



STATE OF TENNESSEE
PROCUREMENT COMMISSION
 3rd Floor, William R. Snodgrass TN Tower, 312 Rosa L. Parks Avenue
 Nashville, Tennessee 37243-1102
 (615) 741-1035 Fax (615) 741-0684

- AGENDA -

PROCUREMENT COMMISSION MEETING #030
THURSDAY, JUNE 21, 2018 - 2:00 P.M.
TN TOWER, 3RD FLOOR, NASHVILLE ROOM

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LARRY B. MARTIN, Chairman
 Commissioner of Finance & Administration

JUSTIN P. WILSON
 Comptroller of the Treasury

ROBERT E. OGLESBY
 Commissioner of General Services

MICHAEL F. PERRY
 Chief Procurement Officer

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• Consent to Cancel July 19, 2018 Procurement Commission Meeting - next meeting would be August 16, 2018		--
VII. Adjournment		--

**MINUTES OF FEBRUARY 15, 2018
MEETING**



MINUTES
PROCUREMENT COMMISSION MEETING #029
THURSDAY, FEBRUARY 15, 2018 – 11:00 A.M.
TN TOWER, 3RD FLOOR, NASHVILLE ROOM

Members in Attendance:

Justin P. Wilson, Comptroller of the Treasury; Robert E. Oglesby, Commissioner, Department of General Services; Mike Perry, Chief Procurement Officer

Others in Attendance:

Cooper Gallimore, Alex Komisar, Meryl McVicker, Bryan Chriske, Buddy Lea, Maggie Wilson, Zachary LeBarts, Shannon Howell, Paul Krivacka, Tim Drown, Charlotte McKinney

I. Call to Order.

Comptroller Wilson called the meeting to order and recognized that a quorum of Procurement Commission ("Commission") members was present. Comptroller Wilson stated that Commissioner Martin was unable to attend the meeting but requested that the meeting proceed in his absence with Comptroller Wilson serving as Chair. Comptroller Wilson added that any controversial items or items that needed further discussion would be deferred to the next meeting.

II. Minutes from the December 14, 2017 Procurement Commission Meeting.

Comptroller Wilson presented the December 14, 2017, minutes for approval and asked if there were any corrections or additions. Seeing none, Commissioner Oglesby made a motion to approve the minutes from the December 14, 2017, Procurement Commission meeting as presented. Comptroller Wilson stated that the minutes had been reviewed by his office and seconded the motion; whereupon the minutes were approved.

Comptroller Wilson asked Mr. Paul Krivacka, Lead Attorney/Director of Category Management, Central Procurement Office, to present the New Business agenda items. Prior to presenting, Mr. Krivacka stated that the Procurement Commission had adopted a change to the Tennessee Procurement Commission Bylaws and Rules of Procedure which would allow the use of a Consent agenda for housekeeping type agenda items. Mr. Krivacka stated that there were no items of a housekeeping nature on the agenda for today, so each agenda item will be presented. Mr. Krivacka stated that several of the agenda items are similar in nature and that he would like to identify some of them to be

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considered together as he goes through the presentation.

New Business:

III. Proposed Changes to the following Central Procurement Office documents.

Comptroller Wilson asked Mr. Krivacka to present the following New Business agenda items:

(1) *Procurement Procedures Manual of the Central Procurement Office, Section 6.7.1, Informal Purchases*

Mr. Krivacka stated that agenda items (1), (2), and (3) are very similar and asked that those three items be considered together if Commission members agreed.

Mr. Krivacka summarized the following points with regard to the *Procurement Procedures Manual of the Central Procurement Office, Section 6.7.1, Informal Purchases* proposal:

- This proposal revises this section to include on the list of items exempted from a purchase order, textbooks and instructional materials approved by the State Textbook and Instructional Materials Quality Commission.
- If adopted, this change would eliminate the need for a purchase order or entering into a contract purchase textbooks and instructional materials approved by the State Textbook and Instructional Materials Quality Commission.

(2) *Procurement Procedures Manual of the Central Procurement Office, Section 5.4.7, Exceptions from Requisitions for Purchase – Direct Purchase Order*

Mr. Krivacka summarized the following points with regard to the *Procurement Procedures Manual of the Central Procurement Office, Section 5.4.7, Exceptions from Requisitions for Purchase – Direct Purchase Order* proposal:

- Due to confusion as to when to utilize a requisition, this proposal will alert users as to when to use a requisition, rather than when NOT to use a requisition.
- The following changes are proposed:
 - Inserting language that a Direct Purchase Order may be used to pay a Contractor or Grantee.
 - Identifying more specifically the equipment and services that may require a Requisition.
 - Revisions to the last paragraph to make it clear that the agency has discretion to use the requisition procedure.

(3) *Procurement Procedures Manual of the Central Procurement Office, Section 4.1, Definitions*

Mr. Krivacka summarized the following points with regard to the *Procurement Procedures Manual of the Central Procurement Office*, Section 4.1, Definitions proposal:

- The old definition of Special Request related to the contract and is defined by virtue of what pricing is available in the contract. In reality, the Special Request should be tied to what is or is not in Edison.
- This proposal will redefine "Special Request" to mean "the purchase of goods or services for which a price is not specified within Edison."

Mr. Krivacka stated that adopting agenda items (1), (2), and (3) will reduce the number of non-compliance issues that the CPO Compliance Team encounters and reflects business practices that are best practices for State agencies.

Comptroller Wilson asked if there were any questions or objections to considering agenda items (1), (2), and (3) together as a unit. Seeing no questions or comments, Comptroller Wilson made a motion to approve agenda items (1), (2), and (3) as presented. Commissioner Oglesby seconded the motion; whereupon the items were approved.

Mr. Krivacka stated that agenda items (4), (5), and (6) are somewhat related and pertain to changes to the insurance template language. Mr. Krivacka added that Comptroller Wilson's office had a question related to proposed language changes in agenda item (5) which he would attempt to answer when he got to that point. Comptroller Wilson stated that he believed he understood agenda item (5) but wanted to get his question on the record. Mr. Krivacka stated that it would be good to also discuss policy limits and basic insurance requirements along with agenda item (5).

(4) Fee for Goods or Services Contract ("FA") Template, D.18, Limitation Of Contractor's Liability

Mr. Krivacka summarized the following points with regard to the Fee for Goods or Services Contract ("FA") Template, D.18, Limitation of Contractor's Liability proposal:

- The added language is placed in the longer paragraph and states, "unless such damages are insured by the insurance coverages required by this Contract or would have been covered had the required insurance been purchased or maintained."
- The optional template language limits consequential damages and this added language ensures that the State might still collect remuneration pursuant to a requested underlying contract insurance policy.
- The inclusion of the additional language referencing insurance coverage in Section D.18 is meant to close a potential loophole in coverage, e.g., in the event that a court deems that damages resulting from a data breach scenario are consequential rather than direct damages. This issue came up among some attorneys within the NASPO organization when discussing the effect of data breaches and limitation of liability provisions found in contracts. In many states and in many cases the State limits a contractor's consequential damages. So when there is a limitation of liability, it is a limitation of a

contractor's direct damages for which the contractor would owe the State. Typically the State limits consequential damages. There are some exceptions but data breaches are more common now and some of our contracts allow a contractor to have access to State data, e.g., where the contractor provides hosting services. If there is a data breach there is a legal issue as to whether that breach is a consequential damage and hence limited. This proposed change will attempt to close this loophole.

(5) Fee for Goods or Services Contract ("FA") Template, Section D.32, Insurance

Mr. Krivacka presented the following points with regard to the Fee for Goods or Services Contract ("FA") Template, Section D.32, Insurance proposal:

- In consultation with the CPO Risk Manager who was asked to review State insurance provisions to make sure they were consistent with current insurance practices and to review what a contractor would expect to see, all in the context of various insurance products available in the insurance market place, the CPO is proposing the following changes to the FA Template:
 - Include a reference to self-insured retention ("SIR") in addition to the deductible for limits over \$50,000 to remove an ambiguity. The contractor could have either the deductible of \$50,000 or the ability to self-insure up to \$50,000.
 - Reference a necessary ISO endorsement (or equivalent) in the event that some insurance coverage is meant to be met via an umbrella policy. It is acceptable for the State to have a CGL limit and then an umbrella policy to make up for the difference between policy limits in the CGL and the umbrella policy. This is necessary due to the industry-wide ambiguity as to whether an additional insured's policy should be applied to a loss prior to the umbrella policy, even if that was not the intention of the parties.
 - Add language to ensure that the State is able to take advantage of any Contractor insurance policy in excess of the base-line policy ask amount.
 - Update CGL requirements to comport with contemporary industry standard verbiage as the current language is out of date.

Mr. Krivacka stated that Comptroller Wilson had a question regarding subpart (a) Commercial General Liability ("CGL") Insurance which reads as follows:

"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."

Mr. Krivacka stated that in order to answer the Comptroller's question, a general review of declaration limits would be important.

Mr. Krivacka continued that there are six limits in a declaration, two of which are germane to the Comptroller's question:

- **Aggregate Limits** - An aggregate limit is the most the insurer will pay during the policy period. Once an insurer is legally obligated to pay the full amount of the aggregate limit, the insurer has no further obligation to the policyholder during the remainder of the policy period for any subsequent claims or suits that are otherwise covered by the policy and that would be payable under that aggregate limit.
- **General Aggregate Limit** - The most the insurer will pay for all sums as damages because of bodily injury, property damage, personal, and advertising injury, except for those sums paid as damages because of bodily injury or property damage included within the products-completed operations hazard.

Mr. Krivacka indicated that the General Aggregate Limit could be modified by contract or by getting a rider to the policy. The General Aggregate Limit can be amended to apply separately to designated locations or to designated projects. The proposed language is an attempt to increase the aggregate limits.

Comptroller Wilson agreed and stated that Mr. Krivacka's explanation made sense.

(6) Fee for Goods or Services Contract ("FA") Template, Optional Section D. #, Professional Liability Insurance

Mr. Krivacka presented the following points with regard to the Fee for Goods or Services Contract ("FA") Template, Optional Section D. #, Professional Liability Insurance proposal:

- This proposal will revise the template language to comport with standard insurance industry verbiage and coverage exclusions.
- This proposal will amend language to ensure that purchase of optional tail coverage is a requirement in the event that a claims-made policy were to lapse.
- This proposal will revise medical professional liability policy language to comport with actual limitations on coverage.

Comptroller Wilson asked if there were any questions or objections to considering agenda items (4), (5), and (6) together. Seeing none, Comptroller Wilson made a motion to approve agenda items (4), (5), and (6) as presented. Commissioner Oglesby seconded the motion; whereupon the items were approved.

Mr. Krivacka advised that agenda items (7), (8), (9), and (10) are also related and requested that they be discussed together.

(7) Grant ("GR") Template, Optional Section E. #, Insurance

Mr. Krivacka summarized the following points with regard to the Grant ("GR") Template, Optional Section E. #, Insurance:

- The GR Template is used when there is a Grant agreement between the State and a non-governmental entity.
- This proposal is to create symmetry between the FA Template Insurance Terms and Conditions and apply those to the GR Template.

(8) Central Procurement Office Policy Number 2013-007, *Grant Management and Subrecipient Monitoring Policy and Procedures* – Section 10, Debarment and Suspension – NEW

Mr. Krivacka summarized the following points with regard to Central Procurement Office Policy Number 2013-007, *Grant Management and Subrecipient Monitoring Policy and Procedures* – Section 10, Debarment and Suspension – NEW proposal:

- Debarment and Suspension language is currently in the FA Template and other contract templates. This proposal will add Debarment and Suspension language to Central Procurement Office Policy Number 2013-007, *Grant Management and Subrecipient Monitoring Policy and Procedures*.

(9) Grant (“GR”) and Governmental Grant (“GG”) Templates, Section D. 34, Debarment and Suspension - NEW

Mr. Krivacka summarized the following points with regard to the Grant (“GR”) and Governmental Grant (“GG”) Templates, Section D. 34, Debarment and Suspension - NEW proposal:

- This proposal will add the Debarment and Suspension provision currently in the FA Template to all GR and GG Templates.

(10) Endowment Grant (“GE”) Model, Section D.28 – Debarment and Suspension - NEW

Mr. Krivacka summarized the following points with regard to the Endowment Grant (“GE”) Model, Section D.28 – Debarment and Suspension - NEW proposal:

- This proposal will add the Debarment and Suspension provision currently in the FA template to the GE Model.

Comptroller Wilson asked if there were any questions or objections to considering agenda items (7), (8), (9), and (10) together. Seeing none, Comptroller Wilson made a motion to approve agenda items (7), (8), (9), and (10) as presented. Commissioner Oglesby seconded the motion, whereupon the item was approved.

(11) Governmental Grant (“GG”) Template, Optional Section E. # Provisions – Family Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency & Accountability Act (“FERPA”) and Rule 2 Compliance

Mr. Krivacka summarized the following points with regard to the Governmental Grant (“GG”) Template, Optional Section E. # Provisions – Family Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency & Accountability Act (“FERPA”) and Rule 2 Compliance proposal:

- This proposal will remove the indemnification language from the Optional Section E. # Provisions of the GG Template.

- The GG template is a grant contract template that is used between two governmental entities – either between the State of Tennessee and a federal governmental entity or the State of Tennessee and a local governmental entity. As a matter of law, Tennessee and federal governmental entities do not have the authority to indemnify and hold each other harmless. Mr. Krivacka stated that this goes back several decades as embodied in several-older Attorney General (“AG”) opinions. Mr. Krivacka stated that he was very familiar with Opinion #93-01 that dealt with whether or not the Metropolitan Government of Nashville and Davidson County had the legal authority to indemnify and hold harmless a counter party and the AG found that it did not based on the Tennessee Constitution. Rather than negotiating this provision out of each GG contract, the CPO is proposing that it be removed.

Comptroller Wilson stated this proposal was a good idea since it is clearly unconstitutional for governmental entities to indemnify and hold each other harmless.

Seeing no additional discussion, Comptroller Wilson made a motion to approve the Governmental Grant (“GG”) Template, Optional Section E. # Provisions – Family Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency & Accountability Act (“FERPA”) and Rule 2 Compliance as presented. Commissioner Oglesby seconded the motion, whereupon the item was approved.

Mr. Krivacka stated that he would like to present agenda items (12) and (13) together as they are related to changes in the federal regulations which have adopted some flow-down provisions in grant contracts.

(12) GR and GG Templates and IG and GE Models, Optional Section E. # Provisions, Incorporation of Required Clauses for Federal Awards - NEW

Mr. Krivacka summarized the following points with regard to the GR and GG Templates and IG and GE Models, Optional Section E. # Provisions, Incorporation of Required Clauses for Federal Awards - NEW proposal:

- This proposal is related to changes to the GR and GG Templates and the IG and GE Models that will incorporate required clauses for federal grant awards. These are the result of changes to 2 C.F.R. §§ 200.317 to 200.326. Essentially these changes will adopt language from Federal Code Regulations.
- CPO proposes to add the following language incorporating the following clauses:
 - i. Equal Opportunity Clause
 - ii. Federal Equal Opportunity Clause for Federally Assisted Construction Contracts
 - iii. Davis-Bacon and Copeland Anti-Kickback Act
 - iv. Contract Work Hours and Safety Standard Act

(13) Central Procurement Office Policy Number 2013-007, *Grant Management and Subrecipient Monitoring Policy and Procedures*, Section 4, Grantee Selection Process – Incorporation of Procurement Standards, 2 C.F.R §§ 200.317 to 200.326

Mr. Krivacka summarized the following points with regard to Central Procurement Office Policy Number 2013-007, *Grant Management and Subrecipient Monitoring Policy and Procedures*, Section 4, Grantee Selection Process – Incorporation of Procurement Standards, 2 C.F.R §§ 200.317 to 200.326 proposal:

- This proposal will also incorporate the Code of Federal Regulations into Central Procurement Office Policy Number 2013-007, *Grant Management and Subrecipient Monitoring Policy and Procedures*. There will also be instructions as to when these provisions will apply. There obviously has to be federal funding involved for this requirement to be in a grant contract and to flow down to the service or goods providers of grantees.

Comptroller Wilson stated that from his auditor's point of view, it is the responsibility of the state agency to ensure that the subrecipient in fact performs monitoring and that responsibility cannot be delegated and forgotten about. Comptroller Wilson continued that there are a number of state agencies in Tennessee who seem to believe that they can delegate the responsibility for subrecipient monitoring and that attitude needs to be changed.

Comptroller Wilson stated that this proposal is an accurate statement of federal regulations and he strongly supports it. Comptroller Wilson made a motion to approve agenda items (12) and (13) as presented. Commissioner Oglesby seconded the motion, whereupon the items were approved.

Comptroller Wilson and Commissioner Oglesby thanked Mr. Krivacka for his presentation and moved to the next agenda item.

IV. Reports:

Chief Procurement Officer Perry presented the following standard reports for acknowledgement and for informational purposes:

- 1) Certification Related Items
- 2) Limitation of Liability
- 3) Correction of Errors
- 4) Memorandum of Understanding

Mr. Perry stated that these reports are submitted as information only and no approval is needed. Mr. Perry added that Mr. Krivacka was available to answer any questions related to the reports.

Comptroller Wilson and Commissioner Oglesby indicated that they had reviewed the reports and had no questions.

V. Other Business.

Consent to Cancel the March 15, 2018 Procurement Commission Meeting:

Comptroller Wilson and Commissioner Oglesby gave their verbal consent to cancel the March 15, 2018 Procurement Commission meeting. Comptroller Wilson asked that written consent be obtained from Commissioner Martin since he was not in attendance at the meeting.

VI. Adjournment

Seeing no other business to be heard, Comptroller Wilson adjourned the February 15, 2018 Procurement Commission meeting.

PROCUREMENT PROCEDURES
MANUAL OF THE CENTRAL
PROCUREMENT OFFICE,
SECTION 8., PROTEST AND STAY OF
AWARD

REQUEST: Revise section 8. of the *Procurement Procedures Manual of the Central Procurement Office* as follows.

8. Protest and Stay of Award.

8.1. *Protest/Stay of Contract Award received by the CPO.*

Confirm statutory protest requirements have been met:

- The protesting party has filed a signed protest and bond within seven (7) calendar days after the earlier of the notice of the award or the intent to award the contract is issued.
- Review form of bond and insure that it is: at least five percent (5%) of the lowest bid or cost proposal evaluated; five percent (5%) of the maximum liability or estimated maximum liability provided in the solicitation; five percent (5%) of the estimated maximum revenue, if the solicitation, award or proposed award is for a contract in which the state receives revenue; or for no-cost contracts, an amount to be determined by the chief procurement officer; or
- The protesting party has made a timely request for bond waiver that meets all statutory requirements.

Upon receipt of a protest of a solicitation, award, or proposed award of a contract, and a protest bond, a stay of the solicitation, award, or proposed award shall be in effect until the protest is resolved as provided under Tenn. Code Ann. § 12-3-514.

8.2. *Confirm Receipt of Protest/Stay of Contract Award.*

Send letter to protesting party acknowledging receipt of protest.

8.3. *Preparation of Protest Binders/Delivery to Central Procurement Office.*

8.3.1. *Protest Binder.*

The Central Procurement Office or State Agency shall prepare five (5) protest binders that include the following items:

- Cover Page.
- Index - with tabs identified, for easy reference.
- Timeline of Relevant Events.
- Letter of Protest with Bond or Bond Exemption.
- Letter to Protester by CPO acknowledging receipt of protest.
- Agency Response to the Protest (submitted to the CPO addressing the issues raised by the Protest).
- Solicitation with Amendments.
- Technical & Cost Proposal submitted by the Best Evaluated Proposer.
- Technical response and cost proposals submitted by the protesting party.
- Evaluation notice with summary score matrix.
- Evaluator score sheets.
- Correspondence or communications log (as applicable).
- Any other documents that are part of the procurement file that solicitation coordinator feels are pertinent to the protest.

