



REQUEST FOR QUALIFICATIONS

for

Internal Controls Attestation and Forensic Audit

Engagement

Board of Education of Shelby County, Tennessee

RFQ 30705-25040 – Release 2

Issued: 4/30/2025

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1. INTRODUCTION

The Tennessee Comptroller of the Treasury, hereinafter referred to as "the Comptroller's Office" or "the State," issues this Request for Qualifications (RFQ) to solicit responses from certified public accounting firms (hereinafter "the Firm" or "the Respondent" or "the Contractor"), detail response requirements and outline the State's process for evaluating responses, agreeing to contract terms & conditions, entering into engagement discussions, and executing a contract.

As an entity of the legislative branch, the Comptroller's Office is conducting this RFQ and executing the resulting contract outside of the Central Procurement Office via its exemption provided in TCA 12-3-102 (a). The resulting contract is contingent upon, and will not be executed until the appropriations bill authorizing the contract's funding is signed into law by the Governor. The contract's maximum liability shall not exceed the amount appropriated by law.

1.1. Statement of Procurement Purpose

The purpose of this procurement is to enable the Comptroller's Office to engage the services of a qualified, independent accounting firm to conduct in-depth investigations, evaluations and analysis of financial records, transactions, and processes of the Board of Education of Shelby County, Tennessee, hereinafter referred to as "Memphis-Shelby County Schools" or "MSCS".

Upon completion of the RFQ § 6.2. - Contract and Engagement Process and in accordance with the signed contract's Section A and the agreed upon Engagement Letter, the successful Firm will:

- Review the design and implementation and attest to the effectiveness and efficiency of MSCS internal controls to ensure they are adequate to mitigate risks and prevent fraud, waste, and abuse.
- Conduct a forensic audit of the financial records, transactions, and processes of MSCS to identify and evaluate instances of fraud, waste, abuse, and any deficiencies in the design or operation of the MSCS internal control structure that facilitated these occurrences.
- Report and present its findings, conclusions, and recommendations.

1.2. Background

MSCS serves approximately 106,000 students across more than 200 schools located throughout Memphis and the unincorporated areas of Shelby County. The district is governed by a nine-member Board of Education, with each member elected to a four-year term to represent a specific district within the county. The Board is responsible for establishing policies, adopting budgets, and appointing the Superintendent of Schools. Once the Board approves the operating budget, it must also be approved by the Shelby County Commission.

The Superintendent functions as the district's chief executive officer, overseeing day-to-day operations and ensuring the implementation of Board policies. MSCS is organized into various departments, each led by administrative personnel who support the district's educational and operational goals. The district's primary revenue sources include the State of Tennessee, Shelby County, the Federal government, and the City of Memphis. Major expenditures are allocated to instruction, support services, administration, transportation, facility operations, charter schools, food service, debt service, and capital outlay.

At the time of this RFQ's issuance, the FY 2023 – 2024 annual comprehensive financial report for MSCS has not been submitted to the Comptroller's Office by the independent public accountant.

Preliminary financials provided by the independent public accountant for the fiscal year ending June 30, 2024 report MSCS total revenues of \$1,802,286,651 and total expenditures of \$1,696,699,302 across all governmental funds. The district’s total net position at year-end was \$1,062,116,134, reflecting a net increase of \$216,159,119 from the prior year.

When the final FY 2023 – 2024 report is submitted to the Comptroller’s Office by the independent public accountant, it will be posted at the following website link: <https://comptroller.tn.gov/office-functions/la/e-services/shelby-boe-audit-engagement-rfq>

The previous four annual comprehensive financial reports for MSCS can be found via the website links below:

- FY 2022 – 2023 - <https://comptroller.tn.gov/content/dam/cot/la/advanced-search/2023/education/13503-2023-cn-shelbyboe-rpt-cpa273-2-29-24.pdf>
- FY 2021 – 2022 - <https://comptroller.tn.gov/content/dam/cot/la/advanced-search/2022/education/13503-2022-cn-shelbyboe-rpt-cpa273-2-02-23.pdf>
- FY 2020 – 2021 - <https://comptroller.tn.gov/content/dam/cot/la/advanced-search/2021/education/13503-2021-cn-shelbycoboe-rpt-cpa273-1-28-22-rev1.pdf>
- FY 2019 – 2020 - <https://comptroller.tn.gov/content/dam/cot/la/advanced-search/2020/education/13503-2020-cn-shelbycoboe-rpt-cpa273-5-28-21-rev1.pdf>

1.3. Notice of Intent to Respond Deadline

Before the Notice of Intent to Respond Deadline detailed in RFQ § 2, Schedule of Events, potential Respondents should submit to the Solicitation Coordinator a Notice of Intent to Respond in the form of a simple e-mail or other written communication. Such notice should include the following information: the business or individual’s name (as appropriate), a contact person’s name and title, the contact person’s mailing address, telephone number, facsimile, number, and e-mail address. Filing a Notice of Intent to Respond is not a prerequisite for submitting a response; however, it is necessary to ensure that potential Respondents receive notices and communications relating to this RFQ.

1.4. Written “Questions & Comments” Deadlines

Potential Respondents may submit questions and comments, including requests for specific redline changes to identified sections in the RFQ and RFQ Attachment E - *Pro Forma* Contract’s terms and conditions. However, questions and comments must not include any requests that contradict applicable state or federal law.

Potential Respondents are to list questions and comments, including requests for specific changes to the RFQ or *Pro Forma* Contract, in a table format substantially the same as the one below.

PAGE #	RFQ SECTION/ RFQ ATTACHMENT/ PRO FORMA SECTION	QC#	QUESTION / COMMENT
		QC#1	
		QC#2	

Note: Redlines to entire RFQ and *Pro Forma* Contract documents are not to be submitted in lieu of the table format above nor are they acceptable as part of a Respondent’s RFQ response in accordance with RFQ § 4.3. and RFQ Attachment D.

Questions and comments must be submitted in writing prior to the Written Questions & Comments Deadlines time and date detailed in RFQ § 2, Schedule of Events.

The State will provide its official responses to submitted questions and comments via amendments to the RFQ on the dates detailed in RFQ § 2, Schedule of Events. The State will convey this information to potential respondents in accordance with RFQ § 3.1.2.

