



**STATE OF TENNESSEE
DEPARTMENT OF EDUCATION**

**REQUEST FOR PROPOSALS
FOR
PROVISION OF A COMPREHENSIVELY DESIGNED
KINDERGARTEN ENTRY INVENTORY**

RFP # 33132-00217

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1. INTRODUCTION

The State of Tennessee, Department of Education, hereinafter referred to as “the State,” has issued this Request for Proposals (RFP) to define minimum contract requirements; solicit responses; detail response requirements; and, outline the State’s process for evaluating responses and selecting a contractor to provide the needed goods or services.

Through this RFP, the State seeks to procure necessary goods or services at the most favorable, competitive prices and to give ALL qualified businesses, including those that are owned by minorities, women, Tennessee service-disabled veterans, and small business enterprises, an opportunity to do business with the state as contractors, subcontractors or suppliers.

1.1. Statement of Procurement Purpose

The Tennessee Department of Education is seeking to procure a comprehensively designed Kindergarten Entry Inventory (KEI) for use by local education agencies to measure the full range of the Tennessee Early Learning Development Standards (“TNELDS”) across all essential domains of school readiness (language and literacy development, early mathematics, approaches toward learning, physical development, and social and emotional development) including set of levels of performance that encompass what a child knows and is able to do for each level. The KEI must be completely developed and operational upon contract execution for operational statewide implementation in the 2017-18 school year, with the functionality to be customized and/or to have future versions developed, based on Tennessee needs in 2018 through the end of the contract period.

1.1.2. The State’s total budget for this new five-year contract is \$5,000,000 (\$1,000,000 annually).

1.2. Scope of Service, Contract Period, & Required Terms and Conditions

The RFP Attachment 6.6., *Pro Forma* Contract details the State’s requirements:

- Scope of Services and Deliverables (Section A);
- Contract Period (Section B);
- Payment Terms (Section C);
- Standard Terms and Conditions (Section D); and,
- Special Terms and Conditions (Section E).

The *pro forma* contract substantially represents the contract document that the successful Respondent must sign.

1.3. Nondiscrimination

No person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of a Contract pursuant to this RFP or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Contractor pursuant to this RFP shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

1.4. RFP Communications

1.4.1. The State has assigned the following RFP identification number that must be referenced in all communications regarding this RFP:

RFP # 33132-00217

1.4.2. Unauthorized contact about this RFP with employees or officials of the State of Tennessee except as detailed below may result in disqualification from consideration under this procurement process.

- 1.4.2.1. Prospective Respondents must direct communications concerning this RFP to the following person designated as the Solicitation Coordinator:

KRISTEN MCKEEVER, RFP COORDINATOR
 CENTRAL PROCUREMENT OFFICE
 DEPARTMENT OF GENERAL SERVICES
 TENNESSEE TOWER, 3RD FLOOR
 312 ROSA L. PARKS AVE.
 NASHVILLE, TN 37243
 (615) 741-0935
KRISTEN.MCKEEVER@TN.GOV

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

- a. staff of the Governor's Office of Diversity Business Enterprise for assistance available to minority-owned, woman-owned, Tennessee service-disabled veteran owned, and small businesses as well as general, public information relating to this RFP (visit <http://www.tn.gov/generalservices/article/godbe-general-contacts> for contact information); and
- b. the following individual designated by the State to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and associated federal regulations:

HELEN CRAWLEY
 CENTRAL PROCUREMENT OFFICE
 DEPARTMENT OF GENERAL SERVICES
 TENNESSEE TOWER, 3RD FLOOR
 312 ROSA L. PARKS AVE.
 NASHVILLE, TN 37243
 (615) 741-3836
HELEN.CROWLEY@TN.GOV

- 1.4.3. Only the State's official, written responses and communications with Respondents are binding with regard to this RFP. Oral communications between a State official and one or more Respondents are unofficial and non-binding.
- 1.4.4. Potential Respondents must ensure that the State receives all written questions and comments, including questions and requests for clarification, no later than the Written Questions & Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.4.5. Respondents must assume the risk of the method of dispatching any communication or response to the State. The State assumes no responsibility for delays or delivery failures resulting from the Respondent's method of dispatch. Actual or digital "postmarking" of a communication or response to the State by a specified deadline is not a substitute for the State's actual receipt of a communication or response.
- 1.4.6. The State will convey all official responses and communications related to this RFP to the prospective Respondents from whom the State has received a Notice of Intent to Respond (refer to RFP Section 1.8).

- 1.4.7. The State reserves the right to determine, at its sole discretion, the method of conveying official, written responses and communications related to this RFP. Such written communications may be transmitted by mail, hand-delivery, facsimile, electronic mail, Internet posting, or any other means deemed reasonable by the State. For internet posting, please refer to the following website: <http://tn.gov/generalservices/article/request-for-proposals-rfp-opportunities>.
- 1.4.8. The State reserves the right to determine, at its sole discretion, the appropriateness and adequacy of responses to written comments, questions, and requests related to this RFP. The State's official, written responses will constitute an amendment of this RFP.
- 1.4.9. Any data or factual information provided by the State (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. The State will make reasonable efforts to ensure the accuracy of such data or information, however it is the Respondent's obligation to independently verify any data or information provided by the State. The State expressly disclaims the accuracy or adequacy of any information or data that it provides to prospective Respondents.

1.5. Assistance to Respondents With a Handicap or Disability

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

1.6. Respondent Required Review & Waiver of Objections

- 1.6.1. Each prospective Respondent must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.6., *Pro Forma* Contract, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called "questions and comments").
- 1.6.2. Any prospective Respondent having questions and comments concerning this RFP must provide them in writing to the State no later than the Written Questions & Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.6.3. Protests based on any objection to the RFP shall be considered waived and invalid if the objection has not been brought to the attention of the State, in writing, by the Written Questions & Comments Deadline.

1.7. Pre-Response Conference

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

The conference will be held at:

TENNESSEE DEPARTMENT OF EDUCATION
ANDREW JOHNSON TOWER
12TH FLOOR, SOUTHWEST CONFERENCE ROOM
NASHVILLE, TN 37243

Contact the RFP Coordinator for call-in information

The purpose of the conference is to discuss the RFP scope of goods or services. The State will entertain questions, however prospective Respondents must understand that the State's oral response to any question at the Pre-response Conference shall be unofficial and non-binding. Prospective Respondents

must submit all questions, comments, or other concerns regarding the RFP in writing prior to the Written Questions & Comments Deadline date detailed in the RFP Section 2, Schedule of Events. The State will send the official response to these questions and comments to prospective Respondents from whom the State has received a Notice of Intent to respond as indicated in RFP Section 1.8 and on the date detailed in the RFP Section 2, Schedule of Events.

1.8. **Notice of Intent to Respond**

Before the Notice of Intent to Respond Deadline detailed in the RFP Section 2, Schedule of Events, prospective Respondents should submit to the Solicitation Coordinator a Notice of Intent to Respond (in the form of a simple e-mail or other written communication). Such notice should include the following information:

- the business or individual's name (as appropriate)
- a contact person's name and title
- the contact person's mailing address, telephone number, facsimile number, and e-mail address

A Notice of Intent to Respond creates no obligation and is not a prerequisite for submitting a response, however, it is necessary to ensure receipt of any RFP amendments or other notices and communications relating to this RFP.

1.9. **Response Deadline**

A Respondent must ensure that the State receives a response no later than the response Deadline time and date detailed in the RFP Section 2, Schedule of Events. A response must respond, as required, to this RFP (including its attachments) as may be amended. The State will not accept late responses, and a Respondent's failure to submit a response before the deadline will result in disqualification of the response. It is the responsibility of the Respondent to ascertain any additional security requirements with respect to packaging and delivery to the State of Tennessee. Respondents should be mindful of any potential delays due to security screening procedures, weather, or other filing delays whether foreseeable or unforeseeable.

2. RFP SCHEDULE OF EVENTS

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

EVENT	TIME (central time zone)	DATE
1. RFP Issued		December 8, 2016
2. Disability Accommodation Request Deadline	2:00 p.m.	December 13, 2016
3. Pre-response Conference	2:00 p.m.	December 19, 2016
4. Notice of Intent to Respond Deadline	2:00 p.m.	December 20, 2016
5. Written "Questions & Comments" Deadline	2:00 p.m.	December 28, 2016
6. State Response to Written "Questions & Comments"		January 9, 2017
7. Response Deadline	2:00 p.m.	January 25, 2017
8. State Completion of Technical Response Evaluations		February 8, 2017
9. State Opening & Scoring of Cost Proposals	2:00 p.m.	February 9, 2017
10. State Notice of Intent to Award Released <u>and</u> RFP Files Opened for Public Inspection	2:00 p.m.	February 10, 2017
11. End of Open File Period		February 22, 2017
12. State sends contract to Contractor for signature		February 23, 2017
13. Contractor Signature Deadline	2:00 p.m.	February 24, 2017

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

3. RESPONSE REQUIREMENTS

3.1. Response Form

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

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

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

- 3.1.1.1. A Respondent must use the RFP Attachment 6.2., Technical Response & Evaluation Guide to organize, reference, and draft the Technical Response by duplicating the attachment, adding appropriate page numbers as required, and using the guide as a table of contents covering the Technical Response.
- 3.1.1.2. A response should be economically prepared, with emphasis on completeness and clarity. A response, as well as any reference material presented, must be written in English and must be written on standard 8 ½" x 11" pages (although oversize exhibits are permissible) and use a 12 point font for text. All response pages must be numbered.
- 3.1.1.3. All information and documentation included in a Technical Response should respond to or address a specific requirement detailed in the RFP Attachment 6.2., Technical Response & Evaluation Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed extraneous and will not contribute to evaluations.
- 3.1.1.4. The State may determine a response to be non-responsive and reject it if:
- a. the Respondent fails to organize and properly reference the Technical Response as required by this RFP and the RFP Attachment 6.2., Technical Response & Evaluation Guide; or
 - b. the Technical Response document does not appropriately respond to, address, or meet all of the requirements and response items detailed in the RFP Attachment 6.2., Technical Response & Evaluation Guide.
- 3.1.2. **Cost Proposal.** A Cost Proposal must be recorded on an exact duplicate of the RFP Attachment 6.3., Cost Proposal & Scoring Guide.

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

- 3.1.2.1. A Respondent must only record the proposed cost exactly as required by the RFP Attachment 6.3., Cost Proposal & Scoring Guide and must NOT record any other rates, amounts, or information.

- 3.1.2.2. The proposed cost shall incorporate ALL costs for services under the contract for the total contract period, including any renewals or extensions.
- 3.1.2.3. A Respondent must sign and date the Cost Proposal.
- 3.1.2.4. A Respondent must submit the Cost Proposal to the State in a sealed package separate from the Technical Response (as detailed in RFP Sections 3.2.3., *et seq.*).

3.2. Response Delivery

- 3.2.1. A Respondent must ensure that both the original Technical Response and Cost Proposal documents meet all form and content requirements, including all required signatures, as detailed within this RFP.
- 3.2.2. A Respondent must submit original Technical Response and Cost Proposal documents and copies as specified below.
 - 3.2.2.1. One (1) original Technical Response paper document labeled:

“RFP # 33132-00217 TECHNICAL RESPONSE ORIGINAL”

and six (6) digital copies of the Technical Response each in the form of one (1) digital document in “PDF” format properly recorded on its own otherwise blank, standard USB flash drive labeled:

“RFP # 33132-00217 TECHNICAL RESPONSE COPY”

The digital copies should not include copies of sealed customer references, however any other discrepancy between the paper Technical Response document and any digital copies may result in the State rejecting the proposal as non-responsive.
 - 3.2.2.2. One (1) original Cost Proposal paper document labeled:

“RFP # 33132-00217 COST PROPOSAL ORIGINAL”

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

“RFP # 33132-00217 COST PROPOSAL COPY”

In the event of a discrepancy between the original Cost Proposal document and the digital copy, the original, signed document will take precedence.
- 3.2.3. A Respondent must separate, seal, package, and label the documents and copies for delivery as follows:
 - 3.2.3.1. The Technical Response original document and digital copies must be placed in a sealed package that is clearly labeled:

“DO NOT OPEN... RFP # 33132-00217 TECHNICAL RESPONSE FROM [RESPONDENT LEGAL ENTITY NAME]”
 - 3.2.3.2. The Cost Proposal original document and digital copy must be placed in a separate, sealed package that is clearly labeled:

“DO NOT OPEN... RFP # 33132-00217 COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”

- 3.2.3.3. The separately, sealed Technical Response and Cost Proposal components may be enclosed in a larger package for mailing or delivery, provided that the outermost package is clearly labeled:

“RFP # 33132-00217 SEALED TECHNICAL RESPONSE & SEALED COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”

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

KRISTEN MCKEEVER, RFP COORDINATOR
CENTRAL PROCUREMENT OFFICE
DEPARTMENT OF GENERAL SERVICES
TENNESSEE TOWER, 3RD FLOOR
312 ROSA L. PARKS AVE.
NASHVILLE, TN 37243
(615) 741-0935
KRISTEN.MCKEEVER@TN.GOV

3.3. Response & Respondent Prohibitions

- 3.3.1. A response must not include alternate contract terms and conditions. If a response contains such terms and conditions, the State, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.
- 3.3.2. A response must not restrict the rights of the State or otherwise qualify either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal. If a response restricts the rights of the State or otherwise qualifies either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal, the State, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.
- 3.3.3. A response must not propose alternative goods or services (*i.e.*, offer services different from those requested and required by this RFP) unless expressly requested in this RFP. The State may consider a response of alternative goods or services to be non-responsive and reject it.
- 3.3.4. A Cost Proposal must be prepared and arrived at independently and must not involve any collusion between Respondents. The State will reject any Cost Proposal that involves collusion, consultation, communication, or agreement between Respondents. Regardless of the time of detection, the State will consider any such actions to be grounds for response rejection or contract termination.
- 3.3.5. A Respondent must not provide, for consideration in this RFP process or subsequent contract negotiations, any information that the Respondent knew or should have known was materially incorrect. If the State determines that a Respondent has provided such incorrect information, the State will deem the Response non-responsive and reject it.
- 3.3.6. A Respondent must not submit more than one Technical Response and one Cost Proposal in response to this RFP, except as expressly requested by the State in this RFP. If a Respondent submits more than one Technical Response or more than one Cost Proposal, the State will deem all of the responses non-responsive and reject them.
- 3.3.7. A Respondent must not submit a response as a prime contractor while also permitting one or more other Respondents to offer the Respondent as a subcontractor in their own responses. Such may result in the disqualification of all Respondents knowingly involved. This restriction does not, however, prohibit different Respondents from offering the same subcontractor as a part

of their responses (provided that the subcontractor does not also submit a response as a prime contractor).

