be responsible for the maintenance and updating of all training materials, both electronically/web accessible and hard copy to reflect Federal and State law. FNS Federal Regulation 7 CFR §246 requires that retail store employees be trained in system operation prior to implementation. The Contractor shall provide training tasks at the time of POS installment in order to meet FNS requirements. Training material should include:

a. Retailer Help Desk toll-free number
b. Use of ARU
c. The Contractor shall provide Retailer tips cards which demonstrate the most frequently used WIC EBT transactions in a step by step format. Retailers shall be provided a tip card for every stand-beside POS received by each retailer. The tip card shall serve as a quick reference guide to the terminal and includes the following topics: log on/off terminal, supplies, balance inquiry, WIC purchase smart keys, retailer reports, load/change WIC process, WIC purchase with no cents off coupon, and retailer help line phone number.
d. The Contractor shall provide store decals for both lane and entrance locations stating that WIC is accepted at the retailer. The lane decal shall be a smaller version of the entrance decal and shall be provided for every stand-beside POS received by a retailer. Entrance decals shall be provided for every customer entrance of each store. Entrance decals shall be provided with other retailer training materials. For integrated retailers, lane decals shall be provided at the request of the store.

**Client Customer Service.**

The Contractor shall support a customer service help desk for EBT clients as follows:

a. The Contractor shall provide, at its expense, a client Customer Service Help Desk twenty-four (24) hours a day, seven (7) days per week, the purpose of which is to provide current EBT account and benefit access information via a toll-free, “1-800” number. The Contractor shall provide automated response functionality.
b. The Contractor shall provide a client help desk that meets or exceeds the following service requirements:

1. Performance Standards regarding number of rings prior to answer and average time on hold shall be consistent with Performance Standards identified in Task 4.1.
2. The Contractor shall provide ARU and Customer Service Help Desk activity data upon request and in a form and frequency prescribed by the State.
3. Teletypewriter (TTY) capability shall be available to clients with hearing disabilities.
4. Help desk access and support for clients using non-touchtone phones.
5. The Contractor shall provide an ARU route to a Customer Service Representative.
6. The Contractor shall provide a cardholder web portal available in both English and Spanish which provides access to account information, transaction information, and basic program information.

The Contractor’s ARU and/or Customer Service Help Desk shall support the following functions:

1. Card Activation—The Caller’s identity shall be confirmed prior to activating a replacement Card.
2. Report a Lost/Stolen/Damaged or the Non-receipt of a Card—the caller’s identity shall be confirmed prior to disabling a Card. Prior to replacing a Card, the client's address shall be confirmed.
3. Current Balance Inquiry—“Current Balance” shall provide “real-time” account balance information.
4. Transaction History—“Transaction History” shall provide information about the last ten (10) transactions by transaction number, amount, and date. Account History—“Account History” shall enable a caller to request a two (2) month statement of account history by program to be mailed to the last known client address within two (2) business days.
5. PIN Change—PIN change requirements shall be consistent with the requirements outlined in Section A.12., relative to client selection of PIN.
6. Benefit Access/Service Points—Callers shall be given information about POS site locations where benefits may be accessed.
7. Report Unauthorized Card Use—Callers shall be transferred to a Customer Service Representative for assistance in reporting unauthorized Card use.
8. Benefit Availability Date—Callers shall be given the date benefits will become available based on the issuance schedule supplied by the State.
9. Client Notification—The Contractor may notify clients of benefit deposits utilizing technology.
10. Customer Service Representative (CSR)—The Contractor shall provide CSRs to resolve client issues that cannot be resolved by the ARU, including requests for adjustments.
11. Language Assistance - ARU support in both English and Spanish.

e. The State reserves the right to review and approve the transaction flow and content of all ARU messages, prompts, and customer service scripts. Any changes to the approved ARU transaction flow, messages, prompt, and customer services scripts shall be provided to the State a minimum of thirty (30) days prior to their implementation.

f. The Contractor shall be financially responsible for all costs associated with pay phone calls. The Contractor may block calls from pay phones.

Retailer Customer Service.