1.5. Response Deadline

A Respondent must ensure that the State receives a response no later than the Response Deadline time and date detailed in the RFQ § 2, Schedule of Events. The State will not accept late responses, and a Respondent's failure to submit a response before the deadline will result in disqualification of the response. It is the responsibility of the Respondent to ascertain any additional requirements with respect to delivery to the State. Respondents should be mindful of any potential delays due to weather or other filing delays whether foreseeable or unforeseeable.

1.6. Registering as a Supplier with the State of Tennessee

Any potential Respondent that is not currently registered with the State of Tennessee as a Supplier in Edison, the State ERP system, is encouraged to proceed with that process. Registration in Edison as a Supplier is necessary for prior to execution of the resulting contract. Pertinent information can be found at the following link: <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/supplier-information.html>

2. RFQ SCHEDULE OF EVENTS

The following schedule represents the State's best estimates for this RFQ; however, the State reserves the right, at its sole discretion, to adjust the RFQ Schedule of Events as it deems necessary. Any adjustments the State makes to the schedule will be communicated to prospective Respondents in accordance with . If an RFQ amendment is issued, the State will convey it to potential respondents in accordance with RFQ § 3.1.2. and RFQ § 3.7.1.

EVENT		TIME (Central Time Zone)	DATE (all dates are State business days)
1.	RFQ Issued		March 31, 2025
2.	Disability Accommodation Request Deadline	1:00 p.m.	April 3, 2025
3.	Notice of Intent to Respond Deadline	1:00 p.m.	April 7, 2025
4.	Round 1 - Written "Questions & Comments" Deadline	1:00 p.m.	April 9, 2025
5.	RFQ Amendment 1 Issued – Schedule Change Only – Amendment 1		April 16, 2025
6.	State response to Round 1 Written "Questions & Comments"		April 30, 2025
7.	Round 2 - Written "Questions & Comments" Deadline	1:00 p.m.	May 7, 2025
8.	State response to Round 2 Written "Questions & Comments"		May 22, 2025
9.	Response Deadline	1:00 p.m.	June 3, 2025
10.	State completes Evaluations and issues Notice of Intent to Engage		June 23, 2025
11.	Contract Terms & Conditions Agreement Deadline		June 26, 2025
12.	Engagement Discussions Deadline		July 9, 2025
13.	Contractor Signature Deadline		July 14, 2025
14.	Contract Start Date		July 17, 2025

3. GENERAL INFORMATION & REQUIREMENTS

3.1. Communications

- 3.1.1. Respondents shall reference RFQ #30705-25040 in all communications relating to this solicitation, and direct any such communications to the following person designated as Solicitation Coordinator:

Terry Mason
Comptroller of the Treasury
COT.Solicitation.Coordinator@cot.tn.gov
615-401-7723

- 3.1.2. The State will convey all official responses and communications related to this RFQ to the potential respondents from whom the State has received a Notice of Intent to Respond (refer to RFQ § 1.3.) and by posting to the following website:

<https://comptroller.tn.gov/office-functions/la/e-services/shelby-boe-audit-engagement-rfq/>

- 3.1.3. Potential respondents with a handicap or disability may receive reasonable accommodations relating to the communication of this RFQ and participating in the RFQ process. Potential respondents may contact the RFQ Coordinator to request reasonable accommodations no later than the Disability Accommodation Request Deadline detailed in RFQ § 2, Schedule of Events.
- 3.1.4. **Unauthorized contact about this RFQ with other employees or officials of the State of Tennessee may result in disqualification from selection for engagement discussions or contract award consideration.**
- 3.1.5. Notwithstanding the foregoing, potential Respondents may also contact the following individual designated by the State to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and associated federal regulations:

Lela Shadrick
TN Comptroller of the Treasury
425 Rep. John Lewis Way North
Nashville TN 37243
Lela.Shadrick@cot.tn.gov
615-401-7927

3.2. Nondiscrimination

No person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of a contract pursuant to this solicitation or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion (subject to Tenn. Code Ann. §§ 4-21-401 and 405), sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Contractor pursuant to this solicitation shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

3.3. Conflict of Interest

- 3.3.1. The State may not consider a response from an individual who is, or within the past six (6) months has been, a State of Tennessee employee. For these purposes,
 - 3.3.1.1. An individual shall be deemed a State of Tennessee employee until such time as all compensation for salary, termination pay, and annual leave has been paid;
 - 3.3.1.2. A contract with or a response from a company, corporation, or any other contracting entity in which a controlling interest is held by any State of Tennessee employee shall be considered to be a contract with or response from the employee; and
 - 3.3.1.3. A contract with or a response from a company, corporation, or any other contracting entity that employs an individual who is, or within the past six months has been, a State employee shall not be considered a contract with or a response from the employee and shall not constitute a prohibited conflict of interest.
- 3.3.2. This RFQ is also subject to Tenn. Code Ann. § 12-4-101—105.

3.4. Respondent Required Review & Waiver of Objections

- 3.4.1. Each potential respondent must carefully review this RFQ, including but not limited to, attachments, the RFQ Attachment E, *Pro Forma* Contract, and any amendments for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called “questions and comments”).
- 3.4.2. Any potential respondent having questions and comments concerning this RFQ must provide such in writing to the State no later than either the Round 1 and Round 2 written “Questions & Comments Deadline” detailed in RFQ § 1.4 and RFQ § 2, Schedule of Events.

3.5. Disclosure of Response Contents

- 3.5.1. All materials submitted to the State in response to this RFQ shall become the property of the State of Tennessee. Respondents are cautioned not to provide any materials in response to this RFQ that are trade secrets, as defined under Tenn. Code Ann. § 47-25-1702 and any other applicable law. By submitting a response to this RFQ, the Respondent acknowledges and agrees that the State shall have no liability whatsoever for disclosure of a trade secret under the Uniform Trade Secrets Act, as provided at Tenn. Code Ann. § 47-25-1701-1709, or under any other applicable law. Selection or rejection of a response does not affect this right. By submitting a response, a Respondent acknowledges and accepts that the full response contents and associated documents may become open to public inspection in accordance with the laws of the State of Tennessee.
- 3.5.2. The State will hold all response information in confidence during the evaluation process.
- 3.5.3. Upon completion of response evaluations, indicated by public release of a Notice of Intent to Engage, the responses and associated materials will be available in accordance with Tenn. Code Ann. § 10-7-504(a)(7).

