



STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES

**REQUEST FOR PROPOSALS # 34530-80523  
AMENDMENT # 1  
TANF OPPORTUNITY ACT TRAINING AND  
TECHNICAL ASSISTANCE PARTNER**

**DATE: January 4, 2022**

**RFP # 34530-80523 IS AMENDED AS FOLLOWS:**

1. This RFP Schedule of Events updates and confirms scheduled RFP dates. Any event, time, or date containing revised or new text is highlighted.

2. **RFP SCHEDULE OF EVENTS**

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

EVENT	TIME (central time zone)	DATE
1. RFP Issued		December 8, 2021
2. Disability Accommodation Request Deadline	2:00 p.m.	December 10, 2021
3. Notice of Intent to Respond Deadline	2:00 p.m.	December 20, 2021
4. Written "Questions & Comments" Deadline	2:00 p.m.	January 10, 2022
5. State Response to Written "Questions & Comments"		January 18, 2022
6. Response Deadline	2:00 p.m.	January 27, 2022
7. State Schedules Respondent Oral Presentation(s)		January 28, 2022
8. Respondent Oral Presentation(s)		January 31, 2022 through February 2, 2022
9. State Completion of Technical Response Evaluations		February 9, 2022
10. State Opening & Scoring of Cost Proposals	2:00 p.m.	February 10, 2022
11. Cost negotiation		February 11, 2022
12. State Notice of Intent to Award Released and RFP Files Opened for Public Inspection	2:00 p.m.	February 14, 2022
13. End of Open File Period		February 22, 2022
14. State sends contract to Contractor for signature		March 1, 2022

15. Contractor Signature Deadline	2:00 p.m.	March 11, 2022
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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 1.7).

**2. Delete RFP Section 1.1 in its entirety and insert the following in its place**

**1.1 Statement of Procurement Purpose**

The Department of Human Services (DHS) seeks a Training & Technical Assistance partner to provide a suite of shared services to grantees who will be selected to participate in the Tennessee Opportunity Pilot Program, as outlined by Public Chapter No. 515, the TANF Opportunity Act. (<https://publications.tnsosfiles.com/acts/112/pub/pc0515.pdf>)

The TANF Opportunity Act establishes the Tennessee Opportunity Pilot Program, which will provide grant funding across seven pilot programs, two in each grand division of the state and one to be offered by DHS. Each pilot grant shall not exceed \$25 million and will be subject to third-party, academic review for program evaluation. Pilot programs will encourage collaboration and collective impact to provide comprehensive supports to families as they move from crisis to career pathways.

The Training & Technical Assistance partner will provide shared services to pilot program grantees and will assist the pilot program grantees with technical needs during pilot implementation. The successful respondent's services should include:

- a. Universal Assessment Tool and Care Coordination Model;
- b. Communications and Messaging; and
- c. Project Management and Budgeting.

**3. Delete RFP Attachment 6.2 Section C in its entirety and insert the following in its place.**

**RFP ATTACHMENT 6.2. — SECTION C**

**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.

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
	C.1.	Provide a narrative that illustrates the Respondent's understanding of the State's requirements and project schedule.		5	

	<b>C.2.</b>	Provide a narrative that illustrates how the Respondent will complete the scope of services, accomplish required objectives, and meet the State's project schedule.		<b>10</b>	
	<b>C.3.</b>	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.		<b>10</b>	
	<b>C.4.</b>	Provide a narrative demonstrating the Respondent's understanding of the TANF Opportunity Act.		<b>5</b>	
	<b>C.5.</b>	Provide a narrative describing how the Respondent has provided contracted services in the past similar to the scope of this Contract.		<b>10</b>	
	<b>C.6.</b>	Provide a narrative demonstrating the Respondent's understanding of both the Two-Generational and Family Centered approach to service delivery.		<b>5</b>	
	<b>C.7.</b>	Provide a narrative describing the Respondent's approach to the development of the Universal Tool and Care Coordination Model.		<b>15</b>	
	<b>C.8.</b>	Provide a narrative that illustrates the Respondent's experience with developing and managing databases of public assistance information for use in data analytics, evaluation of program success, and identification of trends.		<b>15</b>	
	<b>C.9.</b>	Provide a narrative that clearly illustrates the Respondent's ability to create a flexible and evolving communication plan based on the State's needs.		<b>5</b>	
	<b>C.10.</b>	Provide a narrative that clearly illustrates the Respondent's ability to provide project management, grant budgeting, and accounting services to recipients of federal funding.		<b>25</b>	
	<b>C.11.</b>	Provide a draft Implementation Plan based on Project Management Body of Knowledge ("PMBOK") Guide and Standards published by the Project Management Institute.  The Plan must include: 1) The services required for implementation 2) The schedule for implementation 3) Roles and responsibilities for implementation 4) Potential risks and mitigation strategies 5) A description of the mechanisms for reporting status to the State and coordinating and resolving issues related to the implementation. 6) Completed and active registration in the System for Award Management - SAM.gov		<b>7</b>	
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.				<b>Total Raw Weighted Score:</b> (sum of Raw Weighted Scores above)	
<b>Total Raw Weighted Score</b>				<b>X 45</b>	<b>= SCORE:</b>
<b>Maximum Possible Raw Weighted Score</b> (i.e., 5 x the sum of item weights above)				<b>(maximum possible score)</b>	