8.3.2. Position Statements.

- Invite the Intended Awardee to submit a Position Statement in response to the Protest.
- The State Agency or any respondent to the solicitation shall be allowed ten (10) calendar days from receiving notice to file a written response to a protest.

8.3.3. Protesting Party's Reply.

The Protesting party shall have five (5) calendar days to respond to the position statement of the agency and any respondent. The reply may not raise any new protest grounds.

8.3.4. Schedule and Notice of Protest Hearing.

- Ask the solicitation coordinator to provide a list of interested parties that should be notified of the Protest Hearing date and time.
- Include the names, title, and email address of such individuals.
- Confirm Invite List – e.g., all respondents, State Agency contacts and appropriate staff of the Central Procurement Office.
- Considerations for timing of protest hearing: current contract end date, will out of town respondents be attending, etc.
- Notify all interested parties of hearing date, time, and location.

8.3.5. Protest Hearing Decision Letter.

A protest is resolved and subject to review by the Protest Committee when the Chief Procurement Officer or his or her designee has sent a written notice of decision. The Chief Procurement Officer has sixty (60) days to resolve a protest. A protest not resolved within sixty (60) days is deemed denied on the 60th day after the protest is filed. The protesting party, in such event, has seven (7) days to appeal the deemed denial of his or her appeal to the Protest Committee.

**CENTRAL PROCUREMENT OFFICE
POLICY NUMBER 2013-008 - *ENERGY
EFFICIENCY STANDARDS AND LIFE
CYCLE COSTING POLICY AND
PROCEDURES***

Policy Number 2013-008
Central Procurement Office
Energy Efficiency Standards and Life Cycle Costing
Policy and Procedures

Effective: May 28, 2013

Prepared by: The Central Procurement Office of the State of Tennessee

1. Purpose.

To establish a process by which goods shall be procured by the State in accordance with Federal and State energy efficiency regulations.

2. Scope.

These policies and procedures apply to all procurements, contract awards, and amendments by which products with energy efficiency standards apply.

3. Definitions.

For purposes of this policy, the following terms shall have the meanings described below:

“Energy Efficient Products” means those products that meet or exceed applicable Energy Efficiency Standards.

“Energy Efficiency Standard” means a performance standard which prescribes the relationship of the energy use of a product to its useful output of services, as set forth in Tenn. Code Ann. § 12-3-902(1).

“Procurement” means the act of buying, purchasing, renting, leasing, or otherwise acquiring any goods or services covered by the Rules of the Department of General Services Central Procurement Office. It also includes all functions that pertain to the obtaining of any goods or service, including the description of requirements, selection and solicitation of sources, preparation and award of a contract, and all phases of contract administration.

“State” means the State of Tennessee, including its departments, agencies, and entities that fall under its purview.

4. Energy Efficiency Standards.

4.1. Description of Energy Efficiency Standards.

Energy Star is a joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy that has established energy efficiency standards that are used by the Federal government when Contracting for major energy-consuming products, as well as best practices regarding energy efficiency.

4.2. Conditions of Use for Energy Efficient Products

Life cycle costs of commodities as developed and disseminated by the Federal government that are purchased by the state or its political subdivisions shall meet established energy efficiency standards where feasible.

Where Federal energy efficiency standards are established, life cycle costs shall be used by the State in Contracting for major energy consuming products. In determining life cycle costs, the acquisition cost of the product, product performance, cost of operation, energy consumption, projected cost of energy over the useful life of the product and the anticipated resale or salvage value of the product may all be utilized to develop specifications and in the evaluation of bids received to determine total cost. Pursuant to T. C. A. § 12-3-905, State of Tennessee agencies shall use energy efficiency standards prescribed by Energy Star for the purchase of energy consuming products. In particular, all office equipment, appliances, lighting and heating and cooling products and systems purchased by and for state agencies shall be Energy Star qualified; provided, that such Energy Star qualified products and systems are commercially available.

The Energy Star website (<http://www.energystar.gov>) provides a qualified list of goods meeting Energy Star's minimal energy usage specifications, life cycle costing calculations, life cycle cost formula information and qualified products that meet Energy Star's rating for energy consumption and sustainability. The Energy Star rating can be found on products in more than 40 product categories. Only brands and models provided on the Energy Star website's list of qualified products and commodities may be used as "acceptable brands and models" on solicitation documents.

The minimal energy specifications for goods listed on the Energy Star Qualified Products List may be included in the line item specifications on solicitation documents for the purchase of major energy consuming products.

Related Statutes, Rules and Policies

T. C. A. § 12-3-901, *et seq.*

**FEE FOR GOODS OR SERVICES
CONTRACT TEMPLATE (“FA”), E. #.,
HIPPA AND SECTION E. #.,
CONTRACTOR HOSTED SERVICES AND
CONFIDENTIAL DATA OPTIONS**

REQUEST: Revise the Fee for Goods or Services Contract Template (FA) at the instructions, considerations, and option section regarding Section E. #. HIPPA and Section E.#. Contractor Hosted Services and Confidential Data Options as follows:

Option: Health Insurance Portability and Accountability Act (“HIPAA”) Data

Keep all language in E.#.a above, and do the following:

Contractor must enter into a Business Associate Agreement (BAA) with the State. Therefore, include as a contract attachment a BAA agreement. Please visit the following website link, available on TEAM TN, for the [“HIPAA Business Associate Agreement Example.”](#)

Contractor Hosted Services and Confidential Data Options

Add the following section as a minimum requirement if the Contractor will be hosting services (e.g., cloud-based, Software as a Service (“SaaS”)) and data that is deemed confidential by State or Federal statute or regulation, or the payment card industry (“Confidential State Data”). The foregoing also includes data in transit. In addition, if there is any type of Confidential State Data, include the standard language covering Disclosure of Personally Identifiable Information (PII) from the Section E options provided in the FA Template.

If the contract will involve Confidential State Data, then the general requirements outlined in Section E.# below should be included. If the contract will allow a Contractor to host specific types of Confidential State Data (e.g., Criminal Justice Services Information, Federal Tax Information, etc.) then follow the instructions as described in the various options below. Include all applicable sections.

Please direct any questions regarding the types of Confidential State Data involved to Strategic Technology Solutions (“STS”), Security area.

**GRANT (“GR”) AND GOVERNMENTAL
GRANT (“GG”) TEMPLATES –
SECTION D.20., PROCUREMENT**

REQUEST: Revise Section D.20, Procurement, of the GR and GG templates as follows.

- D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317—300.326 when procuring property and services under a federal award.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.

For purposes of this Grant Contract, the term “equipment” shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds five thousand dollars (\$5,000.00).

**GRANT (“GR”) AND GOVERNMENTAL
GRANT (“GG”) TEMPLATES –
SECTION D.13., PUBLIC NOTICE**

REQUEST: Add optional Section D. 13, Public Notice language for GR and GG templates.

Public Notice

Replace the Section with the following at the Grantor State Agency's option, so that beneficiaries are aware which agency is releasing public notices and literature regarding a specific award:

- D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a Grant Contract with the State of Tennessee, State Agency Name." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.

**RULE EXCEPTION REQUEST
TEMPLATE (“RER”)**

Request: Revise the Rule Exception Request ("RER") as follows:

Rule Exception Request

The Rule Exception Request is used to request changes to Central Procurement Office templates, policies, or other procurement documents or to modify the "necessary contract clauses" identified in Tenn. Comp. R. & Reg. 0690-03-01-.17 ("CPO Rule 17"). Please refer to CPO Rule 17 available online at the following:

<https://www.tn.gov/generalservices/procurement/central-procurement-office-cpo-library>. The following information should be submitted and routed for approvals in Edison. All Rule Exception Requests are subject to review and approval by the Chief Procurement Officer. Rule Exception Requests that propose to modify any of CPO Rule 17's necessary contract clauses shall be subject to review and approval by the Comptroller of the Treasury. Note: Any change to the template language regarding the Limitation of Contractor's Liability shall be submitted using the Limitation of Contractor's Liability Request.

<p>APPROVED</p> <hr/> <p>CHIEF PROCUREMENT OFFICER</p>	<p>APPROVED</p> <hr/> <p>COMPTROLLER OF THE TREASURY</p>
Agency request tracking #	
1. Procuring Agency	
2. Edison contract ID #	
3. Please select contract type	<input type="checkbox"/> Grant Contract <input type="checkbox"/> Contract – Technology (for contracts involving technology) <input type="checkbox"/> Contract – Risk Management (e.g., for changes to insurance or indemnification) <input type="checkbox"/> Contract – Agency Term Contract or Statewide Contract (use for non-technology contracts for goods or services)
4. Contractor or Grantee	
5. Contract's Effective Date	
6. Contract or grant contract's Term (with ALL options to extend exercised)	months
7. Contract's Maximum Liability or Estimated Liability (with ALL options to extend exercised)	\$
8. Citation and explanation of the rule(s) for which the exception is requested	
9. Description of requested changes If adding new provisions or modifying existing provisions, insert the new or modified provisions in their entirety. Please provide red-lines or track changes to highlight any deviations from template language.	
10. Justification	
Signature of Agency head or designee and date	

PROCUREMENT PROCEDURES
MANUAL OF THE CENTRAL
PROCUREMENT OFFICE,
SECTION 11.2., GENERAL
INFORMATION

REQUEST: Revise the *Procurement Procedures Manual* at section 11.2 as follows:

- **APPROVAL REQUESTS**

- Click-wrap Approval Request
- Amendment Request
- Contract Termination Request
- eHealth Pre-Approval Endorsement Request (for service involving Medical/Mental Health-Related Professional, Pharmaceutical, Laboratory or Imaging)
- HR Pre-Approval Endorsement Request (for service involving State Employee Training, except that pursuant to an IT system contract, service relating to the employment of current or prospective State employees)
- Limitation of Liability Request
- STS Pre-Approval Endorsement Request (for service involving Information Technology)
- Rule Exception Request (Deviations from template language that are not specifically permitted by relevant regulations or instructions require an approved written exception.)
- Rule Exception Request for the DA or DG Templates
- Solicitation Cancellation Request
- Special Contract Request
- Liquidated Damages Request

CENTRAL PROCUREMENT OFFICE
POLICY NUMBER 2015-010 -
STATEWIDE PURCHASING CARD
POLICY AND PROCEDURES

Policy Number 2015-010
Central Procurement Office
Statewide Purchasing Card Policy and Procedures

Revised: April 25, 2018

Prepared by: The Central Procurement Office of the State of Tennessee

1. PROGRAM OVERVIEW.

The State of Tennessee Purchasing Card Program streamlines the State's payment process for goods and services by eliminating the administrative burdens and costs associated with the State's traditional payment methods. The Program's objective is to simplify the documentation necessary for State Agency purchases by placing P-Cards in the hands of Cardholders.

Cardholders may use the P-Card to purchase the types of goods and services subject to this Policy. Personal purchases are prohibited and all rules, policies, and procedures of the Central Procurement Office applicable to the procurement of goods and services must be followed unless exempt.

2. DEFINITIONS.

"Agency Term Contract" means a State Agency contract in which a source or sources of supply are established for a specified period of time at an agreed upon unit price or prices.

"Bank" means the entity issuing the State's P-Card or any of its subsidiaries as the context may require.

"Cardholder" means the State Agency employee who is issued a physical P-Card to initiate payments on behalf of the State.

"Cardholder Agreement" means the document signed by the Cardholder to verify that he or she completed P-Card training, received a copy of and understands this Policy.

"Cardholder Application" means the application completed by the Cardholder that is approved by the Cardholder Supervisor and the State Agency P-Card Program Coordinator that is required before a P-Card Account will be assigned to a Cardholder.

"Cardholder Supervisor" means the State Agency employee with supervisory authority over the Cardholder.

"Central Fiscal Office P-Card" means the P-Card assigned to a Cardholder with a Single Transaction Limit of up to fifty thousand dollars (\$50,000).

"Central Procurement Office" or "CPO" means the State office established and empowered by Tenn. Code Ann. § 4-56-104.

"Cycle (Credit) Limit" means the spending limit that restricts the total value of purchases a Cardholder can make in one billing cycle.

“Fiscal Director” means that State Agency employee, regardless of his or her particular title, who serves as the Agency’s chief financial officer.

“Merchant Category Codes” or “MCCs” means the specific Merchant Category Code, assigned by an acquiring financial institution, that identifies the primary goods or services a supplier provides.

“Online Banking Program” means the Bank’s online portal that provides Cardholders, State Agency P-Card Program Coordinators, and the Statewide P-Card Program Administration Team the ability to view and download statement information, update and manage accounts, set limits and permissions, reset passwords, and process Cardholder requests.

“P-Card Account” means the unique account number assigned to a Cardholder as determined by the Bank.

“P-Card Program” means the program established by the State and managed by the Central Procurement Office whereby Cardholders and Virtual P-Card Users make purchases on behalf of the State of Tennessee.

“Purchasing Card” or “P-Card” means a commercial card that allows organizations to take advantage of the existing credit card infrastructure to make electronic payments for goods or services. A P-Card is similar to a consumer credit card, but the card-using organization must pay the card issuer in full each month. In this Policy, the term “Purchasing Card” or “P-Card” shall also include “Virtual Purchasing Cards” or “Virtual P-Cards” as the context requires.

“Purchasing Card Profile” means the unique profile associated with a Cardholder that contains monetary or MCC limits on the Cardholder’s ability to make purchases on behalf of the State.

“Single Transaction Limit” or “STL” means the maximum dollar limit, per purchase transaction, that can be assigned to the physical P-Card. The STL is assigned per Cardholder at the discretion of the Fiscal Director. This Policy establishes the STL for the designated State Agency Central Fiscal Office P-Card as up to fifty thousand dollars (\$50,000) and for all other physical P-Cards as up to ten thousand dollars (\$10,000) without Statewide P-Card Program Administrator approval.

“State” means the State of Tennessee, including its departments, agencies, and entities that fall under its purview.

“State Agency” means the departments, agencies, and entities of the State of Tennessee other than units of the University of Tennessee or Board of Regents systems.

“State Agency P-Card Program Coordinator” means the employee within the State Agency who manages the P-Card Program at the State Agency level.

“State Agency Approver” means the State Agency Employee who approves P-Card or Virtual P-Card Transactions.

“State Agency P-Card Program Coordinator” means the employee within the State Agency who manages the P-Card Program at the State Agency level.

“State Agency Reconciler” means the State Agency employee responsible for all the functions associated with post-purchase processing P-Card Transactions including account allocation and providing a business purpose when required.

“Statewide Contract” means a contract for goods or services established by the Chief Procurement Officer that all State Agencies must utilize and that may be used by local governments, higher education and authorized not-for-profit entities.

“Statewide P-Card Program Administration Team” means the team within the Central Procurement Office that is responsible for overseeing the P-Card Program.

“Statewide P-Card Program Administrator” means the employee within the Central Procurement Office who is responsible for managing and overseeing the P-Card Program.

“Supplier” means a person or legal entity with the legal capacity to enter into contracts and sue and be sued who provides goods or services to the State through a contract or a purchase order.

“Transaction” means the purchase of goods or services through use of a P-Card or Virtual P-Card.

“Virtual Purchasing Card” or “Virtual P-Card” means the unique credit card account number, embedded within Edison, which is assigned to a State Agency for payment of suppliers authorized to accept P-Card as the form of payment for approved Edison purchase orders.

“Virtual P-Card User” or “User” means the State Agency employee who has a buyer or e-procurement role in Edison, has undergone training on reconciliation, and is authorized to use a Virtual P-Card to initiate payment transactions on behalf of the State.

3. TYPES OF ACCOUNTS.

This Policy recognizes two general account types: P-Card Accounts and Virtual P-Card accounts. P-Card Accounts and Virtual P-Card accounts can be used only for official State business as set forth in this Policy. P-Cards must be surrendered or Virtual P-Card account’s access cancelled upon the Cardholder’s transfer to another State Agency, separation from state employment, or upon demand by the Cardholder Supervisor, the State Agency P-Card Program Coordinator or the Statewide P-Card Program Administrator.

3.1. P-Card Accounts.

P-Card accounts are those that involve the issuance of a P-Card Account to an individual Cardholder to further the official business of the State. Cardholders are limited to one active physical P-Card.

3.2. Virtual P-Cards.

Virtual P-Cards are cardless accounts that allow State Agencies to pay for approved, Edison purchase order transactions initiated by Virtual P-Card Users. The account number is “embedded” in the Edison P-Card module and is securely transmitted to the Supplier upon Edison-based approval of a User’s purchase order transactions. A Virtual P-Card may be used for payments to any Supplier that is registered in the State’s supplier registration system whose payment method has been activated to “P-Card” in Edison. Virtual P-Cards are encouraged because Virtual P-Card accounts allow for greater ease of use (multiple buyers can leverage the same payment device), as well as enhanced control through absence of a physical card and spending limits. The State Agency P-Card Coordinator should contact the Statewide P-Card Program Administrator for more information on Virtual P-Cards.

The ten thousand dollar (\$10,000) STL that applies to all physical P-Cards does not apply to Virtual P-Cards or Central Fiscal Office P-Cards; the maximum STL for a Central Fiscal Office P-Card is fifty thousand dollars (\$50,000) and there is no STL for purchases made with a Virtual P-Card. The Bank determines the Cycle Limit for Virtual P-Cards. Each State Agency or department is limited to one (1) Virtual P-Card Account.

4. OVERVIEW OF P-CARD PROGRAM ROLES AND RESPONSIBILITIES.

The CPO is the State Agency that is primarily responsible for managing, overseeing, and coordinating the P-Card Program. The Statewide P-Card Program Administrator is the employee within the CPO who has the direct, day-to-day responsibility for managing, overseeing, and coordinating the P-Card Program between the CPO and State Agencies. The State Agency P-Card Coordinator is the employee within each State Agency who has been appointed to supervise Cardholders and manage and coordinate the P-Card Program within his or her State Agency in compliance with this Policy. The Cardholder Supervisor is the State Agency employee with supervisory authority over the Cardholder who ensures that transactions are properly reconciled and reported to the Department of Finance and Administration (“F&A”), Division of Accounts. State Agency Reconcilers are the employees within a State Agency who are responsible for reconciling P-Card transactions. The State Agency Approver is the employee within the State Agency who approves P-Card Transactions. The Cardholder is the specially-trained employee within a State Agency responsible for purchasing goods or services on behalf of the State of Tennessee using a physical P-Card. In the interests of segregating duties and responsibilities, State Agency Reconcilers shall not be Cardholders.

5. P-CARD PROGRAM ROLES AND RESPONSIBILITIES.

5.1. P-Card Processing Cycle Overview.

The typical cycle for P-Card usage is:

- An individual Cardholder, with State Agency approved spending limits, initiates a purchase using a P-Card;

- The individual Cardholder retains an original, legible copy of the purchase's receipt for use in reconciliation (see Section 10.2 for more information on receipts);
- Transactions are typically posted in the Edison P-Card module within 24-72 hours after the purchase is made;
- The Cardholder will log into the Edison P-Card module on a weekly basis to review transactions and account coding and take necessary action to correct errors in the purchase details;
- The Cardholder or his or her State Agency Approver confirms or disputes Transactions posted to the card account;
- The credit line is replenished for the amount of the Transactions;
- The Cardholder will receive a monthly Bank statement ;
- The Bank statement and receipts will be sent to the State Agency Reconciler for final reconciliation;
- The State Agency Reconciler will reconcile all Transactions in accordance with this Policy or their State Agency's internal P-Card Procedures, as applicable; and
- The State Agency Reconciler prepares all documentation for retention.