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

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

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

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

3.4. **Response Errors & Revisions**

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

3.5. **Response Withdrawal**

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

3.6. **Additional Services**

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

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

3.7. **Response Preparation Costs**

The State will not pay any costs associated with the preparation, submittal, or presentation of any response.

4. GENERAL CONTRACTING INFORMATION & REQUIREMENTS

4.1. RFP Amendment

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

4.2. RFP Cancellation

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

4.3. State Right of Rejection

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

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

4.4. Assignment & Subcontracting

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

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

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

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

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

4.5. Right to Refuse Personnel or Subcontractors

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

4.6. **Insurance**

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

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

- 4.7.1. All persons, agencies, firms, or other entities that provide legal or financial opinions, which a Respondent provides for consideration and evaluation by the State as a part of a response to this RFP, shall be properly licensed to render such opinions.
- 4.7.2. Before the Contract resulting from this RFP is signed, the apparent successful Respondent (and Respondent employees and subcontractors, as applicable) must hold all necessary or appropriate business or professional licenses to provide the goods or services as required by the contract. The State may require any Respondent to submit evidence of proper licensure.
- 4.7.3. Before the Contract resulting from this RFP is signed, the apparent successful Respondent must be registered with the Tennessee Department of Revenue for the collection of Tennessee sales and use tax. The State shall not award a contract unless the Respondent provides proof of such registration or provides documentation from the Department of Revenue that the Contractor is exempt from this registration requirement. The foregoing is a mandatory requirement of an award of a contract pursuant to this solicitation. For purposes of this registration requirement, the Department of Revenue may be contacted at: TN.Revenue@tn.gov.

4.8. **Disclosure of Response Contents**

- 4.8.1. All materials submitted to the State in response to this RFP shall become the property of the State of Tennessee. Selection or rejection of a response does not affect this right. By submitting a response, a Respondent acknowledges and accepts that the full response contents and associated documents will become open to public inspection in accordance with the laws of the State of Tennessee.
- 4.8.2. The State will hold all response information, including both technical and cost information, in confidence during the evaluation process. Notwithstanding the foregoing, a list of actual Respondents submitting timely responses may be available to the public, upon request, after technical responses are opened.
- 4.8.3. Upon completion of response evaluations, indicated by public release of a Notice of Intent to Award, the responses and associated materials will be open for review by the public in accordance with *Tennessee Code Annotated*, Section 10-7-504(a)(7).

4.9. **Contract Approval and Contract Payments**

- 4.9.1. After contract award, the Contractor who is awarded the contract must submit appropriate documentation with the Department of Finance and Administration, Division of Accounts.
- 4.9.2. This RFP and its contractor selection processes do not obligate the State and do not create rights, interests, or claims of entitlement in either the Respondent with the apparent best-evaluated response or any other Respondent. State obligations pursuant to a contract award shall commence only after the contract is signed by the State agency head and the Contractor and after the Contract is approved by all other state officials as required by applicable laws and regulations.

- 4.9.3. No payment will be obligated or made until the relevant Contract is approved as required by applicable statutes and rules of the State of Tennessee.
- 4.9.3.1. The State shall not be liable for payment of any type associated with the Contract resulting from this RFP (or any amendment thereof) or responsible for any goods delivered or services rendered by the Contractor, even goods delivered or services rendered in good faith and even if the Contractor is orally directed to proceed with the delivery of goods or the rendering of services, if it occurs before the Contract start date or after the Contract end date.
- 4.9.3.2. All payments relating to this procurement will be made in accordance with the Payment Terms and Conditions of the Contract resulting from this RFP (refer to RFP Attachment 6.6., *Pro Forma* Contract, Section C).
- 4.9.3.3. If any provision of the Contract provides direct funding or reimbursement for the competitive purchase of goods or services as a component of contract performance or otherwise provides for the reimbursement of specified, actual costs, the State will employ all reasonable means and will require all such documentation that it deems necessary to ensure that such purchases were competitive and costs were reasonable, necessary, and actual. The Contractor shall provide reasonable assistance and access related to such review. Further, the State shall not remit, as funding or reimbursement pursuant to such provisions, any amounts that it determines do not represent reasonable, necessary, and actual costs.

4.10. **Contractor Performance**

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

4.11. **Contract Amendment**

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

4.12. **Severability**

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

4.13. **Next Ranked Respondent**

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

5. EVALUATION & CONTRACT AWARD

5.1. Evaluation Categories & Maximum Points

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

EVALUATION CATEGORY	MAXIMUM POINTS POSSIBLE
General Qualifications & Experience (refer to RFP Attachment 6.2., Section B)	10
Technical Qualifications, Experience & Approach (refer to RFP Attachment 6.2., Section C)	60
Cost Proposal (refer to RFP Attachment 6.3.)	30

5.2. Evaluation Process

The evaluation process is designed to award the contract resulting from this RFP not necessarily to the Respondent offering the lowest cost, but rather to the Respondent deemed by the State to be responsive and responsible who offers the best combination of attributes based upon the evaluation criteria. ("Responsive Respondent" is defined as a Respondent that has submitted a response that conforms in all material respects to the RFP. "Responsible Respondent" is defined as a Respondent that has the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.)

5.2.1. **Technical Response Evaluation.** The Solicitation Coordinator and the Proposal Evaluation Team (consisting of three (3) or more State employees) will use the RFP Attachment 6.2., Technical Response & Evaluation Guide to manage the Technical Response Evaluation and maintain evaluation records.

5.2.1.1. The State reserves the right, at its sole discretion, to request Respondent clarification of a Technical Response or to conduct clarification discussions with any or all Respondents. Any such clarification or discussion will be limited to specific sections of the response identified by the State. The subject Respondent must put any resulting clarification in writing as may be required and in accordance with any deadline imposed by the State.

5.2.1.2. The Solicitation Coordinator will review each Technical Response to determine compliance with RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A—Mandatory Requirements. If the Solicitation Coordinator determines that a response failed to meet one or more of the mandatory requirements, the Proposal Evaluation Team will review the response and document the team's determination of whether:

- a. the response adequately meets RFP requirements for further evaluation;
- b. the State will request clarifications or corrections for consideration prior to further evaluation; or,
- c. the State will determine the response to be non-responsive to the RFP and reject it.

5.2.1.3. Proposal Evaluation Team members will independently evaluate each Technical Response (that is responsive to the RFP) against the evaluation criteria in this RFP,

and will score each in accordance with the RFP Attachment 6.2., Technical Response & Evaluation Guide.

5.2.1.4. For each response evaluated, the Solicitation Coordinator will calculate the average of the Proposal Evaluation Team member scores for RFP Attachment 6.2., Technical Response & Evaluation Guide, and record each average as the response score for the respective Technical Response section.

5.2.1.5. Before Cost Proposals are opened, the Proposal Evaluation Team will review the Technical Response Evaluation record and any other available information pertinent to whether or not each Respondent is responsive and responsible. If the Proposal Evaluation Team identifies any Respondent that does not to meet the responsive and responsible thresholds such that the team would not recommend the Respondent for Cost Proposal Evaluation and potential contract award, the team members will fully document the determination.

5.2.2. **Cost Proposal Evaluation.** The Solicitation Coordinator will open for evaluation the Cost Proposal of each Respondent deemed by the State to be responsive and responsible and calculate and record each Cost Proposal score in accordance with the RFP Attachment 6.3., Cost Proposal & Scoring Guide.

5.2.3. **Total Response Score.** The Solicitation Coordinator will calculate the sum of the Technical Response section scores and the Cost Proposal score and record the resulting number as the total score for the subject Response (refer to RFP Attachment 6.5., Score Summary Matrix).

5.3. Contract Award Process

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

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

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

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

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

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

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

RFP # 33132-00217 STATEMENT OF CERTIFICATIONS AND ASSURANCES

The Respondent must sign and complete the Statement of Certifications and Assurances below as required, and it must be included in the Technical Response (as required by RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A, Item A.1.).

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

1. The Respondent will comply with all of the provisions and requirements of the RFP.
2. The Respondent will provide all services as defined in the Scope of Services of the RFP Attachment 6.6., *Pro Forma Contract* for the total contract period.
3. The Respondent, except as otherwise provided in this RFP, accepts and agrees to all terms and conditions set out in the RFP Attachment 6.6., *Pro Forma Contract*.
4. The Respondent acknowledges and agrees that a contract resulting from the RFP shall incorporate, by reference, all proposal responses as a part of the contract.
5. The Respondent will comply with:
 - (a) the laws of the State of Tennessee;
 - (b) Title VI of the federal Civil Rights Act of 1964;
 - (c) Title IX of the federal Education Amendments Act of 1972;
 - (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
 - (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
6. To the knowledge of the undersigned, the information detailed within the response submitted to this RFP is accurate.
7. The response submitted to this RFP was independently prepared, without collusion, under penalty of perjury.
8. No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Respondent in connection with this RFP or any resulting contract.
9. Both the Technical Response and the Cost Proposal submitted in response to this RFP shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the RFP.
10. The Respondent affirms the following statement, as required by the Iran Divestment Act Tenn. Code Ann. § 12-12-111: "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint response each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each Respondent is not on the list created pursuant to §12-12-106." For reference purposes, the list is currently available online at: <http://www.tn.gov/generalservices/article/Public-Information-library>.

By signing this Statement of Certifications and Assurances, below, the signatory also certifies legal authority to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If the signatory is not the Respondent (if an individual) or the Respondent's company *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to bind the Respondent.

DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO BIND THE RESPONDENT

SIGNATURE:

PRINTED NAME & TITLE:

DATE:

**RESPONDENT LEGAL ENTITY
NAME:**

RFP ATTACHMENT 6.2. — Section A**TECHNICAL RESPONSE & EVALUATION GUIDE**

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

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

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		The Response must be delivered to the State no later than the Response Deadline specified in the RFP Section 2, Schedule of Events.	
		The Technical Response and the Cost Proposal documentation must be packaged separately as required (refer to RFP Section 3.2., <i>et. seq.</i>).	
		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 qualification of the response.	
		A Respondent must NOT submit alternate responses (refer to RFP Section 3.3.).	
		A Respondent must NOT submit multiple responses in different forms (as a prime and a sub-contractor) (refer to RFP Section 3.3.).	
	A.1.	Provide the Statement of Certifications and Assurances (RFP Attachment 6.1.) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification.	
	A.2.	Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall cause to deliver goods or perform services under the contract has a possible conflict of interest (<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 current bank reference indicating that the Respondent's business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.	
	A.4.	Provide two current positive credit references from vendors with which the Respondent has done business written in the form of standard business letters, signed, and dated within the past three (3) months.	
	A.5.	Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit rating for the Respondent (NOTE: A credit bureau report	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		number without the full report is insufficient and will <u>not</u> be considered responsive.)	
	A.6.	Provide evidence of experience with KEI or other related early learning assessments, including evidence of successful large scale, statewide implementation.	
	A.7	Provide an assessment blueprint that demonstrates standards alignment and a sample of the full range of assessment items.	
	A.8.	Certify that the KEI is ready to be operational statewide in fall 2017.	
<i>State Use – Solicitation Coordinator Signature, Printed Name & Date:</i>			

RFP ATTACHMENT 6.2. — SECTION B

TECHNICAL RESPONSE & EVALUATION GUIDE

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

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 providing the goods or services required by this RFP.
	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 change of control 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, involved in the delivery of goods or performance of services on a contract pursuant to this RFP, have been convicted of, pled guilty to, or pled <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 RFP or is likely to have a material adverse effect on the Respondent's financial condition. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it would impair the Respondent's performance in a contract pursuant to this RFP. NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the Respondent to submit proof of license for each person or entity that renders such opinions.
	B.10.	Provide a statement of whether there are any pending or in progress Securities Exchange Commission investigations involving the Respondent. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it will impair the Respondent's performance in a contract pursuant to this RFP. 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