3.6. Notice of Professional Licensure, Insurance and Department of Revenue Registration Requirements

- 3.6.1. All persons, agencies, firms, or other entities that provide legal or financial opinions, which a Respondent provides for consideration and evaluation by the State as part of a response to this RFQ, shall be properly licensed to render such opinions.
- 3.6.2. Before the Contract resulting from this RFQ is signed, the apparent successful Respondent (and Respondent employees and subcontractors, as applicable) must hold all necessary, appropriate business and professional licenses to provide service as required. The State may require any Respondent to submit evidence of proper licensure.
- 3.6.3. Before the Contract resulting from this RFQ is signed, the apparent successful Respondent must provide a valid Certificate of Insurance indicating current insurance coverage meeting minimum requirements as specified by RFQ Attachment E, *Pro Forma* Contract, Section D.32.
- 3.6.4. Before the Contract resulting from this RFQ is signed, the apparent successful Respondent must be registered with the Department of Revenue for the collection of Tennessee sales and use tax. The State shall not approve a contract unless the Respondent provides proof of such registration or provides documentation from the Department of Revenue that the Contractor is exempt from this registration requirement. The foregoing is a mandatory requirement of an award of a contract pursuant to this solicitation. To register, please visit the Department of Revenue's Tennessee Taxpayer Access Point (TNTAP) website for Online Registration and the Vendor Contract Questionnaire. These resources are available at the following:
<https://tntap.tn.gov/eservices/> /#1.

3.7. RFQ Amendments & Cancellation

- 3.7.1. The State reserves the right to amend this RFQ at any time, provided that it is amended in writing. However, prior to any such amendment, the State will consider whether it would negatively impact the ability of potential respondents to meet the deadlines and revise the RFQ Schedule of Events if deemed appropriate. If an RFQ amendment is issued, the State will convey it to potential respondents in accordance with RFQ § 3.1.2. A response must address the final RFQ (including its attachments) as may be amended.
- 3.7.2. The State reserves the right, at its sole discretion, to cancel or to cancel and reissue this RFQ in accordance with applicable laws and regulations.

3.8. State Right of Rejection

- 3.8.1. Subject to applicable laws and regulations, the State reserves the right to reject, at its sole discretion, any and all responses.
- 3.8.2. The State may deem nonresponsive and reject any response that does not comply with all terms, conditions, and performance requirements of this RFQ. Notwithstanding the foregoing, the State reserves the right to seek clarifications on or to waive, at its sole discretion, a response's minor variances from full compliance with this RFQ. If the State waives variances in a response, such waiver shall not modify the RFQ requirements or excuse the Respondent from full compliance with such, and the State may hold any resulting contractor to strict compliance with this RFQ.
- 3.8.3. The State will review the response evaluation record and any other available information pertinent to whether or not each Respondent is responsive and responsible. If the Solicitation

Coordinator or State Evaluation Team identifies any Respondent that appears not to meet the responsive and responsible thresholds such that the team would not recommend the Respondent for potential engagement, this determination will be fully documented for the record. ("Responsive" is defined as submitting a response that conforms in all material respects to the RFQ. "Responsible" is defined as having the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.)

3.9. Assignment & Subcontracting

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

3.9.2. If a Respondent intends to use subcontractors, the response to this RFQ must specifically identify the scope and portions of the work each subcontractor will perform (refer to RFQ Attachment B, Item B.13.).

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

3.9.4. The Contractor resulting from this RFQ may only substitute another subcontractor for a proposed subcontractor at the discretion of the State and with the State's prior, written approval.

3.9.5. Notwithstanding any State approval relating to subcontracts, the Contractor resulting from this RFQ will be the prime contractor and will be responsible for all work under the Contract.

3.10. Next Ranked Respondent

The State reserves the right to commence the Contract and Engagement Process with the next best-evaluated Respondent should the State cease doing business with any Respondent selected via this RFQ process.

4. RESPONSE REQUIREMENTS

4.1. Response Contents

A response to this RFQ should address the following:

- 4.1.1. Mandatory Requirements: This section details the mandatory technical, functional, and experience requirements that must be demonstrated in the response to this RFQ in order to be passed on to Phase II of the Technical Response evaluation. A Respondent should duplicate and use RFQ Attachment A as a guide to organize responses for the Mandatory Requirements of the RFQ response. The Respondent should reference the page location of the information within the response in the indicated column of the table. This section is included in the State's evaluation as to whether or not a Respondent meets mandatory qualifications (Phase I).
- 4.1.2. General Qualifications & Experience: This section is included in the State's evaluation of Phase II of the Technical Response Evaluation and details general information and qualifications that must be demonstrated in the response to this RFQ. A Respondent should duplicate and use RFQ Attachment B as a guide to organize responses for this portion of the RFQ response. The Respondent should reference the page location of the information within the response in the indicated column of the table.
- 4.1.3. Technical Qualifications, Experience & Approach: This section is also included in the State's evaluation of Phase II of the Technical Response Evaluation and details technical qualifications, experience, and approach items that must be demonstrated in the response to this RFQ. A Respondent should duplicate and use RFQ Attachment C as a guide to organize responses for this portion of the RFQ response. The Respondent should reference the page location of the information within the response in the indicated column of the table.

4.2. Response Delivery Requirements

- 4.2.1. A Respondent must ensure that the State receives a Technical Response to this RFQ no later than the Response Deadline time and date detailed in RFQ § 2, Schedule of Events.
- 4.2.2. A Respondent must ensure that their response meets all form and content requirements, including all required signatures, as detailed within this RFQ and does not contain any cost information.
- 4.2.3. All responses must be emailed to:

COT.Solicitation.Coordinator@cot.tn.gov

The response document should be in the form of one (1) digital document in "PDF" format or other easily accessible digital format attached to the email to the Solicitation Coordinator.

Both the email subject line and file name should be clearly identified as follows:

"RFQ #30705-25040 TECHNICAL RESPONSE "

- 4.2.4. Any Respondent wishing to submit a response by means other than via email may do so by contacting the Solicitation Coordinator.

4.3. Response Prohibitions

A response to this RFQ shall not:

- 4.3.1. Include alternate contract terms and conditions. If a response contains such terms and conditions the State, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it;
- 4.3.2. Restrict the rights of the State or otherwise qualify the response to this RFQ;
- 4.3.3. Include, for consideration in this procurement process, materially incorrect information that the Respondent knew or should have known was materially incorrect;
- 4.3.4. Include more than one response, per Respondent, to this RFQ;
- 4.3.5. Include any information concerning costs (in specific dollars or numbers) associated with the Technical Response; or
- 4.3.6. Include the Respondent's own contract terms and conditions.
- 4.3.7. Include the respondent as a prime contractor while also permitting one or more other respondents to offer the respondent as a subcontractor in their own responses.