State Use – Evaluator Identification:

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

**4. Delete RFP Attachment 6.2 Section D in its entirety and insert the following in its place.**

**RFP ATTACHMENT 6.2.— SECTION D**

**TECHNICAL RESPONSE & EVALUATION GUIDE**

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

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

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

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

RESPONDENT LEGAL ENTITY NAME:				
Oral Presentation Items		Item Score	Evaluation Factor	Raw Weighted Score
<b>D.1.</b>	Present an overview to represent the Respondent's understanding of the State's scope of services for this project and timeline.		<b>1</b>	
<b>D.2.</b>	Present an overview of the Respondent's approach to ensure project deliverables are completed successfully and on time. Include a discussion of Key Personnel.		<b>1</b>	
<b>D.3.</b>	Present on Respondent's previous projects that are similar in scope and discuss the Respondent's role, best practices, lessons learned, and any risk mitigation strategies.		<b>1</b>	
<b>D.4.</b>	Present an overview on how the Respondent would directly manage communications, internally, with external partners, and with the State.		<b>1</b>	
<b>Total Raw Weighted Score</b> (sum of Raw Weighted Scores above):				
The Solicitation Coordinator will use this sum and the formula below to calculate the score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.				
$\frac{\text{total raw weighted score}}{\text{maximum possible raw weighted score}}$ <i>(i.e., 5 x the sum of item weights above)</i>		<b>X 10</b> <i>(maximum section score)</i>	<b>= SCORE:</b>	

<b>RESPONDENT LEGAL ENTITY NAME:</b>	
<i>State Use – Evaluator Identification:</i>	
<i>State Use – Solicitation Coordinator Signature, Printed Name &amp; Date:</i>	

**5. Delete RFP Attachment 6.3 in its entirety and insert the following in its place.**

**RFP ATTACHMENT 6.3.**

**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.

When respondents are proposing costs for the **seven (7)** milestone payments, respondents should review the payment methodology (Section C.3. of the Pro Forma Contract) when calculating proposed costs. Respondents must bid one (1) aggregate figure for all milestone fees (“the Overall Milestone Fee Amount”). This Overall Milestone Fee Amount will be divided by the State utilizing the percentages in Section C.3 of the pro forma contract in order to complete the *pro forma* contract for the apparent successful Respondent.

**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.

<b>RESPONDENT SIGNATURE:</b>	
<b>PRINTED NAME &amp; TITLE:</b>	
<b>DATE:</b>	

RESPONDENT LEGAL ENTITY NAME:			
Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
Project Management, Consulting under Section A.15.	\$ / HOUR	1,500	
Milestone Deliverables 1 through 7: Overall Milestone Fee Amount	\$	1	
Monthly Service Fee	\$ / MONTH	60	
<b>EVALUATION COST AMOUNT</b> (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.			

6. Delete RFP Attachment 6.6 in its entirety and insert the following in its place.

**RFP ATTACHMENT 6.6.**

**RFP # 34530-80523 PRO FORMA CONTRACT**

The *Pro Forma* Contract detailed in following pages of this exhibit contains some “blanks” (signified by descriptions in capital letters) that will be completed with appropriate information in the final contract resulting from the RFP.

**CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF HUMAN SERVICES  
AND  
CONTRACTOR NAME**

This Contract, by and between the State of Tennessee, Department of Human Services (“State” or “DHS”) and Contractor Legal Entity Name (“Contractor”), is for the provision of the TANF Opportunity Act Training and Technical Assistance Partner, as further defined in the "SCOPE." State and Contractor may be referred to individually as a “Party” or collectively as the “Parties” to this Contract.

The Contractor is a/an Individual, For-Profit Corporation, Non-Profit Corporation, Special Purpose Corporation Or Association, Partnership, Joint Venture, Or Limited Liability Company.