The Contractor shall support a customer service help desk for EBT retailers as follows:

a. The Contractor shall provide Retailer Help Desk twenty-four (24) hours a day, seven (7) days per week, the purpose of which is to provide retailer EBT support and program information via a toll-free “1-800” number. The Contractor shall provide automated
response functionality. The Contractor shall locate all customer service call center locations relevant to services required in this contract within the United States.

The retailer customer service help desk shall be:

1. Toll-free and without charge or fee to the retailers,
2. Used exclusively for retailer support

b. The Contractor shall provide a retailer/merchant help desk that meets or exceeds the following service requirements:

1. Performance standards regarding number of rings prior to answer and average time on hold shall be consistent with Performance Standards identified in Task 4.1.
2. The Contractor shall provide ARU and Customer Service Help Desk activity data upon in a form and frequency prescribed by the State.
3. TTY capability shall be available to callers with hearing disabilities.
4. Help desk access and support for callers using non-touchtone phones.

c. The Contractor shall provide via the Retailer Help Desk, the following services for EBT-only retailers:

1. Support and problem resolution on EBT-only POS equipment
2. Settlement information and reconciliation procedures
3. Support of system adjustments and resolution of out-of-balance conditions
4. General information regarding EBT policies and procedures
5. Troubleshooting and reactivation malfunctioning POS equipment.
   a) If reactivation of POS equipment is not possible during the vendor’s initial call to the help desk, a replacement unit will be shipped by express ground courier for second day delivery. In special situations, when approved by the State, the replacement devices will be shipped using overnight express courier at no charge to the State or retailer.

d. The Contractor shall work with the State to develop a Retailer Enablement Plan to support the Vendors transitioning away from EBT-only POS equipment.

Retailer Management.

The Contractor shall be responsible for managing retailer participation in the State’s EBT program. The Contractor’s primary roles and responsibilities include:

a. Providing every WIC authorized retailer with the opportunity to participate in the EBT system;
b. Assuring that the participating retailers understand their responsibilities in regard to the policy, operating rules, and operations of the EBT system. The Contractor shall enter into an agreement with the retailer.
c. Maximizing the use of the existing commercial point-of-sale terminals.
d. Installing, maintaining and otherwise supporting Contractor provided EBT-only POS equipment.
e. The Contractor shall use retailer and Third Party Processor (TPP) agreements approved by the State.
f. The Contractor shall provide copies of the retailer and TPP agreements that will be utilized within the State for prior review and approval by the State and Federal staff. These agreements will be due no later than one hundred (100) business days from the WIC EBT project kick-off meeting, as detailed in Section A.58.
g. The Contractor shall provide a WIC Retailer Policy and Procedure Manual to all authorized Vendors. This WIC Retailer Policy and Procedure Manual will serve as a resource handbook and will be provided to retailers during installation. The Manual shall explain in detail, retailer-related aspects of the WIC EBT program, including step-by-step instructions for each transaction and all terminal administrative functions. The Manual also shall
contain information on accessing POS reports, reconciliation and settlement, reversals, adjustments and corrections, retailer help desk services, troubleshooting equipment issues, error message explanations, and record retention. The Contractor shall provide a WIC Retailer Policy and Procedure Manual, in a form and substance acceptable to the State, to each authorized WIC vendor.

Retailer Service Requirements.

The Contractor shall ensure that newly authorized retailers shall have access to the EBT system within fourteen (14) days after the receipt of the retailer’s signed agreement. The Contractor shall ensure that upon receipt of the authorization notice, a Retailer contract shall be mailed to the approved Retailer. However, whenever a retailer chooses to employ a third party processor to drive its terminals or elects to drive its own terminals, access to the system shall be accomplished within a thirty (30) day period or a mutually agreed upon time, to enable any required functional certification to be performed by the Contractor. The Contractor shall ensure that transactions shall be processed in accordance with federal regulation in 7 CFR §246.

Third Party Processors.

The Contractor shall support retailers that deploy their own terminals. The Contractor shall provide the State, retailers, and third-party terminal drivers with copies of interface specifications. The Contractor shall not unduly withhold approval of participation for retailers and third-party processors. The Contractor shall utilize TPP agreements as authorized by the State.