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		Respondent to submit proof of license for each person or entity that renders such opinions.
	B.11.	Provide a brief, descriptive statement detailing evidence of the Respondent's ability to deliver the goods or services sought under this RFP (e.g., prior experience, training, certifications, resources, program and quality management systems, etc.).
	B.12.	Provide a narrative description of the proposed project team, its members, and organizational structure along with an organizational chart identifying the key people who will be assigned to deliver the goods or services required by this RFP.
	B.13.	Provide a personnel roster listing the names of key people who the Respondent will assign to meet the Respondent's requirements under this RFP along with the estimated number of hours that each individual will devote to that performance. Follow the personnel roster with a resume for each of the people listed. The resumes must detail the individual's title, education, current position with the Respondent, and employment history.
	B.14.	Provide a statement of whether the Respondent intends to use subcontractors to meet the Respondent's requirements of any contract awarded pursuant to this RFP, and if so, detail: <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 goods each subcontractor involved in the delivery of goods or performance of the services each subcontractor will perform; <u>and</u> (c) a statement specifying that each proposed subcontractor has expressly assented to being proposed as a subcontractor in the Respondent's response to this RFP.
	B.15.	Provide documentation of the Respondent's commitment to diversity as represented by the following: <ul style="list-style-type: none"> (a) <u>Business Strategy</u>. Provide a description of the Respondent's existing programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities, women, Tennessee service-disabled veterans, and small business enterprises. Please also include a list of the Respondent's certifications as a diversity business, if applicable. (b) <u>Business Relationships</u>. Provide a listing of the Respondent's current contracts with business enterprises owned by minorities, women, Tennessee service-disabled veterans and small business enterprises. Please include the following information: <ul style="list-style-type: none"> (i) contract description; (ii) contractor name and ownership characteristics (i.e., ethnicity, gender, Tennessee service-disabled); (iii) contractor contact name and telephone number. (c) <u>Estimated Participation</u>. Provide an estimated level of participation by business enterprises owned by minorities, women, Tennessee service-disabled veterans, and small business enterprises if a contract is awarded to the Respondent pursuant to this RFP. Please include the following information: <ul style="list-style-type: none"> (i) a percentage (%) indicating the participation estimate. (Express the estimated participation number as a percentage of the total estimated contract value that will be dedicated to business with subcontractors and supply contractors having such ownership characteristics only and DO NOT INCLUDE DOLLAR AMOUNTS); (ii) anticipated goods or services contract descriptions; (iii) names and ownership characteristics (i.e., ethnicity, gender, Tennessee service-disabled veterans) of anticipated subcontractors and supply contractors. <p>NOTE: In order to claim status as a Diversity Business Enterprise under this contract,</p>

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		<p>businesses must be certified by the Governor's Office of Diversity Business Enterprise (Go-DBE). Please visit the Go-DBE website at https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810 for more information.</p> <p>(d) <u>Workforce</u>. Provide the percentage of the Respondent's total current employees by ethnicity and gender.</p> <p>NOTE: Respondents that demonstrate a commitment to diversity will advance State efforts to expand opportunity to do business with the State as contractors and subcontractors. Response evaluations will recognize the positive qualifications and experience of a Respondent that does business with enterprises owned by minorities, women, Tennessee service-disabled veterans and small business enterprises and who offer a diverse workforce.</p>
	B.16.	<p>Provide a statement of whether or not the Respondent has any current contracts with the State of Tennessee or has completed any contracts with the State of Tennessee within the previous five (5) year period. If so, provide the following information for all of the current and completed contracts:</p> <p>(a) the name, title, telephone number and e-mail address of the State contact knowledgeable about the contract;</p> <p>(b) the procuring State agency name;</p> <p>(c) a brief description of the contract's scope of services;</p> <p>(d) the contract period; and</p> <p>(e) the contract number.</p> <p>NOTES:</p> <ul style="list-style-type: none"> ▪ Current or prior contracts with the State are <u>not</u> a prerequisite and are <u>not</u> required for the maximum evaluation score, and the existence of such contracts with the State will <u>not</u> automatically result in the addition or deduction of evaluation points. ▪ Each evaluator will generally consider the results of inquiries by the State regarding all contracts noted.
	B.17.	<p>Provide customer references from individuals who are <u>not</u> current or former State employees for projects similar to the goods or services sought under this RFP and which represent:</p> <ul style="list-style-type: none"> ▪ two (2) accounts Respondent currently services that are similar in size to the State; <u>and</u> ▪ three (3) completed projects. <p>References from at least three (3) different individuals are required to satisfy the requirements above, e.g., an individual may provide a reference about a completed project and another reference about a currently serviced account. The standard reference questionnaire, which <u>must</u> be used and completed, is provided at RFP Attachment 6.4. References that are not completed as required may be deemed non-responsive and may not be considered.</p> <p>The Respondent will be <u>solely</u> responsible for obtaining fully completed reference questionnaires and including them in the sealed Technical Response. In order to obtain and submit the completed reference questionnaires follow the process below.</p> <p>(a) Add the Respondent's name to the standard reference questionnaire at RFP Attachment 6.4. and make a copy for each reference.</p> <p>(b) Send a reference questionnaire and new, standard #10 envelope to each reference.</p> <p>(c) Instruct the reference to:</p> <ol style="list-style-type: none"> (i) complete the reference questionnaire; (ii) sign and date the completed reference questionnaire; (iii) seal the completed, signed, and dated reference questionnaire within the envelope provided; (iv) sign his or her name in ink across the sealed portion of the envelope; and (v) return the sealed envelope directly to the Respondent (the Respondent may wish to give each reference a deadline, such that the Respondent will be able to collect all required

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		<p>references in time to include them within the sealed Technical Response).</p> <p>(d) <u>Do NOT open the sealed references upon receipt.</u></p> <p>(e) Enclose all <u>sealed</u> reference envelopes within a larger, labeled envelope for inclusion in the Technical Response as required.</p> <p>NOTES:</p> <ul style="list-style-type: none"> ▪ The State will not accept late references or references submitted by any means other than that which is described above, and each reference questionnaire submitted must be completed as required. ▪ The State will not review more than the number of required references indicated above. ▪ While the State will base its reference check on the contents of the sealed reference envelopes included in the Technical Response package, the State reserves the right to confirm and clarify information detailed in the completed reference questionnaires, and may consider clarification responses in the evaluation of references. ▪ The State is under <u>no</u> obligation to clarify any reference information.
	B.18.	<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.
		<p>SCORE (for <u>all</u> Section B—Qualifications & Experience Items above): (maximum possible score = 10)</p>
State Use – Evaluator Identification:		

RFP ATTACHMENT 6.2. — SECTION C

TECHNICAL RESPONSE & EVALUATION GUIDE

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

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

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

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

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
	C.1.	Provide a narrative that illustrates the Respondent's understanding of the State's requirements and project schedule, as outlined in Sections A.3. through A.9.		8	
	C.2.	Provide a narrative that illustrates how the Respondent will complete the scope of services, accomplish required objectives, and meet the State's project schedule, as outlined in Sections A.3 through A.9.		8	
	C.3.	Provide a narrative that illustrates how the Respondent will manage the project, ensure completion of the scope of services, and accomplish required objectives within the State's project schedule, as outlined in Sections A.4 and A.5.		8	
	C.4.	Provide a narrative that illustrates the Respondent's experience with and knowledge of kindergarten assessment and child development, as outlined in Section A.3 and A.6.		10	
	C.5.	Provide a narrative that describes in detail the blueprint for the kindergarten entry inventory, with a crosswalk of alignment to the Tennessee Early Learning Development Standards and the Essential Domains of School Readiness. Include a detailed description of the weighting for each assessment section with rationale for the number of items that fall into each essential domain of school readiness, the item type associated with each standard assessed, and the justification for the weighting, , as outlined in Section A.3 and A.6.		10	
	C.6.	Provide an explanation of how assessment is made accessible to all students and includes a description of the accommodations and guidelines for students with disabilities and English Learners, as outlined in Section A.3.		8	
	C.7.	Provide a description of the process for developing and customizing future versions of the KEI, based on specific feedback from Tennessee stakeholders. What is the process for developing, piloting, field testing and operationalizing future versions of the KEI? Estimated timeline? Ability to customize and change standards and/or skills assessed? See Sections A.3 and A.6.		8	

RFP ATTACHMENT 6.2. — SECTION C (continued)

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.8.	Provide a description of how the assessment is scored, including the data collection and reporting process, as well as the standards setting process, as outlined in Section A.9.		6	
	C.9.	Describe the reporting functionality of the tool, including child level, class level, school/site level, district level, and state level), as outlined in Section A.9., including: <ul style="list-style-type: none"> • What amount of time is needed from data entry to generation of reports? • Are disaggregated reports available, and if so, for what subgroups and what essential domains of school readiness? • Does the assessment tool support collection and reporting of Indicator 7 outcome data to the Office of Special Education Programs (OSEP)? 		6	
	C.10.	Provide research on the relationship between the KEI and subsequent student performance on national benchmarks and/or statewide assessments, as outlined in Section A.6.		8	
	C.11.	How will assessment reports, both individual and aggregate reports, be customized and made available for multiple stakeholder groups, including parents, teachers and policy makers, as outlined in Section A.9.? Provide a description of recommendations for reporting students' progress towards readiness.		10	
	C.12.	Describe the tool's ability to monitor student's progress during the kindergarten school year, as outlined in Section A.3.		4	
	C.13.	Describe how assessment data across calendar/academic years can be linked in order to show child development and growth and to make comparisons across programs, as outlined in Section A.6.		6	
	C.14.	Provide a description of the Respondent's capacity to provide training to the early childhood workforce, as outlined in Sections A.3., A.7. and A.9. <ul style="list-style-type: none"> • Is training designed to address the differentiated learning needs of staff, including varying levels of exposure to observational methods of assessment and knowledge of children's development? 		10	
	C.15.	Provide a narrative that includes a clear description of the train-the-trainer model to be used for KEI training, as outlined in Section A.3. <ul style="list-style-type: none"> • Who will conduct training on the assessment? • Can training be provided at multiple locations across the state? • Describe the format for training (online, face to face, recorded, etc.). • What training materials are included (including printing and shipping)? • How often is training offered? 		10	

RFP ATTACHMENT 6.2. — SECTION C (continued)

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
		<ul style="list-style-type: none"> How many people may be trained at one time? Total time for training; are multiple training sessions required and offered? How will appropriate personnel (directors, supervisors, State staff, etc.) be trained to ensure sustainability over time? Are general educators, special educators and teachers of English learners included in the training plan? 			
	C.16.	How does training ensure a high degree inter-rater reliability? Provide evidence on the degree of inter-rater reliability.		4	
	C.17.	Does the training include utilization of assessment results to inform instruction, interactions/ activities and routines and communicating assessment information with parents/families?		4	
	C.18.	Describe on-going technical support on administration of the tool.		8	
	C.19.	How will the Respondent ensure periodic communication with the State on the progress toward meeting the training timelines?		6	
	C.20.	Describe the Respondent's capacity to interface with other systems. <ul style="list-style-type: none"> Can the Respondent's online reporting system be utilized or can the State develop a site for data entry within its own system? Are there unique student identifiers for individual children, class, teacher, site, and district? If so, contractors must work with the State to link student data to State systems. Describe the data files that are available for export (what data is available). Describe the proposed process for exporting data files to the State. Is the Respondent's system equipped to pre-load child data from the State? 		8	
	C.21.	Describe the platform, primary engine for delivering the assessment, minimum technical requirements for the system (operating system, browser, memory, etc.), how many simultaneous users the system can handle, and log-in procedures for staff and levels of security necessary.		10	
	C.22.	Describe the help desk function that will be provided by the Contractor for direct users, to include educators, of the data management system.		8	
<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			X 60	= SCORE:	
Maximum Possible Raw Weighted Score			<i>(maximum possible score)</i>		
<i>(i.e., 5 x the sum of item weights above)</i>					

RFP ATTACHMENT 6.2. — SECTION C (continued)

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
<i>State Use – Evaluator Identification:</i>					
<i>State Use – Solicitation Coordinator Signature, Printed Name & Date:</i>					

RFP ATTACHMENT 6.3.

COST PROPOSAL & SCORING GUIDE

NOTICE: THIS COST PROPOSAL MUST BE COMPLETED EXACTLY AS REQUIRED

COST PROPOSAL SCHEDULE— The Cost Proposal, detailed below, shall indicate the proposed price for goods or services defined in the Scope of Services of the RFP Attachment 6.6., *Pro Forma* Contract and for the entire contract period. The Cost Proposal shall remain valid for at least one hundred twenty (120) days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract resulting from this RFP. All monetary amounts shall be in U.S. currency and limited to two (2) places to the right of the decimal point.

NOTICE: The Evaluation Factor associated with each cost item is for evaluation purposes only. The evaluation factors do NOT and should NOT be construed as any type of volume guarantee or minimum purchase quantity. The evaluation factors shall NOT create rights, interests, or claims of entitlement in the Respondent.

Notwithstanding the cost items herein, pursuant to the second paragraph of the *Pro Forma* Contract section C.1. (refer to RFP Attachment 6.6.), "The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract."

This Cost Proposal must be signed, in the space below, by an individual empowered to bind the Respondent to the provisions of this RFP and any contract awarded pursuant to it. If said individual is not the *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to legally bind the Respondent.