4.4. Response Errors & Revisions

A Respondent is responsible for any and all errors or omissions in its response to this RFQ. A Respondent will not be allowed to alter or revise its response after the Response Deadline time and dates as detailed in RFQ § 2, Schedule of Events, unless such is formally requested in writing by the State (e.g., through a request for clarification, etc.).

4.5. Response Withdrawal

A Respondent may withdraw a response at any time before the Response Deadline time and date as detailed in RFQ § 2, Schedule of Events, by submitting a written signed request by an authorized representative of the Respondent. After withdrawing a response, a Respondent may submit another response at any time before the Response Deadline time and date as detailed in RFQ § 2, Schedule of Events.

4.6. Response Preparation Costs

The State will not pay any costs associated with the preparation, submittal, or presentation of any response. Each Respondent is solely responsible for the costs it incurs in responding to this RFQ.

5. EVALUATION PROCESS

5.1. Evaluation Categories and Maximum Points

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

Evaluation Category	Maximum Points Possible
Mandatory Requirements (refer to RFQ Attachment A)	Pass/Fail
General Qualifications, Experience, Technical Qualifications, Experience & Approach (refer to RFQ Attachment B)	30
Technical Qualifications, Experience & Approach (refer to RFQ Attachment C)	70

5.2. Evaluation of Technical Responses

Phase I: The State will evaluate the Mandatory Requirements set forth in RFQ Attachment A on a pass/fail basis. Technical Responses that fail the Phase I evaluation will be deemed non-responsive. Technical Responses that pass the Phase I evaluation will be deemed responsive and responsible.

Phase II: Following the Phase I evaluation, the State will apply a standard equitable evaluation model, which will represent a qualitative assessment of each response. Each response will be scored by Evaluation Team members according to the Technical Response & Evaluation Guides (See RFQ Attachments B & C).

The Solicitation Coordinator will total the average score from the evaluation team for each responsive and responsible Respondent's Technical Response Points for RFQ Attachments B & C.

5.3. Clarifications and Negotiations

The State reserves the right to score responses based on the evaluation of initial responses received; therefore, each response should contain the respondent's best terms from a technical standpoint. However, the State reserves the right to conduct clarifications or negotiations with Respondents. All communications, clarifications, and negotiations shall be conducted in a manner that supports fairness in response improvement.

5.3.1. Clarifications: The State may identify areas of a response that may require further clarification or areas in which it is apparent that there may have been miscommunications or misunderstandings as to the State's specifications or requirements. The State may seek to clarify those issues identified during one or multiple clarification round(s). Each clarification sought by the State may be unique to an individual Respondent.

5.3.2. Negotiations: The State may elect to negotiate with Respondents by requesting revised responses or finalizing contract terms and conditions. The State reserves the right to conduct multiple negotiation rounds.

5.4. Determination and Notice of Intent to Engage

- 5.4.1. The Evaluation Team will review the Technical Response Evaluation record and any other available information pertinent to whether or not each Respondent is responsive and responsible. If the Evaluation Team identifies any Respondent that does not meet the responsive and responsible thresholds such that the team would not recommend the Respondent for potential engagement discussions or contract award, the team members will fully document the determination.
- 5.4.2. The Solicitation Coordinator will determine the apparent best-evaluated response using the scoring provided by the Evaluation Team. (To bypass the Respondent other than the one receiving the highest evaluation score, the Solicitation Coordinator must provide written justification and obtain written approval of the Comptroller or the Comptroller's designee.)
- 5.4.3. The State will issue to all Respondents the Notice of Intent to Engage identifying the apparent best-evaluated response. The Notice shall not create rights, interests, or claims of entitlement of any identified Respondent.
- 5.4.4. The Respondent with the apparent best-evaluated response (hereinafter, "the selected Firm") shall be selected to enter into the Contract and Engagement Process (See RFQ § 6) with the State.

6. CONTRACT AND ENGAGEMENT PROCESS

6.1. Contract Terms & Conditions Agreement

- 6.1.1. Prior to entering into Engagement Discussions, the selected Firm must first agree to the terms and conditions of the contract to be signed upon agreement of the Engagement Letter in RFQ § 6.2.4. The Contract shall be substantially the same as the RFQ Attachment E, *Pro Forma* Contract.
- 6.1.2. Notwithstanding the foregoing, the State may, at its sole discretion, entertain limited terms and conditions negotiations and, as a result, revise the *Pro Forma* Contract's terms and conditions in the State's best interests, PROVIDED THAT such revision of terms and conditions shall NOT materially affect the basis of response evaluations or negatively impact the competitive nature of the RFQ's firm selection process.
- 6.1.3. If selected Firm fails to agree to the State's contract terms and conditions by the Contract Agreement Deadline detailed in RFQ § 2, Schedule of Events, the State may determine that the Respondent is non-responsive to this RFQ, reject the response and in accordance with RFQ § 3.10. commence the Contract and Engagement Process with the next best-evaluated respondent.

6.2. Engagement Discussions

- 6.2.1. Initial Meeting: The State and the selected Firm will hold an initial meeting to discuss the scope of the engagement and to establish a preliminary understanding of the objectives and deliverables of the **internal controls attestation and** forensic audit. The State will provide the selected Firm with any relevant background information and requirements.
- 6.2.2. Proposal Preparation: The selected Firm will prepare a proposal outlining the scope of work, the methodology to be used, the deliverables, the timeline for the engagement and the proposed fees and payment schedule. The proposal will also outline the selected Firm's understanding of the objectives and deliverables of the **internal controls attestation and** forensic audit and any limitations or constraints that may impact the engagement.
- 6.2.3. Proposal Review: The State will review the proposal and provide any feedback or suggestions. If necessary, the State may request revisions to the proposal to ensure that it meets the State's budget, expectations and the requirements of the engagement.
- 6.2.4. Engagement Letter: Once a proposal has been approved by the State, the selected Firm will prepare an Engagement Letter that sets forth the timeline and terms of the engagement, including the scope of work, subject audit period, fees and payment schedule, the selected Firm's responsibilities, and the State's responsibilities. The Engagement Letter shall not contain any terms or conditions that conflict with the contract terms and conditions agreed upon accordance with RFQ § 6.1.
- 6.2.5. If selected Firm fails to agree to an Engagement Letter by the Engagement Discussions Deadline detailed in RFQ § 2, Schedule of Events, the State may determine that the Respondent is non-responsive to this RFQ, reject the response and in accordance with RFQ § 3.10. commence the Contract and Engagement Process with the next best-evaluated respondent.