Contractor Place of Incorporation or Organization: Location

Contractor Edison Registration ID # Number

**A. SCOPE:**

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

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

- a. “Care Coordination” shall mean the intentional coordination of services by case managers that support each participant of the Tennessee Opportunity Pilot Program.
- b. “Deliverable” shall mean a specific service, work, product, or component created by Contractor hereunder that must be provided according to this Contract.
- c. “Research Partner” shall mean an organization retained by the State under a separate contract to support the research and evaluation of the Tennessee Opportunity Pilot Program using scientific approaches and to study the impact and effectiveness of increased maximum standard grant and lifetime maximum benefit timeframe pursuant to Public Chapter 515.
- d. “Sector” shall mean one (1) of seven (7) specific types of service providers that will include: Faith-based, Philanthropic, Business, Non-profit, Government, Academic, and services provided by rotary, fraternity, sorority, and volunteer groups.
- e. “Temporary Assistance for Needy Families” or “TANF” shall mean the public assistance program established pursuant to Title IV-A of the Social Security Act (42 U.S.C. § 601 et seq.) and administered in Tennessee by the Department of Human Services pursuant to Tenn. Code Ann. § 71-3-107.
- f. “Tennessee Opportunity Pilot Program” shall mean the initiative contemplated in Public Chapter 515 aiming to use Temporary Assistance for Needy Families funds to support the planning, implementation, and evaluation of three-year programs to increase economic advancement and family well-being across Tennessee consistent with the purposes of the TANF program.
- g. “Vision” shall mean aligning concordant themes into a collective strategy of growing capacity and reducing dependency by transforming the Tennessee safety nets that are already established and maximizing their effectiveness.

**A.3 Project Initiation.**

- a. No later than thirty (30) calendar days after the Effective Date, the Contractor shall meet with the State. During this first meeting the Contractor shall discuss with the State subjects including but not limited to the following:
  1. The State’s expectations for the Contractor’s work;

2. The Contractor's needs for access to departmental staff, data sharing, and protocols for all project reporting;
3. The State's priorities; and
4. Documents requested by the Contractor that are relevant to this project.

**A.4. Reporting.** The Contractor shall provide reports as detailed in this section.

- a. The Contractor shall submit complete and accurate monthly reports no later than the fifteenth (15<sup>th</sup>) day of the following month. The Contractor shall include in each monthly report a description of completed services, the progress of services in comparison to the project schedule, services the Contractor plans to deliver in the coming month(s), and any issues requiring the State's attention.
- b. Without limiting the foregoing, the Contractor shall also provide ad hoc reports in such form and substance as the State may request in writing. The Contractor shall deliver such information as is requested no later than forty-eight (48) hours after the State sends the request.

**A.5. Universal Assessment Tool and Care Coordination Model.** The Contractor shall develop and provide to the State a universal tool and Care Coordination model for the use in the Tennessee Opportunity Pilot Program in accordance with subsections a and b below.

- a. Minimum functionality.
  1. The Contractor shall design the universal assessment tool with detailed questions and protocols for establishing a baseline assessment to evaluate the individual and family at the time they enter the program including at least the following factors; education, emotional, physical, and psychological well-being; and barriers to economic mobility. The Contractor shall also ensure that the tool supports periodic assessments and final assessments to gauge an individual's progress through the Tennessee Opportunity Pilot Program.
  2. Based on the universal assessment tool, the Contractor shall develop and deliver a Care Coordination model ensuring that individuals receive services appropriate for their needs. The Contractor shall design the care coordination model so as to ensure that case managers are engaged in a meaningful and specific manner to support each participant of the pilot.
- b. No later than ninety (90) days after the Effective Date, the Contractor shall submit all deliverables required in this section to the State for review. The State in its sole discretion may request changes to the deliverables. The Contractor shall comply with such requests at no additional cost to the State and shall provide the State with the updated deliverables no later than thirty (30) days after the State's request for changes. Upon the State's written approval and acceptance, the Contractor may invoice for the milestone fee associated with the Section A.5 deliverables; provided, however, that if subsequently during the Term the State requests additional changes to the universal assessment tool or to the care coordination model, then no later than sixty (60) days after such request, the Contractor shall provide those changes at no additional cost to the State.

**A.6. Tennessee Opportunity Pilot Program Dashboard.** The Contractor shall develop a demonstration dashboard to support the Tennessee Opportunity Pilot Program across all sites as set forth below.

- a. The Contractor shall ensure the dashboard establishes a protocol for the sharing of information and progress from the beginning and throughout the project until the conclusion



of the Tennessee Opportunity Pilot Program. Through ongoing operation and maintenance of the dashboard, the Contractor shall ensure the accurate transmission of information among the grantees, the State's research contractor, and the State. The Contractor shall ensure the dashboard contains functionality to allow collaboration between pilot sites as well as a document repository to store and catalog the following:

1. Status reports;
2. Project documents; and
3. Project support functionality such as supports for care coordination and universal assessment tools and modules.

- b. No later than one hundred eighty (180) days after the Effective Date, the Contractor shall complete development of the dashboard and deliver it to the State for review. The State shall review the dashboard and may, in the State's sole discretion, request any changes the State deems necessary. The Contractor shall comply with any such State request no later than thirty (30) days after the State's request. Upon the State's written approval and acceptance of the dashboard, the Contractor may invoice for the milestone fee associated with the dashboard; provided, however, that if subsequently during the Term the State requests additional changes to the dashboard, then no later than sixty (60) days after such request, the Contractor shall provide those changes at no additional cost to the State.

**A.7. Technology and Data Collection.** The Contractor shall develop a database in accordance with the subsections below.