5.2. Statewide P-Card Program Administrator.

The Statewide P-Card Program Administrator serves as the primary point-of-contact in the CPO for the P-Card Program. The Statewide P-Card Program Administrator's role, duties and responsibilities include:

- Establishing written internal procedures to ensure compliance with state procurement statutes, rules, policies and procedures, including this Policy, and reviewing each State Agency's internal P-Card Procedures, as applicable;
- Developing written internal procedures for requesting exceptions to either state or internal policy requirements;
- Ensuring that State Agency Transactions are reviewed at least annually;
- Developing State Agency specific training for all Cardholders, State Agency Approvers, State Agency Reconcilers, and State Agency Supervisors;
- Developing appropriate refresher training to be delivered at least annually; and
- Notifying State Agency P-Card Program Coordinators of changes in state rules, policies or procedures.

5.3. State Agency P-Card Program Coordinator.

The State Agency P-Card Program Coordinator serves as the main point-of-contact between the State Agency and the Statewide P-Card Program Administration Team.

The State Agency must provide the Statewide P-Card Program Administrator written notice within five (5) business days of any changes in status of the State Agency P-Card Program Coordinator.

The State Agency P-Card Program Coordinator's role, duties, and responsibilities include:

- Completing training through the Statewide P-Card Program Administration Team;
- Signing the State Agency P-Card Program Coordinator designation form;
- Collaborating with the Agency's Fiscal Director to develop and maintain the State Agency's internal P-Card Procedures to address policy areas unique to the State Agency or that are not covered by this Policy, as applicable;
- Working with State Agency management to identify job titles, positions, or Edison roles that require use of a P-Card or Virtual P-Card;
- Working with State Agency management to determine appropriate Cardholder spending limits based on budget restrictions, job requirements, historical spending patterns, and overall procurement practices;
- Evaluating Cardholder spending limits against actual usage at least annually;
- Terminating a Cardholder's status if necessary (e.g., due to separation from employment, transfer to another State Agency, low P-Card usage) and cancelling a P-Card;
- Ensuring Agency-wide reconciliation procedures provide for timely payment and for allocation of Transactions to the chart of accounts at least monthly; and
- Ensuring that Transactions are reconciled and supported by adequate documentation, including use of Edison or the Online Banking Program, as appropriate.

5.4. Cardholder Supervisors.

The Cardholder Supervisor responsible for supervising Cardholders must have a thorough knowledge of the Cardholders' job responsibilities in order to determine if purchases are job-related or otherwise authorized by CPO rules, policies or procedures. The Cardholder Supervisor's role, duties, and responsibilities include:

- Before approving the P-Card transactions, either by signing a transaction log or statement or signing off on transactions electronically, carefully reviewing all documentation to ensure that all documentation meets the minimum requirements as set forth in this Policy;
- Approving or rejecting all Transactions within the scheduled timeframe;
- Ensuring that all documentation is submitted according to this Policy and the State Agency's internal P-Card Procedures, as applicable;
- Maintaining knowledge of this Policy and State Agency's internal P-Card Procedures, as applicable; and
- Requesting reasonable spending limits in accordance with this Policy and State Agency's internal P-Card Procedures, as applicable.

5.5. State Agency Reconciler.

The State Agency Reconciler is the State Agency employee responsible for all the functions associated with post-purchase processing of P-Card Transactions including account allocation and providing a business purpose when required. A Reconciler CANNOT make purchases using the P-Card belonging to a Cardholder for whom he or she reconciles.

5.6. State Agency Approver.

The State Agency Approver is the State Agency employee who approves purchases made by the Cardholder to which he or she is assigned. This role may also be performed by the Cardholder Supervisor. By approving each P-Card transaction, the Approver exercises critical control by ensuring authorized and appropriate P-Card use and correct allocation of expenses in accordance with related policies of F&A, Division of Accounts. State Agency Approvers should also review receipts where appropriate to ensure compliance with this Policy and F&A, Division of Accounts policies (available online at <http://www.tn.gov/finance/topic/fa-policyinfo>). No Cardholder may approve his or her own P-Card transactions nor may he or she direct someone else to approve P-Card transactions in a manner that could violate this Policy or applicable policies of F&A, Division of Accounts. As a general rule, the State Agency Approver should not report to the Cardholder whose transactions he or she is reviewing. A State Agency Approver has the following responsibilities:

- Review Cardholder transactions to ensure that purchases made were:
 - For the use and benefit of the State of Tennessee;
 - Necessary for the official duties of the agency;
 - Made in accordance with CPO policies and procedures;
 - For goods or services actually received.
- If a State Agency Approver is in doubt about any of the above, the State Agency Approver should immediately question the Cardholder and seek advice from the State Agency P-Card Program Coordinator or the Statewide P-Card Program Administrator.
- Immediately inform the State Agency P-Card Program Coordinator of any misuse, abuse or fraudulent use of a P-Card.
- If the Cardholder is unavailable for questioning, the State Agency P-Card Program Coordinator or the Statewide P-Card Program Administration Team may adjust the Cardholder's STL to one dollar (\$1.00). The State Agency Approver shall notify the State Agency P-Card Program Coordinator of Cardholder transfers or terminations. Advanced notice is required if the State Agency Approver is aware of impending personnel actions.
- Review, certify, and forward Cardholder transaction log pages, receipts or cycle statements in accordance with this Policy.

5.7. Cardholders.

An important participant in the P-Card Program is the Cardholder. The Cardholder is a key element in making the P-Card Program successful.

5.7.1. Cardholder Responsibilities.

The State is responsible for payment to the Bank. Therefore, P-Cards are issued to the State and assigned on its behalf to specific Cardholders. No credit checks will be performed on individual employees nor will account activity be reported to credit rating agencies. Cardholders have the following duties and responsibilities as a condition for being issued a P-Card:

- Being a full-time State employee;
- Reading and becoming familiar with this Policy;

- Attending and passing Cardholder / Approver training course;
- Signing Cardholder / Approver agreement;
- Being responsible for all purchases made on the P-Card; and
- Adhering to this Policy and other applicable rules, policies, and procedures.

5.7.2 Cardholder Misuse.

Each Cardholder is responsible for the purchases made on the P-Card that is assigned to them. Cardholders are required to adhere to applicable CPO rules, policies, procedures, and this Policy.

Use of a P-Card is a privilege based on trust. A Cardholder is trained and understands the penalties for abuse of the P-Card. The P-Card is for official State business use only and the purchase of personal or disallowable goods or services is strictly prohibited. Misuse of the P-Card may result in disciplinary action up to and including termination of employment and prosecution to the extent permitted by law. Cardholders will be required to reimburse the State, including sales tax, for any improper purchases.

5.8. Virtual P-Card Users.

Virtual P-Card Users are critical to the P-Card Program's success. A User has authority to make purchases utilizing his or her Agency's local purchase authority and to make purchases from a Statewide Contract or Agency Term Contract for official State business. State Agency employees with an e-procurement or buyer role in Edison are eligible to be Users. Users must complete training on reconciliation procedures before initiating any Transactions with a Virtual P-Card.

6. P-CARD SECURITY.

The security of each P-Card is the Cardholder's responsibility. Every precaution should be used to protect the account number. The account number should never be left in a conspicuous place.

Use of the P-Card is restricted to the authorized Cardholder whose name appears on the face of the card and may not be loaned to any other person. The account number that appears on the P-Card must not be given to any individual other than the Supplier from whom the Cardholder is making a purchase.

6.1. Lost or Stolen Cards.

If a P-Card is lost, stolen, or the card information has been compromised, the Cardholder must immediately contact the Bank's customer service. Upon such notification, outstanding authorizations will be confirmed and the Bank will cancel the P-Card (further use of the P-Card will be blocked by the Bank). Neither the State nor the Cardholder will be responsible for fraudulent charges made to a promptly reported lost or stolen card.

At the time of the notification, the Bank may request the following information:

Cardholder's name
Account number

Last four digits of SSN
Circumstances surrounding the loss of the card
Any purchase(s) made prior to the card being lost or stolen

The Cardholder must notify his or her State Agency P-Card Program Coordinator of the P-Card's loss or theft and make arrangements to receive a new P-Card. The Cardholder must complete and return an affidavit from the Bank to initiate an investigation, and send a copy of the Bank affidavit to the State Agency P-Card Program Coordinator. The Bank will then issue a new card with a new account number which will be delivered to the State Agency P-Card Program Coordinator.

The State Agency P-Card Program Coordinator must report any theft, forgery, or credit card fraud to the office of the Comptroller of the Treasury in accordance with Tenn. Code Ann. § 8-4-119 and to the Statewide P-Card Program Administration Team. To comply with this requirement, the State Agency P-Card Program Coordinator shall send the completed Bank affidavit or an email to Robert.N.Allen@cot.tn.gov and P.Card@tn.gov with the following information: Cardholder's name; last six (6) digits of the Cardholder's account number; and information about the transactions in question (such as the merchants' names, transaction date, and dollar amounts).

6.2. Separation from Employment.

If a Cardholder's separation from employment or transfer to another State position is planned, P-Card use shall be discontinued prior to Cardholder's separation from employment or transfer to allow sufficient time for submission of receipts and processing of outstanding charges before the Cardholder leaves or transfers. In the event of unplanned separation from employment, the Cardholder's P-Card shall immediately be deactivated and the Cardholder shall discontinue P-Card use upon separation from employment.

6.3. Purchasing Rules.

The P-Card is only a vehicle for making purchases. Existing State laws governing procurement, accounts payable, records retention, and other applicable laws must still be followed. All procurement rules of the CPO apply when using the P-Card.

6.4. Tax Exemption.

Purchases made in Tennessee and for the use and benefit of the State of Tennessee are exempt from Tennessee sales tax. Cardholders should obtain an exemption certificate and present it to each supplier. This form is available on the Department of Revenue web site at <http://www.tn.gov/revenue/forms/sales/index.shtml> in the "Sales and Use Tax Forms - Exemptions" section. Purchases made in other states may be subject to that state's sales tax. The Cardholder must be diligent when dealing with the supplier regarding taxes. If the supplier cannot deduct the sales tax because of pre-set controls within its computer systems or will not honor the exemption, the Cardholder may continue with the purchase but must note the refusal on the receipt. In the event a Cardholder is inappropriately charged for sales tax, he or she shall seek a credit refund of any sales taxes to the P-Card account.

6.5. Credits.

If a Cardholder returns merchandise, a credit should be issued to the Cardholder's P-Card and a credit receipt obtained. Under no circumstances should a Cardholder receive cash or a credit voucher. The Cardholder or State Agency Approver is responsible for reviewing the Online Banking Program to ensure that credits are received and, if not, file the appropriate paperwork for disputed items. Cardholders should avoid Suppliers with restrictive merchandise return policies.

6.6. Disputing Transactions.

If there is a problem with a Transaction, the Cardholder must first attempt to reach a resolution directly with the Supplier. In most cases, disputes can be resolved between the Cardholder and the Supplier. The Supplier will usually issue a credit.

The Cardholder should document all attempts to resolve a problematic Transaction. If the disputed Transaction involves a reservation or order that has been cancelled, the Cardholder is responsible for obtaining a cancellation number. If efforts to resolve the problem with the Supplier are unsuccessful or if a credit does not appear in the Online Banking Program, the Cardholder should file the appropriate dispute paperwork with the Bank and contact his or her State Agency P-Card Program Coordinator.

If a Bank Statement contains a Transaction that needs to be disputed, the Cardholder should contact the Bank's Customer Service to initiate the dispute process, and contact his or her State Agency P-Card Program Coordinator to ensure the disputed transaction has been documented. If the dispute cannot be resolved between the Cardholder and the Bank, the Cardholder shall immediately notify his or her State Agency P-Card Program Coordinator.

6.7. Declined Purchase Transactions.

On occasion, a Cardholder's purchase transaction may be declined. Cardholders should contact the Bank's Customer Service to determine the reason for the decline before contacting their State Agency P-Card Program Coordinator for assistance.

Common reasons for declines include:

- MCC is restricted from the Purchasing Card;
- The Cardholders has exceeded the STL, daily limit or monthly limit; or
- Invalid expiration.

7. CARD ISSUANCE AND CANCELLATION.

The State Agency P-Card Program Coordinator is responsible for issuing all P-Cards within his or her Agency. State Agency P-Card Program Coordinators have authority to terminate a Cardholder's status as a Cardholder and cancel P-Cards. The Statewide P-Card Program Administrator should be notified of any P-Card cancellations.

7.1. P-Card Issuance.

Purchasing Cards are issued following:

- Completion of the Cardholder Application;
- Completion and approval of a Cardholder profile;
- Completion of P-Card training; and
- Completion of the Cardholder Agreement.

7.2. P-Card Cancellation.

P-Cards shall be cancelled by the following:

- Cardholder's separation from employment for any reason;
- Cardholder's job status changes such that he or she no longer requires a P-Card;
- Cardholder reports the loss or theft of the P-Card;
- Cardholder misuses the P-Card; or
- Untimely confirming or disputing transactions.

If a P-Card is cancelled, it shall be destroyed. The Statewide P-Card Program Administrator shall be notified of all P-Card cancellations.

8. P-CARD PROGRAM TRAINING.

Cardholder training is critical—all Cardholders must complete training before being issued a P-Card. Training ensures that the Cardholder understands the P-Card Program procedures and this Policy and is aware of potential disciplinary action for P-Card misuse or abuse. Once training is complete, the Cardholder shall sign a Cardholder Agreement as a condition for being issued a P-Card. The Cardholder Agreement is evidence that the Cardholder has received training and a copy of this Policy and the State Agency's internal P-Card Procedures, as applicable. The Statewide P-Card Program Administrator will coordinate Cardholder training with State Agency P-Card Program Coordinators.

9. INTERNAL CONTROLS.

A strong system of internal controls is essential for detection and deterrence of fraud, misuse, or abuse of the P-Card. Internal controls include policies, procedures, training, spending limits, Merchant Category Code restrictions, prompt reconciliation, and prompt account distribution.

9.1. Duty of State Agencies.

Each State Agency must establish an internal control structure that ensures compliance with the State's procurement laws, CPO rules, policies and procedures, this Policy, and the terms and conditions of the P-Card established by the Bank. The State Agency Fiscal Director is responsible for developing and reviewing this Policy, the State Agency's internal P-Card Procedures, as applicable, and ensuring that sound accounting practices and internal policies are in place and enforced. All State Agencies should ensure that the following principles are carried out in their programs:

- Separation of duties between ordering cards (State Agency P-Card Program Coordinators), making Transactions (Cardholders and Users), and review or approval of Transactions for payment (Cardholder Supervisors or Cardholder Approvers);
- Maintain approved, signed documentation for all Cardholders, State Agency Approvers and Cardholder Supervisors;

- Limits on the number of Cardholders assigned to a Cardholder Supervisor or State Agency Approver in order to ensure adequate review of business need and documentation for each Transaction;
- Provision for annual independent audit or review of the Agency's P-Card program by the State Agency P-Card Program Coordinator, State Agency Fiscal Director, State Agency Internal Audit unit, or other business unit assigned State Agency audit responsibilities. Reviews must include adequacy of:
 - Internal policies and procedures, as applicable;
 - Cardholder Single Transaction Limit and Cycle (Credit) Limits;
 - Timeliness of monthly reconciliation procedures; and
 - Documentation for Transactions; and
- Protocol for establishing designated State Agency Central Fiscal Office P-Cardholder and any alternate Central Fiscal Office P-Cardholders, including which Central Fiscal Office P-Card is primary and which alternate Central Fiscal Office P-Card is secondary and circumstances (e.g., unavailability of the primary Central Fiscal Office P-Card, etc.) under which an alternate Central Fiscal Office P-Card may be used.

9.2. State Agency P-Card Procedures.

Each State Agency may develop its own internal procedures to carry out the intent and purpose of this Policy and to address unique State Agency complexities or risk factors. If a State Agency chooses not to develop its own internal procedures then the State Agency must follow this Policy and coordinate State Agency Employee roles with the Statewide P-Card Program Administration Team.

9.3. Card Management and Reconciliation Systems.

All Transaction reconciliations will be completed in Edison unless the Central Procurement Office approves an alternate method of reconciliation.

9.4. Merchant Category Code Restrictions.

Merchant Category Codes are four-digit codes used by commercial credit card brands (e.g., Visa, MasterCard, American Express) to identify a merchant's principal trade, profession, or line of business. MCCs are assigned to a merchant based on the types of goods or services the merchant provides. MCCs blocked on P-Cards restrict State purchases from certain merchants to protect against unauthorized or prohibited purchases.

- The Statewide P-Card Program Administration Team manages the State-identified MCC groups that contain codes associated with suppliers that provide goods or services that are prohibited for purchase using the P-Card.
- Although Transactions at unauthorized MCCs are blocked at the point-of-sale, they are occasionally forced through. These Transactions are subject to audit.
- The CPO's Compliance Team will conduct periodic audits of Transactions with restricted MCC suppliers.
- State Agencies may request activation of additional MCCs for inclusion in a State-authorized group or creation of a new MCC group to meet specific needs. A Cardholder's State Agency P-Card Program Coordinator should

ensure that Cardholder profiles permit only those MCC groups that a Cardholder needs to meet his or her job requirements.

State Agencies may request activation of a particular MCC by submitting a P-Card exception request in Edison to the Statewide P-Card Program Administrator. The exception request should be filled out and submitted for approvals in Edison prior to the requested P-Card use.

9.5. Cardholder Spending Limits and Utilization.

The State Agency Fiscal Director may establish a Single Transaction Limit (STL) of up to the ten thousand dollar (\$10,000) maximum for Cardholders as he or she determines appropriate taking into account the State Agency's overall needs. Each State Agency Fiscal Director may also establish one (1) designated State Agency Central Fiscal Office P-Card with a STL of up to the fifty thousand dollar (\$50,000) maximum. Each State Agency Fiscal Director may also establish up to two (2) alternate designated State Agency Central Fiscal Office P-Cards with a STL of up to the fifty thousand dollar (\$50,000) maximum. If the transaction amount exceeds ten thousand dollars (\$10,000), then Cardholders and State Agency Fiscal Directors should consult the *Procurement Procedures Manual of the Central Procurement Office* with respect to contract and purchase order requirements and exemptions from contract and purchase order requirements. The State Agency Fiscal Director should also determine the total maximum per Cycle Limit for each Cardholder based on the individual's position and unique purchasing needs, and the State Agency's budget to ensure payment in full monthly.

Imposing spending limits enables management to provide Cardholders with the purchasing power to perform their jobs without exposing the State to unnecessary risk. Spending limits should be based on the Cardholder's job responsibilities. Cardholder spending limits must be reviewed at least annually to determine if actual usage is consistent with spending limits. Increases or decreases to monthly spending limits may be made by the State Agency Fiscal Director as needed for Cardholder Cycle Limits, a single transaction limit of up to ten thousand dollars (\$10,000) for a Cardholder and up to fifty thousand dollars (\$50,000) for a Central Fiscal Office P-Card. Cardholders are prohibited from splitting a single purchase between one or more P-Cards or between a Card transaction and a purchase order to circumvent the STL or CPO rules, policies or procedures. Each State Agency is required to perform a review of spending limits at least annually in order to determine if each Cardholder's spending limit is adequate and appropriate.

9.6. Dormant Cards.

The CPO recommends that State Agencies reduce the Cycle Limit of any P-Card that has not been used within twelve (12) complete cycles to one dollar (\$1). When a P-Card has not been used for some time, the State Agency P-Card Program Coordinator should conduct a review to determine if the Cardholder still needs a P-Card. Each State Agency

is responsible for ensuring that this review is completed at least annually or in accordance with its own internal P-Card Procedures, as applicable.

10. DOCUMENTATION AND ACCOUNTING.

10.1. Documentation.

State Agencies should use Edison for Transaction reconciliation and should handle documentation for reconciliation in accordance with this Policy and State Agency internal P-Card Procedures, as applicable. Any State Agency seeking to use a manual or alternative method for Transaction reconciliation must obtain approval from the Central Procurement Office.

Regardless of the Transaction reconciliation method, Cardholders should provide invoices or receipts for all Transactions. Invoices or receipts shall include:

- The Supplier's name, location, and contact information;
- Line item details, including quantity, description, unit price, and total price; and
- A line showing that the State was not charged for sales tax.