RESPONDENT SIGNATURE:			
PRINTED NAME & TITLE:			
DATE:			
RESPONDENT LEGAL ENTITY NAME:			
Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost <small>(cost x factor)</small>
KEI as defined in section A.3.a.-m.	\$ / student/year	375,000	
Web-based data collection and reporting system A.3.n. & A.4.	\$ / year	5	
EVALUATION COST AMOUNT (sum of evaluation costs above):			
<small>The Solicitation Coordinator will use this sum and the formula below to calculate the Cost Proposal Score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.</small>			
lowest evaluation cost amount from <u>all</u> proposals		x 30	= SCORE:
evaluation cost amount being evaluated		(maximum section score)	
<i>State Use – Solicitation Coordinator Signature, Printed Name & Date:</i>			

REFERENCE QUESTIONNAIRE

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

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

RFP # 33132-00217 REFERENCE QUESTIONNAIRE

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

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

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

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

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

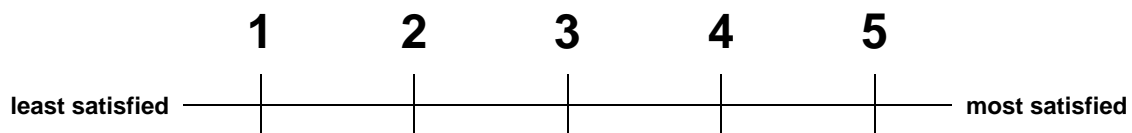
(2) Please provide the following information about the individual completing this reference questionnaire on behalf of the above-named individual, company, organization, or entity.

NAME:	
TITLE:	
TELEPHONE #	
E-MAIL ADDRESS:	

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

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

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

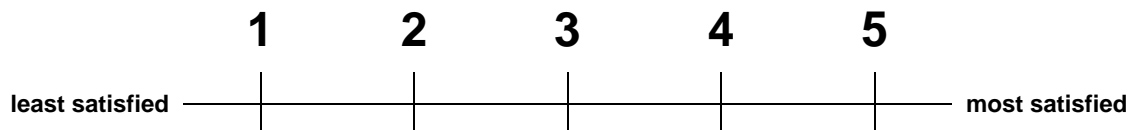


RFP # 33132-00217 REFERENCE QUESTIONNAIRE — PAGE 2

If you circled 3 or less above, what could the reference subject have done to improve that rating?

- (5) If the goods or services that the reference subject provided to your company or organization are completed, were the goods or services provided in compliance with the terms of the contract, on time, and within budget? If not, please explain.
- (6) If the reference subject is still providing goods or services to your company or organization, are these goods or services being provided in compliance with the terms of the contract, on time, and within budget? If not, please explain.
- (7) How satisfied are you with the reference subject's ability to perform based on your expectations and according to the contractual arrangements?
- (8) In what areas of goods or service delivery does/did the reference subject excel?
- (9) In what areas of goods or service delivery does/did the reference subject fall short?
- (10) What is the level of your satisfaction with the reference subject's project management structures, processes, and personnel?

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

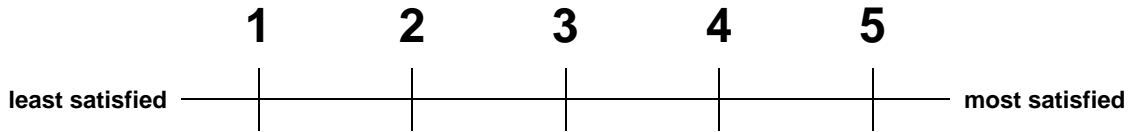


What, if any, comments do you have regarding the score selected above?

RFP # 33132-00217 REFERENCE QUESTIONNAIRE — PAGE 3

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

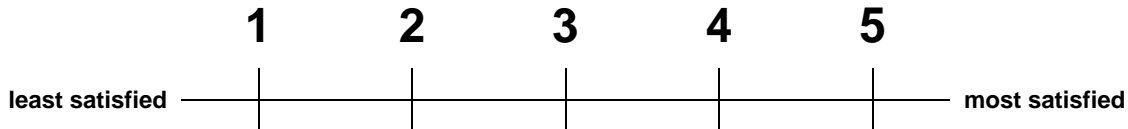
Please respond by circling the appropriate number on the scale below.



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

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

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



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

REFERENCE SIGNATURE:

(by the individual completing this request for reference information)

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

DATE:

SCORE SUMMARY MATRIX

	<i>RESPONDENT NAME</i>		<i>RESPONDENT NAME</i>		<i>RESPONDENT NAME</i>	
GENERAL QUALIFICATIONS & EXPERIENCE (maximum: 10)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>REPEAT AS NECESSARY</i>						
	AVERAGE:		AVERAGE:		AVERAGE:	
TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH (maximum: 60)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>REPEAT AS NECESSARY</i>						
	AVERAGE:		AVERAGE:		AVERAGE:	
COST PROPOSAL (maximum: 30)	SCORE:		SCORE:		SCORE:	
TOTAL RESPONSE EVALUATION SCORE: (maximum: 100)						

Solicitation Coordinator Signature, Printed Name & Date:

RFP # 33132-00217 PRO FORMA CONTRACT

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

CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF EDUCATION
AND
CONTRACTOR NAME

This Contract, by and between the State of Tennessee, Department of Education (“State”) and **Contractor Legal Entity Name** (“Contractor”), is for the provision of a comprehensively designed kindergarten entry inventory, as further defined in the "SCOPE." State and Contractor may be referred to individually as a “Party” or collectively as the “Parties” to this Contract.

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

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

Contractor Edison Registration ID # **Number**

A. SCOPE:

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

A.2. Definitions:

- a. **Accessibility Features:** Test administration modifications allowable for use with any student. Modifications may include: flexible setting or scheduling; visual, tactile, or auditory aids; scribe; adjustments to background or contrast colors for computer-based testing; and enlarged print online. Individualized Education Plan (IEP) and/or 504 plan documentation is not necessary.
- b. **Accommodations:** Changes in the assessment materials or procedures that do not change the construct being measured that are specified by IEP and/or 504 service plan documentation and/or accommodations recommended in the guidelines for allowable supports (defined below) for all students. These may include an administrator providing prompting upon request and additional time.
- c. **Assessment:** An evaluation of student performance and/or observations of students’ engaging with materials, peers and/or teachers, related to knowledge and skills in a specific content area and/or developmental domain.
- d. **Construct Irrelevant:** The extent to which test scores are influenced by factors (e.g., mode of presentation or response) that are irrelevant (not related) to the construct that the test is intended to measure.
- e. **Education Agency (EA):** Term used to collectively refer to all Tennessee public local education agencies (LEAs), charter schools, State Special Schools, the Achievement School District as defined in T.C.A. § 49-1-614, Department of Children’s Services schools, and approved private schools.
- f. **English Learner (EL):** A student whose first language is not English and who is limited English proficient as determined by State criteria. Historically referred to as Limited English Proficiency (LEP).
- g. **English Learner Accommodations:** Testing accommodations allowable for EL or non-English language background (NELB) students based on individual needs and abilities.
- h. **Essential Domains of School Readiness:** Critical developmental domains, which include language and literacy development, mathematics), approaches toward learning, physical development, and social and emotional development.
- i. **Fault Tolerance:** The Contractor’s ability to maintain continuity of computer-based testing platform in the event of the failure of one or more of its components.
- j. **Guidelines for Allowable Support:** Guidelines developed by the State and Contractor that specify recommended and allowable supports in KEI administration for kindergarten students.
- k. **Item(s):** Assessment questions, which may include performance tasks, selected response and/or observations.
- l. **Inter-rater Reliability:** In statistics, inter-rater reliability, inter-rater agreement, or concordance is the degree of agreement among raters. It gives a score of how much homogeneity, or consensus, there is in the ratings given by judges. It is useful in refining the tools given to

- human judges, for example by determining if a particular scale is appropriate for measuring a particular variable.
- m. Kindergarten Entry Inventory (KEI): The name given by the State to the assessment instrument and system used to provide a comprehensive child profile for kindergarten students based on the essential domains of school readiness.
 - n. Read to be Ready: Tennessee's statewide early foundations and literacy initiative aimed to increase 3rd grade reading proficiency scores from 43% to 75% by 2025. Information regarding *Read to be Ready* can currently be found at this link: <http://www.tn.gov/readtobeready>
 - o. Selected Response (SR): A test question that requires the student to choose the correct/best answer(s) from possible responses (i.e., multiple choice, multiple select, technology enhanced, drag and drop, etc.).
 - p. Software as a Service (SaaS): A software procurement model where the customer pays a fee to use the capability of a software product that has been deployed by a third party and made available on demand as opposed to purchasing the software itself.
 - q. Standards Alignment: The degree to which the KEI assessment is aligned with the Tennessee Early Learning Developmental Standards. Alignment shall be defined as the quality of the relationship between learning expectations determined by the standards and the assessment item(s) used to measure student mastery of the concepts or skills assessed.
 - r. State Assigned Student ID Number: Student identification number randomly generated from the statewide student management system.
 - s. Tennessee Early Learning Developmental Standards (TN-ELDS): A set of expectations for what students will know and be able to do at the end of each year of development, ages 0-5. TN-ELDS as adopted by the State Board of Education. The TN-ELDS can currently be reviewed at this link: <https://tn.gov/education/article/early-learning-development-standards>.
 - t. Universal Design for Learning (UDL): A set of principles for curriculum development that give all individuals equal opportunities to learn. Universal Design provides a blueprint for creating instructional goals, methods, materials, and assessments that work for everyone – not a single, one-size-fits-all solution – but rather flexible approaches that can be customized and adjusted for individual needs. All items must be written and will be reviewed under these principles.
 - u. Validity and Reliability Requirements: Statistical and psychometrical evidence that the assessments consistently measure the standards and determine an achievement level as defined by established performance standards.
 - v. Web-Based: Delivered via the Internet or World Wide Web.
- A.3. The Contractor shall provide a comprehensively designed kindergarten entry inventory (KEI) to be administered by education agency (EA) kindergarten teachers to all kindergarten students in participating districts in Tennessee, with the exception of students exempted from the KEI due to specific circumstances. The KEI shall:
- a. comply with current State Board of Education policies and the laws of Tennessee.
 - b. be provided to all participating EAs. Tennessee has approximately 142 LEAs, four State Special Schools, the State Achievement School District, approximately 965 schools and approximately 75,000 students entering kindergarten statewide on an annual basis.
 - c. be a valid and reliable “off the shelf” inventory for year one implementation to begin August 2017.
 - d. be customizable based on Tennessee needs as identified through year one implementation for years two through five.
 - e. be administered through direct interaction between the teacher and student and teacher observation of the student in various activities and settings over an eight week period beginning the first full week of school (the dates for the first full week of school are dependent on each individual EA's school calendar).
 - f. measure priority standards in the TN-ELDS as determined by the State and Contractor across all essential domains of school readiness including set levels of performance (emerging, approaching, demonstrating) that encompass what a child knows and is able to do for each level in order to inform instruction, interactions/activities, and routines as well as to communicate child progress to parent.

- g. place emphasis on the domains of language and literacy development and mathematics. The emphasis placed on early literacy and mathematics is consistent and aligned with early childhood research and the State's *Read to be Ready* initiative. The *Read to be Ready* initiative was developed under the premise that early intervention for the youngest learners in elementary school is critical to life-long success.
- h. shall include selected response, performance task and observational items and shall be aligned with the TN-ELDS and meet federal assessment criteria. In years 2 through 5 of this Contract, the Contractor shall work with the State to review and revise test items, and/or materials specified by the State. The Contractor shall receive State approval of each passage, item, test form, and other materials used under this Contract. If the State does not approve of an item, the Contractor shall submit revised items within 10 business days, or within the timeframe otherwise specified by the State.
- i. shall include accessibility features for use with any student.
- j. have capacity to accommodate children with disabilities and those who are English learners (EL).
- k. incorporate principles of UDL that seek to remove construct irrelevant aspects of items that could increase barriers for English learners and children with disabilities or developmental delays.
- l. have verifiable psychometric properties including validity, reliability and norming for students from diverse cultures, languages, socioeconomic backgrounds and abilities.
- m. include a training plan with cost effective strategies that include training, associated materials and ongoing support in administration of the inventory. Training will be provided for early childhood professionals, district level administrators, and State staff, as outlined by the State, and shall include, but not be limited to:
 - 1) how to appropriately administer the KEI
 - 2) data entry and validity of results
 - 3) use of inventory results to enable early childhood professionals to promote children's progress toward kindergarten readiness and guidance on how to use the results to inform instruction
 - 4) information about program trends
 - 5) guidance on how to share this information with families
 - 6) guidelines to ensure inter-rater reliability
- n. The Contractor shall provide annual training through a train-the-trainer model to early childhood professionals, district level administrators, and State staff, as outlined in the approved training plan.
 - 1) The location of the trainings and the logistics, including the cost, will be handled by the Contractor.
 - 2) The State shall have final, perpetual ownership rights to all content and training materials customized by the Contractor for the State provided under this Contract. The State shall have perpetual, royalty-free licensing rights to any off-the-shelf content and training materials to which the Contractor has preexisting intellectual property ownership rights.
- o. develop a teacher survey to capture feedback from kindergarten teachers administering the KEI, assessing the KEI process and content. The Contractor shall develop the survey and submit to the State for review and feedback with the training materials according to the schedule outlined in section A.4.
- p. include a secure, web-based system for data collection and mechanism(s) per section A.8 for reporting measurement results with the capacity to produce user-friendly reports including individual child customized for teacher and/or parent; classroom; district; and statewide data to inform individualized instruction and classroom practice in kindergarten, as well as the need for additional assessment to determine whether support services and interventions may be required. Further, these reports shall provide information regarding overall kindergarten readiness at both the individual and aggregate levels for decision-making and program improvements. The Contractor shall be responsible for the maintenance and support of this system. The data management system shall:
 - 1) be compatible with State data transfer requirements that includes modes of data entry, security of data storage and processes for data transfer to the State;
 - 2) be web accessible with computers supporting the standard web browsers, i.e. Microsoft Internet Explorer, Safari Firefox, etc., with no additional client software to