6.3. Contract Execution

- 6.3.1. If the selected Firm fails to sign the Contract agreed upon in RFQ § 6.1. and the Engagement Letter agreed upon in RFQ § 6.2. by the Contractor Signature Deadline detailed in RFQ § 2, Schedule of Events, the State may determine that the Respondent is non-responsive to this RFQ, reject the response and in accordance with RFQ § 3.10. commence the Contract and Engagement Process with the next best-evaluated respondent.
- 6.3.2. Notwithstanding the foregoing, the State may, at its sole discretion, entertain limited negotiation prior to contract signing and, as a result, revise the *Pro Forma* Contract terms and conditions or performance requirements in the State's best interests, PROVIDED THAT such revision of terms and conditions or performance requirements shall NOT materially affect the basis of response evaluation or negatively impact the competitive nature of the RFQ.

6.4. Participation Costs

The State will not pay any costs associated with a selected Firm's participation in the RFQ § 6.2 Contract and Engagement Process. Any selected Firm is solely responsible for such costs they incur.

TECHNICAL RESPONSE & EVALUATION GUIDE

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

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

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		The Technical Response must be delivered to the State no later than the Technical Response Deadline specified in the RFQ § 2, Schedule of Events.	
		The Technical Response must not contain cost or pricing information of any type.	
		The Technical Response must not contain any restrictions of the rights of the State or other qualifications of the response.	
		A Respondent must not submit alternate responses.	
		A Respondent must not submit multiple responses in different forms (as a prime and a subcontractor).	
	A.1.	Provide the Statement of Certifications and Assurances (RFQ Attachment D) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFQ and any resulting contract. The document must be signed without exception or qualification.	
	A.2.	Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall perform work under the contract has a possible conflict of interest (<i>e.g.</i> , employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	A.3.	Provide a statement listing the Respondent's firm permit number issued by the Tennessee State Board of Accountancy and affirming that it is in active status.	
	A.4.	Provide an affirmative statement that Respondent is independent of the Board of Education of Shelby County as defined by generally accepted accounting standards and the U.S. Comptroller General's Government Auditing Standards.	
	A.5.	Provide an affirmative statement that the Respondent is not currently engaged in providing financial, performance or forensic auditing services to the Board of Education of Shelby County (TN) or the County of Shelby (TN).	
	A.6.	Provide an affirmative statement that the Respondent has not been engaged in the last five years to provide financial, performance or forensic auditing services to the Board of Education of Shelby County (TN) or the County of Shelby (TN).	
	A.7.	Provide an affirmative statement that either the Respondent or a subcontractor of the Respondent identified in RFQ Attachment B – Item 13, within the last three years, has been engaged and completed a review of the design and	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		implementation and attested to the effectiveness and efficiency of either a local government or public school board entity's internal controls to ensure they are adequate to mitigate risks and prevent fraud, waste, and abuse.	
	A.8.	Provide an affirmative statement that either the Respondent or a subcontractor of the Respondent identified in RFQ Attachment B – Item 13., within the last three years, has been engaged and completed at least one forensic audit of the financial records, transactions, and processes of either a local government or a public school board entity to identify and evaluate instances of fraud, waste, abuse, and any deficiencies in the design or operation of the entity's internal control structure that facilitated these occurrences.	
<i>State Use – RFQ Coordinator Signature, Printed Name & Date:</i>			

TECHNICAL RESPONSE & EVALUATION GUIDE

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

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.1.	Detail the name, e-mail address, mailing address, telephone number, and facsimile number of the person the State should contact regarding the response.
	B.2.	Describe the Respondent's form of business (<i>i.e.</i> , individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company) and business location (physical location or domicile).
	B.3.	Detail the number of years the Respondent has been in business.
	B.4.	Briefly describe how long the Respondent has been performing the goods or services required by this RFQ.
	B.5.	Describe the Respondent's number of employees, client base, and location of offices.
	B.6.	Provide a statement of whether there have been any mergers, acquisitions, or sales of the Respondent within the last ten (10) years. If so, include an explanation providing relevant details.
	B.7.	Provide a statement of whether the Respondent or, to the Respondent's knowledge, any of the Respondent's employees, agents, independent contractors, or subcontractors proposed to provide work on a contract pursuant to this RFQ, have been convicted of, pled guilty to, or pled <i>nolo contendere</i> to any felony. If so, include an explanation providing relevant details.
	B.8.	Provide a statement of whether, in the last ten (10) years, the Respondent has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors. If so, include an explanation providing relevant details.
	B.9.	Provide a statement of whether there is any material, pending litigation against the Respondent that the Respondent should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this RFQ or is likely to have a material adverse effect on the Respondent's financial condition. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it would impair the Respondent's performance in a contract pursuant to this RFQ. NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the Respondent to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders such opinions.
	B.10.	Provide a statement of whether there is any pending or in progress Securities Exchange Commission investigations involving the Respondent. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		<p>addressing whether and to what extent it will impair the Respondent's performance in a contract pursuant to this RFQ.</p> <p>NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the Respondent to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders such opinions.</p>
	B.11.	<p>Provide a statement and any relevant details addressing whether the Respondent is any of the following:</p> <ul style="list-style-type: none"> (a) is presently debarred, suspended, proposed for debarment, or voluntarily excluded from covered transactions by any federal or state department or agency; (b) has within the past three (3) years, been convicted of, or had a civil judgment rendered against the contracting party from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (c) is presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed above; and (d) has within a three (3) year period preceding the contract had one or more public transactions (federal, state, or local) terminated for cause or default.
	B.12.	Provide information on the circumstances and status of any disciplinary action taken or pending against the Respondent during the past three (3) years with state regulatory bodies or professional organizations.
	B.13.	<p>Provide a statement of whether the Respondent intends to use subcontractors to accomplish the work required by this RFQ, and if so, detail:</p> <ul style="list-style-type: none"> (a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each; (b) a description of the scope and portions of the work each subcontractor will perform; and (c) a statement specifying that each proposed subcontractor has expressly assented to being proposed as a subcontractor in the Respondent's response to this RFQ.
SCORE (for <u>all</u> Section B— General Qualifications & Experience Items above): (maximum possible score = 30)		
State Use – Evaluator Identification:		

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION C: TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH. The Respondent should explain its approach to providing goods or services to the State. The items listed below represent specific questions the State requests you answer in your response. For ease of review, please annotate your explanation so that it contains references to the items listed below where they are addressed. Respondent should not feel constrained to answer only the specific questions listed below in its explanation and should feel free to provide attachments if necessary in an effort to provide a more thorough response.