10.2. Receipts.

- It is the Cardholder's responsibility to obtain itemized receipts and any other pertinent backup documentation. Other documentation may include shipping documents and bills of lading. This information will be used by the Agency to validate and reconcile charges.
- For online purchases that do not provide a downloadable receipt, a screen shot of the receipt information can serve as a receipt.
- In lieu of obtaining physical receipts, the Cardholder may also take a picture of the receipt with his or her mobile device and save the receipt electronically.
- If a Cardholder loses a receipt and a duplicate cannot be obtained, the Cardholder should follow his or her State Agency's internal procedures for lost receipts. Cardholders who lose receipts and resort to their Agency's internal procedures for lost receipts more than three (3) times during a fiscal year may have their P-Card privileges suspended.
- The amount on the receipt and the amount of the charge to the Cardholder's P-Card account must match. Any discrepancies in amounts should be resolved with the Supplier and an explanation regarding the resolution should be made on the receipt or other backup documentation. It is not sufficient to change the amount on the receipt only.
- The Cardholder and the Cardholder Supervisor shall document all missing receipts.
- Credits may be processed without a receipt, but the Cardholder must provide an explanation of the credit.

10.3. Reconciliation.

- Cardholders should perform reconciliation in Edison as often as possible or at a minimum on a weekly basis.

- After completing the weekly reconciliation process, the Cardholder must forward signed and dated receipts to his or her State Agency Approver. Dated receipts may be in an electronic format as long as they include an electronic signature and are legible. This should also occur on a weekly basis.

10.4. Allocation to the Chart of Accounts.

Timely allocation of charges to the chart of accounts is essential to ensure compliance with State accounting and budgetary policies. The State Agency must ensure that all transactions are allocated to the chart of accounts before the end of the billing cycle.

10.5. Records Retention Requirements.

The Office of the Secretary of State oversees Tennessee's Records Management Division, the State Agency that provides guidance on disposition, retention, and destruction of state records. Records Disposition Authority (RDA) SW23 applies to all P-Card documents. RDA SW23 requires that State Agencies maintain documents related to P-Card issuance and use for five (5) years and destroy them at the end of the five-year period. P-Card documents may be maintained in either paper or electronic format, so long as the electronic content has been verified for completeness, accuracy, and usability. RDA SW23 is available in its entirety at <http://www.tnsos.net/rmd/rda/index.php>.

10.6. Internal Revenue Service 1099 Reporting.

In 2011, the Internal Revenue Service announced changes to the Internal Revenue Code, Section 6050W, which shifted the burden of payment reporting requirements from the purchaser to the Supplier's bank when the P-Card is the payment method for a reportable transaction. Because of the shift in responsibility, participants in the P-Card Program are no longer required to report total P-Card transactions in excess of six hundred dollars (\$600) with certain Suppliers. Reporting for all other payment methods, including checks, Automated Clearing House, or other means, will remain the responsibility of the State Agency making payment. Cardholders should consult the tax specialists at their State Agency for further information or details regarding Internal Revenue Service 1099 reporting requirements.

11. PROHIBITED PURCHASES AND TRANSACTIONS.

11.1. Prohibited Purchases.

Cardholders are prohibited from using a physical P-Card for the following types of purchases, payments, or transactions:

- Goods or services not directly related to job responsibilities or other official State of Tennessee business, i.e., personal purchases;
- Cash withdrawals, including ATM or debit withdrawals;
- Travel expenses;
- Telephone billings;
- Political publications of any sort;
- Utility billings and connection fees;
- Payments to another State Agency;
- Rental of passenger vehicles of any kind;

- Artifacts for historical or commemorative purposes (except for the State Museum);
- An employee's moving expenses;
- Purchases of any motor vehicle fuel for any vehicle or equipment leased from the Department of General Services' Division of Motor Vehicle Management ("MVM");
- Back orders or partial shipments—goods or services must be in stock or otherwise available and ready to be shipped or delivered at the time of purchase;
- Purchases made using a P-Card or other account by someone other than the Cardholder or account holder;
- Service awards for state employees;
- Awards for private citizens;
- Honoraria expenses;
- Insurance policies;
- Gift cards or gift certificates; and
- Any goods or services related to political activity as defined under "The Little Hatch Act," Tenn. Code Ann. §§ 2-19-201 through 208.

State Agencies may request an exception to this paragraph by submitting a P-Card exception request in Edison to the Statewide P-Card Program Administrator. The exception request should be filled out and submitted for approvals in Edison prior to the requested P-Card use.

11.2. Personal Purchases Prohibited.

As provided in Sections 3.1, 5.7 and 11.1, Cardholders are prohibited from using a P-Card for the purchase of any goods or services not directly related to job responsibilities or other official State business. Intentional use of a P-Card for any purposes other than State business will result in disciplinary action, up to and including termination from State employment or criminal prosecution. Under Tenn. Code Ann. § 39-16-402, State employees who intentionally or knowingly use a P-Card or a Virtual P-Card for personal purchases commit a Class E felony.

11.3. Split Charges Prohibited.

Tenn. Code Ann. § 12-3-503(b) and CPO Policy Number 2013-003 authorize State Agencies to make a purchase without soliciting quotes or proposals from multiple suppliers when the total value of the purchase is ten thousand dollars (\$10,000) or less. Cardholders are prohibited by Tenn. Code Ann. § 12-3-503(b)(2) from splitting a transaction between two or more transactions on a single account, two or more transactions on multiple accounts, or two or more transactions using the P-Card and a purchase order, in order to circumvent the STL imposed on the P-Card. The maximum STL for P-Card purchases using a physical P-Card is ten thousand dollars (\$10,000) unless a State Agency has designated a lower STL in its internal P-Card Procedures or has an approved exception from the Statewide P-Card Program Administrator.

11.4. Payment of Sales and Use Tax.

Tenn. Code Ann. § 67-6-329(a) provides that all sales of services and tangible personal property made to the State of Tennessee are exempted from sales and use taxes. Cardholders should provide each supplier with an exemption certificate, as described in Section 6.4. Cardholders are responsible for ensuring that suppliers do not charge tax or provide a credit for inadvertent charges.

- If taxes are charged, the Cardholder must contact the supplier to obtain a credit to the account.
- Suppliers may only credit the State's P-Card Account and may not refund erroneously paid taxes through other means, including cash, gift cards, or store credit.
- The Cardholder is required to maintain documentation of his or her attempts to obtain credit for any Tennessee Sales and Use Tax charged to the P-Card Account in error.

12. PURCHASES RESERVED FOR THE DESIGNATED STATE AGENCY CENTRAL FISCAL OFFICE CARDHOLDER.

Only the person designated by the State Agency Fiscal Director may use his or her individual P-Card for the following purchases:

- Tuition, fees, and supplies for training individuals;
- Internet, newspaper, radio, or television advertisements;
- Subscriptions to newspapers, periodicals, newsletters, or pamphlets;
- Organization membership dues;
- Charges for meeting rooms and attendant expenses in excess of two hundred dollars (\$200) per day or for more than five (5) days;
- Convention or registration fees;
- Association entry fees; and
- Food, beverage, or catering charges for meetings.

13. DECLARED EMERGENCIES AND NATURAL DISASTERS.

Tenn. Comp. R. & Regs. 0690-03-01-.05(5) authorizes the CPO or delegated State Agencies to forego standard procurement requirements to meet emergencies arising from unforeseen causes. If an emergency affecting the health or safety of any person occurs when CPO personnel are not available, any State Agency is authorized to contract for necessary goods or services and obtain "after the fact" emergency purchase authorization. All requests for "after the fact" emergency purchase authorization shall comply with CPO rules, policies, and procedures.

14. ENCOURAGED USE OF P-CARDS.

14.1. Statewide and Agency Term Contracts.

As provided in Section 10.4. of the CPO's *Procurement Procedures Manual*, State Agencies are required to use Statewide Contracts for procuring goods or services to the extent the needed goods or services are available on a Statewide Contract. State Agencies may not procure goods or services available on a Statewide Contract from any other source without prior approval from the Chief Procurement Officer or designee. State Agencies are encouraged to utilize P-Cards for purchasing goods or services on Agency Term Contracts and Statewide Contracts.

14.2. Utilization of Diversity Suppliers.

Cardholders are strongly encouraged to make authorized purchases from suppliers certified by the Governor's Office of Diversity Business Enterprise.

15. SURCHARGES AND CONVENIENCE FEES.

Many suppliers charge a "credit card processing fee" or "convenience fee" for accepting credit cards including the P-Card. These types of fees are strictly regulated by Visa and MasterCard.

According to Visa's "Card Acceptance and Chargeback Management Guidelines for Merchants" available on Visa's website, credit card surcharges are allowed but cannot be more than the amount the supplier's bank charges them for processing the transaction. Also, the supplier cannot charge both a surcharge and a convenience fee, explained below.

The maximum allowable surcharge is four percent (4%) and must be shown as a line item on the detailed invoice or receipt. Whenever a Supplier charges a surcharge, the following rules apply:

- The Supplier must have provided Visa and its bank at least thirty (30) days notification of their intent to impose surcharges;
- The fact that the Supplier imposes surcharges must be clearly posted on the door and at point-of-sale for physical locations and on web sites when sales are made via the internet; and
- The Supplier must inform the Cardholder or User:
 - Of the exact percent of the surcharge;
 - That the Supplier is the entity assessing the surcharge;
 - That surcharges are applicable on credit transactions only; and
 - That the surcharge is not greater than what the supplier pays to Visa.

For any Transaction where the Supplier has charged a surcharge, a Cardholder or User must obtain a copy of the acknowledgement letter sent to the Supplier by Visa authorizing the Supplier to impose a surcharge. A copy on file with the State Agency P-Card Program Coordinator will be sufficient.

**FEE FOR GOODS OR SERVICES
TEMPLATE (“FA”) AND NO COST
CONTRACT (“NC”) FOR CONTRACTORS
MODEL - DRUG-FREE WORKPLACE
OPTIONAL SECTION E. #.,**

REQUEST: Add Drug-Free Workplace as optional Section E language to Fee for Goods or Services Template and No Cost Contract for Contractors Model.

Drug-Free Workplace.

Add the following Section as appropriate:

- E. #. Drug-Free Workplace. The Contractor shall provide a drug-free workplace pursuant to the Drug-Free Workplace Act of 1988, Title 41 U.S.C. §§ 701, *et seq.*, and the regulations in Title 41 U.S.C.A. §§ 8101 through 8106.

**GRANT (“GR”) AND GOVERNMENTAL
GRANT (“GG”) TEMPLATES -
TENNESSEE DEPARTMENT OF
MENTAL HEALTH AND SUBSTANCE
ABUSE SERVICES (“TDMHSAS”)
SECTION E. #., TITLE VI COMPLIANCE**

REQUEST: Add Title VI Compliance as optional Department of Mental Health and Substance Abuse Services Section E language to the GR and GG templates.

Tennessee Department of Mental Health and Substance Abuse Services

The Tennessee Department of Mental Health and Substance Abuse Services may add the following Section as appropriate:

- E. #. Title VI Compliance. Grantee shall comply with requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1, pursuant to the guidelines established by the Tennessee Human Rights Commission's Title VI Compliance Office, by completing all of the following items:
- a. Provide name and contact information of Grantee's Title VI Coordinator to State.
 - b. Ensure Policies and Procedures Manual contains a Title VI section with information on:
(a) Filing a complaint; (b) Investigations; (c) Report of findings; (d) Hearings and appeals;
(e) Description of Title VI Training Program; (f) Limited English Proficiency (LEP) procedure; and (g) Retaliation.
 - c. Train all staff (regular, contract, volunteer) on Title VI upon employment and annually thereafter. Training documentation shall be made available upon request of State, and include: 1) dates and duration of each training; 2) list of staff completing training on each date.
 - d. Annually complete and submit a Title VI self-survey as supplied by State.
 - e. Implement a process and provide documentation to ensure service recipients are informed of Title VI and how to file a discrimination complaint.

Additional Title VI resources may be found at: [Insert Current Hyperlink to the TDMHSAS Title VI Training website.](#)

**GRANT (“GR”) AND GOVERNMENTAL
GRANT (“GG”) TEMPLATES – TDMHSAS
AND DEPARTMENT OF EDUCATION
SECTION E. #., KIDCENTRALTN.COM**

REQUEST: Add Kidcentral as optional Department of Mental Health and Substance Abuse Services and Department of Education Section E language to GR and GG templates.

Tennessee Department of Mental Health and Substance Abuse Services and Department of Education
The Tennessee Department of Mental Health and Substance Abuse Services and the Department of Education may add the following Section as appropriate:

- E.#. kidcentraltn.com. If goods or services provided under this Grant Contract are appropriate for inclusion in the State services directory located at www.kidcentraltn.com ("Directory"):
- a. The State shall designate a "Gatekeeper" to: 1) provide instruction on which goods or services should be included in the Directory; 2) invite Grantee to create one or more program profiles in the Directory; 3) review, approve and publish Grantee's profiles; and 4) monitor activity related to the profiles.
 - b. Grantee shall, under the guidance of the Gatekeeper, create one or more program profiles in the Directory (if Grantee has more than one service appropriate for the Directory, Gatekeeper will instruct which services to include) as appropriate. Grantee shall update any profiles it creates at least every six months and, in the event of any change in information, update the profile within ten (10) business days. If Grantee has a website, Grantee shall provide a link to www.kidcentraltn.com from the appropriate section of the website.
 - c. If Grantee develops print or electronic materials on behalf of the State, or uses State funds that are intended for general distribution to parents, families, children, or professionals who work directly with children or families, Grantee must place the "kidcentral tn" logo on those materials. Covered materials include, by way of example only, brochures, posters, promotional postcards, mailers. The State reserves the right to instruct Grantee to apply the "kidcentral tn" logo or brand to any other materials, using templates provided by the State. The logo requirement does not apply to materials that have already been printed, designed or originating from the federal government, national organizations or other groups where Grantee serves as a pass-through of the materials. The "kidcentral tn" logo should not be applied to individualized correspondence or materials intended for a single family or professional and should not be applied to purely administrative materials (materials about rules, sanctions, regulations, enforcement).

**GRANT (“GR”) AND GOVERNMENTAL
GRANT (“GG”) TEMPLATES - TDMHSAS
SECTION E. #., SUSPENSION OF
PAYMENT**

REQUEST: Add Suspension of Payment as optional Department of Mental Health and Substance Abuse Services Section E language to the GR and GG templates.

Tennessee Department of Mental Health and Substance Abuse Services

The Tennessee Department of Mental Health and Substance Abuse Services may add the following Contract language as appropriate:

E.# Suspension of Payment.

- a. The State may suspend payment under this Grant Contract on the following grounds:
 - i. Grantee's failure to comply with the terms of Section A of this Grant Contract.
 - ii. More than one instance, after written notice, of Grantee's failure to address reportable findings in a Monitoring Report issued by the State.
 - iii. Grantee's failure to comply with any terms of this Grant Contract, which the State determines is detrimental to the welfare or best interests of Grantee's service recipients.
- b. The State will provide written notice to Grantee for the suspension of payments under this Grant Contract. The State may suspend payment pending resolution of an investigation or until Grantee corrects a finding of non-compliance with the terms of this Grant Contract. Suspension of payments shall not exceed two hundred and forty (240) days. Failure to comply with the terms of this Grant Contract or correct the State's finding of non-compliance within two hundred and forty (240) days entitles the State to exercise any right at law or in equity, including without limitation, termination of this Grant Contract.

**GRANT (“GR”) AND GOVERNMENTAL
GRANT (“GG”) TEMPLATES - SECTION
D.26., CHARGES TO SERVICE
RECIPIENTS PROHIBITED**

REQUEST: Add Tennessee Department of Mental Health and Substance Abuse Services to list of agencies in Section D.26, Charges to Service Recipients Prohibited in GR and GG templates.

Charges to Service Recipients Prohibited

If the Grantor State Agency obtains an approved Rule Exception to delete the Charges to Service Recipients Prohibited provision, add the following Section. The Department of Transportation Division of Multimodal Resources, Department of Human Services, Department of Environment and Conservation, and Department of Mental Health and Substance Abuse Services may use the following section as needed.

**FEE FOR GOODS OR SERVICES
TEMPLATE (“FA”) AND NO COST
CONTRACT (“NC”) FOR CONTRACTORS
MODEL - TDMHSAS SECTION E. #.,
CODE OF CONDUCT**

REQUEST: Add Code of Conduct as optional Department of Mental Health and Substance Abuse Services Section E language to Fee for Goods or Services Template and No Cost Contract for Contractors Model.

Tennessee Department of Mental Health and Substance Abuse Services

The Tennessee Department of Mental Health and Substance Abuse Services may add the following Section as appropriate:

- E. #. Code of Conduct. The Contractor shall ensure that there is a code of conduct applicable to all Contractor employees that covers, at minimum, business practices, clinical practices, and workplace interaction. Contractor employees shall conduct their practice in conformity with all applicable statutes, rules and regulations, and recognized ethical standards pertaining to Contractor's profession. Contractor shall develop procedures for reporting violations of the ethical standards, which shall be communicated to Contractor's employees, including new hires, on at least an annual basis. Contractor's code of conduct shall prohibit Contractor, its officers, directors, and employees from retaliating against any Contractor employee who reports any violations or acts or omissions that appear to be violations. Contractor's non-retaliation policy shall prescribe discipline for violating the Contractor's code of conduct. Failure to implement a code of conduct in accordance with this section and to adequately address suspected violations of the code of conduct shall entitle the State to exercise any right it has at law or in equity, including, but not limited to termination of this Contract.

**FEE FOR GOODS OR SERVICES
TEMPLATE (“FA”) AND NO COST
CONTRACT (“NC”) FOR CONTRACTORS
MODEL –TDMHSAS SECTION E. #.,
ADDITIONAL SUBCONTRACTING
REQUIREMENTS**

REQUEST: Add Subcontracting Requirements as optional Department of Mental Health and Substance Abuse Services Section E language to Fee for Goods or Services Template and No Cost Contract for Contractors Model.

Tennessee Department of Mental Health and Substance Abuse Services

The Tennessee Department of Mental Health and Substance Abuse Services may add the following Section as appropriate:

- E. #. Additional Subcontracting Requirements. Contractor shall ensure in all subcontracts between it and Contractor's State approved subcontractors that each subcontract shall contain the sections of "Confidentiality of Records", "HIPAA Compliance", and "Rule 2 Compliance" (as identified by the section headings) as these may be modified from time to time. Notwithstanding any use of State approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed by its subcontractors or other providers of goods or services.

**FEE FOR GOODS OR SERVICES
TEMPLATE (“FA”) AND NO COST
CONTRACT (“NC”) FOR CONTRACTORS
MODEL - TDMHSAS SECTION E. #.,
RULE 2 COMPLIANCE**

REQUEST: Add Rule 2 Compliance as optional Department of Mental Health and Substance Abuse Services Section E language to Fee for Goods or Services Template and No Cost Contract for Contractors Model.

Tennessee Department of Mental Health and Substance Abuse Services

The Tennessee Department of Mental Health and Substance Abuse Services may add the following Section as appropriate:

- E. #. Rule 2 Compliance. The State and the Contractor shall comply with the obligations under Rule 2 of the Confidentiality of Alcohol and Drug Abuse Patient Records, and its accompanying regulations as codified at 42 CFR §§ 2.1, *et seq.* ("Rule 2").
- a. The Contractor warrants to the State that it is familiar with the requirements of Rule 2 and its accompanying regulations, and that it will comply with all requirements imposed by Rule 2 during the Term of this Contract.
 - b. The Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by Rule 2 during the Term of this Contract.
 - c. The State and the Contractor will execute such documents, including but not limited to business associate agreements, as required by Rule 2 that are reasonably necessary for the State and the Contractor to comply with Rule 2. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by Rule 2 or if Rule 2 permits the State to receive such information without entering into a business associate agreement or other agreement.