The Contractor shall certify and include language in TPP agreements to require that TPPs connected to the EBT system comply with FNS regulations and other State requirements. TPP requirements include, but are not limited to:

a. **Terminal IDs** – Giving each terminal a unique ID and including those terminal IDs as part of their transaction messages.

b. **Transactions** – Supporting the entire transaction set included in the documents cited in Section A.2. The Contractor must be able to process all of these transactions.

c. **Balance information** – Displaying a remaining food balances on the printed receipt for all POS equipment.

Settlement/Reconciliation.

The Contractor shall operate on a twenty-four (24) hour processing cycle. The State shall provide a standard daily cutoff time for EBT transaction processing in order to close out the current processing day and commence the next processing day. The twenty-four (24) hour period between the cutoff time on Day 1 and Day 2 constitutes the EBT transaction day. The specified cutoff time must allow the Contractor sufficient time to originate Automated Clearing House (ACH) payments for next day settlement. The EBT cutoff time shall coincide as closely as possible with the cutoff time of the prevailing EBT transaction switch and/or regional POS networks as appropriate to minimize the need for carry over or suspense accounting. Contractor shall abide by the settlement specifications outlined in Section 12.3 of the WIC Operating Rules.

Contractor shall also settle the benefit balance by category, subcategory, quantity, and CVB (if applicable).

Daily Settlement.

The Contractor shall be responsible for the daily settlement of funds to Retailers, either directly or through financial intermediaries such as TPPs. The Contractor shall own and reconcile the clearing bank account used for the daily settlement. The Contractor shall be responsible for handling both credit and debit adjustments to the client’s EBT account in the manner and timeframe dictated by federal regulations, WIC Operating Rules, and TIG. The Contractor shall ensure that settlement reports, such as the Clearing Statement used for the daily draw down, are received by the State by 6:00 a.m. Central Time. The Contractor shall be responsible for providing detailed and accurate reports that allow the State to reconcile
benefit postings to the EBT system, settlement of benefits utilized by clients, and the outstanding liability remaining on the EBT system at the end of the processing day.

Retailer/TPP Settlement.

The Contractor shall affect settlement to retailers and Third Party Processors (TPPs) through the existing commercial banking ACH infrastructure. The Contractor shall have an originating and receiving relationship with the ACH, either directly or through one of its subcontractors.

For transaction processing and settlement purposes, the Contractor shall also be a member of the appropriate regional network(s) and be capable of settling POS transactions.

For retail merchants, third parties, or other benefit providers that are directly connected to the Contractor's system, the Contractor shall originate an ACH credit for the total balance due for EBT benefits provided during the just closed EBT processing day. The benefit provider credits shall be entered into the ACH for settlement on the next banking day.

POS Terminal Installment.

The Contractor shall deploy POS terminals to retailers in compliance with Federal rules as dictated in 7 CFR §246 and updated from time to time. For newly authorized food retailers, the Contractor shall install the POS devices authorized by the State. State shall provide a deployment plan to Contractor. The Contractor shall provide additional EBT-only POS equipment to retailers that wish to obtain additional equipment than allowed by the approved equipment formula as specified by WIC regulations. The Contractor may charge the retailer for providing and supporting this additional equipment. Notwithstanding, any agreement covering such an arrangement shall be solely between the Contractor and the retailer; the State will not be party to any such agreements.

Adjustment Processing.

The Contractor shall have in place a process such that a retailer, TPP, or the Contractor can initiate an adjustment to resolve errors and out-of-balance issues related to system problems. The Contractor, on behalf of a client complaint, can also initiate an adjustment to resolve a transaction error. In either case, the adjustment will reference an original settled transaction, which is partially or completely erroneous. The Contractor shall have the capability to process the adjustment and have this reflected in the client's account. Adjustments shall be processed in accordance with WIC EBT Operating Rules and regulations as applicable regarding the recording, tracking and processing of these types of adjustments. Adjustments made by the Contractor must be in accordance with applicable federal guidelines. The Contractor shall provide information to the State regarding pending debit adjustments so that advance notification can be provided to the client.