- a. The Contractor shall develop and implement a comprehensive hosted database with all relevant data elements collected from the Tennessee Opportunity Pilot Program sites and such other elements of information as the State may direct. The Contractor shall accomplish data collection via a grantee-facing interface using a secured file transfer program to pass and receive data. The Contractor shall implement appropriate and substantial data validation techniques that should be integrated into the process of the data transfers. The Contractor shall provide the State's Research Partner with access to the database. Through ongoing operation and maintenance of the database, the Contractor shall ensure that the database captures, accurately records, and makes available to the State and the State's Research Partner such elements of information as the State may direct.
- b. No later than one hundred twenty (120) days after the Effective Date, the Contractor shall complete development of the database and deliver it to the State for review. The State shall review the database and may, in the State's sole discretion, request any changes the State deems necessary. The Contractor shall comply with any such State request no later than thirty (30) days after the State's request. Upon the State's written approval and acceptance of the database, the Contractor may invoice for the milestone fee associated with the database; provided, however, that if subsequently during the Term the State requests additional changes to the database, then no later than sixty (60) days after such request, the Contractor shall provide those changes at no additional cost to the State.

**A.8. Research Partner Technical Support.**

- a. Through a separate contract yet to be awarded, the State will procure research services to examine various aspects of the Opportunity Act grants. That entity (the "Research Partner") will engage in communications with the State, grantees, and the Contractor.
- b. In order to facilitate the work of the Research Partner, the Contractor shall provide services including but not limited to the following:

1. Coordinate the Research Partner's interactions with the State and with grantees;
2. Provide training to the Research Partner to demonstrate technology solutions for collecting and sharing data, such as the pilot program dashboard and the document repository; and
3. Ad hoc reporting for informational and review sessions with Research Partner staff and relevant Tennessee Opportunity Pilot Program leadership and support staff.

A.9. **Developing and refining the Vision.** The Contractor shall provide Vision deliverables in accordance with the subsections below.

- a. The Contractor shall research and locate examples of existing project models in action that will shape a stronger dialogue for the diverse communities in the State of Tennessee. The Contractor shall provide a proposed Vision and three (3) comprehensive marketing plans: a national plan, a minority plan, and a message development plan. The Contractor shall include identification of hypotheses for individual and collective impact of pilot programs.
- b. No later than sixty (60) days after the Effective Date, the Contractor shall complete the development of all deliverables required under this Section and shall deliver them to the State for review. The State in its sole discretion may request changes to the deliverables. The Contractor shall comply with such requests at no additional cost to the State and shall provide the State with the updated deliverables no later than thirty (30) days after the State's request for changes. Upon the State's written approval and acceptance, the Contractor may invoice for the milestone fee associated with the Section A.9 deliverables; provided, however, that if subsequently during the Term the State requests additional changes to these deliverables, then no later than sixty (60) days after such request, the Contractor shall provide those changes at no additional cost to the State.

A.10. **Communications and messaging to Practitioners and Partners.** The Contractor shall provide a social media strategy as detailed below.

- a. The Contractor shall develop and deliver to the State a social media strategy to communicate and outline the Vision developed under Section A.9. The Contractor shall insure that its social media strategy involves placement in major publications outlining the roll of each of the following seven (7) Sectors:

1. Faith-based;
2. Philanthropic;
3. Business;
4. Academic;
5. Service-based and nonprofit;
6. State agencies; and
7. Community Services Block Grant Community Action Agencies and Human Resource Agencies.

- b. No later than one hundred and twenty (120) days after the Effective Date, the Contractor shall complete development of the social media strategy and deliver it to the State for review. The State shall review the strategy and request any changes the State deems necessary. The Contractor shall comply with any such State request no later than thirty (30) days after the request. Upon the State's written approval and acceptance of the strategy, the Contractor may invoice for the milestone fee associated with this Section A.10 deliverables and then shall assist the State in the State's implementation of the strategy.

A.11. **Engaging the Broader Public and Diverse Communities.** The Contractor shall provide communication consulting services and publicity services as detailed below.

- a. At such time as the State may direct in writing, the Contractor shall organize, schedule, and carry out at least five (5) publicity events to educate the public about the Tennessee Opportunity Pilot Program. The information distributed in these publicity events and the means by which the Contractor distributes the information is subject to the State's prior written approval. Upon Contractor's completion of, and the State's acceptance of, at least five (5) publicity events, the Contractor may invoice for the milestone fee associated with the publicity events contemplated in this Section A.11.a.
- b. No later than three hundred and sixty-five (365) days after the Effective Date, the Contractor shall develop and deliver to the State a multi-layered public-facing communication strategy that embraces within its scope all the diverse communities in the State of Tennessee. The State shall review the strategy and request any changes the State deems necessary. The Contractor shall comply with any such State request no later than thirty (30) days after the request. Upon the State's written approval and acceptance of the strategy, the Contractor may invoice for the milestone fee associated with this Section A.11.b. deliverables and then shall assist the State in the State's implementation of the strategy.