**FEE FOR GOODS OR SERVICES
TEMPLATE (“FA”) AND NO COST
CONTRACT (“NC”) FOR CONTRACTORS
MODEL - TDMHSAS SECTION E. #.,
PROHIBITIONS ON USE OF FEDERAL
SUBSTANCE ABUSE BLOCK GRANT
FUNDS**

REQUEST: Add Prohibitions on Use of Federal Substance Abuse Block Grant Funds as optional Department of Mental Health and Substance Abuse Services Section E language to Fee for Goods or Services Template and No Cost Contract for Contractors Model.

Tennessee Department of Mental Health and Substance Abuse Services

The Tennessee Department of Mental Health and Substance Abuse Services may add the following Section as appropriate:

- E.#.** Prohibitions on Use of Federal Substance Abuse Block Grant Funds. Pursuant to federal law, Contractor shall not use any funds paid or services rendered under the federal Substance Abuse Prevention and Treatment Block Grant to supplant any other funds available for the goods or services provided under this Contract. Contractor shall not use any federal Substance Abuse Prevention and Treatment Block Grant funds under this Contract for any of the following purposes:
- a. to provide inpatient hospital or inpatient community mental health services;
 - b. to make cash payments to intended recipients of health services;
 - c. to purchase or improve land; purchase, construct, or permanently improve (other than minor remodeling) any building or facility; or purchase major medical equipment;
 - d. to satisfy any requirement for the expenditure of non-federal funds as a condition for the receipt of federal funds;
 - e. to provide financial assistance to any entity other than a public or non-profit entity;
 - f. to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug or distributing bleach for the purpose of cleansing needles for such hypodermic injection; or
 - g. to carry out any testing for the etiologic agent for acquired immune deficiency syndrome unless such testing is accompanied by the appropriate pre-test and post-test counseling.

PROCUREMENT PROCEDURES
MANUAL OF THE CENTRAL
PROCUREMENT OFFICE,
SECTION 10.12., FEDERAL AWARDS
PROCUREMENT STANDARDS

REQUEST: Add the following paragraph to the *Procurement Procedures Manual of the Central Procurement Office* at §10.12 so the procurement standards of 2 C.F.R. §§ 200.317 to 200.326 are incorporated as part of CPO's Procedures Manual.

10.12. Federal Awards Procurement Standards.

To the extent applicable, any contracts that include any federal awards, all non-Federal entities receiving such awards must comply with all requirements of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards including, but not limited to the Procurement Standards at 2 C.F.R. §§ 200.317 to 200.326.

**FEDERAL AWARDS PROCUREMENT
STANDARDS – OPTIONAL PURCHASE
ORDER (“PO”) AND CONFIGURATOR
TERM**

REQUEST: Add the following to the Configurator and as an optional Purchase Order term and condition so the procurement standards of 2 C.F.R. §§ 200.317 to 200.326 are incorporated as part of the purchase order or contract, when applicable.

Add the following term, "Federal Awards Procurement Standards" as appropriate.

#. Federal Awards Procurement Standards. If applicable, Contractor agrees to comply with the requirements of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards including, but not limited to the Procurement Standards at 2 C.F.R. §§ 200.317 to 200.326.

**GRANT (“GR”) AND GOVERNMENTAL
GRANT (“GG”) TEMPLATES AND FEE
FOR GOODS AND SERVICES
TEMPLATE (“FA”) AND
CONFIGURATOR – SECTION E. #.,
CLEAN AIR ACT AND FEDERAL WATER
POLLUTION CONTROL ACT**

REQUEST: Add the “Clean Air Act and the Federal Water Pollution Control Act” clause as optional Section E language to all grant templates and models and to the FA Template and Configurator.

Grants:

Clean Air Act and Federal Water Pollution Control Act

To the extent applicable, add the following section if the Grantee is receiving a federal award in excess of \$150,000.

- E. #. Clean Air Act and Federal Water Pollution Control Act. As a condition for receipt of federal awards, the Grantee agrees to comply with the Clean Air Act, 42 U.S.C. § 7401 *et seq.* and the Federal Water Pollution Control Act, 33 U.S.C § 1251 *et seq.*, as those sections are amended from time to time during the term. Violations must be reported to the [insert federal awarding agency] and the Region 4 Office of the Environmental Protection Agency.

FA/Configurator:

Clean Air Act and Federal Water Pollution Control Act

To the extent applicable, add the following section if the Contractor is receiving a federal award in excess of \$150,000.

- E. #. Clean Air Act and Federal Water Pollution Control Act. As a condition for receipt of federal awards, the Contractor agrees to comply with the Clean Air Act, 42 U.S.C. § 7401 *et seq.* and the Federal Water Pollution Control Act, 33 U.S.C § 1251 *et seq.*, as those sections are amended from time to time during the term. Violations must be reported to the [insert federal awarding agency] and the Region 4 Office of the Environmental Protection Agency.

**FEE FOR GOODS AND SERVICES
TEMPLATE (“FA”) – SECTION D. #.,
EQUAL OPPORTUNITY**

REQUEST: Revise the optional Section D Equal Opportunity provision in the FA Template and Configurator as follows:

Equal Opportunity

Add the following Section only if the goods or services under the Contract are paid for with federal funds.

D.#. Equal Opportunity. The Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

- (1) Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising;
- (2) Layoff or termination;
- (3) Rates of pay or other forms of compensation; and
- (4) Selection for training, including apprenticeship.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

- b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. If the State approves any subcontract, the subcontract shall include paragraphs (a) and (b) above.
- d. In addition, to the extent applicable the Contractor agrees to comply with 41 C.F. R. § 60-1.4, as that section is amended from time to time during the term.

**FEE FOR GOODS AND SERVICES
TEMPLATE (“FA”) – SECTION D.32.,
INSURANCE**

REQUEST: Revise the Configurator, Fee for Goods or Services (FA) Template at section D.32. Insurance as follows:

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

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

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

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

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

a. Commercial General Liability (“CGL”) Insurance

- 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.

Insurance Options

Commercial General Liability, Workers' Compensation and Employer Liability Insurance, and Automobile Liability Insurance are included as Mandatory Terms and Conditions. An approved Rule Exception Request is required to remove the Commercial General Liability and Workers' Compensation and Employer Liability insurance types. Automobile Insurance may be removed without an approved Rule Exception Request if vehicles will not be used to perform the Scope.

Certain situations call for adjusting the coverage requirements to provide adequate protection to the State. If the procurement involves activities that present either a higher risk (e.g., heavy machinery, frequent use of automobiles, medical industry, etc.) or a unique risk (e.g., internet-based services, employee-committed crime, etc.), please consult with the CPO Risk Manager to determine if a deviation from the default coverage requirements is appropriate. Enter any revised coverage amounts as "**written amount** Dollars (**\$NUMBER AMOUNT**)."
If additional insurance coverage is appropriate, add as new subsections and number accordingly.

Option 1: Workers' Compensation and Employer Liability Insurance – Low Risk Option

Consider the risk of each contract (value, type of services or work provided). Option 1 should only be used where the risk of the Contractor Employee injury is low. If an agency has any questions concerning the risks involved please contact the CPO Risk Manager.

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 and employer liability insurance in the amounts required by appropriate state statutes.
- 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.

Option 2: Professional Liability Insurance

Add the following if the Contract involves professional service providers, e.g., architects, engineers, consultants, counselors, medical professionals, attorneys, accountants.

D.#.

d. Professional Liability Insurance

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

Option 3: Low Risk Insurance for Independent Contractors

Certain situations may arise where the Contract is with an Independent Contractor or otherwise presents a low risk procurement where standard Template Insurance requirements may not be appropriate but where best practices would still dictate some level of insurance verification. This option, if approved by CPO, replaces the D.32. Insurance provision in its entirety. This option may only be used with the approval of the CPO Risk Manager.

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. The State reserves the right to require complete,

certified copies of all required insurance policies, including endorsements required by these specifications, at any time. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall immediately notify the State.

The insurance obligations under this Contract shall be: 1—all the insurance coverage and policy limits carried by or available to the Contractor; or 2—the minimum insurance coverage requirements and policy limits shown in this Contract; whichever is greater. Any insurance proceeds or policies 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 under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverage(s) and policy limits.

a. Automobile Liability Insurance

1) In the event that the Contractor (1) owns, leases, or otherwise operates an automotive vehicle and (2) intends to use such vehicle in furtherance of their Contractual duties or for regular or periodic transportation onto State property for the purposes of performing the Contractor's duties under the Terms of this Contract, then the Contractor shall provide to the State proof of the Contractor's automobile liability insurance policy. Such automobile liability insurance policy shall maintain limits not less than the minimum liability limits established by the relevant authority under which said vehicle is licensed. Such verification is required whether or not the State intends to reimburse the Contractor for mileage.

2) If the Contractor DOES NOT (1) own, lease, or otherwise operate an automotive vehicle or (2) WILL NOT operate or otherwise employ a personal vehicle in furtherance of their contractual duties or for regular or periodic transportation onto State property for the purposes of performing the Contractor's duties under the Terms of this Contract, then the Contractor shall provide to the State a letter signed by the Contractor certifying as to the above. In the event that such situation changes over the course of the Term of this Contract as described in provision 1) above, the Contractor shall inform the State and provide proof of automobile liability insurance before such time as the Contractor shall use such vehicle in furtherance of their Contractual duties or for regular or periodic transportation onto State property for the purposes of performing the Contractor's duties under the Terms of this Contract.

**FEE FOR GOODS OR SERVICES
TEMPLATE (“FA”) – SECTION E. #.,
STATE INSURANCE PROGRAM
OPTIONAL**

REQUEST: Add the following “State Insurance Program” as a new optional term to the Fee for Goods or Services (FA) Template:

Insurance of the State of Tennessee

Only use with prior approval of the CPO Risk Manager. This provision should only be used in the event the Contractor has requested the State’s proof of self-insurance as part of the Contract.

- E.#. State Insurance Program. The State of Tennessee self-insures its exposures in general liability, automobile liability, professional malpractice, and workers’ compensation.
- a. The limits for general liability, professional malpractice, and automobile liability are three hundred thousand dollars (\$300,000) per person and one million dollars (\$1,000,000) per occurrence.
 - b. The limits of liability under workers’ compensation are those set forth in Tenn. Code Ann. § 50-6-101 et seq.

Copies of the statutes that authorize actions against the State of Tennessee, establish the State’s limit of liability, and authorize self-insurance through the Risk Management Fund, are set forth in Tenn. Code Ann. § 9-8-101 et seq.

Persons wishing to file a claim for damages against the State of Tennessee arising from an act or omission of the State or its employees should file a claim with the State Treasury Department, Division of Risk Management and Claims Administration, 15th Floor, Andrew Jackson State Office Building, 502 Deaderick Street, Nashville, Tennessee 37243-0202. A copy of the State of Tennessee’s Certificate of Self-Insurance may be obtained at http://treasury.tn.gov/risk/PDFs/Certificate_of_Self_Insurance.pdf or is available upon request.

**CERTIFICATION RELATED
DOCUMENTATION**



STATE OF TENNESSEE
PROCUREMENT COMMISSION
3rd Floor, William R. Snodgrass TN Tower, 312 Rosa L. Parks Avenue
Nashville, Tennessee 37243-1102
(615) 741-1035 Fax (615) 741-0684

RE-CERTIFICATION

April

1. Item No. 763.A79
Service: Janitorial Services
Agency/Location: Tennessee Military Department, Tennessee Emergency Management Agency, 803 North Concord Street, Knoxville, Tennessee.
Annual Price: \$9,005.52 annually, or \$0.90055 per square foot per year.
No price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 05/01/2018 – 04/30/2019

2. Item No. 763.A156
Service: Janitorial Services
Agency/Location: Tennessee Department of Transportation, TDOT Region 3 Complex, 6601 Centennial Blvd, Nashville, Tennessee.
Annual Price: \$200,701.32 annually, or \$1.86852 per square foot per year.
Price increase was requested due to adding on 1,650 square feet of service area located in Building I's breakroom.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 05/01/2018 – 04/30/2019

3. Item No. 763.36a-z
Service: SWC #921 - Adult Incontinent Briefs/Pads
Agency/Location: Tennessee Department of General Services, Central Procurement Office.
Annual Price: \$102,475.62 (March 2017 through February 2018).
No price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 05/01/2018 – 04/30/2019

LARRY MARTIN, Chairman
Commissioner of Finance & Administration

JUSTIN P. WILSON
Comptroller of the Treasury

ROBERT E. OGLESBY
Commissioner of General Services

MIKE PERRY
Chief Procurement Officer

4. Item No. 763.A53
Service: Janitorial Services
Agency/Location: Tennessee Military Department, Tennessee Army National Guard, 117th Regional Training Institute, Building 500, Smyrna, Tennessee.
Annual Price: \$29,362.80 annually, or \$0.9200 per square foot per year.
No price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 05/01/2018 – 04/30/2019

5. Item No. 763.A144
Service: Lawn Maintenance Services
Agency/Location: Tennessee Department of Intellectual & Developmental Disabilities, Ruilman Center, 293 Kirkpatrick Lake Road, Lebanon, Tennessee.
Annual Price: \$7,828.67 annually or \$521.91 per cycle for a total of 15 cycles per year.
No price increase requested.
Satisfaction: No complaints have been filed.
Re-Certification Requested for Period of 05/01/2018 – 04/30/2019

ADDENDUM

April

1. Item No.763.A181
Service: Janitorial and Ground Maintenance Services
Agency/Location: Tennessee Department of Environment & Conservation, Long Hunter State Park, 2910 Hobson Pike, Hermitage, Tennessee.
Annual Price: Line 1: Janitorial Services: \$40,518.72 annually, or \$3,376.56 monthly.
Line 2: Ground Maintenance Services (Park areas): \$10,791.75 annually, \$719.45 per cycle.
Line 3: Ground Maintenance Services (Fields): \$2,247.95 annually, \$449.59 per cycle.
Price increased due to janitorial services required seven days per week annually. Services have also changed from an hourly rate to a monthly rate at the request of the agency being serviced.
Satisfaction: No complaints have been filed.
Addendum Requested for Period of 05/01/2018 – 03/31/2019

May

1. Item No. 763.A177
Service: SWC #923 – Custom Continuous & Snap-Out Forms
Agency/Location: Tennessee Department of General Services, Central Procurement Office.
Annual Price: \$379,875.07 (March 2017 through February 2018). Addition of form SF-1176 Multiple Offense Citation Line 37b for zip set books. Revised pricing of form SF-0156 Tow request Line 40.
No price increase requested.
Satisfaction: No complaints have been filed.
Addendum Requested for Period of 06/01/2018 – 10/31/2018

2. Item No. 763.A130
Service: SWC #920 – Drug Testing Kits
Agency/Location: Tennessee Department of General Services, Central Procurement Office.
Annual Price: \$1,372,929.60 (March 2017 through February 2018). At the agency's request, four items were added, and one item was removed due to discontinuation.
No price increase requested.
Satisfaction: No complaints have been filed.
Addendum Requested for Period of 06/01/2018 – 09/30/2018

DE-CERTIFICATION

1. Item No. 763.100
Service: Janitorial Services
Agency/Location: Tennessee Department of Transportation, TDOT Region 2 Headquarters, 4005 Cromwell Avenue, Chattanooga, Tennessee.
Annual Price: \$33,025.68 annually, or \$0.9604 per square foot per year. The headquarters will be moved to new location, TDOT Region 2 Complex, 7512 Volkswagen Drive, Chattanooga, Tennessee.
No price increase requested.
Satisfaction: No complaints have been filed.
De-Certification Requested as of 06/01/2018

2. Item No. 763.A143
Service: Janitorial Services
Agency/Location: Tennessee Department of Transportation, TDOT Region 2 RTMC, 7500 Volkswagen Drive, Chattanooga, Tennessee.
Annual Price: \$23,638.32 annually, or \$0.6874 per square foot per year.
No price increase requested.
Satisfaction: No complaints have been filed.
De-Certification Requested as of 06/01/2018

CERTIFICATION

May

1. Item No. 763.A185
Service: Janitorial Services
Agency/Location: Tennessee Department of Transportation, TDOT Region 2 Complex,
7512 Volkswagen Drive, Chattanooga, Tennessee.
Annual Price: \$231,071.52 annually, \$1.86348 per square foot.
No price increase requested.
Satisfaction: No complaints have been filed.
Certification Requested for Period of 06/01/2018 – 05/31/2019

LIMITATION OF LIABILITY REPORT

**Approved Limitation of Liability Requests
for the Time Period February 2, 2018 to June 1, 2018**

TRACKING	CALENDAR YEAR	ID	LOGGED	STATUS	STATUS DATE	SERVICE	CONTRACTING AGENCY	BASIS FOR REQUEST	COT APPROVAL OF REQUEST
34513-00119A	18	10371	2020/18	APPROVED	2/22/2018	VOLUNTARY ACKNOWLEDGEMENTS OF PATERNITY	DEPARTMENT OF HUMAN SERVICES	Limitation of Vendor's Liability (PO Standard Term and Condition) deleted as inapplicable to the nature of the services provided, and at the behest of the supplier.	2/23/2018
34901-00463	18	10414	2/27/2018	APPROVED	2/27/2018	ONLINE DRIVER LICENSE AND IDENTIFICATION CARD ISSUANCE VERIFICATION SERVICES	TENNESSEE DEPARTMENT OF SAFETY AND HOMELAND SECURITY	The AAMVA verification system is used by most State's and they have developed their own standardized language to that effect. Language reduces liability to the spend by the State during the 12 months preceding any claim. While language is non-standard, it still references T.C.A. 12-3-701 as controlling.	3/1/2018
33501-181006	18	10756	4/11/2018	APPROVED	4/12/2018	PROFESSIONAL SERVICES, ENHANCEMENTS, AND MAINTENANCE AND SUPPORT OF CORE FOR 3 YEAR PERIOD	DEPARTMENT OF COMMERCE AND INSURANCE	Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to the Maximum Liability amount detailed in Section C.1. and as may be amended.	4/13/2018
32101-06952	18	10790	4/16/2018	APPROVED	4/17/2018	CONSULTING SERVICES FOR ACQUISITION MANAGEMENT SUPPORT	DEPARTMENT OF GENERAL SERVICES	Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to one (1) times the Estimated Liability amount detailed in Section C.1. and as may be amended.	4/18/2018

CORRECTION OF ERRORS REPORT

Request to correct errors:

- (1) The Invitation to Bid (“ITB”) solicitation and contract terms that are generated from the Edison Document Configurator for Agency Term Contracts are attached to this document.
- (2) Change the first sentence of the Iran Divestment Act clause in all contract and grant templates and models as follows: “The requirements of Tenn. Code Ann. § 12-12-101, *et. seq.*, addressing contracting with persons as defined at ~~T.C.A.~~ Tenn. Code Ann. ...”
- (3) Revise the E.#. Personally Identifiable Information contract clause in the Fee for Goods or Services Contract Template (FA) as follows:

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 ~~and/or ensure~~ procure 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.

Explanation of errors:

- (1) The ITB solicitation and contract terms are being updated in the Edison Document Configurator to include the terms as attached to this document. Please note that some of the terms may be mutually exclusive or not included in a particular solicitation depending on the characteristics particular to a specific ITB or contract.
- (2) The term “*et seq.*” should be italicized and preceded with a comma. Also, Please change “T.C.A.” should be “Tenn. Code Ann.”
- (3) An “or” should be used instead of “and/or” and “procure” should be changed to “ensure.”