**TASK 12 – POST IMPLEMENTATION**

Approximately five (5) days following rollout to the final clinic, the EBT Contractor shall attend a meeting by conference call in which the status of the system following complete rollout shall be assessed. The meeting shall be attended by the EBT Contractor, the MIS Contractor, the TNWIC Advisory Council and selected other State staff determined by the State. Within five (5) days of the meeting, the E B T Contractor must provide a technical memorandum documenting all agreements, understandings and contingencies resulting from the system rollout assessment meeting. Within two (2) weeks following this meeting, the State shall in writing, determine whether the system is ready to proceed to the operation and maintenance phase. Within fifteen (15) business days of completion of system implementation, the EBT Contractor must update all system documentation, operational and user manuals, to reflect any revisions made to the system.

Assessment and Problem Resolution.
The EBT Contractor shall remedy any problems encountered during the initial system operation, subject to regression testing, and provide the remedies to operational sites as a new system release. If any deficiencies in the system functional requirements, technical operation, system performance and response times or reliability are identified by the State, the EBT Contractor shall repair these at no cost to the State. The EBT Contractor must provide all remedies in a timeframe deemed reasonable by the State.

**TASK 13 – SYSTEM MAINTENANCE**

If any changes are made to the software application post implementation, the EBT Contractor must update the following items to reflect any and all changes:

- Comprehensive materials for use in system training;
- User and operational manuals; and,
- System documentation.

**Account Structure and Maintenance of UPC Database.**

The EBT Contractor shall structure and maintain UPC database as follows:

- The Contractor shall support all additions, updates, and deletions to the UPC/PLU/maximum price database. The database of record shall be the State WIC MIS system. The UPC/PLU file is transmitted through a batch interface. The file shall provide the data required to perform UPC maintenance to the appropriate UPC database tables. The data shall be processed immediately upon receipt made available to the retailers at the next communication session between the EBT host and the retailer. The WIC EBT Contractor shall return errors and provides a report if there are any issues in processing the UPC/PLU information received from the State.

**TASK 14 – SYSTEM REPORTING**

**Data Warehouse.**

Upon implementation of the EBT system, the Contractor shall provide a data warehouse, allowing creation of custom dynamic reports as approved by the State. The data warehouse will contain functionality for dynamic report creation based on the data available from the Universal Interface (UI) batch files. The Contractor will use commercially reasonable efforts to provide flexibility in selecting data from the available fields in the warehouse and analyzing the data based on available dimensions in the warehouse. The Contractor will work with the State to mutually agree to which fields will be standard in the canned reports and available for advanced adhoc queries. Data fields available will be limited to the data elements captured and stored by the Contractor’s WIC EBT system which may include but not be limited to participant case, benefit, transaction and WIC vendor activity. The data must be available for download into Microsoft Office products suite, instructions for which the Contractor shall provide.

A Reports Manual shall be provided describing all standard reports to be generated by the Contractor. The Reports Manual shall also provide a brief description of the data files provided to the State for internal report generation. This manual shall be considered part of the State training materials and is due at the time of State staff knowledge transfer.

**EBT Reporting.**

The Contractor shall provide the State access to report data through a secure web portal, dashboard, data warehouse, or other medium as approved by the State. The Contractor shall provide report data aggregated by program and where appropriate, summarized at the state and local (county) office level. The Contractor shall maintain an archive of report data.

The Contractor shall provide the State a daily history of all transactions impacting benefit authorizations for reconciliation, audit, and investigative purposes.
Financial Reporting Data. The Contractor shall provide access to reporting data related to the following EBT system activity:

1. Settlement data—Detail and summary
2. Authorization data—Detail and summary
3. Monthly statements and other fees
4. Exception data

Daily Reporting Data

1. The Contractor shall provide daily account activity data reflecting all account actions received from the State via batch and/or on-line during an EBT processing day or taken on behalf of the State by the Contractor. The data shall provide detail on every transaction that impacts an EBT account balance. The data shall reflect the amount of the transaction (i.e., account action), type of transaction, date and time of transaction, and who originated the transaction (batch or on-line).

2. The Contractor shall provide daily terminal activity data reflecting all transactions that will result in funds being moved (i.e., settled) to a retailer or third-party processor. The data shall include, at a minimum, the transaction type, amount, transaction date and type, settlement date, merchant and terminal identifier, and benefits impacted. The data shall include settlement totals for each entity for which funds will be moved, as well as suspense totals, if any, for transactions that will not be settled until the next processing day. Suspense totals for transactions not being settled in the current business day should be identified by individual benefit types.