The Evaluation Team, made up of three (3) or more State employees, will independently evaluate and score the response to each item. Each evaluator will use the following whole number, raw point scale for scoring each item:

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

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

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
	C.1.	Provide a narrative detailing the Respondent's experience in conducting internal control attestations and forensic audits for local governments.		15	
	C.2.	Provide a narrative detailing the Respondent's experience in conducting internal control attestations and forensic audits for public school board entities.		25	
	C.3.	Provide an overview of the Respondent's approach to conducting of and reporting on a review of the design and implementation and attesting to the effectiveness and efficiency of a public school board entity's internal controls to ensure they are adequate to mitigate risks and prevent fraud, waste, and abuse.		15	
	C.4.	Provide an overview of the Respondent's approach to conducting of and reporting on a forensic audit of the financial records, transactions, and processes a public school board entity to identify and evaluate instances of fraud, waste, abuse, and any deficiencies in the design or operation of the entity's internal control structure that facilitated these occurrences.		25	
	C.5.	Identify the Respondent's proposed engagement teams for the internal controls attestation and the forensic audit. This includes principal supervisory and management staff (including managers, other supervisors) and specialists, who would be assigned to the engagement. Indicate whether each such person is licensed to practice as a certified public accountant in Tennessee. Provide information on the forensic and/or local government auditing experience and certifications of each person.		20	

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
		Include information on relevant continuing professional education obtained in the past year and membership in professional organizations relevant to the performance of this audit.			
<i>The Solicitation Coordinator will use this sum and the formula below to calculate the section score. All calculations will use and result in numbers rounded to two (2) places to the right of the decimal point.</i>					Total Raw Weighted Score: <i>(sum of Raw Weighted Scores above)</i>
Total Raw Weighted Score <hr/> Maximum Possible Raw Weighted Score <i>(i.e., 5 x the sum of item weights above)</i>			X 70 <i>(maximum possible score)</i>	= SCORE:	
<i>State Use – Evaluator Identification:</i>					
<i>State Use – Solicitation Coordinator Signature, Printed Name & Date:</i>					

STATEMENT OF CERTIFICATIONS AND ASSURANCES

An individual responding in his or her individual capacity or who is legally empowered to contractually bind the Respondent must complete and sign the Statement of Certifications and Assurances below as required, and this signed statement must be included with the response as required by RFQ Attachment A - Item A.1.).

The Respondent does, hereby, expressly affirm, declare, confirm, certify, and assure ALL of the following:

1. The Respondent will comply with all of the provisions and requirements of the RFQ.
2. The Respondent will provide all specified goods or services as required by the contract awarded pursuant to this RFQ.
3. The Respondent accepts and agrees to all terms and conditions set out in the RFQ Attachment E, *Pro Forma* Contract.
4. The Respondent acknowledges and agrees that a contract resulting from the RFQ shall incorporate, by reference, all Response responses as a part of the contract.
5. The Respondent will comply, as applicable, with:
 - (a) the laws of the State of Tennessee;
 - (b) Title VI of the federal Civil Rights Act of 1964;
 - (c) Title IX of the federal Education Amendments Act of 1972;
 - (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
 - (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
6. To the best of the undersigned's knowledge, information or belief, the information detailed within the Response to the RFQ is accurate.
7. The Response submitted to the RFQ was independently prepared, without collusion, and under penalty of perjury.
8. No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Respondent in connection with the request or any potential resulting contract.
9. The Response submitted in response to the RFQ shall remain valid for at least 180 days subsequent to the date of the Response opening and thereafter in accordance with any contract pursuant to the RFQ.
10. The Respondent affirms the following statement, as required by the Iran Divestment Act Tenn. Code Ann. § 12-12-111: "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to § 12-12-106." For reference purposes, the list is currently available online at: <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/library-/public-information-library.html>.

DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO DO SO BY THE ENTITY RESPONDING TO THIS RFQ.

SIGNATURE & DATE:

PRINTED NAME & TITLE:

LEGAL ENTITY NAME:

RFQ # 30705-25040 *PRO FORMA* CONTRACT

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

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
COMPTROLLER OF THE TREASURY
AND
CONTRACTOR NAME**

This Contract, by and between the State of Tennessee, Comptroller of the Treasury ("State") and **Contractor Legal Entity Name** ("Contractor"), is for the provision of a forensic audit engagement as further defined in the "SCOPE." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

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

Contractor Place of Incorporation or Organization: **Location**

Contractor Edison Registration ID # **Number**

A. SCOPE:

- A.1. The Contractor shall provide all goods or services and deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract.
- A.2. The Parties have agreed upon the Engagement Letter. The Engagement Letter sets forth the timeline and terms of the engagement, including the scope of work, subject audit period, the fees and payment schedule, the Contractor's responsibilities, and the State's responsibilities. Pursuant to Tenn. Code Ann. § 10-7-504(a)(22), the Engagement Letter shall remain confidential.
- A.3. As set forth in the Engagement Letter, the Contractor will review the design and implementation and attest to the effectiveness and efficiency of MSCS internal controls to ensure they are adequate to mitigate risks and prevent fraud, waste, and abuse.
- A.4. As set forth in the Engagement Letter, the Contractor will conduct a forensic audit of the financial records, transactions, and processes of MSCS to identify and evaluate instances of fraud, waste, abuse, and any deficiencies in the design or operation of the MSCS internal control structure that facilitated these occurrences.
- A.5. As set forth in the Engagement Letter, the Contractor shall report in writing to the State, immediately upon discovery, any evidence of fraud, including but not limited to defalcation, misappropriation, misfeasance, malfeasance, embezzlement, or other illegal acts.
- A.6. As set forth in the Engagement Letter, the Contractor shall deliver draft report(s) and final report(s) to the State.