Procurement Staff signatures:

Shannon Howell

Digitally signed by Shannon Howell
DN: cn=Shannon Howell, o=Central Procurement Office,
email=shannon.howell@tn.gov, c=US
Date: 2018.06.07 10:16:30 -05'00'

Shannon Howell, Deputy Chief Procurement Officer

Date

Buddy Lea

Digitally signed by Buddy Lea
DN: cn=Buddy Lea, o=Department of Finance and
Administration, ou, email=buddy.lea@tn.gov, c=US
Date: 2018.06.07 09:22:03 -05'00'

Buddy Lea, Assistant Commissioner of the Department of Finance & Administration

Date

Don Ivancic

Digitally signed by Don Ivancic
Date: 2018.06.07 10:03:56 -05'00'

Donald Ivancic, Legislative Procurement Compliance Manager, Comptroller of the Treasury

Date



Invitation to Bid (ITB)
For **VARIABLE USER INPUT**
Event # **VARIABLE USER INPUT**

1. Section 1 -- Background Information

1.1. [INTRODUCTORY TEXT MUST BE REPLACED: In one paragraph, provide a brief, high-level explanation of the goods or services sought or a summary of the problem to be addressed. Include a summary of the scope or specifications and reference the portion of the document that contains a detailed scope or specifications.]

1.2. **Pre-response Conference Notification.** The Central Procurement Office will hold a pre-response conference for this solicitation at the date, time, and location specified below:

Date/Time: **VARIABLE USER INPUT**

Location: **VARIABLE USER INPUT**

Room: **VARIABLE USER INPUT**

Prospective respondents are encouraged to attend this pre-response conference; however attendance is not mandatory in order to submit a response. The Central Procurement Office conducts pre-response conferences to discuss and answer questions prior to response due date. The pre-response conference is for informational purposes only. Nothing stated at the pre-response conference shall change the solicitation unless the change is reflected in writing and disseminated to all prospective respondents that attended the pre-response conference.

1.3. **Accommodation for People with Disabilities.** Any individuals with disabilities who wish to participate in public meetings such as a scheduled pre-response conference or other scheduled function should contact the Solicitation Coordinator to discuss any auxiliary aids or services needed. Such contact should be made no less than three (3) business days prior to the public meeting to allow time for the Solicitation Coordinator to provide needed aids or services.

1.4. **Questions.** Respondents may submit written questions about this ITB to the Solicitation Coordinator. All questions must be submitted no later than April 10, 2018.

1.5. **Responses Due.** The response must be received by the State on or before the date and hour designated for the response opening. Responses that are submitted untimely shall be rejected.

2. Section 2 -- Award Criteria

- 2.1. **Single Award -- Lowest Cost.** A single contract will be awarded for all line items to the respondent whose response meets the requirements and criteria set forth in this ITB at the lowest cost.

(or)

Option to Award by Line. The State may award a single contract for all line items to the respondent whose response meets the requirements and criteria in this ITB at the lowest cost. Alternatively, the State may award a separate contract for each line item. Line item totals shall be calculated by multiplying the unit price by the line item quantity.

(or)

Option to Award by Grouped Lines. The State may award a single contract for all line items to the respondent whose response meets the requirements and criteria in this ITB at the lowest cost. Alternatively, the State may award separate contracts for each group of line items using the following method:

Grouped Lines: **VARIABLE USER INPUT**

If the State awards contracts by group of line items, total group price shall be calculated by summing the line items totals in the group. Line item totals shall be calculated by multiplying the unit price by the line item quantity. Respondents must bid all line items in a group to be considered for an award for that group unless otherwise specified.

(or)

Multiple Awards -- Constant Compete. The State will award separate contracts to each respondent that meets the mandatory requirements of this ITB. After award of the contract, the State will seek quotes and issue purchase orders as described in this ITB.

(or)

Single Award -- Lowest Cost, Pricing For All Line Items Required. A single contract will be awarded for all line items to the respondent whose response meets the requirements and criteria set forth in this ITB at the lowest cost. Line item totals shall be calculated by multiplying the unit price by the line item quantity. If a response contains more than one line item, each line item total shall be added together for a total price for all line items included in the response. To be considered for award, a respondent must submit pricing for all line items.

(or)

Single Award -- Lowest Composite Score. The State is seeking pricing for three different contract terms: a one (1) year term, a three (3) year term, and a five (5) year term. The State will determine the lowest cost respondent by calculating the lowest composite score for all three contract terms. Line item totals shall be calculated by multiplying the unit price by the line item quantity. If a response contains more than one line item, each line item total shall be added together for a total price for all line items contained in the response. The response must include a price for all line items in each contract term to be considered for an award. The respondent's composite score will be determined by summing the average yearly cost for each contract term option: $\text{One (1) year term cost} + (\text{three (3) year term cost}/3) + (\text{five (5) year term cost}/5) = \text{composite score}$. The State will award the contract to the respondent whose response meets the requirements and criteria set forth in this ITB with the lowest composite score. The State reserves the right to award a one-year, a three-year, or a five-year contract to the respondent that has the lowest composite score.

3. Section 3 -- Standard Terms of the Solicitation

- 3.1. **Respondent Registration**. Pursuant to Tenn. Code Ann. § 4-56-105 all respondents must be registered prior to the issuance of a contract or a purchase order. Respondents can register online at the State of Tennessee Supplier Portal:

https://sso.edison.tn.gov/psp/paprd/SUPPLIER/SUPP/h/?tab=PAPP_GUEST

- 3.2. **Respondent's Ability to Perform**. The State shall have the right to require evidence of the respondent's ability to perform the services or deliver the goods required pursuant to the terms and conditions of this ITB.
- 3.3. **Quality of Workmanship and Materials**. Unit price responses are requested on goods or services that equal or exceed the specifications, unless the specifications limit the dimensions, brands, or model of goods or services. The absence of detailed specifications or the omission of detailed descriptions shall mean that only the best commercial practices and only first quality goods and workmanship shall be supplied.
- 3.4. **Performance**. The respondent who is awarded a contract will be responsible for delivering the goods or providing the services set out in this ITB. All goods or services are subject to inspection and evaluation by the State.
- 3.5. **Clarifications**. The State reserves the right to conduct clarifications or negotiations with one or more respondents. All communications, clarifications, and negotiations shall be conducted in a manner that is fair and transparent.
- 3.6. **Negotiations**. The State may elect to negotiate by requesting revised Cost Proposals from apparently responsive and responsible respondents. However, the State reserves the right to award a contract on the basis of initial responses received. Therefore, each response should contain the respondent's best terms from a price and technical standpoint. The State reserves the right to conduct multiple negotiation rounds. If the State exercises its right to enter into negotiations, it may identify areas of a response that may require further clarification or areas in which it is apparent that there may have been miscommunications or misunderstandings as to the State's specifications or requirements. The State may seek to clarify those identified issues during negotiations. All responsive respondents will be given equivalent information with respect to cost negotiations. All cost negotiations will be documented for the procurement file. Additionally, the State may conduct target pricing and other price or service level negotiations. Target pricing may be based on considerations such as current pricing, market considerations, benchmarks, budget availability, or other method that does not reveal individual respondent pricing. During target price negotiations respondents are not obligated to meet or beat target prices, but will not be allowed to increase prices. All communications, clarifications and negotiations shall be conducted in a manner that supports fairness in response improvement. Note that each clarification sought by the State may be unique to an individual respondent.
- 3.7. **Response Cancellation and Rejection**. The State may cancel this ITB in its entirety and reissue it in whole or in part.

The State may reject any or all responses in its sole discretion. Additionally, the State may reject a response that: (a) qualifies the offer to provide goods or services as required by this

ITB; (b) proposes alternative goods or services unless expressly requested by this ITB; (c) involves collusion, consultation, communication, or agreement among respondents; (d) includes information the respondent knew or should have known was materially incorrect; or (e) does not comply with the terms, conditions, specifications, or performance requirements of this ITB.

After the State opens the responses, no price changes shall be permitted except pursuant to target pricing or best and final offer negotiations as specified in this ITB.

- 3.8. **Communications and Contacts.** Prospective respondents must direct communications concerning this ITB to the following person designated as the Solicitation Coordinator:

VARIABLE USER INPUT

Department of General Services, CPO
312 Rosa L Parks Avenue, 3rd Floor Tennessee Tower
Nashville TN 37243-1102

VARIABLE USER INPUT

VARIABLE USER INPUT

Unauthorized contact about this ITB with employees or officials of the State of Tennessee except as detailed in this ITB may result in disqualification from consideration under this procurement process. Notwithstanding the foregoing, respondents may alternatively contact:

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

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

Helen Crowley
Department of General Services, CPO
312 Rosa L Parks Avenue, 3rd Floor Tennessee Tower
Nashville, TN 37243-1102
615-741-1035
Helen.Crowley@tn.gov

- 3.9. **Responses Submitted by Mail.** If submitting a response by mail: (1) all prices must be typed or written in ink on the "Line Details" portion of this ITB; (2) any corrections, erasures, or other alterations to prices must be initialed by the respondent; and (3) the response shall be manually signed by the respondent in ink. Each individual response must be returned in a separate envelope package or container and must be properly labeled on the outside referencing the applicable event number and the response opening date. Responses should be mailed in a properly labeled sealed envelope to the following address:

Bidder Services
Department of General Services, CPO
312 Rosa L Parks Avenue, 3rd Floor Tennessee Tower
Nashville, TN 37243-1102.

Failure to comply with these requirements may result in rejection of the response.

- 3.10. **Models Included in Response**. All goods identified in the response must be new, of current manufacturer production, and must have been formally announced by the manufacturer or provider of services as being commercially available as of the date of response opening. Goods may include internal refurbished or reconditioned components normally used in the manufacturing process and deemed warranted and sold as new equipment by the manufacturer.
- 3.11. **Respondent Certification**. By signing or electronically submitting the response, the respondent agrees to the terms and conditions of this ITB and certifies that all goods or services included in the response meet or exceed the Scope or Specifications of this ITB. The respondent agrees that, if it is awarded a contract, it will deliver goods or services that meet or exceed the specifications in this ITB.
- 3.12. **Exceptions or New Terms or Conditions**. Exceptions to terms and conditions or new terms and conditions proposed by the respondent that vary from this ITB may, in the discretion of the State, render the response nonresponsive. A response deemed nonresponsive will not be considered for an award of a contract.
- 3.13. **Conflict of Interest**. The State shall not consider a response from an individual who is, or within the past six (6) months has been, a State employee. For purposes of this ITB:
 - a. An individual shall be deemed a State employee until such time as all compensation for salary, termination pay, and annual leave has been paid;
 - b. A contract with or a response from a company, corporation, or any other contracting entity in which a controlling interest is held by any State employee shall be considered to be a contract with or proposal from the employee; and
 - c. A contract with or a response from a company, corporation, or any other contracting entity that employs an individual who is, or within the past six (6) months has been, a State employee shall not be considered a contract with or a proposal from the employee and shall not constitute a prohibited conflict of interest.
- 3.14. **Specifications Govern**. Brands or model numbers identified in the specifications of this ITB are deemed to meet all written specifications. In the event of a conflict between specified brands and models and the written specifications, the conflict shall be resolved in favor of the written specifications.
- 3.15. **Firm Offer**. The response constitutes a firm offer that is irrevocable for ninety (90) days. An award of a contract shall, subject to necessary State approvals, be binding on the respondent without any further action by the respondent.
- 3.16. **F.O.B. Destination**. Respondent's prices shall include delivery of all items F.O.B. destination or as otherwise specified by the State.

3.17. **Tax Exemption.** The State of Tennessee is exempt from local, state, and federal excise taxes. These taxes shall not be included in respondent's prices. The successful respondent shall pay all taxes lawfully imposed on it with respect to any goods or services delivered in accordance with this ITB.

3.18. **Unit Prices Requested on Qualified Products List.** The response shall contain unit prices for the brands and model numbers identified in the Qualified Products List ("QPL") below:

Reference Line(s): **VARIABLE USER INPUT**
Qualified Products List: **VARIABLE USER INPUT.**

The products or goods included in the response must be on the referenced QPL. All respondents shall submit a certification that the product they propose to provide is of the same formulation as the product provided for State examination, testing, and approval for placement on the QPL. Any change in formulation will require submission of a sample for re-evaluation. The State will not test, evaluate, or place new products or goods on the QPL.

3.19. **Prompt Pay Discount.** Any prompt pay discounts offered by respondents shall be extended to all authorized users of the contract.

3.20. **Fixed Discount or Surcharge.** The percent discount or surcharge per line item must be fixed for the contract's term.

3.21. **On-site Inspection.** All respondents should visit the site to take exact measurements and examine the premises to become familiar with any problems or unusual circumstances. No allowances will be made by the State for errors in quotations due to any respondent not visiting the site prior to submitting their response. Respondents shall be responsible for their own measurements.

3.22. **Samples.** The State may request samples of the products listed below for evaluation and testing:

Reference Line(s): **VARIABLE USER INPUT.**

Samples provided shall be identical to the products identified in the response. If the State requests samples, respondents must provide the samples, at no cost to the State, to the Central Procurement Office within ten (10) calendar days of the request. The Central Procurement Office will not accept any samples unless all transportation charges have been prepaid. Samples must be clearly labeled as follows:

Attn: **VARIABLE USER INPUT**
Department of General Services, CPO
312 Rosa L Parks Avenue, 3rd Floor Tennessee Tower
Nashville, TN 37243-1102

Name of Respondent:

Address:

ITB Number:

Item Number(s):

Bid Closing Date:

If requested samples are not provided or are improperly labeled, the State may consider the response non-responsive. Upon the respondent's written request at the time samples are submitted, the State will return samples. Samples not destroyed in the evaluation and testing processes will be returned at the respondent's expense. If the State does not receive a written request for return of samples, the State will utilize or dispose of samples at its discretion. The State may retain samples from the successful respondent for the contract's term. The State assumes no liability for samples.

- 3.23. **Used Equipment**. When this ITB authorizes offers of used items, no used item is acceptable if serial numbers or any other manufacturer's identifying label or markings have been removed, obliterated, or changed in any way.
- 3.24. **Authorized Service Centers**. Respondents must include a list of all authorized factory service centers in their responses.
- 3.25. **Tennessee Contractor License**. Respondents shall comply with Tenn. Code Ann. § 62-6-119 in providing the specified information within this ITB. Any response that does not comply with Tenn. Code Ann. § 62-6-119 shall be rejected.
- 3.26. **Purchase of Materials for Highways or Roadways**. Respondents must comply with Tenn. Code Ann. § 54-5-135.
- 3.27. **Energy Star Products**. Any goods ordered by the State must be Energy Star certified and meet applicable Energy Star specifications for energy efficiency.
- 3.28. **Response Requested for Software Products**. Unit prices are requested for software products that meet the State's requirements. Alternative software products will not be accepted and, if included, may result in rejection of the response. Respondent must submit and supply throughout the contract term the most recent version or release available unless otherwise specified in this ITB. All responses must include full use license rights for the term of the contract or as otherwise specified in the contract. The State will not accept or make payment for outdated software versions or releases. Responses shall include software maintenance and support services when required in the specifications.
- 3.29. **Safety of Chemical Products**. All respondents awarded a contract must be capable of maintaining, for all of its chemical products available under this Contract, a material safety data sheet ("MSDS") on the national MSDS search repository or on the chemical manufacturer's website. A site operated by or on behalf of the manufacturer or a relevant trade association is acceptable so long as the information is accessible to the public, free of charge. In lieu of posting a MSDS on MSDSSEARCH, the respondent that receives a contract award must include the manufacturer's universal resource locator (URL) for its MSDS.
- 3.30. **Professional Licensure**. All persons, agencies, firms, or other entities that provide legal or financial opinions, which a respondent provides for consideration and evaluation by the State as a part of a response to this ITB, shall be properly licensed to render such opinions. Upon submitting the response, the respondent (and respondent employees and subcontractors, as applicable) must hold all necessary or appropriate business or professional licenses to provide the goods or services as required by the contract. The State may require any respondent to

submit evidence of proper licensure.

- 3.31. **Department of Revenue Registration**. Respondent must be registered with the Tennessee Department of Revenue for the collection of Tennessee sales and use tax. The State shall not award a contract unless the respondent provides proof of such registration or provides documentation from the Department of Revenue that the Contractor is exempt from this registration requirement. The foregoing is a mandatory requirement of an award of a contract pursuant to this ITB. For purposes of this registration requirement, the Department of Revenue may be contacted at: TN.Revenue@tn.gov.

[https://tntap.tn.gov/eservices/ /](https://tntap.tn.gov/eservices/)

- 3.32. **Prohibition of Illegal Immigrants**. Any respondent awarded a contract shall comply with Tenn. Code Ann. § 12-3-309 and submit semi-annual attestations to the State.
- 3.33. **Inspection of Procurement File**. All respondents have the right to inspect the procurement file, prior to award, upon completion of the evaluation by the Central Procurement Office. Interested respondents should contact the Solicitation Coordinator following the response opening date or once the file is open for the seven (7) day inspection period. A "Notice of Intent to Award" letter will be sent to all respondents detailing which respondent(s) has been recommended for award and the evaluated award amount(s). Upon request, a reasonable opportunity to inspect the procurement file will be provided to the respondent.
- 3.34. **Protest by Respondent**. Pursuant to Tenn. Code Ann. § 12-3-514, any actual respondent may protest. Please refer to the Central Procurement Office's website to obtain a copy of the protest procedures and protest bond requirements or contact the sourcing analyst or category specialist at 615-741-1035. The website for the Central Procurement Office is as follows: <https://www.tn.gov/generalservices/procurement.html>. If a written protest and a protest bond are not received by the end of the seven-day period to protest then the Solicitation Coordinator will proceed with the contract award.

GOVERNOR'S OFFICE OF DIVERSITY BUSINESS ENTERPRISE

Efforts to Achieve Diversity Business Participation

The Governor's Office of Diversity Business Enterprise ("Go-DBE") is the State's central point of contact to attract and assist minority-owned, woman-owned, service-disabled veteran-owned, disabled-owned, and small business enterprises interested in competing in the State of Tennessee's procurement and contracting activities. These diversity business enterprises are defined as follows:

Minority Business Enterprise (MBE) and Woman Business Enterprise (WBE)

Businesses that are a continuing, independent, for-profit business which performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one (1) or more individuals in the minority or woman category who were impeded from normal entry into the economic mainstream because of past practices of discrimination based on race, ethnic background, or gender.

Service-Disabled Veteran Business Enterprise (SDVBE)

"Service-disabled veteran-owned business" means a service-disabled veteran-owned business located in the State of Tennessee that satisfies the criteria in Tenn. Code. Ann. § 12-3-1102(8). "Service-disabled veteran" means any person who served honorably in active duty in the armed forces of the United States with at least a twenty percent (20%) disability that is service-connected, i.e., the disability was incurred or aggravated in the line of duty in the active military, naval or air service.

Small Business Enterprise (SBE)

"Small business" means a business that is a continuing, independent, for profit business which performs a commercially useful function with residence in Tennessee and has total gross receipts of no more than ten million dollars (\$10,000,000) averaged over a three-year period or employs no more than ninety-nine (99) persons on a full-time basis.

Disabled Business Enterprise (DSBE)

"Disabled Business Enterprise" means a business owned by a person with a disability that is a continuing, independent, for-profit business that performs a commercially useful function, and is at least fifty-one (51%) owned and controlled by one (1) or more persons with a disability, or, in the case of any publicly-owned business, at least fifty one percent (51%) of the stock of which is owned and controlled by one(1) or more persons with a disability and whose management and daily business operations are under the control of one (1) or more persons with a disability.

For additional program eligibility information, visit:

<https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/governor-s-office-of-diversity-business-enterprise--godbe--/program-eligibility.html>

Instructions

As part of this Invitation to Bid, the respondent should complete the Diversity Utilization Plan below. To assist in your effort to seek and solicit the participation of diversity businesses on this solicitation, a directory of certified Diversity Business Enterprise firms may be found on the State's website at: <https://tn.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp?TN=tn&XID=1215> directory or by calling Go-DBE toll free at 866-894-5026.