3. The Contractor shall provide daily clearing data. This data shall provide at a summary level the total funds that are being settled for the processing day which require funding. This data shall balance with the totals from the terminal activity data.

4. The Contractor shall provide outstanding liability data for unused benefits residing on the EBT system at the end of the processing day. Totals shall be maintained by benefit type and aggregated into the program types. The ending balance for the current processing day shall be reconciled by taking into account the beginning balance for the processing day (which is the ending balance from the previous day) and adding or subtracting as appropriate the account activity.

5. The Contractor shall provide daily administrative action data that includes all administrative actions attempted and completed either by the system or users logged onto the EBT system. The data shall include the transaction type and the EBT account affected.

6. The Contractor shall provide a standard set of daily processing data to be used by the Contractor and the State to ensure the complete and accurate transfer of data. Said data shall be available to the State no later than 6:00 a.m. Central Time on the first business day following processing. Included shall be a summary by file transmission that provides a confirmation of the processing. The confirmation shall comply with the accepted version of the Universal Interface.

7. The Contractor shall provide, on a daily basis daily exception data for all files. Exception data shall identify all records received but not processed by the Contractor. Each record shall display a corresponding reason code indicating the cause of the rejection.

8. The Contractor shall provide daily data detailing all benefit authorizations that are added to the EBT system through the administrative terminal. This data shall include, at a minimum, the benefit amount, benefit type, and the User ID of the administrative terminal operator adding the benefit.
9. The Contractor shall provide, on a daily basis, data detailing the number and type of transactions performed from each EBT-only terminal operated by retailers.

10. The Contractor shall provide, on a daily basis, data regarding users failing in their attempt to logon to the EBT System.

11. The Contractor shall provide, on a daily basis, data detailing all actions taken by each User ID on the EBT Administrative Terminal.

**c. Monthly Reporting Data**

1. The Contractor shall, on a monthly basis, provide statistical data indicating the number and percentage of client transactions denied and the reason for the denials (i.e., non-sufficient funds, invalid PIN, etc.).

2. The Contractor shall, on a monthly basis, provide data to demonstrate compliance with Performance Standards specified in Task 4.

3. The Contractor shall, on a monthly basis, provide data summarizing transactions by time of day and day of month.

4. The Contractor shall, on a monthly basis, provide data summarizing transaction activity on the EBT system at a county and State level. Statistics provided should include, at minimum, benefits authorized for the previous month, transactions performed by transaction type, the number of active cases on the system, number of active Cards on the system, and the number of Cards issued during the month.

5. The Contractor shall, on a monthly basis, provide data detailing each authorized administrative terminal user with the ability to access the EBT data, including the level of access afforded the user.

6. Monthly written reporting is a summary of significant events/accomplishments during the month, status of outstanding issues and problems, and the status of pending enhancement requests and system change orders. The Contractor shall include the detail data that documents the performance of the EBT system over the report period.

**d. Customer Service Statistical Data.** The Contractor shall provide statistical data for both the client customer service and retailer help lines. Statistics for both the ARU and CSRs shall be included.

The Contractor shall provide the following:

1. **Client Help Desk Statistics.** The Contractor shall maintain daily statistics on call demographics and performance, as specified by the State. At minimum, statistics reported daily shall include number of calls, number of rings before answered, number of abandoned calls, number of busy signals received, as well as language selected for both ARU and CSR. The Contractor shall aggregate call statistics on a monthly basis.

2. **Monthly Retailer Help Desk Statistics.** The Contractor shall maintain daily statistics on call demographics and performance, as specified by the State. The Contractor shall aggregate call statistics on a monthly basis.

3. At a minimum, statistics reported monthly shall include a summary of the number of calls received on the client hotline by reason (lost/stolen Card, balance inquiry, transaction history, etc.) for both ARU and CSR.
The Problem Resolution and Escalation Procedures shall define the process by which the State would report system and operational problems to the Contractor, and the process by which these problems would be resolved, and the resolution reported back to the State. The procedures shall include a priority scheme for identifying the severity of the problem as well as the expected timeframes for the resolution of the problem.