- be purchased by the State. If there are any browser plug-ins required to access this application, they must be provided by the Contractor.
- 3) be supported through on-going training in and technical assistance for administration, data entry and use of data.
 - 4) have capacity to support data entry across multiple sites for approximately 75,000 children statewide and have the ability to interface with the State's data system, policies, and regulations.
 - 5) include an online help section that provides users with a searchable database that can be used to answer most usability and technology questions. The help section shall include: tutorials, user's guide, training materials, a quick reference guide, frequently asked questions, and links to State and other reference websites. The Contractor shall provide customer support phone numbers and email addresses in the help section.
 - 6) include a dedicated KEI call center with a toll-free phone line to receive calls and e-mails on all business days from 7:00 a.m. to 4:30 p.m. Central Time. The call center shall respond to all calls and e-mails within one working day of receipt using the same delivery method. The call center should offer an online internet chat system for support by August 2017.
- q. The Contractor shall ensure that employees, contractors, subcontractors, or agents with access to collected data sign the Tennessee Data Sharing Agreement (Attachment B), returning it to the State contact listed in section D.2. of this Contract prior to accessing the data.
- A.4. The Contractor shall provide the KEI and data collection and reporting solution for statewide implementation beginning August 2017 as specified below:

Implementation Year	KEI Administration	Activity/Deliverable	Timeframe*
Year 1	August–October 2017	Deliver KEI to the State for review/approval	Within 5 business days of contract execution
		Training plan and teacher survey delivered to State for review/approval	Within three weeks of contract execution
		Training delivered to EAs	June/July 2017
		KEI delivered to EAs	July 2017 or date specified in agreed upon work plan
		Call center support available	August 1–October 30, 2017
		KEI implementation/data collection period	August–October 2017
		Teacher survey conducted to obtain feedback on KEI process and content	October 2017
Year 2	August–October 2018	KEI customization	October 2017–February 2018

		Deliver customized KEI to the State for review/approval	February 2018
		Training plan and teacher survey delivered to State for review/approval	March 2018
		Training delivered to EAs	June/July 2018
		KEI delivered to EAs	July 2018 or date specified in agreed upon work plan
		Call center support available	August 1–October 30, 2018
		KEI implementation/data collection period	August–October 2018
		Teacher survey conducted to obtain feedback on KEI process and content	October 2018
Year 3	August–October 2019	KEI customization	October 2018–February 2019
		Deliver customized KEI to the State for review/approval	February 2019
		Training plan and teacher survey delivered to State for review/approval	March 2019
		Training delivered to EAs	June/July 2019
		KEI delivered to EAs	July 2019 or date specified in agreed upon work plan
		Call center support available	August 1–October 30, 2019
		KEI implementation/data collection period	August–October 2019
		Teacher survey conducted to obtain feedback on KEI process and content	October 2019

Year 4	August–October 2020	KEI customization	October 2019–February 2020
		Deliver customized KEI to the State for review/approval	February 2020
		Training plan and teacher survey delivered to State for review/approval	March 2020
		Training delivered to EAs	June/July 2020
		KEI delivered to EAs	July 2020 or date specified in agreed upon work plan
		Call center support available	August 1–October 30, 2020
		KEI implementation/data collection period	August–October 2020
		Teacher survey conducted to obtain feedback on KEI process and content	October 2020
Year 5	August–October 2021	KEI customization	October 2020–February 2021
		Deliver customized KEI to the State for review/approval	February 2021
		Training plan and teacher survey delivered to State for review/approval	March 2021
		Training delivered to EAs	June/July 2021
		KEI delivered to EAs	July 2021 or date specified in agreed upon work plan
		Call center support available	August 1–October 30, 2021
		KEI implementation/data collection period	August–October 2021

		Teacher survey conducted to obtain feedback on KEI process and content	October 2021
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*Specific due dates shall be outlined in the annual work plans detailed in A.5.

A.5. Operations Management

- a. The Contractor shall prepare, for State review and approval, a detailed work plan that incorporates the schedules for the activities of this Contract. The annual work plan will include all activities related to the delivery of the KEI and the training plan and be submitted 10 days after the Contract is executed and by May 1 thereafter. The initial annual work plan shall cover the period from the execution of the Contract through June 30, 2018. The last annual work plan (due May 1, 2020) shall cover the period from July 1, 2021 through the end of the Contract on June 30, 2022. The annual work plan shall:
 - i. include the steps for all activities/deliverables including initiation and completion dates;
 - ii. describe all activities related to item development and/or KEI customization, if applicable;
 - iii. outline the training plan and training materials;
 - iv. outline the Contractor support processes;
 - v. indicate areas of responsibility for the Contractor and the State.
 - vi. serve as a monitoring document to be used by the State to assure timely completion of activities/deliverables scheduled;
 - vii. indicate the essential steps leading to the transition between the Contractor and the existing vendor. The annual Work Plan shall include the steps for all project work tasks and deliverables including initiation and completion dates, task responsibilities and transitional activities with the State and State designated vendors to avoid any disruption of services, requirements or deliverables;
 - viii. indicate the essential steps leading to the transition between the Contractor and any vendor awarded any subsequent contract for the provision of these services and the steps for all project activities/deliverables including initiation and completion dates, task responsibilities and transitional activities with the State and State designated vendors to avoid any disruption of services, requirements or deliverables; and
 - ix. outline the procedure for packaging and distributing the KEI materials to the EAs and ensuring each EA receives the appropriate number of materials for each kindergarten classroom.
- b. The Contractor shall not remove or reassign any key personnel associated with this Contract without prior written notification to the State. Written notification must be submitted to the State 30 days prior to the reassignment. (Key personnel shall include the Program Manager, Project Manager, Project Coordinator, Test Development Director, Chief Psychometrician, Software Project Manager, Lead Software Developer and other personnel in Lead or Director level positions).
- c. The Contractor shall provide qualified replacements in the event that key personnel become unavailable to provide services due to resignation, illness or other factors. The Contractor shall provide the State with written notice immediately upon determination of the need for replacement personnel. The Contractor shall provide the State with written notification and the resume or vitae of all personnel proposed for the project team. Written notification must be submitted to the State 30 days prior to the replacement. The State reserves the right to refuse, at its sole discretion and notwithstanding any prior approval, any personnel of the prime contractor or a subcontractor providing service in the performance of this Contract. The State will document in writing the reason(s) for any rejection of personnel.
- d. Management Meetings – The Contractor shall:
 - i. Provide for a minimum of one weekly management meeting between the Contractor and State staff. These management meetings shall include review of the key dates and provide an opportunity to discuss task implementation and status. Meetings shall primarily be conducted via conference call. Webinars and/or onsite meetings may be necessary for review of online applications or in-depth discussion. All meeting expenses related to management meetings will be the Contractor's responsibility.

- ii. Produce progress reports quarterly with relevant tasks and activities from the annual Work Plan and progress noted for each. Progress reports shall include a report of completed activities as of the date of the report. The reports shall provide a list of significant operational problems needing corrective action and shall address the following elements for each problem:
 - a. Identify the problem,
 - b. Assign responsibility for taking corrective action,
 - c. Evaluate the importance of the problem,
 - d. Investigate possible causes of the problem,
 - e. Analyze the problem,
 - f. Recommend actions to prevent recurrence of this or similar problems,
 - g. Implement new process controls as necessary,
 - h. Determine what to do with the failed items, and
 - i. Record permanent changes in process documentation.
 - j. Each progress report shall also contain:
 - 1. Section that summarizes questions or complaints received by the call center,
 - 2. Section that addresses issues or problems raised by the State,
 - 3. Section that addresses ongoing problems,
 - 4. Section that details the invoices submitted and paid, and
 - 5. Executive summary that provides an informative and substantive description of the major problems and recommendations.
 - 6. Unanticipated issues or problems shall be reported and addressed as they occur. The report will also include information on project risks and mitigation plans to facilitate discussion and collaboration in an effort to prevent risks from becoming problems. All progress reports shall be submitted in Microsoft Word via email.

A.6. Psychometric Activities

- a. The Contractor shall provide all psychometric activities related to the Kindergarten Entry Inventory.
- b. The Contractor shall conduct and provide results of annual alignment studies to ensure the continuity of standards alignment in new test form development. The Contractor shall provide detailed reporting information for the alignment studies in the technical report.
- c. The Contractor shall finalize content specifications, test design and blueprints for each assessment per schedule in Contract section A.4 with review after each administration for possible revisions. Materials are to be reviewed and approved in collaboration with the State at each step of development; timelines and procedures for these reviews will be established in the annual Work Plan.
- d. The Contractor shall analyze related field test and research data.
- e. The Contractor shall use item response theory (IRT) with three-parameter logistic model for the calibration, scaling and equating of the assessments. The scale shall be continuous across all levels of student attainment to enable the measurement of both high and low performance levels.
- f. The Contractor should apply both classical test theory and IRT models in scaling the assessments.
- g. The Contractor shall conduct internal item bias, reliability, validity, and other technical studies as necessary to support the KEI assessment and provide study results to the State.
- h. The Contractor shall conduct studies examining criterion-related validity in relation to other test instruments. The Contractor shall conduct internal item bias, reliability, validity, and other technical studies as necessary to support the KEI and provide study results to the State.
- i. The Contractor shall provide statistical evidence of the consistency and accuracy of performance level classifications over forms and test administrations.
- j. The Contractor shall utilize a statistically sound methodology to establish a baseline scale for use in equating subsequent forms. A common form (or linking item) equating design or other psychometrically sound method as approved by the State shall be used. The equating of test form difficulty will utilize sub-score categories. If applicable, the test forms shall be developed using pre-equating to the established test scale scores and confirmed through post-equating

- analysis unless otherwise proposed by the Contractor and approved by the State. All test forms must be developed to maintain equated performance levels within each grade level and content area and statistical evidence of the equality shall be approved in collaboration with the State and provided in the technical report.
- k. The Contractor shall provide evidence of statistically sound methodology utilized to maintain equivalency of performance standards across all item types for each essential domain of school readiness. Evidence should include scale/item parameter drift analysis. This method will produce statistically and psychometrically sound results and will be reported to and approved in collaboration with the State.
 - l. The Contractor shall provide statistical evidence of the consistency and accuracy of performance level classifications over forms and test administrations.
 - m. As applicable, the Contractor shall use IRTPRO3 statistical software for item calibration and test scoring in order to allow the State or its designee the opportunity to perform independent quality assurance. If the Contractor uses proprietary software for these functions then the State and its designee(s) shall be granted license free use of the software for the duration of this Contract.
 - n. The Contractor shall conduct inter-rater reliability, validity, and other technical studies as necessary for all administrations to support the KEI and provide study results to the State in the technical report.
 - o. The Contractor will provide validity and inter-rater reliability assurances (i.e. Kappa and generalizability theory) documentation for all administrations on the validity of accommodations used with the KEI.
 - p. All test items and forms shall be developed to maintain equated performance levels within each content area for each assessment administration and statistical evidence of the equality shall be provided to and approved by the State annually.
 - q. Additional research studies may be required to address special issues such as adverse impact, and/or performance of demographic subgroups including appropriate contrasting group studies.
 - r. The Contractor shall develop and publish a preliminary technical report for State review. Upon receipt of written State approval the Contractor shall provide a final technical report for each assessment. Technical reports shall be provided in hard copy, on a permanent storage device, and uploaded to a secure SFTP site.
 - s. The Contractor shall provide a state technical report for each assessment for State review and approval. The Contractor is responsible for making corrections to the technical report after review by the State. The technical report shall include, documentation of procedures, analyses, and results related to (as applicable):
 - i. Evidence of validity and reliability to include documentation on the content validity of the assessments and construct validity (with confirmatory factor analysis) of the assessments, consequential validity, validity of accommodations, and consistency and accuracy of classification for performance levels.
 - ii. Performance level setting.
 - iii. Sampling procedures for selecting anchor papers.
 - iv. Scaling items and forms and equating forms to include year-to-year equating procedures.
 - v. Stability of scale scores.
 - vi. Cut-score standard setting and decision consistency indicators.
 - vii. Total number of examinees responding (as applicable):
 - a. Total number of examinees responding by subgroup and achievement level (include all subgroups identified below).
 - b. Ethnic Origin (including: American Indian/Alaska Native, Asian, Black/African American, Native Hawaiian/other Pacific Islander, or White)
 - c. Race: Hispanic or Latino, Non-Hispanic or Latino
 - d. Membership data (enrollment)
 - e. Status (i.e. first time, repeating)
 - f. Class attendance
 - g. Special programs (including: Title I, Special Education, 504 Service Plan, Gifted, Functionally Delayed, Economically Disadvantaged, LEP Transitional 1/Transitional 2, Migrant, Home School, Homeless, Pre-K participation)
 - h. Teacher license number for teacher of record in the content area(s)

- i. Not tested (absent, EL exclusion, medical exemption, or other non-participant code as defined by the State)
 - j. School schedule (i.e. traditional, modified block, block)
 - t. The Contractor will ensure that the KEI provides a valid and reliable measure of student's academic ability on a common scale over the applicable grade level and content areas.
 - u. The Contractor shall demonstrate the validity and reliability (Feldt & Brennan, 1989) of all parts of the assessments and test measures and shall provide detailed information to this effect. The assessments shall meet the criteria for test development, administration, and use described in the Standards for Educational and Psychological Testing (2014) adopted by the American Educational Research Association (AERA), the American Psychological Association (APA), and the National Council on Measurement in Education (NCME).
 - v. The Contractor shall ensure that all parts of the assessments adhere to professional research and best practice for developmental appropriateness of tests, testing methods and procedures.
 - w. The Contractor must adhere to security procedures as defined Contract sections in A.8.i.
 - i. All narrative reports submitted by the Contractor shall include an executive summary, the full text, and appendixes containing all relevant data tables. The executive summary shall be written to stand alone as a document suitable for public distribution. All final narrative reports and all electronic deliverables shall be provided in Microsoft Word, PDF, and HTML for distribution and posting on the State's web site. The Contractor shall also submit Microsoft Excel spreadsheet versions of all tables and technical appendixes.