RESPONDENT'S DIVERSITY UTILIZATION PLAN

Respondent's Company Name:		
Solicitation Event Name:		Event Number:
Respondent's Contact Name:	Phone: ()	Email:
Does the Respondent qualify as the diversity business enterprise? ___ Yes ___ No		
If yes, which designation does the Respondent qualify? ___ MBE ___ WBE ___ DSBE ___ SDVBE ___ SBE		
Certifying Agency:		

Estimated level of participation by DBEs if awarded a contract pursuant to this ITB:

Diversity Business Information (List all subcontractors, joint-ventures, and suppliers)	% of Contract	Estimated Amount	MBE/ WBE/ SDVBE/ SBE / DSBE Designation	Currently Certified (Yes or No)
Business Name:				
Contact Name:				
Contact Phone:				
Business Name:				
Contact Name:				
Contact Phone:				

If awarded a contract pursuant to this ITB, we confirm our commitment to make reasonable business efforts to meet or exceed the commitment to diversity as represented in our Diversity Utilization Plan. We shall assist the State in monitoring our 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>

We further agree to request in writing and receive prior approval from the Central Procurement Office for any changes to the use of the above listed diversity businesses.

Authorized Signature: _____ Date: _____

Printed Name and Title of Signatory _____



4. SCOPE:

4.1. **Scope.** The Contractor shall provide all goods or services and deliverables as required, described, and detailed in the Scope or Specifications set forth in the Invitation to Bid and meet all service and delivery timelines as specified by the Invitation to Bid.

4.2. Warranty Clauses:

4.2.1. **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.

(or)

Warranty. Contractor represents and warrants that the term of the warranty ("Warranty Period") shall be the greater of: (a) VARIABLE USER INPUT months after the provision and acceptance by the State of goods or services provided by Contractor; or (b) any other warranty generally offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. During 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.

4.2.2. **Warranty for Resale of Goods.** For all goods provided under this Contract, Contractor shall pass-through to the State any manufacturers' warranties. In addition, for a period of one (1) year after any receipt of any goods under this Contract, Contractor expressly warrants that all such goods are: (a) merchantable; (b) of good quality and workmanship; (c) free from defects; (d) in conformity with the intended purpose and for the particular purpose for which they were designed; and (e) in conformity with Contractor's samples, if any.

4.3. **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.

5. TERM OF CONTRACT:

5.1. **Term of Contract.** This Contract shall be effective on April 10, 2018 ("Effective Date") and extend for a period of VARIABLE USER INPUT months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.

5.2. **Renewal Options.** This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to VARIABLE USER INPUT renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's sole option.

5.3. **Term Extension.** The State may extend the Term an additional period of time, not to exceed one hundred-eighty (180) days beyond the expiration date of this Contract, under the same terms and conditions, at the State's sole option.

6. PAYMENT TERMS AND CONDITIONS:

6.1. **Maximum Liability.** In no event shall the maximum liability of the State under this Contract exceed VARIABLE USER INPUT ("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.

- 6.2. **Compensation Firm.** The prices identified in this Contract, whether derived from an awarded published catalog, price list, price schedule, or other mutually agreed upon source 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 prices identified includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.

(or)

Price Changes. Prices identified in the Contract, whether derived from an awarded published catalog, price list, price schedule, or other mutually agreed upon source, shall remain firm for %%CPO_FIRM_PRICE_DAYS%% days ("Firm Price Period").

- a) **Price Decreases.** After the Firm Price Period, prices shall be equitably adjusted to reflect a decrease in Contractor's costs.
- b) **Price Increases.** After the Firm Price Period, Contractor may request price increases. The request shall: include independently verifiable documentation that supports Contractor's request for a price increase; not constitute an increase in Contractor profit; and reflect a price increase that is applicable to all of Contractor's customers.
- c) **Approval of Price Changes.** The State may at its sole option: (1) grant the Contractor's request; (2) cancel the Contract and award it to the next apparent best evaluated Respondent; (3) cancel the Contract and reissue the solicitation; or (4) deny the Contractor's request. If approved, any price changes of less than seven percent (7%) will become effective upon the State's approval in writing. Price changes exceeding seven percent (7%) shall require a Contract amendment. The Contractor shall honor all purchase orders dated prior to the approved price change. Upon request from the State, the Contractor shall furnish the approved catalog, price schedule or price list as applicable to the State at no charge.

- 6.3. **Travel Compensation.** The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.

(or)

Travel Compensation. Compensation to the Contractor for travel, meals, or lodging shall be subject to amounts and limitations specified in the current "State Comprehensive Travel Regulations."

The Contractor must include (in addition to the other invoice requirements of this Contract) a complete itemization of requested travel compensation and appropriate documentation and receipts as required by the "State Comprehensive Travel Regulations."

- 6.4. **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 this Contract. Contractor shall submit invoices and necessary supporting documentation to the State Agency that requested goods or services no later than thirty (30) days after goods or services have been provided.

- 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. Purchase order number (assigned by the State);

5. Customer account name: The State of Tennessee;
6. Customer account number (assigned by the Contractor to the above-referenced Customer);
7. Contractor name;
8. Contractor Tennessee Edison supplier ID number;
9. Contractor contact for invoice questions (name, phone, or email);
10. Contractor remittance address;
11. Description of delivered goods or services provided and invoiced, including identifying information as applicable;
12. Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
13. Applicable payment methodology of each good or service invoiced;
14. Amount due for each compensable unit of good or service; and
15. 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 this Contract and in accordance with payment terms and conditions set forth in this Contract;
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 a line item for 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.

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

- 6.5. **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.
- 6.6. **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 this Contract, to not constitute proper compensation for goods delivered or services provided.
- 6.7. **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.
- 6.8. **Prerequisite Documentation.** The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.
 - a) The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the

Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and

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

7. MANDATORY TERMS AND CONDITIONS:

- 7.1. **Substitute Items Offered by the Contractor.** In the event that an awarded item is no longer being manufactured or is replaced by a functionally equivalent item with superior technological features to the item being replaced, Contractor may offer a substitute item ("Substitute"). The Substitute shall: (a) meet or exceed the functional, technical, and performance characteristics of the item being replaced; (b) not exceed the cost of the item being replaced by more than ten percent (10%); and (c) be available for order on the date Contractor requests to make the substitution. Contractor shall not make any substitutions for awarded items without the State's prior, written approval. Contractor shall submit any proposed substitutions to the Central Procurement Office and include sufficient information to show that criteria (a) -- (c) above are met. The Central Procurement Office may request sample Substitutes for inspection or testing.
- 7.2. **Minimum Order.** The minimum order under this Contract is **VARIABLE USER INPUT**.
- 7.3. **Proof of Cost for Parts, Materials, Supplies and Equipment.** Contractor shall invoice all parts, materials, supplies, and equipment at Contractor's out-of-pocket cost ("Cost") plus **VARIABLE USER INPUT** and minus any applicable sales or use tax as provided in Tenn. Code Ann. § 67-6-329. If Contractor receives any discounts when purchasing parts, materials, supplies, or equipment, the State shall receive the benefit of the discounts when Contractor determines its Cost. With each invoice submitted to the State, Contractor shall include documentation of the Cost of parts, materials, supplies, and equipment. If Contractor fails to provide sufficient documentation of its purchase Cost, the State may verify current market value, and if necessary, adjust Contractor's invoice to reflect fair market price.
- 7.4. **Proof of Cost for Parts Not in a Catalog or Price List.** For all goods not identified in the specified catalog or price list, Contractor shall invoice the product at Contractor's out-of-pocket cost ("Cost") plus **VARIABLE USER INPUT** and minus any applicable sales or use tax as provided in Tenn. Code Ann. § 67-6-329. If Contractor receives any discounts when purchasing parts, materials, supplies, or equipment, the State shall receive the benefit of the discounts when Contractor determines its Cost. With each invoice submitted to the State, Contractor shall include documentation of the Cost of parts, materials, supplies, and equipment. If Contractor fails to provide sufficient documentation of its purchase Cost, the State may verify current market value, and if necessary, adjust Contractor's invoice to reflect fair market value.
- 7.5. **Price Adjustment for Bituminous Material.** The monthly average bituminous adjustment factor ("MABAF") shall be applied to the contract unit price provided the increase or decrease differs five percent (5%) or more from the basic bituminous material index dated 5/30/2017 AT 500 (PER TON). The basic bituminous material index is taken from the Tennessee Department of Transportation's construction index. The monthly bituminous price index can be obtained from the regional Tennessee Department of Transportation ("TDOT") office closest to the

respondent's location. This index is used for all asphalt projects in Tennessee and is distributed to all TDOT field offices and contractors statewide.

The monthly average adjustment will be based on TDOT special provision 109B, "Regarding Price Adjustment for Bituminous Material" as per TDOT's standard specifications for road and bridge construction. The adjustment will be based on the asphalt content and will be calculated in accordance with the following formula only when the percent of price indexes is five percent (5%) or greater/less. $PA = (IC - IB) \times (T \times AC\%)$ where: PA = price adjustment for adjustment month; IB = basic bituminous material index; IC = monthly average bituminous material index; T = tons of bituminous material for adjustment month; and AC% = asphalt content percent used. The following is an example of a price adjustment of over five percent (5%). PA = price adjustment for adjustment month: \$870.00 IB = basic bituminous material index: \$150.00 DATE: 5/30/2017 IC = monthly average bituminous material index: \$180.00 DATE: 5/30/2017 (month asphalt was picked up) T = tons bituminous material for adjustment month: 500 tons AC% = asphalt content percent used: 5.8% 500 tons @ 5.8% = 29 tons adjustment \$180.00 - \$150.00 = \$30.00 x 29 tons = \$870.00 (price adjustment)

The awarded contractor must submit adjustment calculations on a separate invoice at the same time the original invoice is submitted. Failure to submit both invoices together will result in forfeiture of any recompense for the bituminous material index amount greater than five percent (5%). Awarded contracts will include a line which will allow the State to pay contractor for bituminous material price adjustment increases.

- 7.6. **Purchase Order Release.** Agency submission of a purchase order to Contractor authorizes Contractor to deliver goods or provide services.
- 7.7. **Delivery.** Contractor shall provide all goods or services as required and described in this Contract and shall meet all service and delivery timelines specified in this Contract. All quotations shall be F.O.B. destination.
- (or)
- Delivery.** Contractor shall provide all goods or services as required and described in this Contract and shall meet all service and delivery timelines specified in this Contract. Contractor shall begin providing goods or performing services required under this Contract within **VARIABLE USER INPUT** day(s) after receipt of a purchase order. All quotations shall be F.O.B. destination.
- 7.8. **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.
- 7.9. **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. All communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address or email address as stated below or any other address provided in writing by a party.

The Contractor:

Contractor
Contractor's Contact Name & Title
Address
Email Address
Telephone Number

State of Tennessee:

VARIABLE USER INPUT
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VARIABLE USER INPUT TN VARIABLE USER INPUT
VARIABLE USER INPUT
VARIABLE USER INPUT

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

- 7.10. **Modification and Amendment.** This Contract may be modified only by a written amendment signed by all parties and approved by all applicable State officials.
- 7.11. **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.
- 7.12. **Termination for Convenience.** The State may terminate this Contract for convenience without cause for any reason. The State's election to terminate this Contract for convenience shall be effective upon the date specified and shall not be deemed a breach of contract by the State. 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 good or service that has not been provided, nor shall the Contractor be relieved of any liability to the State for any damages or claims arising under this Contract.
- 7.13. **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.

7.14. **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.

7.15. **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.

7.16. **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.

7.17. **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:

<https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/supplier-information-.html>, 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.
- 7.18. **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.
- 7.19. **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.
- 7.20. **Progress Reports.** The Contractor shall submit brief, periodic, progress reports to the State as requested.
- 7.21. **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.
- 7.22. **Independent Contractor.** The parties shall not act as employees, partners, joint ventures, 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.
- 7.23. **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.

- 7.24. **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, money, 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. Notwithstanding anything else herein, the State's total liability under this Contract (including without limitation any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Estimated Liability. This limitation of liability is cumulative and not per incident.
- 7.25. **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 Estimated Liability amount and as may be amended. Except as set forth below, in no event will the Contractor be liable to the State or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, money, 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. 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.
- 7.26. **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 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.
- 7.27. **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.

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.

- 7.28. **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.
- 7.29. **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.
- 7.30. **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 or disqualified.

- 7.31. **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 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.
- 7.32. **State and Federal Compliance.** The Contractor shall comply with all applicable state and federal laws and regulations in the performance of this Contract.
- 7.33. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. 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 -- 407.
- 7.34. **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.
- 7.35. **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.

- 7.36. **Headings.** Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- 7.37. **Incorporation of Additional Documents.** Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a) any amendment to this Contract, with the latter in time controlling over any earlier amendments;
 - b) this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below);
 - c) any clarifications of or addenda to the Contractor's response seeking this Contract;
 - d) the Invitation to Bid, as may be amended, requesting responses in competition for this Contract;
 - e) any technical specifications provided to respondents during the procurement process to award this Contract; and,
 - f) the Contractor's response seeking this Contract.
- 7.38. **Iran Divestment Act.** The requirements of Tenn. Code Ann. § 12-12-101 et.seq., addressing contracting with persons with investment activities in Iran, shall be a material provision of this Contract. The Contractor agrees, 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.

7.39. Insurance Requirements:

- 7.39.1. **Insurance.** Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified below. The COI shall be provided ten (10) business days prior to the Effective Date and again upon renewal or replacement of coverages required by this Contract. If insurance expires during the Term, the State must receive a new COI at least thirty (30) calendar days prior to the insurance's expiration date. If the Contractor loses insurance coverage, does not renew coverage, or for any reason becomes uninsured during the Term, the Contractor shall notify the State immediately.

The COI shall be on a form approved by the Tennessee Department of Commerce and Insurance ("TDCI") and signed by an authorized representative of the insurer. The COI shall list each insurer's national association of insurance commissioners (also known as NAIC) number or federal employer identification number and list the State of Tennessee, Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 in the certificate holder section. At any time, the State may require the Contractor to provide a valid COI detailing coverage description; insurance company; policy number; exceptions; exclusions; policy effective date; policy expiration date; limits of liability; and the name and address of insured. The Contractor's failure to maintain or submit evidence of insurance coverage is considered a material breach of this Contract.

If the Contractor desires to self-insure, then a COI will not be required to prove coverage. In place of the COI, the Contractor must provide a certificate of self-insurance or a letter on the Contractor's letterhead detailing its coverage, liability policy amounts, and proof of funds to reasonably cover such expenses. Compliance with Tenn. Code Ann. § 50-6-405 and the rules of the TDCI is required for the Contractor to self-insure workers' compensation.

All insurance companies must be: (a) acceptable to the State; (b) authorized by the TDCI to transact business in the State of Tennessee; and (c) rated A- VII or better by A. M. Best. The Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that the subcontractors are included under the Contractor's policy.

The Contractor agrees to name the State as an additional insured on any insurance policies with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) ("Professional Liability") insurance. Also, all policies shall contain an endorsement for a waiver of subrogation in favor of the State.

The deductible and any premiums are the Contractor's sole responsibility. Any deductible over fifty thousand dollars (\$50,000) must be approved by the State. 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.

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.

All coverage required shall be on a primary basis and noncontributory with any other insurance coverage or self-insurance carried by the State. The State reserves the right to amend or require additional endorsements, types of coverage, and higher or lower limits of coverage depending on the nature of the work. Purchases or contracts involving any hazardous activity or equipment, tenant, concessionaire and lease agreements, alcohol sales, cyber-liability risks, environmental risks, special motorized equipment, or property may require customized insurance requirements (e.g. umbrella liability insurance) in addition to the general requirements listed below.

7.39.2. Workers' Compensation and Employer Liability Insurance.

- a) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:
- b) Workers' compensation and employer liability insurance in the amounts required by appropriate state statutes; or
- c) 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.

- d) 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:
1. The Contractor employees fewer than five (5) employees;
 2. The Contractor is a sole proprietor;
 3. The Contractor is in the construction business or trades with no employees;
 4. The Contractor is in the coal mining industry with no employees;
 5. The Contractor is a state or local government; or
 6. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

7.39.3. Commercial General Liability Insurance.

- a) The Contractor shall maintain commercial general liability insurance, which shall be written on an Insurance Services Office, Inc. (also known as ISO) occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises/operations, independent contractors, contractual liability, completed operations/products, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).
- b) The Contractor shall maintain bodily injury/property damage with a combined single-limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate for bodily injury and property damage, including products and completed operations coverage with an aggregate limit of at least two million dollars (\$2,000,000).

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

7.39.5. Professional Liability Insurance.

- a) Professional liability insurance shall be written on an occurrence basis. This coverage may be written on a claims-made basis but must include an extended reporting period or "tail coverage" of at least two (2) years after the Term;
- b) 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
- c) If the Contract involves the provision of services by medical professionals, a policy limit not less than two million (\$2,000,000) per claim and three million dollars (\$3,000,000) in the aggregate for medical malpractice insurance.

- 7.40. **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.

8. **SPECIAL TERMS AND CONDITIONS:**

- 8.1. **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.
- 8.2. **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.

- 8.3. **Prohibited Advertising or Marketing.** The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.
- 8.4. **Cleanup.** The Contractor is responsible for the removal of all debris and shall leave the work area in a "broom clean" condition, less wear and tear excepted. In the event Contractor fails to return the work area to a broom clean condition after completion of work, the State reserves the right to assess the Contractor reasonable costs for cleanup and disposal.
- 8.5. **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.

- 8.6. **Extraneous Terms and Conditions.** Contractor shall fill all orders submitted by the State under this Contract. No purchase order, invoice, or other documents associated with any sales, orders, or supply of any good or service under this Contract shall contain any terms or conditions other than as set forth in the Contract. Any such extraneous terms and conditions shall be void, invalid, and unenforceable against the State. Any refusal by Contractor to supply any goods or services under this Contract conditioned on 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.
- 8.7. **License Warranty.** Contractor represents and warrants that the State is authorized to possess and use all equipment, materials, software, and deliverables provided under this Contract.
- 8.8. **Software License Warranty.** Contractor grants a license to the State to use all software provided under this Contract in the course of the State's business and purposes.
- 8.9. **Software Support and Maintenance Warranty.** Contractor shall provide to the State all software upgrades, modifications, bug fixes, or other improvements in its software that it makes generally available to its customers.
- 8.10. **Transfer of Ownership of Custom Software Developed for the State.**
- a) Definitions.
1. "Contractor-Owned Software," shall mean commercially available software the rights to which are owned by Contractor, including but not limited to commercial "off-the-shelf" software which is not developed using State's money or resources.
 2. "Custom-Developed Application Software," shall mean customized application software developed by Contractor for the State under this Contract intended to function with the Contractor-Owned Software or any Work Product provided under this Contract.
 3. "Rights Transfer Application Software," shall mean any pre-existing application software and documentation owned or supplied by Contractor or a third party necessary for the use, functioning, support, or maintenance of the Contractor-Owned Software, the Custom-Developed Application Software, Third Party Software, and any Work Product provided to State.
 4. "Third-Party Software," shall mean software supplied by Contractor under this Contract or necessary for the functioning of any Work Product not owned by the State or the Contractor.
 5. "Work Product," shall mean all deliverables such as software, software source code, documentation, planning, etc., that are created, designed, developed, or documented by the Contractor for the State under this Contract. Work Product shall include Rights Transfer Application Software
- b) Rights and Title to the Software
1. All right, title and interest in and to the Contractor-Owned Software shall at all times remain with Contractor, subject to any license or transfer of rights or ownership granted under this Contract. Contractor grants the State a perpetual non-exclusive license to the Contractor-Owned Software to be used solely with the Custom-Developed Application Software and the Work Product.
 2. Contractor shall provide the source code in the Custom-Developed Application Software, Work Product and the Contractor-Owned Software, with all subsequent

modifications, enhancements, bug-fixes or any other changes in the source code of the Work Product and the Contractor-Owned Software and all other code and documentation necessary for the Custom-Developed Application Software to be installed and function as intended and as set forth in this Contract, to the State.