**TASK 15 – SYSTEM TRANSITION**

**Transition of Services.**

At the end of the Contract, the Contractor shall be required to support an orderly transition to the succeeding contractor. At a minimum, the Contractor shall:

1. Work with the State (or its designee) to facilitate an orderly transition of services at the end of the contract term;
2. Work in a professional manner with the succeeding contractor to execute a smooth and timely transition at the end of the contract term;
3. Provide a minimum of five full federal fiscal years of transaction history, WIC vendor data, current and historical not to exceed amount client data, and any other data necessary for ongoing operations and research into past operations for transfer to the succeeding contractor. https://www.federalregister.gov/documents/2020/02/19/2020-03245/agency-information-collection-activities-special-supplemental-nutrition-program-for-women-infants
4. Coordinate with the succeeding contractor on migration of customer service functions on the night of database conversion. This may require both contractors to develop special ARU messages approved by the State for use during database conversion;
5. Provide back-up plans and dates in case of database conversion failure;
6. Transfer the client and WIC vendor toll-free numbers to the succeeding Contractor;
7. Provide the State with any remaining Tennessee WIC EBT Cards that have been produced but not previously provided to the State;
8. Return any state-owned hardware and software to the State and/or its designee upon request by the State;
9. Deliver free on board (FOB) destination all records, documentation reports, data, hard copy and electronic files, recommendations, etc. which were required to be produced under the terms of the Contract to the State and/or the State’s designee promptly and with due diligence;
10. Discontinue providing the service or accepting new assignments under the terms of this Contract, at the request of the State, on the date specified by the State, in order to ensure the completion of such service prior to the termination of the Contract;
11. Perform a final reconciliation at the point of transition to ensure the value of benefits transferred to the succeeding contractor from the present EBT system is equal to the amount of benefits in the account. The Contractor shall retain financial liability for all errors or variances in benefits. Any variances shall be resolved and appropriate adjustments shall be made in consultation with the State and FNS Financial Management; and
12. Provide the State the right to serve as a mediator between the Contractor and succeeding contractor, subcontractors, Vendors, and TPPs. The State's decision will be final.

Outgoing Transition Plan.

The Contractor shall submit an outgoing transition plan that shall include a resource staffing plan, issue tracking log, knowledge transfer plan, and a project schedule, detailing the items necessary to successfully transition WIC EBT data and operational knowledge to the succeeding contractor. The outgoing transition plan can be requested by the WIC Project Manager as early as thirteen (13) months prior to contract end, but not less than four (4) months prior to contract end. The outgoing transition plan shall be submitted to the WIC Project Manager in writing within one (1) month of a written request to allow for the review and approval by the WIC Project Manager.
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.
ATTACHMENT 3

BUSINESS ASSOCIATE AGREEMENT AND SERVICE LEVEL AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (hereinafter Agreement) is between Tennessee Department of Health (hereinafter Covered Entity) and Contractor (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. Part 160 and Part 164, Subparts A and E) promulgated by the United States Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Pub. L. 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. §§ 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 a 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 1.13 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 Privacy Rule, which requires 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 PHI which compromises the security or privacy of the PHI 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 system security" under T.C.A. § 47-18-2107 means unauthorized acquisition of unencrypted computerized data or encrypted computerized data and the encryption key that materially compromises the security, 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.

1.6. "Electronic Protected Health Information (EPCI)" 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.

1.7. "Health Care Operations" shall have the meaning set out in its definition at 45 C.F.R. § 164.501.

1.8. "Individual" shall have the same meaning set out in its definition at 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

1.9. "Information Holder" means any person or business that conducts business in this state, or any agency of the state of Tennessee or any of its political subdivisions, that owns or licenses computerized Personal Information of Tennessee residents. T.C.A. § 47-18-2107(a)(3).

1.10. "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: social security number; driver's license number; or account number, credit
or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account. T.C.A. § 47-18-2107(a)(4)(A).

1.11. "Privacy Official" shall have the meaning set out in its definition at 45 C.F.R. § 164.530(a)(1).

1.12. "Privacy Rule" shall mean the standards for privacy for Protected Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E.

1.13. "Protected Health Information (PHI)" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

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;

   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; and/or

   e) a Security Incident involving 500 or more patients (see definition 1.16).