**A.12. Project Management Consulting.** The Contractor shall provide ongoing technical assistance and support to Tennessee Opportunity Pilot Program grantees for project management, budgeting, and accounting. The Contractor shall advise grantees and help ensure that grantees have adequate practices and systems in place to support effective project implementation, grant budgeting, invoicing, expense tracking, and recordkeeping.

**A.13. State Ownership.**

- a. All Deliverables and modifications, in whole and in part, shall be deemed works made for hire of the State for all purposes of copyright law, and copyright shall belong solely to the State. To the extent any work or Deliverable is deemed not to be, for any reason whatsoever, work made for hire, the Contractor agrees to assign and hereby assigns all rights, title, and interest, including but not limited to copyright patent, trademark and trade secret, to such work and Deliverables, and all extensions and renewals thereof, to the State. The State shall own all right, title, and interest, including all copyright, patent, trade secret, trademark and other intellectual property rights, to the Deliverables created by the Contractor in connection with this Contract (in whatever form). The Contractor shall take all actions necessary and transfer ownership of the Deliverables to the State, including, without limitation, any custom software in object and source code format and associated documentation, including all copyright, patent, trade secret, trademark, and other intellectual property rights, upon the State's acceptance of each Deliverable.
- b. The Contractor acknowledges that Deliverables produced as part of this Contract must be provided to other state or federal agencies at no charge upon request of the U.S. Department of Health and Human Services ("HHS"). Upon the written request of HHS, at no additional charge the Contractor shall provide the Deliverables to such other state or federal agencies as HHS indicates. Notwithstanding any provision to the contrary, the Contractor shall not charge a fee for any software, software modification, or documentation other than new software, new software modifications, or new documentation that has not been previously developed with federal financial participation. The Contractor acknowledges and shall comply with 45 CFR § 95.617.
- c. Upon the written permission of the State, the Contractor may license or sell the Deliverables to third parties. The State may condition its permission on the State, HHS, or both receiving royalties from such sales or licenses.
- d. Contractor will retain all right, title and interest in and to all intellectual property developed or created prior to or independently of the performance of the SCOPE, or created by Contractor or its subcontractors as a tool for their use in performing the SCOPE, plus any modifications

- or enhancements thereto and derivative works based thereon, including intellectual property developed by Contractor or its subcontractors: (1) for clients other than the State; and (2) for internal purposes and not yet delivered to any client, including all copyright, patent, trade secret, trademark and other intellectual property rights created by the Contractor in connection with such work prior to the Effective Date (collectively, "Contractor IP").
- e. The Contractor shall grant to the State and to HHS a royalty-free, worldwide, non-exclusive, perpetual, fully paid up right and license to use, copy, modify, and prepare derivative works based on any Contractor IP included in Deliverables.
  - f. The State shall own all data supplied by the State and its contractors and grantees, and the State shall have access to such data without impediment from the Contractor.
  - g. Upon the State's request, the Contractor shall provide the State access to both source code and object code for all software Deliverables and all documentation Deliverables.

**A.14. Exchange of Information.**

The Contractor shall, as directed by the State and at no additional cost to the State, coordinate with, facilitate the prompt exchange of information between, and work collaboratively with, any and all other State contractors, State grantees, and state agencies. If required in order for the Contractor to proceed with any part of the SCOPE which involves sharing or obtaining information of a confidential, proprietary, or otherwise valuable nature with or from another State contractor or grantee, the State may request that the Contractor sign mutually agreeable documents with those other entities, including but not limited to non-disclosure agreements, which are reasonably necessary to maintain cooperation and collaboration among and with any and all other State contractors and grantees in the performance of the Contract. The Contractor shall comply with all such State requests.

A.15. The Contractor shall not provide more than fifty (50) hours of services under A.12 in the aggregate in any single month except upon the State's prior written approval.

A.16 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.17. Inspection and Acceptance. The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the

goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

**B. TERM OF CONTRACT:**

- B.1. This Contract shall be effective on June 1, 2022 (“Effective Date”) and ending on May 31, 2026 (“Term”). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.
- B.2. This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute one (1) twelve (12) month renewal option 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 sixty (60) months.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed **Written Dollar Amount (\$Number)** (“Maximum Liability”). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.
- C.2. Compensation Firm. The payment methodology in Section C.3. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.
- C.3. Payment Methodology. The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.
- a. The Contractor’s compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.
  - b. The Contractor shall be compensated based upon the following payment methodology:

<b>Goods or Services Description</b>	<b>Amount</b> (per compensable increment)
Project Management, Consulting under Section A.12, subject to the limitation established in Section A.15	\$ Number per hour
<b>Milestone Deliverables</b>	<b>One-time fee</b>
1. State’s Acceptance of Universal Assessment Tool and Care Coordination Model Deliverables under Section A.5	\$ Number (10% of Overall Milestone Fee Amount)
2. State’s Acceptance of the Dashboard Deliverables under Section A.6	\$ Number (20% of Overall Milestone Fee Amount)
3. State’s Acceptance of all Technology and Data Collection Deliverables under Section A.7	\$ Number (25% of Overall Milestone Fee Amount)
4. State’s Acceptance of all Deliverables under Section A.9	\$ Number (10% of Overall Milestone Fee Amount)