A.7. Assessment Materials, Packaging and Distribution

The Contractor shall provide any required test materials including (as applicable): test books, response documents, administrator headers, test administrator/proctor scripts, and test administration manuals. All materials shall be provided to the State for review and possible revision prior to each test administration. The Contractor shall allow the State a minimum of five State business days for initial review. Upon completion of any necessary revisions or modifications the Contractor shall return materials to the State and provide not less than three State business days for final review and sign-off. The State shall have the opportunity to review and modify the design of test materials prior to any printing for any test administration.

The following are critical tasks, which provide specifications for the materials to be developed by the Contractor and sent to the State. The Contractor shall ship materials directly to State, public or private school systems as indicated by the State. Additional materials may be added as needed. All descriptions of materials shall apply to each assessment unless otherwise noted. All electronic files shall be compatible with Windows and Macintosh applications with a variety of web browsers including Google Chrome (x), Microsoft Internet Explorer (x), Firefox (x), and Safari (x) (as defined in Contract section A.8). The Contractor shall provide the State with technical specifications required for any online applications including testing platforms.

- a. Administration Materials - The Contractor shall develop and produce all materials to assist in the administration of the KEI assessment. Separate materials may be required for online or paper pilot and operational administrations. All materials shall be reviewed for revision in collaboration with the State prior to each administration.
 - i. Data Management System User's Guide: The Contractor shall develop and produce a User's Guide in collaboration with the State for each administration. Information shall include: hardware specifications, proctor caching requirements if needed, student data upload process, data editing information, detailed information on the use of the assessment tools, and other technical guidelines as necessary. Thumbnail art shall be included as much as possible. Separate guides may be provided with focuses for technical and assessment staff. The guide shall be provided in PDF format for posting to State and Contractor websites and in Word for use by the State in creating training or other materials.
 - ii. Quick Tip Guides: The Contractor shall develop and produce quick tip guides for test administrators. Guides shall be provided as one-page reference for topics such as reporting features, note pad features, administrator functions, etc. in PDF format.

- iii. KEI Administration Manual: The Contractor shall develop and produce a KEI Administration Manual for each assessment per administration. The KEI Administration Manual shall contain general instructions for administering the assessment including planning information about planning testing schedules, organizing classrooms, preparation of students, use of standardized testing procedures, security of materials, completing the student demographic portion for data collection, accommodations instructions, administration of the test, checklists for class, school and system level administrators, procedures and information for returning materials (as applicable). Thumbnail to full scale images of documents, forms, and other ancillary materials as needed with illustrations and explanatory diagrams shall be used extensively. The KEI Administration Manual shall be reviewed prior to each administration and revisions shall be made to reflect changes related to the program, State and/or federal guidelines. TAMs shall be provided electronically for posting electronically.
- iv. Parent Brochure: A Parent Brochure shall be developed containing information pertinent to student level reports. At this time, the State plans to provide the Parent Brochure in English only. Should it become necessary to translate the Brochure into other languages in the future, the State will develop requirements with the Contractor to address this need according to mutually agreeable terms. The Parent Brochure shall be distributed student score reports and posted on the internet. The specifications for the Brochure include:
 - a. available in electronic format that is accessible via the Internet.
 - b. include thumbnails and larger images of selected reports.
 - c. developed for the purpose of providing schools and systems with an understanding of the reports that are available, shall include training information for use of online reporting tools.
 - d. developed for the purpose of providing test awareness for parents and students, shall include training information for use of online reporting tools.
- b. Assessment Materials – The Contractor shall prepare and produce all test materials required for the administration of the KEI.
 - i. Data Management Platform – The Contractor shall provide a data management platform that meets the technical specifications outlined in Contract sections A.8. The following requirements shall apply to the platform unless otherwise indicated:
 - a. The State shall have an opportunity to review and approve the platform such that any changes requiring programming may be made and fully tested at least six weeks prior to the opening of the operational testing window. The development, review, and approval processes for computer presentation of information and materials parallels similar work for printed tests and products.
 - b. The Contractor shall ensure that the functionality of the platform is checked carefully and the State shall participate in this review process prior to each assessment administration; any revisions needed shall be made by the Contractor.
 - c. The Contractor must work with existing technology infrastructures at the school, district and state level. Hardware, software, and system requirements defined in Contract section A.8 shall indicate suitable infrastructure.
 - d. User management to include a secure user hierarchy for use with all applications including: state administrators, state users, State CORE office users, system level administrators, system level users, school level administrators, school level users. Access shall be provided to each level based upon guidelines provided by the State.
 - e. User management section will allow State, system, and school administrators to manage all user accounts within their authoritative domain,
 - f. Online access to procedural guides and other user instructions, training videos, as well as live online training delivered via webinar, as needed,
 - g. Trained customer service as defined in Contract section A.5.,

- h. Enrollment and data provisioning - The Contractor shall provide a system to upload student demographic information from schools, EAs, the state student management system and/or State vendors.
 - 1. The Contractor shall work with the State and/or other State vendors in the transfer of student demographic and assessment data, student data upload into data management platform, and other processing or reporting requirements as needed by the State.
 - 2. The Contractor shall work with the State in reviewing demographic and enrollment data on data management platform.
 - 3. The Contractor shall ensure that the system maintains compliance with the State's student management system to enable the acquisition of student information from schools and/or systems.
 - 4. The system shall be able to provide student scoring information to the schools and/or systems for integration in the student management system.
 - 5. The system shall include all demographic data as detailed in Contract sections A.6.s.vii. Uploaded data may also be used to pre-fill teacher license information
 - 6. The Contractor agrees to collaborate with the State for the modification/revision/ customization of the pre-id program as needed to meet State criteria.
- ii. Miscellaneous manipulative – The Contractor shall provide all necessary materials appropriate to the assessment, including any consumable items, during each administration. All manipulatives shall be provided in accessible formats for all students if needed/appropriate.
- iii. The Contractor is responsible for distribution of assessment materials to the individual school and/or district location as agreed with the State. The Contractor shall work with the State to determine what, if any, retention and disposal procedures are required related to the KEI assessment materials.

A.8. **Technical Requirements**

This section defines the technical requirements of the Department of Education for the Software as a Service (SaaS) product offering described in A.1 thru A.7.

- a. Fault Tolerance
 - i. The contractor shall deliver an end to end solution, inclusive of client software if applicable, server and architectural components that is fault tolerant and thoroughly tested at a scale commensurate with anticipated usage and volume under this contract.
 - ii. The solution shall recover without end-user intervention from the following circumstances without a material degradation of the user experience:
 - 1. Brief loss of connectivity between the user and the contractor's data center servers.
 - 2. Brief device non-responsiveness due to CPU bind, operating system activity or other local resource contention.
 - 3. Any message trapped and thrown by the contractor's application software.
 - 4. Any event that occurs server-side in the contractor's infrastructure related to load, concurrency, normal transients, or scheduled and unscheduled processes initiated by the contractor.
 - iii. The online solution shall be able to recover user state (status of user activity inside the application) for critical workflows in a timely manner with or without end-user intervention under the following circumstances:
 - 1. Client device becomes permanently non-responsive for any reason.
 - 2. Malfunction or failure of client device, including; Battery depletion or loss of power on client device.
 - 3. Log out or user error on client device.
 - 4. Permanent loss of local area network, wide area network or internet connectivity between client device and the contractor's data center.

5. Infrastructure failure at client location.
 6. Application, browser or operating system “crash” or unexpected restart on local device.
 7. Unexpected failure or unavailability of a required resource at the contractor’s data center.
- b. Tenancy and Dedicated Resources
- i. The contractor shall configure tenancy for the Department of Education in their data center and on their server infrastructure in such a manner that the actions of other customers of the contractor, tenants of the data center or data center service providers cannot impact the performance of the solution provided to the Department.
 - ii. Such consideration shall include but is not limited to;
 1. Attacks on other customers / tenants such as DoS attacks.
 2. Excessive bandwidth utilization.
 3. Excessive resource utilization.
 4. Excessive power or cooling utilization.
 5. Excessive LAN and internal switching utilization.
 6. Planned maintenance, shutdowns, restarts or reconfiguration.
 7. Poorly tested software, equipment, connectivity or infrastructure configuration.
 8. Inappropriate filtering, firewall or other edge device rules.
- c. Data Persistence
- i. The contractor shall develop database and data persistence strategies that are consistent with the scalability, performance, security and redundancy profile of an enterprise grade solution.
 - ii. All data shall be stored, retained and exposed in a manner that is consistent with the requirements of FERPA, Federal and State policies as described in Section E of this contract.
 - iii. All data captured, manipulated, processed or transformed under this contract remains the exclusive property of the Department of Education and may not be viewed, modified or disclosed to any party without the written approval of the department except for reasonable dealings as needed to execute on the deliverables of this contract as outlined in Section E of this contract.
- d. Data Transmission
- i. The Contractor agrees to work with the Department of Education to ensure bi-directional electronic data flows as needed to business application functionality between the Department and Contractor are efficient, secure and robust.
 - ii. Working with the Department is defined as;
 1. Reaching agreement on the schema of data structures for each data flow required.
 2. Reaching agreement on the protocol and format for the transmission of data in the most compatible way for all data consumers.
 3. Reaching agreement on the methodology and process for the efficient transmission of data.
 4. Reaching agreement on the security and authentication model for the most secure and trustworthy transmission of data.
- e. District Infrastructure
- i. The Contractor is advised that school districts in TN do not implement a standardized IT infrastructure statewide and as such multiple device makes and models, browser and operating systems exist. The Contractor shall deliver an online solution that is compatible with the matrix of devices and operating systems in use in the state and ensure that there is an equal fidelity of user experience regardless of the device, browser or operating system in use.
 - ii. The contractor is advised that while all school districts in Tennessee are required to have high speed internet available to all locations within their district the quality and performance of internet connectivity will vary considerably between districts due to factors such as; geography, infrastructure availability, specific carrier and QoS. The Contractor shall design and implement an online solution that

functions in a predictable and usable manner across the range of connection speeds available in Tennessee.

- iii. The contractor is advised that while all school districts in Tennessee are required to have sufficient wired and or wireless networking to ensure connectivity of student devices to the Internet the quality and performance of local area networks will vary considerably between testing locations due to factors such as; equipment type, age of equipment, building construction and environmental factors. The contractor shall design and implement an online solution that functions in a predictable and usable manner across the range of local area network speeds available in Tennessee.
 - iv. The Department shall provide the contractor with an up to date table of all specific district capabilities referred in this section.
- f. Service Availability
- i. The contractor shall implement systems and processes to ensure the availability of the online solution occurs in a manner consistent with service level agreements associated with this service.
 - ii. Service availability requirements shall include but are not limited to:
 1. Scheduled maintenance and service outage notification protocols.
 2. An incident response team.
 3. Redundancy of broadband services into contractor's data center.
 4. Redundancy of critical servers and other data center infrastructure.
 5. Active failover between redundant components.
 6. Backup power generation.
 7. Proactive monitoring and defense protocols for service limiting exploits such as; Denial of Service (DoS) attacks.
- g. Scalability
- i. The contractor shall implement an infrastructure that has the ability to scale in a manner consistent with the volume, size and scale of expected usage under this contract without service degradation or negative impact to active users.
 - ii. Scalability requirements shall include, but are not limited to:
 1. Broadband into the contractor's data center taking into account the performance of peerage between the contractors' broadband vendor and carriers in use in Tennessee school districts.
 2. Filtering and edge devices in the contractor's data center.
 3. Local area networking within the contractor's data center.
 4. Front end web servers.
 5. Caching and CDN.
 6. Middle tier servers including asynchronous and batch processing processes.
 7. Data access tiers and data throughput.
 8. Database storage.
 9. Data backup.
- h. Performance
- i. The contractor shall provide an online testing solution that is responsive to user interactions without excessive wait times
 - ii. The contractor shall ensure that where wait times are an expected part of the user experience, such as; loading a resource, the user receives a clear and unambiguous indicator that a long running action is taking place.
- i. Security
- i. The contractor shall implement an online solution that is inherently secure and closely aligned with the rigorous data privacy standards of FERPA, state and federal requirements.
 - ii. Security requirements shall include, but are not limited to:
 1. Encryption at rest for any data that includes personally identifiable (PII) or FERPA protected information.
 2. Encryption in motion, including use of a secure socket sockets layer (SSL) encryption protocol between client devices and the testing servers.
 3. The establishment of a cyber-incident response and notification plan.