3. Contractor may lease or sell the Custom-Developed Application Software to third parties with the written permission of the State, which permission may be conditioned on the State receiving royalties from such sales or licenses.
 4. All right, title and interest in and to the Custom-Developed Application Software, and to modifications thereof made by State, including without limitation all copyrights, patents, trade secrets and other intellectual property and other proprietary rights embodied by and arising out of the Custom-Developed Application Software, shall belong to State. To the extent such rights do not automatically belong to State, Contractor hereby assigns, transfers, and conveys all right, title and interest in and to the Custom-Developed Application Software, including without limitation the copyrights, patents, trade secrets, and other intellectual property rights arising out of or embodied by the Custom-Developed Application Software. Contractor and its employees, agents, contractors or representatives shall execute any other documents that State or its counsel deem necessary or desirable to document this transfer or allow State to register its claims and rights to such intellectual property rights or enforce them against third parties.
 5. All right, title and interest in and to the Third-Party Software shall at all times remain with the third party, subject to any license or other rights granted to the State under this Contract or otherwise.
- c) The Contractor may use for its own purposes the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of performing under this Contract. The Contractor may develop for itself, or for others, materials which are similar to or competitive with those that are produced under this Contract.

8.11. **Contractor Hosted Services and Confidential Data Options.**

- 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 shall maintain a Security Management Certification from the Federal Risk and Authorization Management Program ("FedRAMP"). A "Security Management Certification" shall mean written confirmation from FedRAMP that FedRAMP has assessed the Contractor's information technology Infrastructure, using a standardized approach to security assessment, authorization, and continuous monitoring for cloud products and services, and has certified that the Contractor meets FedRAMP standards. Information technology "Infrastructure" shall mean the Contractor's entire collection of hardware, software, networks, data centers, facilities and related equipment used to develop, test, operate, monitor, manage and/or support information technology services. The Contractor shall provide proof of current certification annually and upon State request. Contractor shall meet all applicable requirements of the most current version of the Internal Revenue Publication 1075. Contractor shall meet requirements of current version of Minimum Acceptable

Risk Standard for Exchanges ("MARS-E") controls.

4. The Contractor must comply with the State's Enterprise Information Security Policies. This document is found at the following URL:
<https://www.tn.gov/content/dam/tn/finance/documents/Enterprise-Information-Security-Policies-ISO-27002-Public.pdf>.
 5. In the event that the operating system is an integral part of the application, the Contractor agrees to maintain Operating Systems at current, manufacturer supported versions. "Operating System" shall mean the software that supports a computer's basic functions, such as scheduling tasks, executing applications, and controlling peripherals.
 6. The Contractor agrees to maintain the Application so that it will run on a current, manufacturer-supported Operating System. "Application" shall mean the computer code that supports and accomplishes the State's requirements as set forth in this Contract. The Contractor shall make sure that the Application is at all times fully compatible with a manufacturer-supported Operating System; the State shall not be required to run an Operating System that is no longer supported by the manufacturer.
 7. 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.
 8. With advance notice from the State, and no more than one (1) time per year the Contractor agrees to allow the State to perform logical and physical audits of the Contractor's facility and systems that are hosting Confidential State Data.
 9. 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. "Penetration Tests" shall be in the form of software attacks on the Contractor's computer system, with the purpose of discovering security weaknesses, and potentially gaining access to the computer's features and data. The "Vulnerability Assessment" shall have the goal of defining, identifying, and classifying the security holes (vulnerabilities) in the Contractor's computer, network, or communications infrastructure. The Contractor shall allow the State, at its option, to perform Penetration Tests and Vulnerability Assessments on the Contractor's Processing Environment.
 10. Contractor shall be certified to host Payment Card Industry ("PCI") data in accordance with the current version of PCI DSS ("Data Security Standard"), maintained by the PCI Security Standards Council.
- b) 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: **VARIABLE USER INPUT**

- 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: **VARIABLE USER INPUT**
 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 Recover Test that its Disaster Recovery Capabilities meet the RPO and RTO requirements.
- c) 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.
 - d) 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.
- 8.12. **Prevailing Wage Rates.** All State contracts for highway construction projects, which are for the purpose of building, rebuilding, locating, relocating or repairing any streets, highways or bridges, require compliance with the prevailing wage laws as provided in Tenn. Code Ann. §§ 12-4-401 -- 12-4-415.
- 8.13. **Modular Structures.** Before beginning construction, Contractor shall submit design drawings, sealed by an architect or engineer registered in the State of Tennessee, to the Tennessee Department of Commerce and Insurance, Fire Protection Division, for review and approval. All modular building units shall: meet the Tennessee Department of Commerce and Insurance's requirements; and comply with applicable licensing, inspection, permit, and plan review requirements under federal, state, or local law. All installation of modular building units shall be performed by a contractor who possesses a Tennessee license of the appropriate classification for the work performed. Any subcontractor(s) shall comply with applicable state contractor licensing requirements.
- 8.14. **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 and/or procure 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.

- 8.15. **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).
- 8.16. **State Ownership of Goods.** The State shall have ownership, right, title, and interest in all goods provided by Contractor under this Contract including full rights to use the goods and transfer title in the goods to any third parties.
- 8.17. **Additional Lines, Items or Options.** At its sole discretion, the State may make written requests to the Contractor to add lines, items, or options that are needed and within the Scope but were not included in the original Contract. Such lines, items, or options will be added to the Contract through a Memorandum of Understanding ("MOU"), not an amendment.
- a) After the Contractor receives a written request to add lines, items, or options, the Contractor shall have ten (10) business days to respond with a written proposal. The Contractor's written proposal shall include:
1. The effect, if any, of adding the lines, items, or options on the other goods or services required under the Contract;
 2. Any pricing related to the new lines, items, or options;
 3. The expected effective date for the availability of the new lines, items, or options; and
 4. Any additional information requested by the State.

- b) The State may negotiate the terms of the Contractor's proposal by requesting revisions to the proposal.
 - c) To indicate acceptance of a proposal, the State will sign it. The signed proposal shall constitute a MOU between the Parties, and the lines, items, or options shall be incorporated into the Contract as if set forth verbatim.
 - d) Only after a MOU has been executed shall the Contractor perform or deliver the new lines, items, or options.
- 8.18. **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.
- 8.19. **Environmental Tobacco Smoke.** Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.
- 8.20. **Prison Rape Elimination Act (PREA).** The Contractor must comply with the Prison Rape Elimination Act (PREA) of 2003 (Federal law 42 U.S.C. 15601 et. seq.), with all applicable Federal PREA standards, and with all State policies and standards related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse within facilities/programs/offices owned, operated, or contracted.
- 8.21. **Payment Bond.** The Contractor shall provide to the State a payment bond guaranteeing that the Contractor's subcontractors, laborers, and material suppliers will be paid for performance under this Contract with the additional obligation that such contractor shall promptly make payment of all taxes, licenses, assessments, contributions, penalties, and interest. The payment bond will be in an amount equal to twenty-five percent (25%) of the Maximum Liability **VARIABLE USER INPUT**. The State reserves the right to review the bond amount and bonding requirements at any time during the Term. The Contractor shall submit the bond no later than the day immediately preceding the Effective Date and in the manner and form prescribed by the State. The bond shall be issued by a company licensed to issue such a bond in the State of Tennessee. The payment bond shall guarantee that the Contractor's subcontractors, laborers, and material suppliers will be paid for performance during the Term and all extensions or renewals of the Contract Failure to provide to the State the payment bond as required under this Contract may result in this Contract being terminated by the State. The payment bond required under this Contract shall not be reduced during the Term without the State of Tennessee Central Procurement Office's prior written approval.

- 8.22. **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.
- 8.23. **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.
- 8.24. **Survival.** The terms, provisions, representations, and warranties contained in this Contract which by their sense and context are intended to survive the performance and termination of this Contract, shall so survive the completion of performance and termination of this Contract.
- 8.25. **Liens, Encumbrances and Title.** The Contractor owns and has good and marketable title to, and legal ownership of the goods, free and clear of any and all liens, security interests, pledges, mortgages, charges, limitations, claims, restrictions, rights of first refusal, rights of first offer, rights of first negotiation or other encumbrances of any kind or nature (collectively, "Encumbrances"). Upon delivery, without exception, the State will acquire from the Contractor legal and beneficial ownership of, good and marketable title to, and all rights to the goods to be sold to the State by the Contractor, free and clear of all Encumbrances. The Contractor shall, within ten (10) days after delivery deliver to the State if required by applicable law to establish or show evidence of ownership, any and all documents or certificates required to establish or show evidence of the State's ownership in the goods.

MEMORANDUM OF UNDERSTANDING REPORT

Number	SWC# / Edison Contract #	Contract Name	Category Specialist / Sourcing Analyst	Vendor Name	Description	MOU Active Date	Items Added via MOU
171	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Gown, Patient/Hospital, 55% Cotton, 45% Polyester, Angle Back Opening w/Generous Overlap, Size: 44 Length With 66 Sweep (Western Mental Health Institute)
172	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Gown, Patient/Hospital, 55% Cotton, 45% Polyester, Angle Back Opening w/Generous Overlap, Size: 45 Length With 66 Sweep (Western Mental Health Institute)
173	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Pool Towels, 100% Cotton, Minimum Size 30" x 60" Color Per Specifications (Western Mental Health Institute)
174	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Pool Towels, 50% Polyester/50% Cotton, Minimum Size 30" x 60" Color Per Specifications (Western Mental Health Institute)
175	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Towel, Bath, White, 84% Cotton/ 16% Polyester, Minimum Size 27" x 54" (Western Mental Health Institute)
176	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Towel, Bath, White, 100% Cotton, Minimum Size 30" x 54" (Western Mental Health Institute)
177	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Washcloth, White, 84% Cotton/ 16% Polyester, Minimum Size 12" x 12" (Western Mental Health Institute)
178	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Washcloth, White, 100% Cotton, Minimum Size 12" x 12" (Western Mental Health Institute)
179	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Towel, Hand, White, 84% Cotton/16% Polyester, Minimum Size 16" x 28" (Western Mental Health Institute)
180	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Towel, Hand, White, 100% Cotton, Minimum Size 16" x 28" (Western Mental Health Institute)
181	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Mat, Bath, White, 100% Cotton, 18" x 24" (Western Mental Health Institute)
182	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Flat Sheet, Twin, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, White (Western Mental Health Institute)
183	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Fitted Sheet, Twin, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, White (Western Mental Health Institute)
184	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Flat Sheet, Full, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, White (Western Mental Health Institute)
185	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Fitted Sheet, Full, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, White (Western Mental Health Institute)
186	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Flat Sheets, Queen, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, White (Western Mental Health Institute)
187	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Fitted Sheets, Queen, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, White (Western Mental Health Institute)

Number	SWC# / Edison Contract #	Contract Name	Category Specialist / Sourcing Analyst	Vendor Name	Description	MOU Active Date	Items Added via MOU
188	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Flat Sheets, King, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, White (Western Mental Health Institute)
189	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Fitted Sheets, King, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, White (Western Mental Health Institute)
190	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Pillowcase, Standard, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, Colors White (Western Mental Health Institute)
191	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Pillowcase, King, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, White (Western Mental Health Institute)
192	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Flat Sheet, Twin, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, Tan/ Beige (Western Mental Health Institute)
193	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Fitted Sheet, Twin, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, Tan/ Beige (Western Mental Health Institute)
194	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Flat Sheet, Full, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, Tan/Beige (Western Mental Health Institute)
195	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Fitted Sheet, Full, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, Tan/Beige (Western Mental Health Institute)
196	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Flat Sheets, Queen, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, Tan/ Beige (Western Mental Health Institute)
197	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Fitted Sheets, Queen, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, Tan/ Beige (Western Mental Health Institute)
198	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Flat Sheets, King, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, Tan/ Beige (Western Mental Health Institute)
199	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Fitted Sheets, King, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, Tan/ Beige (Western Mental Health Institute)
200	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Pillowcase, Standard, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, Colors Tan/ Beige (Western Mental Health Institute)
201	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Pillowcase, King, Minimum 200 Thread Count with 60% Cotton/ 40% Polyester, Muslin, Tan/ Beige (Western Mental Health Institute)
202	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Tablecloth, 100% Polyspun, Black or White, 52 x 52 (Western Mental Health Institute)

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203	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Tablecloth, 100% Polyspun, Black or White, 52" x 114" (Western Mental Health Institute)
204	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Tablecloth, 100% Polyspun, Black or White, 54" x 120" (Western Mental Health Institute)
205	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Tablecloth, 100% Polyspun, Black or White, 61" x 61" (Western Mental Health Institute)
206	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Tablecloth, 100% Polyspun, Black or White, 71" x 71" (Western Mental Health Institute)
207	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Tablecloth, 100% Polyspun, Black or White, 81" x 81" (Western Mental Health Institute)
208	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Tablecloth, 100% Polyspun, Black or White, 85" x 85" (Western Mental Health Institute)
209	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Napkin, 100% Polyspun, Colors Per Specifications, Large, 21 x 21 (Western Mental Health Institute)
210	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Tablecloth, 100% Polyspun, Black or White, 54" x 54" (Western Mental Health Institute)
211	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Towel, Soda, 100% Cotton, Herringbone, White, Large, 15 x 25 (Western Mental Health Institute)
212	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Towel, Bar, 100% Cotton, Terry, White, Large, 15 x 18 (Western Mental Health Institute)
213	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Thermal Blankets, White, 100% cotton, 60" x 90" (Western Mental Health Institute)
214	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Serv, Pad, Grill, 100% Cotton, White, Minimum Size 9" x 16" (Western Mental Health Institute)
215	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Bedspread, Green 100% polyester 76" x 110" (Western Mental Health Institute)
216	53432	SWC 370 Uniform, Linen, and Dust Control Rental Service	Jessica Starling	Ameripride Services Inc	Linen Rental Services added for Western Mental Health Institute Location	3/30/2018	Linen Svs., Bedspread, Blue 100% polyester 76" x 110" (Western Mental Health Institute)
217	50425	SWC214 Herbicides	Mike Neely	Red River Specialties	Herbicides for weed control	3/27/2018	Method 240SL, Escort XP
218	50426	SWC214 Herbicides	Mike Neely	Helena Chemical	Herbicides for weed control	3/27/2018	Method 240SL, Escort XP
219	50427	SWC214 Herbicides	Mike Neely	CWC Chemical	Herbicides for weed control	3/27/2018	Method 240SL, Escort XP
220	50428	SWC214 Herbicides	Mike Neely	Crop Production Services	Herbicides for weed control	3/27/2018	Method 240SL, Escort XP
221	40589	SWC 222 Vehicle Leasing	Kayla Logan	Acme Auto Leasing LLC	Ford Transit 350 - Passenger Wagon	3/28/2018	2018 wo reg; Ford Transit-350 Passenger Wagon; 36-month lease
222	40589	SWC 222 Vehicle Leasing	Kayla Logan	Acme Auto Leasing LLC	Ford Transit 350 - Passenger Wagon	3/28/2018	2018 wo reg; Ford Transit-350 Passenger Wagon; Additional 12-month lease
223	40589	SWC 222 Vehicle Leasing	Kayla Logan	Acme Auto Leasing LLC	Ford Transit 350 - Passenger Wagon	3/28/2018	2018 WITH reg; Ford Transit-350 Passenger Wagon; 36-month lease
224	40589	SWC 222 Vehicle Leasing	Kayla Logan	Acme Auto Leasing LLC	Ford Transit 350 - Passenger Wagon	3/28/2018	2018 WITH reg; Ford Transit-350 Passenger Wagon; Additional 12-month lease
225	55114	SWC 161 Trash Pick-Up Services	Jordan Green	Waste Connections of TN	Trash Pick-up for Military Location	4/1/2018	8 Cu Yd Container, Delivery, Military, Tennessee Ridge RC, 875 Hwy 49 W, Tennessee Ridge
226	55114	SWC 161 Trash Pick-Up Services	Jordan Green	Waste Connections of TN	Trash Pick-up for Military Location	4/1/2018	8 Cu Yd Container, Pick-up, Military, Tennessee Ridge RC, 875 Hwy 49 W, Tennessee Ridge
227	55125	SWC 161 Trash Pick-Up Services	Jordan Green	Republic Services Inc	Trash Pick-up for Military Location	3/13/2018	30 Cu Yd Container, Rental, Tdoc-Turney Center Ind. Complex-Main, 1499 R.W. Moore Hwy, Route 1, Only, TN 37141

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228	55125	SWC 161 Trash Pick-Up Services	Jordan Green	Republic Services Inc	Trash Pick-up for Military Location	3/13/2018	30 Cu Yd Container, Pick-up, Tdoc-Turney Center Ind. Complex-Main, 1499 R.W. Moore Hwy, Route 1, Only, TN 37142
229	55125	SWC 161 Trash Pick-Up Services	Jordan Green	Republic Services Inc	Trash Pick-up for Military Location	3/13/2018	35 Cu Yd Compactor, Delivery, Tdoc-Necx Annex188 Old Railroad Grade Road, Roan Mountain Tn 37687
230	55125	SWC 161 Trash Pick-Up Services	Jordan Green	Republic Services Inc	Trash Pick-up for Military Location	3/13/2018	35 Cu Yd Compactor, Rental, Tdoc-Necx Annex188 Old Railroad Grade Road Roan Mountain Tn 37687
231	55125	SWC 161 Trash Pick-Up Services	Jordan Green	Republic Services Inc	Trash Pick-up for Military Location	3/13/2018	35 Cu Yd Compactor, Pick-up, Tdoc-Necx Annex188 Old Railroad Grade Road Roan Mountain Tn 37687
232	55125	SWC 161 Trash Pick-Up Services	Jordan Green	Republic Services Inc	Trash Pick-up for Military Location	3/13/2018	35 Cu Yd Compactor, per ton, Tdoc-Necx Annex188 Old Railroad Grade Road Roan Mountain Tn 37687
233	55125	SWC 161 Trash Pick-Up Services	Jordan Green	Republic Services Inc	Trash Pick-up for Military Location	3/13/2018	8 Cu Yd Container, Delivery, Roan Mt. State Park, 1015 Hwy 143, Roan Mountain, TN 37687
234	55125	SWC 161 Trash Pick-Up Services	Jordan Green	Republic Services Inc	Trash Pick-up for Military Location	3/13/2018	8 Cu Yd Container, Pick-up, Roan Mt. State Park, 1015 Hwy 143, Roan Mountain, TN 37687
235	55125	SWC 161 Trash Pick-Up Services	Jordan Green	Republic Services Inc	Trash Pick-up for Military Location	3/13/2018	4 Cu Yd Container, Pick-up, Military, National Guard Amory, 128 Don Lewis Rd, PO Box 760, Elizabethton
236	55125	SWC 161 Trash Pick-Up Services	Jordan Green	Republic Services Inc	Trash Pick-up for Military Location	3/13/2018	6 Cu Yd Container, Delivery, Military, Mountain City RC, 1923 South Shady St, Mountain City
237	55125	SWC 161 Trash Pick-Up Services	Jordan Green	Republic Services Inc	Trash Pick-up for Military Location	3/13/2018	6 Cu Yd Container, Pick-up, Military, Mountain City RC, 1923 South Shady St, Mountain City
310	47387	SWC 310 Employee Service Awards	Maggie Wilson	Southern Trophy	DOHR driven employee service awards programs utilized by all agencies	10/18/2017	Crystal paperweights as requested by DOHR based on agency feedback. Wanted to provide more "traditional" award options to enhance the existing "lifestyle" oriented selection.
240	53203	NetTN	Sharon Pope	ATT	Voice Over Internet - TDOT	6/1/2018	Contact Center Bundle (10 CC Agent, 2 CC Super) per package, Enhanced Voice Feature Bundle per seat, Shared Workspace Bundle per seat, Unified Communications Bundle per seat, Equipment Installation per device, Receptionist web console (each), Contact Center Agent with web client per seat, Contact Center Supervisor with web client