5. State's Acceptance of Social Media Strategy under Section A.10	\$ Number (10% of Overall Milestone Fee Amount)
6. Completion of All Publicity Events under Section A.11(a)	\$ Number (5% of Overall Milestone Fee Amount)
7. State's Acceptance of Communication Strategy under Section A.11(b)	\$ Number (20% of Overall Milestone Fee Amount)
<b>Fixed Service Fee</b>	<b>Flat monthly rate</b>
<b>Monthly Service Fee</b>	<b>\$ Number per month</b>

- c. Performance Withhold for Monthly Service Fee. The State shall evaluate the Contractor's compliance with contractual requirements regarding ongoing services including but not limited to timely and accurately capturing and reporting information.
1. If during a given month the Contractor timely provides all required ongoing services in accordance with contractual standards, then the Contractor shall invoice for one hundred percent (100%) of the monthly service fee for that month.
  2. If the State determines that the Contractor failed to timely provide an ongoing service required under the Contract and the State notifies the Contractor of the failure, then the Contractor shall invoice for ninety percent (90%) of the monthly service fee for that month (the applicable monthly service fee minus a ten percent (10%) performance withhold).
  3. If the State determines that the Contractor failed to timely provide an ongoing service require under this Contract in two (2) or more instances and the State notifies the Contractor of the failure, then the Contractor shall invoice for seventy percent (70%) of the monthly service fee for that month (the applicable monthly service fee minus a thirty percent (30%) performance withhold).

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:

[2GenInvoices.DHS@tn.gov](mailto:2GenInvoices.DHS@tn.gov) and a carbon copy to [clyde.stith@tn.gov](mailto:clyde.stith@tn.gov)

- 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 Human Services, Division of Child Support Services;
  - (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
- c. 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:

Clyde Stith, Director, 2Gen and Community Grants  
 Department of Human Services  
 505 Deaderick Street  
 Nashville, TN 37243  
 James K. Polk Building, 16<sup>th</sup> Floor  
 Clyde.Stith@tn.gov  
 Telephone # (615) 741-5692

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 A semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.

- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.
  - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
  - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.
  - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.
- D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.
- D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.
- D.16. Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless for any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.

- D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The State's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.
- D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death. 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;
  - c. any attachments or exhibits to this Contract;
  - d. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
  - e. the State solicitation, as may be amended, requesting responses in competition for this Contract;
  - f. any technical specifications provided to proposers during the procurement process to award this Contract; and

**g. 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 T.C.A. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Contract. The Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.32. Insurance. Contractor shall maintain insurance coverage as specified in this Section. The State reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor's failure to maintain or submit evidence of insurance coverage, as required, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall immediately notify the State. All insurance companies providing coverage must be: (a) acceptable to the State; (b) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (c) rated A- / VII or better by A.M. Best. All coverage must be on a primary basis and noncontributory with any other insurance or self-insurance carried by the State. Contractor agrees to name the State as an additional insured on any insurance policy with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) insurance. All policies must contain an endorsement for a waiver of subrogation in favor of the State. Any deductible or self-insured retention ("SIR") over fifty thousand dollars (\$50,000) must be approved by the State. The deductible or SIR and any premiums are the Contractor's sole responsibility. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

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

Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer's National Association of Insurance Commissioners (NAIC) number and be signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3<sup>rd</sup> 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

- vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

c. Automobile Liability Insurance

- 1) The Contractor shall maintain automobile liability insurance which shall cover liability arising out of any automobile (including owned, leased, hired, and non-owned automobiles).
- 2) The Contractor shall maintain bodily injury/property damage with a limit not less than one million dollars (\$1,000,000) per occurrence or combined single limit.

d. Professional Liability Insurance

- i. Professional liability insurance shall be written on an occurrence basis or on a claims-made basis. If this coverage is written on a claims-made basis, then:
  - 1. The retroactive date must be shown, and must be on or before the earlier of the Effective Date of the Contract or the beginning of Contract work or provision of goods and services;
  - 2. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) full years from the date of the final Contract payment; and
  - 3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date on or prior to the Contract Effective Date, the Contractor must purchase "extended reporting" or "tail coverage" for a minimum of five (5) full years from the date of the final Contract payment.
- ii. Any professional liability insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate; and
- iii. If the Contract involves the provision of services by medical professionals, a policy limit not less than three million (\$3,000,000) per claim and three million (\$3,000,000) in the aggregate for medical malpractice insurance.