4. Verifying data center vendor certifications, including alignment with; ISO27001, SOC2 Type 2 or FEDRAMP certifications.
 5. Access logging and intruder detection processes.
 6. Threat modelling and vulnerability assessments, including; malicious exploits, such as; Man in the Middle and SQL Injection risk assessments.
 7. Data disposition process.
 8. Employee and contractor vetting, and access control processes.
 9. User authentication processes.
 10. Role management and user authorization processes.
 11. Regular 3rd Party Penetration testing.
 12. All service housing personally identifiable TN student information must reside in a data center located inside the United States.
 13. At the termination of this contract, all TN data must be sanitized in accordance with the National Institute of Standards & Technology (NIST) Special Publication 800-88, Guidelines for Media Sanitization.
- j. Capacity Planning
- i. The contractor shall conduct capacity planning prior to commencement of service or service uplift to model demand and predict utilization across all components of the solution so that any potential deficiencies, resource constraints or capacity shortfalls can be identified and addressed prior to the commencement of the phase.
 - ii. Capacity planning shall include, but is not limited to;
 1. Broadband capacity into the contractor's data center taking into account the performance of peering between the contractors' broadband vendor and carriers in use in Tennessee school districts.
 2. Filtering and edge device capacity in the contractor's data center.
 3. Local area networking capacity within the contractor's data center.
 4. Front end web server capacity.
 5. Caching and CDN capacity.
 6. Middle tier server capacity including asynchronous and batch processing processes.
 7. Data access tiers and data throughput capacity.
 8. Database storage capacity.
 9. Data backup capacity.
- k. Monitoring and Diagnostics
- i. The contractor shall implement proactive exception alerting, real time monitoring and diagnostic capabilities for all components of the online solution.
 - ii. Monitoring and diagnostics shall include, but is not limited to:
 1. Logging of user access events.
 2. Logging of key user interaction events to support an audit trail if needed.
 3. Detailed logging of application errors and anomalies with stack and trace data to support diagnostics in the event of problems.
 4. Logging of all system and server-side errors and anomalies.
 5. Real time "health" monitoring of all key servers and compute resources.
 6. Proactive exception monitoring of all key servers and compute resources based on thresholds and key performance indicators with escalating exception notifications.
 7. Implementation of inline performance counters and other common diagnostic "hooks" in key application source code.
- l. Software Development Lifecycle
- i. The contractor shall implement a methodical and structured software development lifecycle (SDLC) to minimize operational errors, improve transparency, drive inclusive decision making and ensure optimal quality assurance.
 - ii. Development of an appropriate SDLC includes, but is not limited to:
 1. An appropriate environment strategy for all software development to clearly delineate software that is in production versus that which is under development.

2. A rigorous change management policy to ensure the sanctity of the production environment and to minimize operational errors at critical times.
 3. Inclusive (Contractor and Department) sign off and approval on all activities potentially impacting student experiences, including; infrastructure upgrades, rolling new code, functional enhancements or changes to existing systems.
 4. Robust quality assurance processes, including; code check-in rigor, usability testing, functional testing, scale and performance testing, code coverage testing and user acceptance testing by the department.
 5. Comprehensive bug lifecycle management.
- m. Penetration Testing
- i. The Contractor agrees to submit to penetration testing conducted by a third party at the cost of the Department for all end points associated with the online solution.
 - ii. Penetration testing will be conducted against all public endpoints associated with the website providing the service.
- n. Accessibility
- i. The Contractor shall implement accessibility features for all users that follow Section 508 Standards and ADA compliance which requires the federal government to ensure that the electronic and information technology that it develops, procures, maintains, or uses is accessible to persons with disabilities.
 - ii. Any updates to this standard will be the responsibility of the Contractor to plan, develop, test and deliver any mandated changes regarding these standards .

A.9. Scoring and Reporting

The Contractor shall provide scoring support and services for the KEI. Accurate and consistent scoring of responses is a key component in maintaining the reliability and integrity of the KEI. The Contractor is required to maintain high levels of scoring accuracy while meeting scoring deadlines. The Contractor shall score the KEI according to timelines established in Contract section A.4 and the annual Work Plan.

The Contractor will implement scoring processes that are reliable and valid (as defined via Psychometric Activities in A.6) as well as efficient in terms of time and expenditures (as defined by annual Work Plan deliverable dates). The Contractor shall provide scoring procedures and support for KEI including the following:

- a. The Contractor shall establish scoring tools and rubrics that align with the expectations of the TN-ELDS. The Contractor will implement scoring processes that are reliable and valid (as defined in Psychometric Activities in A.6) as well as efficient in terms of time and expenditures (as defined by the annual Work Plan deliverable due dates). The Contractor shall provide scoring procedures including the following:
 - i. Establish rubrics and scoring tools that clearly define what students will be expected to demonstrate at each performance level.
 - a. The Contractor shall provide the State final scoring tools at least six months prior to the administration of the operational assessment.
 - b. Rubrics will be provided in a form that can be shared with educators, parents and students without compromising the security of the assessment.
- b. Conduct teacher training for use of rubrics integrated in scoring. Training procedures may include the following:
 - i. The Contractor shall conduct training according to timelines established in Contract section A.4 and the annual Work Plan. All costs associated with training shall be at the Contractor's expense.
 - ii. State staff and expert consultants will have the opportunity to be present during training and that training shall be developed collaboratively between the State and the Contractor.

The Contractor shall produce score reports at the individual student level as well as summary reports at the teacher/class, school, EA, and State levels, including any needed subgroups, as defined in Contract sections A.6.s.vii. The State shall provide the Contractor with report mockups

and shall have final signoff on layout, data, and text presented on all reports. The Contractor shall utilize a single, unique and accurate TN state assigned student ID number and the student's current school and EA unique code identification number at the time of testing. All reports shall be submitted to the State for review and approval prior to distribution.

- c. The Contractor shall provide technical training, support, required programming and software, including installation and upgrading of proprietary software and programming, to the State necessary to furnish EAs with student scores and State approved reports. The software shall produce student scores in an easily updated electronic format. The Contractor shall provide written assurance of confidentiality and appropriate security measures to ensure student data is protected. All data security requirements as outlined in Contract sections A.8.i shall be met for reporting.
- d. The Contractor shall be responsible for compliance with the confidentiality provisions of the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, 34 CFR Part 99, the National School Lunch Act 42 U.S.C. § 1758 (b) (2) (c), the Data Accessibility, Transparency and Accountability Act T.C.A. § 49-1-701, and any other State or federal laws, rules, or policies intended to protect individual privacy in all cases. These data shall only be included in data files provided to the State. In addition, the protection of pupil confidentiality shall uphold the ethics procedures that are usual and customary within the profession.
- e. The Contractor shall provide a web-based online reporting and report delivery system. The system shall meet the same specifications and support requirements of other online products as defined in Contract sections A.8. Reports shall be designed in collaboration with the State to meet specific needs.
- f. The online reporting and report delivery system shall provide the following programming:
 - i. An online help section that provides users with a searchable database that can be used to answer most usability and technology questions. The help section shall include: tutorials, user's guide, training materials, a quick reference guide, frequently asked questions, and links to other relevant websites (e.g. State assessment website). The customer support phone numbers and email addresses shall be posted in the help section.
 - ii. An administrative section that will allow State, EA, and school administrators to manage all user accounts within their authoritative domain. Provide security measures to include user hierarchy as defined in Contract section A.7.b.i.d. This section shall include usage reporting to indicate when/if users have logged in and what reports they have viewed, downloaded, or created.
 - iii. A downloads section that will allow users to download all data and reports, based upon user security level.
 - iv. All electronic files and web-based programming shall be compatible with Windows and Macintosh applications as specified in Contract section A.8. The Contractor shall provide the State with technical specifications required for any online applications.
 - v. Each report, as it is viewed on the screen, will be capable of rendering in a PDF format through a print function. The report may be printed in hard copy or downloaded to the desktop or CD.
 - vi. The online reporting system shall provide historical PDF reports and available data files in a separate archive. There is no expectation that such data shall be available for interactive reporting.
 - vii. The online reporting system archive with limited technical support shall remain available until contract end date.
- g. Report designs shall be reviewed by the State and the Contractor at a minimum of once per test year. The Contractor shall make any required changes to report design, including modification of data presentation, backer text, and/or creation of new reports, to meet State needs and/or federal guidelines. Significant design changes shall be defined as comprehensive revision of overall report format and layout or addition/deletion of more than five data fields.
- h. Technical Report – The Contractor shall develop, produce and provide a technical report for each assessment as defined in Contract section A.6. The technical report shall be supplied in both PDF and Microsoft Word, appendixes containing data may be provided in Microsoft Excel or other agreed upon data software. The Technical Report shall be submitted to the State electronically for review and approval. Any discrepancies are to be immediately adjusted by the Contractor at the Contractor's expense to the State's satisfaction. An

- electronic version shall be posted via web-services as well as five electronic copies on CD and ten bound paper copies of each technical report shall be submitted to the State after final approval.
- i. The Contractor shall provide customized Student, Teacher/Class, School, EA, and State level reports including the following:
 - i. The Contractor shall include certain common information on all reports including: report name, time of administration (i.e. Fall 2016) and/or test date, assessment name, grade and/or content area, test form, including modified version if applicable, teacher name, school name and EA name.
 - ii. The data shall be aggregated together at the school, EA, and State levels for operational tests. The Contractor shall use encryption to ensure security of the assessments and all student information entered through the program online.
 - iii. Any data collected shall be combined for a single scale score and reported as one assessment.
 - j. Student Level Reports – The Contractor shall produce student level reports that include scale scores, domain information and performance levels for each test item, essential domain of school readiness, and for the assessment as a whole. Scores must be displayed both numerically and graphically with written explanations.
 - k. Summary Reports – The Contractor shall work with the State to develop and produce summary reports at the school, EA and State level. Summary reports shall contain scores for each essential domain of school readiness by domain category. School summary reports shall include:
 - i. Class performance roster – School level reports which summarize the results of all students tested, absent, and/or exempt for a teacher/class per enrollment file. Student names sorted alphabetically with raw score, scale score, and performance standards. PDF print-on-demand online reports shall provide student performance in each essential domain of school readiness category graphically and numerically. The Contractor shall work with the State to determine any additional required information for class roster report.
 - ii. Disaggregation summaries – Reports containing average percent of students by performance level in each essential domain of school readiness category in various groups of students based on demographic variables as defined in Contract sections A.6.s.vii. including: gender, race, ethnicity, disability category, economically disadvantaged status, EL status, accommodation usage, migrant, and any other category collected from student accountability demographic data. Separate reports shall be provided at the school, EA and State levels.
 - l. Electronic Student Data Files – The Contractor shall:
 - i. Provide the State an electronic comprehensive data file (CDF) containing the complete record of student demographic, item response, and score data of all students to be aggregated by content area for each school, EA, and the State. Files shall be delivered on agreed upon timelines as established in the annual Work Plan. The CDF shall contain student data in a format which enables data to be disaggregated by any and all fields on the student demographic form. Statewide summary data will also include item statistics, as applicable.
 - ii. Draft a layout for this file for review, revision and finalization. The Contractor shall work with the State to define data elements and field lengths for all files.
 - iii. Post the CDF to the secure SharePoint or SFTP website or other agreed upon method for review and approval by the State. A final CDF shall be posted to the secure SharePoint or SFTP website (or other agreed upon method) after written approval by the State Psychometrician. The Contractor shall provide five copies of the final CDF via CD shipped to the State and the State Psychometrician via certified carrier.
 - iv. Provide data files for the EAs via the online reporting system. Data files shall download raw data in a format approved by the State, i.e. csv, HTML, XML, or text. The EA data files shall be an abbreviated form of the State CDF and shall contain the student records for all students in the system. EA data files shall provide data for each student by school. Item data shall not be included in the EA data files. The State shall approve the file format and layout.

- v. Check the accuracy and consistency of all student level data on data files before submission to the State. This includes:
 - a. Ensuring all students tested are included,
 - b. Ensuring that all demographic fields are included and are accurate reflections of enrollment file data,
 - c. All data is included accurately in the reports and data files, and
 - d. All information including absentee, exempt (medically or EL), nullified, and/or refusal/did not attempt records are included appropriately in the data.
- vi. The State will independently verify the consistency and accuracy of the data files. Any discrepancies are to be immediately adjusted by the Contractor at the Contractor's expense to the State's satisfaction.
- m. The Contractor shall provide customized reports on PDF, CD, and/or online format for each assessment based upon the following report matrix:
 - i. Student Level Reports – PDF print-on-demand via online reporting.
 - ii. School Level Reports – Class Roster and all Summaries at school level and each Class Report and Summary at EA level via PDF print-on-demand.
 - iii. EA Level Reports - Class Rosters, all School and EA Summaries at EA level and EA Summary at State level via PDF print-on-demand.
 - iv. State Level Reports – School and EA Summary Report and the State Summary at State level via PDF print-on-demand.

- A.10. Warranty. Contractor represents and warrants that the term of the warranty ("Warranty Period") shall be the greater of the Term of this Contract or any other warranty general offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a "Defect" and shall be considered "Defective." If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect, at no additional charge.