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 have the meaning set out in 45 C.F.R. § 164.304, that is, the attempt or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. 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.


1.18. "Service Contract" shall mean any present or future agreements, either written or oral, between Covered Entity and Business Associate, under which Business Associate provides services to Covered Entity which involve the use or disclosure of Protected Health Information. All Services Contracts are amended by and incorporate the terms of this Agreement.

1.19. "Unsecured Protected Health Information" is PHI 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). If 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, or 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, physical, and technical safeguards, including policies, 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 Covered Entity, to prevent the 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 of PHI, as necessary.

2.3. Business Associate shall, following a Breach of Unsecured Protected Health Information, as defined in the HITECH Act, immediately notify the Covered Entity pursuant to the terms of 45 C.F.R. § 164.410 and 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 five (5) business days 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.

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) business 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 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 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, 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 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) a brief description of the disclosed information; and (d) a brief explanation of the purpose and basis for such disclosure.

2.13. 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.

2.14. 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.

2.15. 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.

2.16. 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, and upon request, provide Covered Entity with reasonable access to examine and copy such records and documents during normal business hours of Business Associate.

2.17. 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 Entity’s requirements.

2.18. 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.

2.19. 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 that term 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 EPHI that it creates, receives, maintains, or transmits on behalf of Covered Entity as required by the Security Rule. 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 EPHI received from, maintained by, 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 Business Associate may be as well) under the terms of T.C.A. § 47-18-2107 and that in the event of a Breach of the Business Associate's system security, as defined by that statute and Definition 1.3 of this Agreement, the Business Associate shall indemnify and hold Covered Entity harmless for expenses and/or damages related to the Breach. Such obligations shall include, but are not limited to, 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, 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, shall also be notified on each person’s behalf without unreasonable delay of the timing, distribution, and content of the notices. Substitute notice, as defined in T.C.A. § 47-18-2107(e) (3), shall not be permitted except as approved in writing in advance by the Covered Entity.

3.5. Reporting of Security Incidents. The Business Associate shall track all Security Incidents. 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 expeditiously notify the Covered Entity's Privacy Official of any Security Incident, which would constitute a Security Event as defined by this Agreement, including any Breach of system security under T.C.A. § 47-18-2107, in a preliminary report within five (5) 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 within ten (10) business days of the time Business Associate 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. Upon request, 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 and made by certified mail or overnight parcel, with supplemental notification by facsimile and/or telephone as soon as practicable, to the designated Privacy Official of the Covered Entity in accordance with Section 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 EPHI received from, created by, or received by Business Associate on behalf of Covered Entity, available to the Covered Entity or to the Secretary, 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 the third party becomes aware that 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 45 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 that 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. Upon Covered Entity's knowledge of a material breach by Business Associate,

7.2.2.1. Covered Entity shall, whenever practicable, provide a reasonable opportunity for Business Associate to remedy the breach or end the violation.

7.2.2.2. 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.

7.2.2.3. If neither remedy nor termination is feasible, Covered Entity shall report the violation to the Secretary.

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. Business Associate shall retain no copies of the Protected Health Information. This Section shall also apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate.

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 the 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 HIPAA. Business Associate and Covered Entity shall comply with any amendment to the Privacy Rule, HIPAA, 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 the 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  
Sara C. Warner  
Privacy Officer  
710 James Robertson Parkway  
5th Floor  
Nashville, TN 37243  
Telephone: 615-253-2637 or 877-280-3926  
Fax: 615-253-3926

BUSINESS ASSOCIATE:  
Contractor Name  
Contact Person  
Title  
Address  
Email  
Telephone  
FAX

Tennessee Department of Health  
Mike Moak  
Security Officer  
710 James Robertson Parkway  
6th Floor  
Nashville, TN 37243  
Telephone: 615-741-0899  
Fax: 615-532-9031

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 even
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 Agreement except as specifically
provided by, in, and through, contractual relationships referenced herein.

IN WITNESS THEREOF,

TENNESSEE DEPARTMENT OF HEALTH:

________________________________________________________________________

LISA PIERCEY, MD, MBA, FAAP, COMMISSIONER                  DATE

Contractor

________________________________________________________________________

NAME AND TITLE                  DATE