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

- 1) The Contractor shall maintain technology professional liability (errors & omissions)/cyber liability insurance appropriate to the Contractor's profession in an amount not less than ten million dollars (\$10,000,000) per occurrence or claim and ten million dollars (\$10,000,000) annual aggregate, covering all acts, claims, errors, omissions, negligence, infringement of intellectual property (including copyright, patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, information theft, damage to destruction of or alteration of electronic information, breach of privacy perils, wrongful disclosure and release of private information, collection, or other negligence in the handling of confidential information, and including coverage for related regulatory fines, defenses, and penalties.
- 2) Such coverage shall include data breach response expenses, in an amount not less than ten million dollars (\$10,000,000) and payable whether incurred by the State or Contractor, including but not limited to consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services



and expenses in the performance of services for the State or on behalf of the State hereunder.

f. Crime Insurance

The Contractor shall maintain crime insurance, which shall be written on a "loss sustained form" or "loss discovered form" providing coverage for third party fidelity, including cyber theft and extortion. The policy must allow for reporting of circumstances or incidents that may give rise to future claims, include an extended reporting period of not less than two (2) years with respect to events which occurred but were not reported during the term of the policy, and not contain a condition requiring an arrest or conviction.

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

- D.33. Major Procurement Contract Sales and Use Tax. Pursuant to Tenn. Code Ann. § 4-39-102 and to the extent applicable, the Contractor and the Contractor's subcontractors shall remit sales and use taxes on the sales of goods or services that are made by the Contractor or the Contractor's subcontractors and that are subject to tax.
- D.34. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

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

**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. Intellectual Property Indemnity. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State concerning or arising out of any claim of an alleged patent, copyright, trade secret or other intellectual property infringement. In any such claim or action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any settlement or final judgment, and the Contractor shall be responsible for all

legal or other fees or expenses incurred by the State arising from any such claim. The State shall give the Contractor notice of any such claim or suit, however, the failure of the State to give such notice shall only relieve Contractor of its obligations under this Section to the extent Contractor can demonstrate actual prejudice arising from the State's failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106.

- E.4. 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.5. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible personal property furnished by the State for the Contractor's use under this Contract. Upon termination of this Contract, all property furnished by the State shall be returned to the State in the same condition as when received, less reasonable wear and tear. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the fair market value of the property at the time of loss.
- E.6. Public Accountability. If the Contractor is subject to Tenn. Code Ann. §§ 8-4-401, *et seq.*, or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about Contractor's operation of the service program. The Contractor shall also display in a prominent place, located near the passageway through which the public enters in order to receive contract-supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating the following:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY THAT YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454

The sign shall be of the form prescribed by the Comptroller of the Treasury. The contracting state agency shall request copies of the sign from the Comptroller of the Treasury and provide signs to contractors.

- E.7. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
  - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

- E.8. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response to Solicitation 34530-80523 (RFP Attachment 6.2 Section B.15) 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.9. Partial Takeover of Contract. The State may, at its convenience and without cause, exercise a partial takeover of any service that the Contractor is obligated to perform under this Contract, including any service which is the subject of a subcontract between Contractor and a third party (a "Partial Takeover"). A Partial Takeover of this Contract by the State shall not be deemed a breach of contract. The Contractor shall be given at least thirty (30) days prior written notice of a Partial Takeover. The notice shall specify the areas of service the State will assume and the date the State will be assuming. The State's exercise of a Partial Takeover shall not alter the Contractor's other duties and responsibilities under this Contract. The State reserves the right to withhold from the Contractor any amounts the Contractor would have been paid but for the State's exercise of a Partial Takeover. The amounts shall be withheld effective as of the date the State exercises its right to a Partial Takeover. The State's exercise of its right to a Partial Takeover of this Contract shall not entitle the Contractor to any actual, general, special, incidental, consequential, or any other damages irrespective of any description or amount.
- E.10. Unencumbered Personnel. The Contractor shall not restrict its employees, agents, subcontractors or principals who perform services for the State under this Contract from performing the same or similar services for the State after the termination of this Contract, either as a State employee, an independent contractor, or an employee, agent, subcontractor or principal of another contractor with the State.
- E.11. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or

any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify or ensure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

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

#### E.12. Contractor Hosted Services Confidential Data, Audit, and Other Requirements

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

- (1) The Contractor shall ensure that all Confidential State Data is housed in the continental United States, inclusive of backup data.
- (2) The Contractor shall encrypt Confidential State Data at rest and in transit using the current version of Federal Information Processing Standard ("FIPS") 140-2 validated encryption technologies.
- (3) The Contractor and the Contractor's processing environment containing Confidential State Data shall either (1) be in accordance with at least one of the following security standards: (i) International Standards Organization ("ISO") 27001; (ii) Federal Risk and Authorization Management Program ("FedRAMP"); or (2) be subject to an annual engagement by a CPA firm in accordance with the standards of the American Institute of Certified Public Accountants ("AICPA") for a System and Organization Controls for service organizations ("SOC") Type II audit. The State shall approve the SOC audit control objectives. The Contractor shall provide proof of current ISO certification or FedRAMP authorization for the Contractor and Subcontractor(s), or provide the State with the Contractor's and Subcontractor's annual SOC Type II audit report within 30 days from when the CPA firm provides the audit report to the Contractor or Subcontractor. The Contractor shall submit corrective action plans to the State for any issues included in the audit report within 30 days after the CPA firm provides the audit report to the Contractor or Subcontractor.