Contractor represents and warrants that the State is authorized to possess and use all equipment, materials, software, and deliverables provided under this Contract.

Contractor represents and warrants that all goods or services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, and in conformity with standards generally accepted in Contractor's industry.

If Contractor fails to provide the goods or services as warranted, then Contractor will re-provide the goods or services at no additional charge. If Contractor is unable or unwilling to re-provide the goods or services as warranted, then the State shall be entitled to recover the fees paid to Contractor for the Defective goods or services. Any exercise of the State's rights under this Section shall not prejudice the State's rights to seek any other remedies available under this Contract or applicable law.

- A.11. Inspection and Acceptance. The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

B. TERM OF CONTRACT:

This Contract shall be effective for the period beginning on **Date** ("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 Dollar Amount (\$Number)** ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.
- C.2. Compensation Firm. The payment methodology in Section C.3. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.
- C.3. Payment Methodology. The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.
- a. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.
 - b. The Contractor shall be compensated based upon the following payment methodology:

Goods or Services Description	Amount (per compensable increment)
KEI as defined in section A.3.a.-m.	\$ Number/Student/year
Web-based data collection system; A.3.n. & A.4.	\$Number/per year

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

Lisa Wiltshire
 TN Department of Education
 11th Floor, Andrew Johnson Tower
 710 James Robertson Parkway
 Nashville, TN 37243

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

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

b. Contractor's invoices shall:

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

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

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

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

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

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

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

D. MANDATORY TERMS AND CONDITIONS:

D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the

Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.

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

The State:

Lisa Wiltshire, Executive Director, Office of Early Learning
 TN Department of Education
 11th Floor, Andrew Johnson Tower
 710 James Robertson Parkway
 Nashville, TN 37243
Lisa.Wiltshire@tn.gov
 Telephone # (615) 770-5391
 FAX # (615) 532-9412

The Contractor:

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

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

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

- D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"), the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.
- D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.
- D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

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

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

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

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

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

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

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

- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.
- d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.

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

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

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

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

- D.24. Force Majeure. “Force Majeure Event” means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor’s representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor’s performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees 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 applicable state and federal laws and regulations in the 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. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 407.
- D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
 - b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes Attachment A;
 - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
 - d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
 - e. any technical specifications provided to proposers during the procurement process to award this Contract; and
 - f. the Contractor's response seeking this Contract.
- D.31. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101 et.seq., addressing contracting with persons with investment activities in Iran, shall be a material provision of this Contract. The Contractor agrees, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

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. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed

or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

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

- E.3. State Ownership of Goods. The State shall have ownership, right, title, and interest in all goods provided by Contractor under this Contract including full rights to use the goods and transfer title in the goods to any third parties.
- E.4. Additional lines, items, or options. At its sole discretion, the State may make written requests to the Contractor to add lines, items, or options that are needed and within the Scope but were not included in the original Contract. Such lines, items, or options will be added to the Contract through a Memorandum of Understanding (“MOU”), not an amendment.
- a. After the Contractor receives a written request to add lines, items, or options, the Contractor shall have ten (10) business days to respond with a written proposal. The Contractor’s written proposal shall include:
 - (1) The effect, if any, of adding the lines, items, or options on the other goods or services required under the Contract;
 - (2) Any pricing related to the new lines, items, or options;
 - (3) The expected effective date for the availability of the new lines, items, or options; and
 - (4) Any additional information requested by the State.
 - b. The State may negotiate the terms of the Contractor’s proposal by requesting revisions to the proposal.
 - c. To indicate acceptance of a proposal, the State will sign it. The signed proposal shall constitute a MOU between the Parties, and the lines, items, or options shall be incorporated into the Contract as if set forth verbatim.
 - d. Only after a MOU has been executed shall the Contractor perform or deliver the new lines, items, or options.
- E.5. Ownership of Software and Work Products.
- a. Definitions.
 - (1) “Contractor-Owned Software,” shall mean commercially available software the rights to which are owned by Contractor, including but not limited to commercial “off-the-shelf” software which is not developed using State’s money or resources.
 - (2) “Custom-Developed Application Software,” shall mean customized application software developed by Contractor solely for State.
 - (3) “Rights Transfer Application Software,” shall mean any pre-existing application software owned by Contractor or a third party, provided to State and to which Contractor will grant and assign, or will facilitate the granting and assignment of, all rights, including the source code, to State.
 - (4) “Third-Party Software,” shall mean software not owned by the State or the Contractor.
 - (5) “Work Product,” shall mean all deliverables exclusive of hardware, such as software, software source code, documentation, planning, etc., that are created, designed, developed, or documented by the Contractor exclusively for the State during the course of the project using State’s money or resources, including Custom-Developed Application Software. If the deliverables under this Contract

include Rights Transfer Application Software, the definition of Work Product shall also include such software. Work Product shall not include Contractor-Owned Software or Third-Party Software.

- b. Rights and Title to the Software
- (1) All right, title and interest in and to the Contractor-Owned Software shall at all times remain with Contractor, subject to any license granted under this Contract.
 - (2) All right, title and interest in and to the Work Product, and to modifications thereof made by State, including without limitation all copyrights, patents, trade secrets and other intellectual property and other proprietary rights embodied by and arising out of the Work Product, shall belong to State. To the extent such rights do not automatically belong to State, Contractor hereby assigns, transfers, and conveys all right, title and interest in and to the Work Product, including without limitation the copyrights, patents, trade secrets, and other intellectual property rights arising out of or embodied by the Work Product. Contractor and its employees, agents, contractors or representatives shall execute any other documents that State or its counsel deem necessary or desirable to document this transfer or allow State to register its claims and rights to such intellectual property rights or enforce them against third parties.
 - (3) All right, title and interest in and to the Third-Party Software shall at all times remain with the third party, subject to any license granted under this Contract.
- c. The Contractor may use for its own purposes the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of performing under this Contract. The Contractor may develop for itself, or for others, materials which are similar to or competitive with those that are produced under this Contract.
- E.6. Software License Warranty. Contractor grants a license to the State to use all software provided under this Contract in the course of the State's business and purposes.
- E.7. Software Support and Maintenance Warranty. Contractor shall provide to the State all software upgrades, modifications, bug fixes, or other improvements in its software that it makes generally available to its customers.
- E.8. Extraneous Terms and Conditions. Contractor shall fill all orders submitted by the State under this Contract. No purchase order, invoice, or other documents associated with any sales, orders, or supply of any good or service under this Contract shall contain any terms or conditions other than as set forth in the Contract. Any such extraneous terms and conditions shall be void, invalid and unenforceable against the State. Any refusal by Contractor to supply any goods or services under this Contract conditioned upon the State submitting to any extraneous terms and conditions shall be a material breach of the Contract and constitute an act of bad faith by Contractor.
- E.9. Federal Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency and Accountability Act. The Contractor shall comply with the Federal Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232(g)) and its accompanying regulations (34 C.F.R. § 99) ("FERPA"). The Contractor warrants that the Contractor is familiar with FERPA requirements and that it will comply with these requirements in the performance of its duties under this Contract. The Contractor agrees to cooperate with the State, as required by FERPA, in the performance of its duties under this Contract. The Contractor agrees to maintain the confidentiality of all education records and student information. The Contractor shall only use such records and information for the exclusive purpose of performing its duties under this Contract.

The Contractor shall also comply with Tenn. Code Ann. § 49-1-701, *et seq.*, known as the “Data Accessibility, Transparency and Accountability Act,” and any accompanying administrative rules or regulations (collectively “DATAA”). The Contractor agrees to maintain the confidentiality of all records containing student and de-identified data, as this term is defined in DATAA, in any databases, to which the State has granted the Contractor access, and to only use such data for the exclusive purpose of performing its duties under this Contract.

Any instances of unauthorized disclosure of data containing personally identifiable information in violation of FERPA or DATAA that come to the attention of the Contractor shall be reported to the State within twenty-four (24) hours. Contractor shall indemnify and hold harmless State, its employees, agents and representatives, from and against any and all claims, liabilities, losses, or causes of action that may arise, accrue, or result to any person or entity that is injured or damaged as a result of Contractor’s failure to comply with this section.

- E.10. Environmental Tobacco Smoke. Pursuant to the provisions of the federal “Pro-Children Act of 1994” and the Tennessee “Children’s Act for Clean Indoor Air of 1995,” the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post “no smoking” signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.
- E.11. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor’s Response to RFP 33132-00217 (Attachment 6.2, Section B, Item Reference B.15) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor’s performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and Tennessee service-disabled veterans. Such reports shall be provided to the State of Tennessee Governor’s Office of Diversity Business Enterprise in the required form and substance.

- E.12. Intellectual Property. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State concerning or arising out of any claim of an alleged patent, copyright, trade secret or other intellectual property infringement. In any such claim or action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any settlement or final judgment, and the Contractor shall be responsible for all legal or other fees or expenses incurred by the State arising from any such claim. The State shall give the Contractor notice of any such claim or suit, however, the failure of the State to give such notice shall only relieve Contractor of its obligations under this Section to the extent Contractor can demonstrate actual prejudice arising from the State’s failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106.
- E.13. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State (“PII”). For the purposes of this Contract, “PII” includes “Nonpublic Personal Information” as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time (“GLBA”) and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information (“Privacy Laws”). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was

disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify and/or procure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

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

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

TENNESSEE DEPARTMENT OF EDUCATION:

DR. CANDICE MCQUEEN, COMMISSIONER

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

Attachment B**Data Confidentiality and Security Agreement Form**

All primary and secondary investigators who will have access to confidential data provided by the Tennessee Department of Education, pursuant to an approved data request, must sign this form and submit to the state before handling any data provided by TDOE. Any investigators added to the research project at any time during the duration of the data loan period who will have access to the confidential data must sign this form and submit it to the TDOE Office of Research and Policy.

I _____, as a primary or secondary investigator, agree to receive confidential data from the Tennessee Department of Education (TDOE) and/or the TDOE Office of Research & Policy (ORP), and to observe the following security provisions in transferring, storing, analyzing and reporting of the data.

Storage and Transfer

- 1.1 The data must be stored where only the MOA-designated primary and secondary investigator(s) may access the data.
- 1.2 The location of all copies of the data must be carefully tracked. The primary and secondary investigators will monitor the access logs for the database for activity in violation of this Data Confidentiality and Security Agreement Form
- 1.3 All data transfers will be encrypted with a minimum of 128 bits. Source data files will be stored in a secured location with access limited to system administrators and primary investigators
- 1.4 Data files must remain secure throughout the duration of data storage
- 1.5 All data will be housed in firewall protected system software. Intrusion detection efforts must be in place for the system components
- 1.6 Security notices affecting the system software must be monitored and patches applied to minimize the risk of security breach

Usage

- 2.1 All Primary and Secondary Investigators must sign and execute this MOA or the Tennessee Data Confidentiality and Security Agreement (Attachment A of the MOA)
- 2.2 Data may be accessed only by primary and secondary investigator(s) that have signed this MOA or the Tennessee Data Confidentiality and Security Agreement (Attachment A of the MOA)
- 2.3 Data may not be shared with any other individuals outside those designated as the primary and secondary investigator(s) in the MOA
- 2.4 Data may be used only for analyses that respect privacy and confidentiality of all concerned parties including students, teachers, classrooms, schools, districts, intermediate school districts and the State of Tennessee
- 2.5 Data may only be used for the purposes of answering the research questions and/or hypotheses presented in the Project Overview and Statement of Work (Section 1 of this MOA)
- 2.6 Publicly available discussions, presentations and reports based upon the confidential data may not include information that would make it possible to identify a student, teacher, classroom, school, district, intermediate school district or the State of Tennessee unless specific permission has been granted in writing to do so
- 2.7 Internal discussions and reports should protect the privacy, anonymity and confidentiality of all concerned parties if there is any reasonable possibility that the internal document may become publicly available
- 2.8 Internal documents that contain any identifying information must clearly be marked "confidential—for internal use only"
- 2.9 In any instances where populations may include only a few individuals, all primary and secondary investigators will apply statistical cutoff procedures to ensure that confidentiality is maintained.

The investigators' system will block any aggregate results with a statistical cutoff in which fewer than five persons might be disclosed. Other measures such as reporting percentages and ranges of data and avoiding the reporting of counts will be used as well to ensure statistical security

- 2.10 The handling of all data will, at all times, adhere to the Family Educational Rights and Privacy Act (FERPA)

Disposal

- 3.1 The data must be destroyed in accordance with the date designated for destruction in the signed MOA
- 3.2 If an extension on the data destruction deadline is needed, the TDOE Internal Review Board must be contacted, in writing, to approve an extension
- 3.3 A certificate of destruction will be sent via US mail to the TDOE Internal Review Board on the date of the data loan expiration

Data Release Incidents

- 4.1 Any instances of unauthorized disclosure of personally identifiable information that come to the attention of the investigators must be reported to the TDOE within twenty-four (24) hours of being brought to the attention of the investigators
- 4.2 Inappropriately releasing data from a student, teacher or other personal record, whether through negligence or intent, will be subject to potentially permanent loss of access to TDOE data and records
- 4.3 Any agents, other entities, or primary or secondary investigators who violate this MOA, whether through negligence or intent, will not have access to any TDOE student data for five years as required by FERPA. All violations will be reported to the appropriate federal and state enforcement agencies

Signature of Investigator Email and Phone Number Date