Reports are to include, but are not limited to, analyses of the information received and reviewed, findings resulting from work performed in Section A.3. and A.4. above, and recommendations for correction of deficiencies and monitoring.

Draft report(s) shall be provided for State review prior to finalization. The State shall have the opportunity to provide comments on the draft report(s) and the Contractor shall respond to all State comments prior to delivering the final report(s).

To preserve to the fullest extent possible the independence of the Contractor pursuant to the Independence Rule, part 1.200.001 in the AICPA's Code of Professional Conduct, the State shall not have control over the content of the final report(s) as a result of their review of the draft report(s).

- A.7. As set forth in the Engagement Letter, Contractor shall deliver to the State a formal presentation(s) that summarizes the findings and recommendations of the final report(s), and the analysis performed on the financial transactions and other relevant data. The Contractor shall be available at the State's

request to attend and participate in presentations to legislative committees, the MSCS board members and other interested stakeholders as determined by the State.

- A.8. The Contractor shall provide dedicated staff in sufficient numbers to ensure timely completion of the Contractor's duties under this Contract. The Contractor shall ensure that all employees assigned to perform any services under this Contract shall have the necessary credentials, licenses, and certifications required to perform the work in Tennessee under this Contract. The Contractor shall ensure that all persons who work under this Contract are supervised by staff who have prior forensic audit experience.

B. TERM OF CONTRACT:

This Contract shall be effective for the period beginning on **July 17, 2025** ("Effective Date") and ending on **DATE**, ("Term"). The State shall have no obligation for goods delivered or services provided by the Contractor prior to the Effective Date.

C. PAYMENT TERMS AND CONDITIONS:

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

FOR ILLUSTRUATIVE PURPOSES ONLY. PAYMENT METHODOLOGY TO BE DETERMINED IN AGREED UPON ENGAGEMENT LETTER. BASE SERVICE DESCRIPTIONS AND COMPENSABLE INCREMENT AMOUNTS TO BE INSERTED INTO CONTRACT.

(1) For services provided under Contract Section A.3.:

Service Description	Amount (per compensable increment)
Principal	\$ ____ per Hour
Director/Manager	\$ ____ per Hour
Senior	\$ ____ per Hour
Associate	\$ ____ per Hour
Administrative	\$ ____ per Hour
The Contractor shall be compensated for other forensic audit related expenses as agreed upon in the Engagement Letter.	

(2) For services provided under Contract Section A.4.:

Service Description	Amount (per compensable increment)
Principal	\$ _____ per Hour
Director/Manager	\$ _____ per Hour
Senior	\$ _____ per Hour
Associate	\$ _____ per Hour
Administrative	\$ _____ per Hour
The Contractor shall be compensated for other internal controls attestation related expenses as agreed upon in the Engagement Letter.	

- a. The Contractor shall be compensated for other forensic audit related expenses as agreed upon in the Engagement Letter.
- C.4. Travel Compensation. The Contractor shall not be directly reimbursed by the State for travel time, travel expenses, meals, or lodging.
- C.5. Invoice Requirements. The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month, and no later than thirty (30) days after goods or services have been provided.

The Contractor shall submit invoices via email to:

Katie.Armstrong@cot.tn.gov

Katie Armstrong, Assistant Director
TN Comptroller of the Treasury
Division of Local Government Audit
(615) 747-8801(Office)

AND

Andrew.Hawkins@cot.tn.gov

Andrew Hawkins
Assistant Director of Fiscal Services
TN Comptroller of the Treasury
Office of Management Services
(615) 401-7743 (Office)

- a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):
- (1) Invoice number (assigned by the Contractor);
 - (2) Invoice date;
 - (3) Contract number (assigned by the State);
 - (4) Customer account name: TN Comptroller of the Treasury – Local Government Audit;
 - (5) Customer account number (assigned by the Contractor to the above-referenced Customer);
 - (6) Contractor name;
 - (7) Contractor Tennessee Edison registration ID number;
 - (8) Contractor contact for invoice questions (name, phone, or email);
 - (9) Contractor remittance address;

- (10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
- (11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
- (12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
- (13) Amount due for each compensable unit of good or service; and
- (14) Total amount due for the invoice period.

b. Contractor's invoices shall:

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

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

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.

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

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

- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
- b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

D. MANDATORY TERMS AND CONDITIONS:

D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Approvals shall be evidenced by a signature or electronic approval.

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

The State:

Rachelle Cabading, Director
 TN Comptroller of the Treasury
 Office of Management Services
 425 Rep. John Lewis Way North
 Nashville TN 37243-3400
Rachelle.Cabading@cot.tn.gov
 (615) 401-7953 (Office)

The Contractor:

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

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

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials.
- D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.
- D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.
- D.6. Termination for Cause. If a Party ("Breaching Party") fails to properly perform its obligations under this Contract, or if a Party materially violates any terms of this Contract ("Breach Condition"), the other Party ("Non-breaching Party") may provide written notice to the Breaching Party specifying the Breach Condition. If within thirty (30) days of notice, the Breaching Party has not cured the Breach Condition, the Non-breaching Party may terminate the Contract. In the event the Non-breaching

Party is the State, the State may withhold payments in excess of compensation for completed services or provided goods. The Breaching Party shall not be relieved of liability to the Non-breaching Party for damages sustained by virtue of any breach of this Contract, and the Non-breaching Party may seek other remedies allowed at law or in equity for breach of this Contract.

- D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.
- D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

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

- D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment A, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.
 - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.
 - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.

- d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.
- D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial records for all charges under the Contract shall be prepared in accordance with generally accepted accounting principles and standard accounting procedures and practices.
- D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.
- D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.
- D.16. Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless from any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.
- D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The State's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.
- D.18. Limitation of Contractor's Liability. The Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the

Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; **or** (ii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death. For clarity, except as otherwise expressly set forth in this Section, Contractor's indemnification obligations and other remedies available under this Contract are subject to the limitations on liability set forth in this Section.