If the scope of the most recent SOC audit report does not include all of the current State fiscal year, upon request from the State, the Contractor must provide to the State a letter from the Contractor or Subcontractor stating

whether the Contractor or Subcontractor made any material changes to their control environment since the prior audit and, if so, whether the changes, in the opinion of the Contractor or Subcontractor, would negatively affect the auditor's opinion in the most recent audit report.

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

- (4) The Contractor must annually perform Penetration Tests and Vulnerability Assessments against its Processing Environment. "Processing Environment" shall mean the combination of software and hardware on which the Application runs. "Application" shall mean the computer code that supports and accomplishes the State's requirements as set forth in this Contract. "Penetration Tests" shall be in the form of attacks on the Contractor's computer system, with the purpose of discovering security weaknesses which have the potential to gain access to the Processing Environment's features and data. The "Vulnerability Assessment" shall be designed and executed to define, identify, and classify the security holes (vulnerabilities) in the Processing Environment. The Contractor shall allow the State, at its option, to perform Penetration Tests and Vulnerability Assessments on the Processing Environment.
- (5) Upon State request, the Contractor shall provide a copy of all Confidential State Data it holds. The Contractor shall provide such data on media and in a format determined by the State
- (6) Upon termination of this Contract and in consultation with the State, the Contractor shall destroy all Confidential State Data it holds (including any copies such as backups) in accordance with the current version of National Institute of Standards and Technology ("NIST") Special Publication 800-88. The Contractor shall provide a written confirmation of destruction to the State within ten (10) business days after destruction.

b. Minimum Requirements

- (1) The Contractor and all data centers used by the Contractor to host State data, including those of all Subcontractors, must comply with the State's Enterprise Information Security Policies as amended periodically. The State's Enterprise Information Security Policies document is found at the following URL: <https://www.tn.gov/finance/strategic-technology-solutions/strategic-technology-solutions/sts-security-policies.html>.
- (2) The Contractor agrees to maintain the Application so that it will run on a current, manufacturer-supported Operating System. "Operating System" shall mean the software that supports a computer's basic functions, such as scheduling tasks, executing applications, and controlling peripherals.
- (3) If the Application requires middleware or database software, Contractor shall maintain middleware and database software versions that are at all times fully compatible with current versions of the Operating System and Application to ensure that security vulnerabilities are not introduced.

c. Comptroller Audit Requirements

Upon reasonable notice and at any reasonable time, the Contractor and Subcontractor(s) agree to allow the State, the Comptroller of the Treasury, or their duly appointed representatives to perform information technology control audits of the Contractor and all Subcontractors used by the Contractor.

Contractor will maintain and cause its Subcontractors to maintain a complete audit trail of all transactions and activities in connection with this Contract. Contractor will provide to the State, the Comptroller of the Treasury, or their duly appointed representatives access to Contractor and Subcontractor(s) personnel for the purpose of performing the information technology control audit.

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

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

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

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

- d. Business Continuity Requirements. The Contractor shall maintain set(s) of documents, instructions, and procedures which enable the Contractor to respond to accidents, disasters, emergencies, or threats without any stoppage or hindrance in its key operations ("Business Continuity Requirements"). Business Continuity Requirements shall include:
- (1) "Disaster Recovery Capabilities" refer to the actions the Contractor takes to meet the Recovery Point and Recovery Time Objectives defined below. Disaster Recovery Capabilities shall meet the following objectives:
    - i. Recovery Point Objective ("RPO"). The RPO is defined as the maximum targeted period in which data might be lost from an IT service due to a major incident: [twenty-four (24) hours]
    - ii. Recovery Time Objective ("RTO"). The RTO is defined as the targeted duration of time and a service level within which a business process must be restored after a disaster (or disruption) in order to avoid unacceptable consequences associated with a break in business continuity: [seventy-two (72) hours]
  - (2) The Contractor 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.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.

**IN WITNESS WHEREOF,**

**CONTRACTOR LEGAL ENTITY NAME:**

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**CONTRACTOR SIGNATURE**

**DATE**

---

**PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)**

**DEPARTMENT OF HUMAN SERVICES:**

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**CLARENCE H. CARTER, COMMISSIONER**

**DATE**

**ATTACHMENT A**

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**ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**



<b>SUBJECT CONTRACT NUMBER:</b>	
<b>CONTRACTOR LEGAL ENTITY NAME:</b>	
<b>EDISON VENDOR IDENTIFICATION NUMBER:</b>	

**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.**

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**CONTRACTOR SIGNATURE**

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

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**PRINTED NAME AND TITLE OF SIGNATORY**

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**DATE OF ATTESTATION**

7. **RFP Amendment Effective Date.** The revisions set forth herein shall be effective upon release. All other terms and conditions of this RFP not expressly amended herein shall remain in full force and effect.