- D.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees ("**Indemnitees**") from and against any and all claims, liabilities, losses, and causes of action ("**Claims**") which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys' fees, court costs, expert witness fees, and other litigation expenses for the State to enforce the terms of this Contract. **Contractor's indemnification obligations shall not extend to Claims arising from the sole negligence or willful misconduct of Indemnitees.**

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

- D.20. HIPAA Compliance. As applicable, 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 **and MSCS**, including cooperation and coordination with State **and MSCS** privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties **and MSCS** will be in compliance with the Privacy Rules.
 - c. The Contractor will **cooperate with the MSCS to develop and** sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the **MSCS** and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties **or MSCS** under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties **and MSCS** to receive or deliver the information without entering into a business associate agreement or signing another document.
 - d. The Contractor will indemnify the State **and MSCS** and hold **them** 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 **MSCS** because of the violation.

- D.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the

Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of “employee/employer” and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.

- D.22. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.
- D.23. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

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

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

- D.25. State and Federal Compliance. The Contractor shall comply with all State and federal laws and regulations applicable to the Contractor in the Contractor's performance of this Contract.
- D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Tennessee Claims Commission, the chancery courts of Williamson County, Tennessee, and the federal courts of Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 408.
- D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
 - b. this Contract;
 - c. this Contract's Attachment A;
 - d. the agreed-upon Engagement Letter **and any addendums to the Engagement Letter**;
 - e. any other attachments or exhibits to this Contract;
 - f. any clarifications of or addenda to the Contractor's response seeking this Contract;
 - g. the State solicitation, as may be amended, requesting responses in competition for this Contract;
 - h. any technical specifications provided to proposers during the procurement process to award this Contract; and
 - i. the Contractor's response seeking this Contract.
- D.31. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Contract. The Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.32. Insurance. Contractor shall maintain insurance coverage as specified in this Section. The State reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor's failure to maintain or submit evidence of insurance coverage, as required, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall **promptly** 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 **where the State is named as an additional insured** 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. 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 **certificate of insurance** 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 – Comptroller of the Treasury, Assistant Director of Fiscal Services, 425 Rep. John Lewis Way N, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) business days prior to the Effective Date and again 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 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 of not less than one million dollars (\$1,000,000) per **accident** or combined single limit.

d. Professional Liability Insurance

- 1) Professional liability insurance shall be written on an occurrence basis or on a claims-made basis. If this coverage is written on a claims-made basis, then:
 - i. The retroactive date must be shown, and must be on or before the earlier of the Effective Date of the Contract or the beginning of Contract work or provision of goods and services;
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) full years from the date of the final Contract payment; and
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date on or prior to the Contract Effective Date, the Contractor must purchase "extended reporting" or "tail

coverage" for a minimum of five (5) full years from the date of the final Contract payment.

- 2) Any professional liability insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate.

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

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

- D.35. Boycott of Israel. The Contractor certifies that it is not currently engaged in, and covenants that it will not, for the duration of the Contract, engage in a Boycott of Israel, as that term is defined in Tenn. Code Ann. § 12-4-119.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.
- E.2. 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 ordinary wear and tear. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the fair market value of the property at the time of loss.
- E.3. Work Papers Subject to Review. The Contractor shall make all audit, accounting, or financial analysis work papers, notes, and other documentation available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Contract.

The Contractor agrees to retain working papers for no less than five (5) years from the date the engagement is complete. All working papers shall, upon request, be made available in the manner requested by the State for review by the Comptroller of the Treasury, while the engagement is in progress and/or subsequent to the completion of the engagement. Copies of the working papers can be made by the Comptroller's representatives or may be requested to be made by the Contractor and may be retained by the Comptroller's representatives.

- E.4. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the MSCS ("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"). The Contractor shall uphold all applicable privacy and security laws and professional standards, including applicable AICPA Code of Professional Conduct and relevant attestation standards, thereby protecting the Client's sensitive information throughout the engagement and thereafter to maintain the confidentiality of client information and to prevent unauthorized access, use, or disclosure of PII.

Contractor agrees it shall not do or omit to do anything which would cause the MSCS 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 promptly notify State and MSCS: (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. 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 seventy-two (72) 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 12 months of no cost credit monitoring services to individuals whose PII was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract or otherwise available at law. The obligations set forth in this Section shall survive the termination of this Contract.

E.5. The State acknowledges that the Contractor may use third-party software applications to perform services under this Contract. The Contractor shall ensure that any third-party software vendors who may have access to State or MSCS data are subject to written agreements requiring vendors to maintain the confidentiality, integrity, and security of the Contractor's client data in accordance with applicable law and AICPA standards. The Contractor shall remain fully responsible for any acts, omissions, or breaches by third-party software vendors. The State and MSCS retain all rights, title, and interest in their data, and third-party software vendors shall have no rights to use, disclose, or otherwise process State or MSCS data except as necessary to perform services under this Contract

All State and MSCS data must remain in the United States, regardless of whether the data is processed, stored, in-transit, or at rest. Access to State and MSCS data shall be limited to US-based (onshore) resources only. Configuration or development of software and code is permitted outside of the United States, however, software applications designed, developed, manufactured, or supplied by persons owned or controlled by, or subject to the jurisdiction or direction of, a foreign adversary, which the U.S. Secretary of Commerce acting pursuant to 15 C.F.R. 7 has defined to include the People's Republic of China, among others are prohibited. Any testing of code outside of the United States must use fake data. A copy of production data may not be transmitted or used outside the United States.

E.6. The State consents to Contractor's disclosure of information regarding the nature of services Contractor provides to the State, for the limited purpose of complying with professional obligations regarding independence and conflicts of interest.

E.7. Pursuant to obligations under law, regulation or professional standards, the Contractor may be requested to make available certain workpapers and files. The Contractor will notify State of any

such request, if permitted by law. Access to the requested workpapers and files will be provided to the regulator under the supervision of Contractor personnel and at a location designated by Contractor. Furthermore, upon request, Contractor may provide copies of selected workpapers and files to such regulator. The regulator may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

- E.8. The State consents to the Contractor's use of anonymized client data in performing and reporting to clients or publicly on cost comparison, performance indicator and/or benchmarking analyses. If the Contractor fails to preserve the confidentiality of the separate information that the Contractor obtains from each of the Contractor's clients, as required by the AICPA Code of Professional Conduct and various laws, the State's consent is voided immediately.
- E.9. 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.

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

TENNESSEE COMPTROLLER OF THE TREASURY:

JASON E. MUMPOWER, COMPTROLLER

DATE

ATTACHMENT A**ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	
EDISON VENDOR IDENTIFICATION NUMBER:	

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

CONTRACTOR SIGNATURE

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

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION