



STATE OF TENNESSEE  
DEPARTMENT OF TRANSPORTATION

**REQUEST FOR PROPOSALS # 40100-17102  
AMENDMENT # 1  
FOR GOODS OR ROADWAY PROFILERS**

DATE: JANUARY 4, 2016

RFP # 40100-17102 IS AMENDED AS FOLLOWS:

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

EVENT	TIME (central time zone)	DATE
1. RFP Issued		November 29, 2016
2. Disability Accommodation Request Deadline	2:00 p.m.	December 2, 2016
3. Pre-response Conference	10:00 a.m.	December 6, 2016
4. Notice of Intent to Respond Deadline	2:00 p.m.	December 7, 2016
5. Written "Questions & Comments" Deadline	2:00 p.m.	December 12, 2016
6. State Response to Written "Questions & Comments"		January 4, 2017
7. Response Deadline	2:00 p.m.	January 18, 2017
8. State Completion of Technical Response Evaluations		February 1, 2017
9. State Opening & Scoring of Cost Proposals	2:00 p.m.	February 2, 2017
10. Negotiations (Optional)	4:30 p.m.	February 9, 2017
11. State Notice of Intent to Award Released <u>and</u> RFP Files Opened for Public Inspection	2:00 p.m.	February 10, 2017
12. End of Open File Period		February 17, 2017
13. State sends contract to Contractor for signature		February 21, 2017
14. Contractor Signature Deadline	2:00 p.m.	February 24, 2017

2. State responses to questions and comments in the table below amend and clarify this RFP.

Any restatement of RFP text in the Question/Comment column shall NOT be construed as a change in the actual wording of the RFP document.

QUESTION / COMMENT	STATE RESPONSE
<p>Note: in the responses that follow, any Contractor's re-statement of the text of the RFP is for reference purposes only and shall not be construed to change the original RFP wording.</p>	
<p>1. A.5.1 (Page 36) – Can you define TNDOT's definition of "Mid-Size" Sport Utility Vehicle? The term "Mid – Size" is different between manufacturers.</p>	<p>The State considers for the purposes of this solicitation a mid-size sport utility vehicle to be equivalent to the Ford Explorer class.</p>
<p>2. A.5.2 (Page 37) –  Based on the specifications the headquarters vehicle is to be a Ford Transit Cargo Van with a high top roof but can it be a passenger van instead? The passenger style already has finished interiors and suspension that is more adequate than the Cargo Style.</p>	<p>Yes, a passenger style van is acceptable as long as the features are equivalent or better of what we are specifying. Section A.5.2. has been modified to the following:</p> <ul style="list-style-type: none"> <li>• 2016/2017 model one ton cargo full size van or equivalent passenger van.</li> <li>• Removed the high top roof requirement.</li> </ul>
<p>3. A.8.9 (Page 39) – Can you clarify how TNDOT operators shall be protected from injury due to cameras and mounts in the interior of the vehicle? Is this referring to protective padding or general placement of mounting in the vehicle?</p>	<p>The State is referring to the general placement of cameras and mounts in the vehicle. The State wants the Contractor to consider driver/passenger safety when mounting equipment.</p>
<p>4. A.9.1 (Page 40) –  The temperature stated for operation is 32 degrees below freezing, is this correct? The industry standards are typically set at freezing (32 degrees F, not 0 degrees F)</p>	<p>The State is changing Section A.9.1. to the following:  The vehicle including all subsystems shall remain fully operational in ambient air temperatures ranging from 32°F to 112°F.</p>
<p>5. A.9.2 (Page 40) – Based on the question clarifying temperatures in A.9.1, can you clarify the temperatures for storage as well?</p>	<p>This requirement will remain as is.</p>
<p>6. A.2 / A.12.1 / A.13.9 (Page 35, 40, 42) – The specification, in multiple sections, states that 64 bit Windows OS must be used. Typically in these types of vehicles multiple sub-systems and computers are used. Is it acceptable to have Windows 64 bit and 32 bit Operating Systems installed?</p>	<p>The State will accept either 32 or 64 bit, but to be consistent, the State wants the system to be all 32 or all 64 bit. 32 bit and 64 bit mixed together is not acceptable.</p> <p>The State is changing the following Sections to the language below:</p> <p>A.2. Windows 32 or 64 bit native user interface</p> <p>A.12.1. 32 or 64 Bit Data Acquisition software application.</p> <p>A.13.9. Data acquisition software native 32 or 64 bit Windows application.</p>
<p>7. A.20.4 (Page 47) – Can you confirm the</p>	<p>The State estimates approximately 15 employees</p>

QUESTION / COMMENT	STATE RESPONSE
<p>number of TNDOT employees that will require training?</p>	<p>will require training.</p>
<p>8. Section A.4: Implies 30 day acceptance period. What triggers invoicing for payment?</p>	<p>The Contractor should send an invoice whenever the State has accepted a good or service, either in writing or after 30 days, whichever comes first.</p>
<p>9. Section A.5 - Is the GPS Navigation in this section a factory based vehicle Navigation or is this as required in section A.14,?</p>	<p>Yes. Factory based vehicle navigation is the requirement.</p>
<p>10. Section A.5.2</p> <ul style="list-style-type: none"> <li>• Can a twin alternator vehicle be used in place of a 200 Amp HD alternator?</li> <li>• Is the High top roof required for the vehicle? Our system design requires the standard roof mounting due to the mounting height requirements of the Pavemetrics LCMS system, the high top roof cannot be used.</li> </ul>	<p>Yes. The State will allow a twin alternator as well as a 200 AMP. Either one will be acceptable.</p> <p>The State will change Section A.5.2. to the following:</p> <p>200+ Amp heavy duty power supply or twin alternator vehicle.</p> <p>For the second question, please see the response to Question #2.</p>
<p>11. Section A.5.2</p> <ul style="list-style-type: none"> <li>• Note that our inertial profiler can operate up to 70 mph, but the Pavemetrics LCMS specified has a max speed of 62 mph with current Pavemetrics specified hardware.</li> </ul>	<p>The State is keeping the requirement for the regional profilers the same for operation up to 70mph.</p> <p>The Headquarters vehicle Laser Crack Measurement System or equivalent will be specified for a max speed of up to 62mph.</p> <p>The State is adding Section A.15.23 with the following language:</p> <p>A.15.23 The Laser Crack Measurement System or equivalent will need to operate up to 62mph.</p>
<p>12. Section A6.3</p> <ul style="list-style-type: none"> <li>• We cannot guarantee all of the items provided and described in this section of the RFP will be located in one location, e.g. the switch to the light bar will be near the driver's seat, the gauges for the electronics batter and inverter will be near the workstation, etc. We can however offer that the primary functions of the test system will be controlled from the onboard vehicle rear work station.</li> </ul>	<p>Yes. The State will accept modifications to this section. Section A.6.3. has been revised to the following:</p> <p>A.6.3. All contractor-installed controls, gauges, indicators, pilot lamps, and switches shall be permanently labeled to indicate function and on-off position. Contractor shall make all efforts to mount all the above in one control panel.</p>
<p>13. Section A.7 Vehicle – Auxiliary Power Unit</p> <ul style="list-style-type: none"> <li>• We are unclear what is required from this section. We typically use a twin alternator to power the system specified under the "headquarters" data collection system, this contains an Uninterrupted Power Supply (UPS) system (a backup battery) that provides a few minutes of power in case of sudden power loss from the primary power</li> </ul>	<p>The Contractor is responsible for installing an auxiliary power unit large enough to supply continuous electrical power to all onboard computer, electrical, and related subsystems. This is worded vaguely on purpose since it will be up to the Contractor to provide the appropriate auxiliary power unit for its system. It is up to the State to decide if what is being installed is acceptable.</p>

QUESTION / COMMENT	STATE RESPONSE
<p>supply (vehicle, or shore power) in order to allow for work to be saved and to protect the computers. We also include the ability to power the entire system from shore power, while the vehicle is stationary and the vehicle engine is off.</p>	
<p>14. Section A.8.7</p> <ul style="list-style-type: none"> <li>Is this an option required for all the vehicles required under this RFP, or is this something different, required as an after-market item only on the headquarters vehicle? Please provide further details for this requirement and intended purpose.</li> </ul>	<p>The backup camera is intended for all vehicles. Its purpose is safety.</p>
<p>15. Section A.8.9</p> <ul style="list-style-type: none"> <li>Please clarify what is required here.</li> </ul>	<p>Driver safety must be considered when mounting equipment.</p>
<p>16. Section A.9</p> <ul style="list-style-type: none"> <li>The minimum ambient air temperature for equipment to be fully operational is 32 F, not 0 degrees F. This is the specification provided by the LMI Selcom lasers and Paver metric LCMS hardware.</li> </ul>	<p>Please see response to Question #4.</p>
<p>17. Section A.10</p> <ul style="list-style-type: none"> <li>The LCMS system using 5600 profiles has max speed of 62 mph; the RFP requires a 90 mph. We request this be changed to 62 mph.</li> <li>Is the "log mile" a reference to roadway mile post signs or is this something else?</li> </ul>	<p>For the first question, see response to Question #11.</p> <p>For the second question, yes, a log mile is a reference to roadway mile post signs.</p>
<p>18. Section A.10.3</p> <ul style="list-style-type: none"> <li>The specification requires the DMI to be accurate with 0.1 % for speeds to 70 mph. This is not a practical specification for vehicles with pneumatic tires due to the change in tire circumference at various speeds. This 0.1 % DMI accuracy is only achievable if the DMI is calibrated at a specific vehicle speed with a specific tire temperature and ambient air temperature. Any changes to the velocity of the test system, tire temperature, or air temperature will invalidate the calibration. We recommend the specification be changed to 1 % DMI accuracy and note AASHTO M328, AASHTO R 57, and TEX 1001s as reference.</li> </ul>	<p>This requirement will remain at 0.1% for speeds up to 70 mph.</p> <p>The following sections have been updated in response to this question:</p> <p>A.10.4. Testing for acceptance by State will include the DMI Check Test described in ASTM E950-09. Acceptance testing will be at our 1 mile test track located in Nashville. Five runs per profiler at 50mph will be conducted as part of the DMI check.</p> <p>A.10.6. A digital encoder, mechanically linked to one of the vehicle wheels, shall be provided for suitable digital distance/speed information to the signal processing electronics. Encoder minimum pulses per rotation 2048.</p> <p>A.10.7. Optical triggering at start and end points via trigger trip or side firing reflective cones.</p>
<p>19. Section A.11.2</p> <ul style="list-style-type: none"> <li>Is the log mile a roadside mile post or</li> </ul>	<p>See response to Question #17.</p>

QUESTION / COMMENT	STATE RESPONSE
<p>something else? Please explain this requirement if further detail.</p>	
<p>20. Section A.13.8</p> <ul style="list-style-type: none"> <li>• How many texture lasers are required for each inertial profiler?</li> </ul>	<p>The State will remove this requirement.</p>
<p>21. Page 41, A.13.10</p> <ul style="list-style-type: none"> <li>• “This specification is not an industry standard as AASHTO R 57 and TEX 1001s certifications requires 1 inch storage intervals. It is unknown if usable inertial profile can be stored at 0.75 inch intervals using the 100 mm Gocator line lasers with a 5 kHz frequency without the presence of spiking or ‘noise’ when collected at 70 mph.”</li> </ul>	<p>This requirement will remain as 0.75 inches as the speed has been reduced to 62 mph for the headquarter profiler with the laser crack measurement system or equivalent.</p>
<p>22. Section A.14.2</p> <ul style="list-style-type: none"> <li>• Please confirm the RFP requires: <ul style="list-style-type: none"> <li>o A basic GPS system shall be included with each unit of the Base Regional SUV Roadway Profiler Data Collection vehicle.</li> <li>o The Headquarter Van Add-on GPS system, a separately priced option that includes the Applanix GPS/IMU combination, will go on the the Base Headquarters Van Roadway Profiler Data Collection vehicle?</li> </ul> </li> </ul>	<p>Yes. A basic GPS system shall be included with each unit of the Base Regional SUV Roadway Profiler Data Collection vehicle</p> <p>Yes. The Headquarter Van add-on GPS system is a separately priced option that includes the GPS/IMU combination.</p>
<p>23. Section A.14.11</p> <ul style="list-style-type: none"> <li>• Is it acceptable to provide all data post-processed to WGS (decimal degrees), not real-time, this is unclear in the spec A.14.11</li> </ul>	<p>Yes, this is acceptable.</p>
<p>24. Section A.15</p> <ul style="list-style-type: none"> <li>• We cannot guarantee the Pavemetrics 3D System specified in Section A.15.1 meet all of the specifications of Section 15 of this RFP. We has used the LCMS systems for crack detection and storing of pavement images for use in additional distress evaluation; however, some the specifications listed in this section and provided by Pavemetrics cannot or have not been substantially proven by us to perform as specified.</li> <li>• We specifically questions the 3D systems’ ability to: <ul style="list-style-type: none"> <li>o Detect road lane lines</li> <li>o Detect joints and faulting on concrete roads</li> <li>o Provide a transversal resolution of 1mm</li> <li>o Include a depth resolution of 0.5 mm</li> <li>o Provide IRI calculation in accordance with</li> </ul> </li> </ul>	<p>The State will accept the Pavemetrics Laser Crack Measurement System or equivalent as meeting the minimum requirements of Section A.15. Whatever LCMS the Contractor decides to install (Pavemetrics or equivalent) must be accompanied with the required warranty period the State is asking for. The Contractor may have to purchase additional warranty coverage to satisfy this requirement. The LCMS that is installed must be accompanied with a certification of warranty. Contractor will provide the State all warranty paperwork from manufacturer. As the Contractor, all requests for repair of any system components will go directly through the awarded Contractor.</p>

QUESTION / COMMENT	STATE RESPONSE
<p>TEX 2001s and AASHTO R 57</p> <ul style="list-style-type: none"> <li>o Provide macrotexture measurement over 100% of the laser surface</li> <li>o Provided longitudinal profile in ProVal format</li> <li>o Provide vehicle drift correction using lane markings</li> <li>o Adhere to ASTM E9500, E965, E1703, E1845, D5340, D6433.</li> </ul>	
<p>25. Section A.16</p> <ul style="list-style-type: none"> <li>• Please verify this is either the on-board vehicle mounted workstation used for data acquisition, or that this is the dedicated office workstation used for post-processing of all the data.</li> <li>• Does A16.3 refer to rear work station and front console control? The single small monitor and wireless keyboard operation from the front seat is only recommended for calibration and diagnostic purposes. The adequately view and control the entire operating system, it is recommended the operator be positioned at the on-board vehicle mounted rear workstation during field data acquisition. Please verify what is required in this section.</li> </ul>	<p>This requirement is for the on-board vehicle mounted workstation used for data acquisition. Section A.16.3. refers to rear work station and front console control.</p>
<p>26. Section A.17</p> <ul style="list-style-type: none"> <li>• Does the user want the image to have a watermark type imprint of the user definable fields information, directly on the image, or is a database field showing the data linked and corresponding to for each image acceptable?</li> </ul>	<p>No watermarks are needed.</p>
<p>27. Section A.17.9</p> <ul style="list-style-type: none"> <li>• Please clarify what is required by this section with the description “Find mile point on images”?</li> <li>• The specifications under this RFP do not include a photo logging or right-of-way camera option.</li> </ul>	<p>The State has removed “Find mile point on images” as a requirement from this Section.</p> <p>Correct. The State is not requiring a photo logging or right-of-way camera.</p>
<p>28. Section A.22.</p> <ul style="list-style-type: none"> <li>• Please explain in detail what is required under the two year warranty for hardware and software.</li> <li>o Does this include a full additional year of the Pavemetrics “Gold Plan” option, and full 2 year warranty, including software and hardware for all the other subcomponents of the proposed equipment?</li> </ul>	<p>For the first question, per Section A.3., the Contractor shall provide two years of full warranty, beginning upon final acceptance by State, for all hardware and software supplied by Contractor, including:</p> <p>100% of parts, labor, service, travel</p>

QUESTION / COMMENT	STATE RESPONSE
	<p>Technical support including response to technical questions, advice concerning system additions and enhancements, and assistance in evaluating system changes. The contractor shall respond to questions from State within 24 hours.</p> <p>Unlimited technical support via email, fax, and telephone during the work week between the hours of 7:00 am and 5:00 pm, Central time.</p> <p>Section A.22.1. has been revised to the following:</p> <ul style="list-style-type: none"> <li>• Fifty (50) hours per year of incidental programming to enhance or customize software. Software updates for all profiler vehicles and desktop workstations, technical assistance via Wi-Fi/remote access, step-by-step walk down via phone of any technical or hardware related issue.</li> <li>• Yearly spring vehicle maintenance check in Nashville, TN where software, hardware, and vehicle equipment is checked to make sure it's performing as intended.</li> </ul> <p>For the second question, to meet the State's two year warranty and three year additional/optional warranty requirements, the Pavemetrics Gold Plan or equivalent manufacturer warranty plan will need to be purchased. For the additional 3 years, it will be a separately quoted price to the State.</p>
<p>29. Section A.23</p> <ul style="list-style-type: none"> <li>• Please explain in detail what is required under the two year warranty for hardware and software. <ul style="list-style-type: none"> <li>o Does this include a full additional year of the Pavemetrics "Gold Plan" option, and full 2 year warranty, including software and hardware for all the other subcomponents of the proposed equipment?</li> </ul> </li> </ul>	<p>Please see response to Question #28.</p>
<p>30. Who will be operating the vehicles? Which regions will the vehicles be used in? How often will the systems/vehicles be used? How many miles per year does the State estimate the vehicles to collect?</p>	<p>Technicians and engineers will be operating the vehicles.</p> <p>One vehicle will be used per region.</p> <p>The vehicles will be used mostly during warmer months.</p> <p>The State is unable to give an estimate of miles driven per year.</p>

QUESTION / COMMENT	STATE RESPONSE
<p>31. Is the State willing to separate the bids? (Where one vendor would be awarded the 4 Profiler vehicles and another vendor would be awarded the LCMS vehicle.)</p>	<p>No.</p>
<p>32. Page 36. Section A.5 – Roadway Profiler Sport Utility/Van Vehicle Specifications</p> <p>a. Does the State have a preference on vehicle type and model?</p>	<p>Any vehicle that meets or exceeds the minimum requirements described in this solicitation is acceptable.</p>
<p>33. Page 38. Section A.6.4 – If cameras are mounted in the interior of the vehicle, they shall not interfere with the sun visor.</p> <p>a. ROW imagery assists in identifying certain distresses like bleeding and raveling, which can be difficult for the LCMS to detect. The addition of ROW imagery can also assist in the QC process. We would like to propose two options for the camera system in/on the vehicle as we believe this will be a great opportunity to the State. Will this be allowed, and if so, may we amend the price sheet to reflect the two options?</p>	<p>No ROW cameras needed.</p>
<p>34. Page 42. Section: A.13.15 – Software to calculate longitudinal profile, HCIRI, IRI, and Rutting.</p> <p>a. No valid rutting data can be collected with a 2-point profiler. Is the rutting reference in this section an error? If not, can the State explain what this section means?</p>	<p>The State has removed “rutting” from Section A.13.15.</p>
<p>35. Page 42. Section: A.13.18 – Testing for acceptance by State shall include applicable tests to ensure compliance with ASTM E950-09.</p> <p>a. Can the state outline current calibration/verification procedures? Can the State explain their interpretation of ASTM E950?</p>	<p>The State will remove Sections A.13.18. and A.13.5.</p>
<p>36. Page 42. Section: A.14 – On-board GPS System</p> <p>a. We would like to propose two options for the positional system on the vehicles.</p> <p>We believe this will be a great opportunity to the State. Will this be allowed, and if so, may we amend the price sheet to reflect the two options?</p>	<p>The Contractor will need to propose one on-board GPS system in their response.</p>
<p>37. Page 43. Section A.15.15 – The system shall provide slope, cross fall, and super elevation.</p> <p>a. Super elevation is essentially the same thing as cross slope, but refers to the cross slope through horizontal curves. How does the State expect these two to be</p>	<p>The State will remove slope, cross fall and super elevation and rename it all cross slope. Section A.15.15. has been revised to the following:</p> <p>A.15.15. The system shall provide cross slope.</p>



QUESTION / COMMENT	STATE RESPONSE
differentiated?	
<p>38. Page 48. Section A.22.1 – Fifty (50) hours per year of incidental programming to enhance or customize software.</p> <p>a. What does the State define as “incidental” programming? What constitutes these “enhancements” or customizable features?</p>	<p>Section A.22.1. has been revised to the following:</p> <p>A.22.1. Fifty (50) hours per year of incidental programming to enhance or customize software. Software updates for profiler and desktop workstations, technical assistance via Wi-Fi/remote access, step-by-step walk down via phone of any technical or hardware related issue.</p>
<p>39. Page 48. Section A.23.1 – Yearly Maintenance to take place at TNDOT facilities.</p> <p>a. We offer our customers the ability to bring their data collection vehicles/systems to our facilities instead of performing checks onsite. Is TNDOT flexible when it comes to yearly maintenance or must maintenance work be done at TNDOT facilities in Nashville, TN?</p>	<p>All annual maintenance will need to be done in the Nashville Region 3 complex.</p>

**3. Delete RFP Attachment 6.6, section A.2. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

A.2. The Contractor will supply the State with roadway profiler data collection vehicles as needed. Contractor will include all hardware and software as specified in this Contract. Contractor will provide annual software maintenance for both the vehicle and user workstations. Contractor will train Tennessee Department of Transportation employees in the use of the profiler vehicles and software. All specifications throughout Section A are considered minimum. All vehicles will include the following systems:

- Onboard computer system software and hardware
- A vehicle suitable for data acquisition at normal highway speeds (up to 70mph)
- Dedicated workstation software
- Linear Referencing
- On-board laser based inertial profiler system
- ASTM E950 Class I Compliant Longitudinal Profiler for Road Roughness
- Roughness measurement ASTM E1926
- DMI
- GPS based navigation
- Real time sensor data graphs
- Windows 32 or 64 bit native user interface
- All systems shall use U.S. customary units with an option to use SI units (metric).

**4. Delete RFP Attachment 6.6, section A.5.2. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

A.5.2. The base headquarters roadway profiler data collection vehicle must include the following features:

- 2016 /2017 model One Ton Cargo full size van or equivalent passenger van.
- GPS based navigation

- The maximum mileage allowable for any of the new vehicles shall be less than 1,000 miles.
- Swing-outside/rear cargo door
- Interior Lighting.
- Heating – front and rear
- Floor Mats: Front & Rear, factory Installed
- High-Capacity air conditioning (front and rear)Two (2) captain chairs in the front
  - Power seat adjustment
  - Lumbar support
  - Heavy duty tubular steel seat frame
  - Durable stain-resistant covering seating system tested and certified to meet or exceed DOT safety standard FMVSS#207per section S 4.2 and S4.3.
- Engine – 3.7L V6
- Electronic 4-speed Automatic with Overdrive
- 200+ Amp heavy duty power supply or twin alternator vehicle.
- 4-wheel anti-lock brake system
- Fuel Tank: 26 gallon min. capacity
- Paint: Oxford White clear-coat
- Interior color: Grey or tan
- Power exterior mirrors
- Power windows and door locks
- Cruise control
- All season tires including full size spare
- Automatic transmission
- Windows in the rear and side door (s) will be tinted
- High top roof (deleted)
- Interior insulation, finished walls and ceiling, covered floor, interior lighting, storage compartments, equipment racks, and work surfaces Finish walls, Ceiling lighting
- Four (4) 120AC outlets @ 20A
- Air conditioned vents inside equipment rack
- Oversized storage cabinet
- Monitor stand with tilt capability
- Lightbar: LED, 4 corner, wide angle, linear super-LED modulus standard. Up to 12 wide angle linear super-LED lightheads. Seventy-five (75) signal alert flashes per minute, per head (default pattern). Super-LED built-in traffic advisor with control head, amber color lenses. Lightbar shall be between 46” to 54” in length, 12” to 18.5” in width, and a height of 2”-3” (excluding mounting brackets). Domes and inserts shall be constructed of polycarbonate. All light functions shall be mounted inside the primary domes and configured to provide the following functions:
  - The outer position shall be linear amber LED w/amber lens
  - The middle position shall be linear white LED w/clear lens
  - The inner position shall be linear amber LED w/amber lens
  - The center position shall be linear amber LED w/amber lens
  - Switch control to be equal or exceed the maximum electrical requirements of the light bar
- All lenses shall be polycarbonate, high material. This light bar shall not have any strobes. All lights are linear super-LED modules. The light bar is to have no rotating oscillating lights.

**5. Delete RFP Attachment 6.6, section A.6.3. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

A.6.3. All contractor-installed controls, gauges, indicators, pilot lamps, and switches shall be permanently labeled to indicate function and on-off position. Contractor shall make all efforts to mount all the above in one control panel.

**6. Delete RFP Attachment 6.6, section A.9.1. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

A.9.1. The vehicle including all subsystems shall remain fully operational in ambient air temperatures ranging from 32°F to 112°F.

**7. Delete RFP Attachment 6.6, section A.10.4. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

A.10.4. Testing for acceptance by State will include the DMI Check Test described in ASTM E950-09. Acceptance testing will be at our 1 mile test track located in Nashville. Five runs per profiler at 50mph will be conducted as part of the DMI check.

**8. Delete RFP Attachment 6.6, section A.10.6. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

A.10.6. A digital encoder, mechanically linked to one of the vehicle wheels, shall be provided for suitable digital distance/speed information to the signal processing electronics. Encoder minimum pulses per rotation 2048.

**9. Delete RFP Attachment 6.6, section A.12.1. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

A.12.1. 32 or 64 Bit Data Acquisition software application.

**10. Delete RFP Attachment 6.6, section A.13.9. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

A.13.9. Data acquisition software native 32 or 64 bit Windows application.

**11. Delete RFP Attachment 6.6, section A.13.15. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

A.13.15. Software to calculate longitudinal profile, HCIRI, IRI and rutting (deleted).

**12. Delete RFP Attachment 6.6, section A.15.15. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

A.15.15. The system shall provide cross slope.

**13. Delete RFP Attachment 6.6, section A.17.9. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

A.17.9. Main software menus include:

- Open/Save/Save As/Import/Export/Set for road section database management
- Edit Copy/Cut/Paste/Find/Go to/Filter/Mark for road section record management
- Import/Export/Print database fields
- Metric/English units output
- Sensor Data Reports/Interval/Export/File for sensor data output
- Sensor data Graphs/Open/Close/Copy/Print
- Open digitized image window
- Select window size
- Play images forward/backward
- Find mile point location on images (deleted)

**14. Delete RFP Attachment 6.6, section A.22.1. in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

A.22.1. Per Section A.3., the Contractor shall provide two years of full warranty, beginning upon final acceptance by State, for all hardware and software supplied by Contractor, including:

- 100% of parts, labor, service, travel
- Software updates
- Technical support including response to technical questions, advice concerning system additions and enhancements, and assistance in evaluating system changes. The contractor shall respond to questions from State within 24 hours.
- Unlimited technical support via email, fax, and telephone during the work week between the hours of 7:00 am and 5:00 pm, Central time.
- Fifty (50) hours per year of incidental programming to enhance or customize software. Software updates for all profiler vehicles and desktop workstations, technical assistance via Wi-Fi/remote access, step-by-step walk down via phone of any technical or hardware related issue.
- Yearly spring vehicle maintenance check in Nashville, TN where software, hardware, and vehicle equipment is checked to make sure it's performing as intended.

**15. Add the following as RFP section Attachment 6.6, section A.10.7. and renumber any subsequent sections as necessary:**

A.10.7. Optical triggering at start and end points via trigger trip or side firing reflective cones.

**16. Add the following as RFP section Attachment 6.6, section A.15.23. and renumber any subsequent sections as necessary:**

A.15.23. The Laser Crack Measurement System or equivalent will need to operate up to 62mph.

**17. Delete RFP section Attachment 6.6, section A.13.5. and renumber any subsequent sections as necessary:**

**18. Delete RFP section Attachment 6.6, section A.13.18. and renumber any subsequent sections as necessary:**

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



**STATE OF TENNESSEE  
DEPARTMENT OF TRANSPORTATION**

**REQUEST FOR PROPOSALS  
FOR  
ROADWAY PROFILERS**

**RFP # 40100-17102**

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## 1. INTRODUCTION

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The State of Tennessee, Department of Transportation, 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 Automated Data Collection Vehicles shall include all hardware, software, controllers, interface components, and ancillary equipment and systems required for full functionality in acquiring, locating, processing, storing, and presenting images, data, and information at highway speeds. All systems and subsystems shall be integrated and synchronized to maximize the efficiency of the data collection process.

- 1.1.2. The previous spend for this contract was \$632,000.00. The estimated cost for the proposed contract period is \$1,220,000.00.

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

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

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

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

### 1.3. Nondiscrimination

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

### 1.4. RFP Communications

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

**RFP # 40100-17102**

- 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:

Chris Benson  
Central Procurement Office  
Department of General Services  
3rd Floor, WRS Tennessee Tower  
312 Rosa L. Parks Ave  
(615) 741-0942  
Chris.Benson@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 Crowley, Compliance Team Lead  
Central Procurement Office  
Department of General Services  
WRS 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.

All statistical or fiscal data or information provided by the State in conjunction with this RFP, whether by way of exhibits, amendments or modifications to this RFP, is provided by the State "as is." The State expressly disclaims any warranty as to the accuracy or the adequacy of any statistical or fiscal data that it provides to Respondents. A Respondent's reliance upon the accuracy or adequacy of such data shall not be the basis of relief from contract performance or recovery of actual, consequential or punitive damages from the State.

**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:

10:00 AM CST  
December 6, 2016  
312 Rosa L. Parks Ave  
Tennessee Tower, 3<sup>rd</sup> Floor  
Conference Room B  
Nashville, TN 37243  
Conference Line: (615) 253-8313



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**

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

EVENT	TIME (central time zone)	DATE
15. RFP Issued		November 29, 2016
16. Disability Accommodation Request Deadline	2:00 p.m.	December 2, 2016
17. Pre-response Conference	10:00 a.m.	December 6, 2016
18. Notice of Intent to Respond Deadline	2:00 p.m.	December 7, 2016
19. Written “Questions & Comments” Deadline	2:00 p.m.	December 12, 2016
20. State Response to Written “Questions & Comments”		January 4, 2017
21. Response Deadline	2:00 p.m.	January 18, 2017
22. State Completion of Technical Response Evaluations		February 1, 2017
23. State Opening & Scoring of Cost Proposals	2:00 p.m.	February 2, 2017
24. Negotiations (Optional)	4:30 p.m.	February 9, 2017
25. State Notice of Intent to Award Released <u>and</u> RFP Files Opened for Public Inspection	2:00 p.m.	February 10, 2017
26. End of Open File Period		February 17, 2017
27. State sends contract to Contractor for signature		February 21, 2017
28. 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

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#### 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 oversized 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 # 40100-17102 TECHNICAL RESPONSE ORIGINAL”**

and five (5) 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 CD-R recordable disc or USB flash drive labeled:

**“RFP # 40100-17102 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 # 40100-17102 COST PROPOSAL ORIGINAL”**

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

**“RFP # 40100-17102 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 # 40100-17102 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 # 40100-17102 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 # 40100-17102 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:

Chris Benson  
Department of General Services, Central Procurement Office  
3rd Floor, WRS Tennessee Tower  
312 Rosa L. Parks Avenue  
Nashville, TN 37243

**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**

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### **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

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### 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
<b>General Qualifications &amp; Experience</b> (refer to RFP Attachment 6.2., Section B)	20
<b>Technical Qualifications, Experience &amp; Approach</b> (refer to RFP Attachment 6.2., Section C)	50
<b>Cost Proposal</b> (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. **Clarifications and Negotiations:** The State reserves the right to award a contract on the basis of initial responses received, therefore, each response shall contain the Respondent's best terms and conditions from a technical and cost standpoint. The State reserves the right to conduct clarifications or negotiations with one or more Respondents. All communications, clarifications, and negotiations shall be conducted in a manner that supports fairness in response improvement.
  - 5.2.3.1. **Clarifications:** The State may identify areas of a response that may require further clarification or areas in which it is apparent that there may have been miscommunications or misunderstandings as to the State's specifications or requirements. The State may seek to clarify those issues identified during one or multiple clarification rounds. Each clarification sought by the State may be unique to an individual Respondent, provided that the process is conducted in a manner that supports fairness in response improvement.
  - 5.2.3.2. **Negotiations:** The State may elect to negotiate with one or more Respondents by requesting revised responses, negotiating costs, or finalizing contract terms and conditions. The State reserves the right to conduct multiple negotiation rounds or no negotiations at all.
  - 5.2.3.3. **Cost Negotiations:** All Respondents, selected for negotiation by the State, will be given equivalent information with respect to cost negotiations. All cost negotiations will be documented for the procurement file. Additionally, the State may conduct target pricing and other goods or services level negotiations. Target pricing may be based on considerations such as current pricing, market considerations, benchmarks, budget availability, or other methods that do not reveal individual Respondent pricing. During target price negotiations, Respondents are not obligated to reduce their pricing to target prices, but no Respondent is allowed to increase prices.
  - 5.2.3.4. If the State determines that it is unable to successfully negotiate a contract with the apparent best evaluated Respondent, the State reserves the right to bypass the apparent best evaluated Respondent and enter into contract negotiations with the next apparent best evaluated Respondent.

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

### 5.3. Contract Award Process

- 5.3.1 The Solicitation Coordinator will submit the Proposal Evaluation Team determinations and scores to the head of the procuring agency for consideration along with any other relevant information that might be available and pertinent to contract award.
- 5.3.2. The procuring agency head will determine the apparent best-evaluated Response. To effect a contract award to a Respondent other than the one receiving the highest evaluation process score, the head of the procuring agency must provide written justification and obtain the written approval of the Chief Procurement Officer and the Comptroller of the Treasury.
- 5.3.3. The State will issue a Notice of Intent to Award identifying the apparent best-evaluated response and make the RFP files available for public inspection at the time and date specified in the RFP Section 2, Schedule of Events.

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

- 5.3.4. The Respondent identified as offering the apparent best-evaluated response must sign a contract drawn by the State pursuant to this RFP. The contract shall be substantially the same as the RFP Attachment 6.6., *Pro Forma* Contract. The Respondent must sign the contract by the Contractor Signature Deadline detailed in the RFP Section 2, Schedule of Events. If the Respondent fails to provide the signed contract by this deadline, the State may determine that the Respondent is non-responsive to this RFP and reject the response.
- 5.3.5. Notwithstanding the foregoing, the State may, at its sole discretion, entertain limited 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 # 40100-17102 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:**

\_\_\_\_\_

**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,	

<b>RESPONDENT LEGAL ENTITY NAME:</b>			
<b>Response Page # (Respondent completes)</b>	<b>Item Ref.</b>	<b>Section A— Mandatory Requirement Items</b>	<b>Pass/Fail</b>
		verified and dated within the last three (3) months and indicating a satisfactory credit rating for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will <u>not</u> be considered responsive.)	
<i>State Use – Solicitation Coordinator Signature, Printed Name &amp; Date:</i>			



**TECHNICAL RESPONSE & EVALUATION GUIDE**

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

<b>RESPONDENT LEGAL ENTITY NAME:</b>		
<b>Response Page #</b> (Respondent completes)	<b>Item Ref.</b>	<b>Section B— General Qualifications &amp; Experience Items</b>
	<b>B.1.</b>	Detail the name, e-mail address, mailing address, telephone number, and facsimile number of the person the State should contact regarding the response.
	<b>B.2.</b>	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>B.3.</b>	Detail the number of years the Respondent has been in business.
	<b>B.4.</b>	Briefly describe how long the Respondent has been providing the goods or services required by this RFP.
	<b>B.5.</b>	Describe the Respondent's number of employees, client base, and location of offices.
	<b>B.6.</b>	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>B.7.</b>	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>B.8.</b>	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>B.9.</b>	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>B.10.</b>	Provide a statement of whether there are any pending or in progress Securities Exchange Commission investigations involving the Respondent. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it will impair the Respondent's performance in a contract pursuant to this RFP.

## RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		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.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"> <li>(a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each;</li> <li>(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></li> <li>(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.</li> </ul>
	B.15.	Provide documentation of the Respondent's commitment to diversity as represented by the following: <ul style="list-style-type: none"> <li>(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.</li> <li>(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"> <li>(i) contract description;</li> <li>(ii) contractor name and ownership characteristics (i.e., ethnicity, gender, Tennessee service-disabled);</li> <li>(iii) Contractor contact name and telephone number.</li> </ul> </li> <li>(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"> <li>(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 <b>DO NOT INCLUDE DOLLAR AMOUNTS</b>);</li> <li>(ii) anticipated goods or services contract descriptions;</li> <li>(iii) names and ownership characteristics (i.e., ethnicity, gender, Tennessee service-disabled veterans) of anticipated subcontractors and supply contractors.</li> </ul> </li> </ul>

## RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		<p>NOTE: In order to claim status as a Diversity Business Enterprise under this contract, businesses must be certified by the Governor's Office of Diversity Business Enterprise (Go-DBE). Please visit the Go-DBE website at <a href="https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&amp;XID=9810">https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&amp;XID=9810</a> 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>B.16.</b>	<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"> <li>▪ 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.</li> <li>▪ Each evaluator will generally consider the results of inquiries by the State regarding all contracts noted.</li> </ul>
	<b>B.17.</b>	<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"> <li>▪ Four (4) currently serviced accounts and/or completed projects that are similar in size to the State.</li> </ul> <p>References from at least four (4) 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"> <li>(i) complete the reference questionnaire;</li> <li>(ii) sign and date the completed reference questionnaire;</li> <li>(iii) seal the completed, signed, and dated reference questionnaire within the envelope</li> </ol>

## RFP ATTACHMENT 6.2. — SECTION B (continued)

<b>RESPONDENT LEGAL ENTITY NAME:</b>		
<b>Response Page #</b> (Respondent completes)	<b>Item Ref.</b>	<b>Section B— General Qualifications &amp; Experience Items</b>
		<p>provided;</p> <p>(iv) sign his or her name in ink across the sealed portion of the envelope; and</p> <p>(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 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"> <li>▪ 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.</li> <li>▪ The State will not review more than the number of required references indicated above.</li> <li>▪ 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.</li> <li>▪ The State is under <u>no</u> obligation to clarify any reference information.</li> </ul>
	<b>B.18.</b>	<p>Provide a statement and any relevant details addressing whether the Respondent is any of the following:</p> <p>(a) is presently debarred, suspended, proposed for debarment, or voluntarily excluded from covered transactions by any federal or state department or agency;</p> <p>(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;</p> <p>(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</p> <p>(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>
	<b>B.19.</b>	<p>Provide State a list of technicians/name(s) of certified personnel that will travel to Nashville to repair any profiler related issue.</p>
		<p><b>SCORE (for <u>all</u> Section B—Qualifications &amp; Experience Items above):</b> (maximum possible score = 20)</p>
State Use – Evaluator Identification:		

## RFP ATTACHMENT 6.2. — SECTION C

## TECHNICAL RESPONSE &amp; 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.		3	
	C.2.	Provide literature describing the equipment and components described below. The literature shall be sufficient in detail to allow full and fair evaluation of the proposal. <ul style="list-style-type: none"> <li>Roadway Profiler Sport Utility/Van Vehicles - Section A.5.</li> </ul>		7	
	C.3.	Provide literature describing the equipment and components described below. The literature shall be sufficient in detail to allow full and fair evaluation of the proposal. <ul style="list-style-type: none"> <li>APU – Section A.7.</li> </ul>		4	
	C.4.	Provide literature describing the equipment and components described below. The literature shall be sufficient in detail to allow full and fair evaluation of the proposal. <ul style="list-style-type: none"> <li>DMI – Section A.10.</li> </ul>		4	
	C.5.	Provide literature describing the equipment and components described below. The literature shall be sufficient in detail to allow full and fair evaluation of the proposal. <ul style="list-style-type: none"> <li>Vehicle Onboard Software/Hardware – Section A.12.</li> <li>Vehicle Workstation Software/Hardware – Sections A.16. and A.17.</li> </ul>		4	
	C.6.	Provide literature describing the equipment and components described below. The literature shall be sufficient in detail to allow full and fair evaluation of the proposal. <ul style="list-style-type: none"> <li>On-Board Laser Based Inertial Profiler System – Section A.13.</li> </ul>		7	

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.7.	Provide literature describing the equipment and components described below. The literature shall be sufficient in detail to allow full and fair evaluation of the proposal. <ul style="list-style-type: none"> <li>3D surface Imaging and Crack Detection with Rutting, Faulting, and Macrotecture: Laser Crack Measurement System or equivalent – Section A.15.</li> </ul>		11	
	C.8.	Provide drawings or photos of the interior and exterior of the vehicles showing the locations of major components, including cameras, computers, subsystems, and the APU. Drawings or photo images of previous vehicles may be acceptable if the vehicles have been in service for less than a year and the images include all subsystems contained in this specification.		5	
	C.9.	Provide a detailed and comprehensive plan for meeting the requirements of this RFP. The plan shall include milestones and projected completion dates. The plan shall list the tasks to be accomplished on a weekly basis during the term from award through delivery, inspection, testing, and acceptance.		5	
	C.10.	Provide a detailed description of your training program that contains the requirements listed in Section A.20.		3	
<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>					<b>Total Raw Weighted Score:</b> <i>(sum of Raw Weighted Scores above)</i>
<b>Total Raw Weighted Score</b> <hr/> <b>Maximum Possible Raw Weighted Score</b> <i>(i.e., 5 x the sum of item weights above)</i>			<b>X 50</b> <i>(maximum possible score)</i>	<b>= SCORE:</b>	
<i>State Use – Evaluator Identification:</i>					
<i>State Use – Solicitation Coordinator Signature, Printed Name &amp; Date:</i>					

**RFP ATTACHMENT 6.2. — SECTION D****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.

<b>RESPONDENT SIGNATURE:</b>			
<b>PRINTED NAME &amp; TITLE:</b>			
<b>DATE:</b>			
<b>RESPONDENT LEGAL ENTITY NAME:</b>			
Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
Section A.5.1 - Base Regional SUV Roadway Profiler Data Collection Vehicle, Each	\$ / UNIT	4	
Section A.5.2. - Base Headquarters Van Roadway Profiler Data Collection Vehicle, Each	\$ / UNIT	1	
Section A.19. - Dedicated Desktop Workstation Software , Each	\$ / UNIT	3	
Section A.14. Headquarter Van Add-On, GPS System, Each	\$ / UNIT	1	
Section A.15- Headquarter Van Add-On, 3D System: Surface Imaging and Crack Detection with Rutting, Faulting, and Macrotecture, Each	\$ / UNIT	1	

<b>RESPONDENT LEGAL ENTITY NAME:</b>			
Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
Section A.20. - Training, Per Day	\$ / UNIT	10	
Section A.23.1. - Annual Post-Warranty Coverage, Per Vehicle	\$ / UNIT	15	
Section A.23.2. - Annual Software Renewal, Per Vehicle	\$ / UNIT	15	
<b>EVALUATION COST AMOUNT</b> (sum of evaluation costs above): The Solicitation Coordinator will use this sum and the formula below to calculate the Cost Proposal Score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.			
$\frac{\text{lowest evaluation cost amount from all proposals}}{\text{evaluation cost amount being evaluated}} \times 30 \text{ (maximum section score)} = \text{SCORE:}$			
<i>State Use – Solicitation Coordinator Signature, Printed Name &amp; 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 # 40100-17102 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.**

<b>NAME:</b>	
<b>TITLE:</b>	
<b>TELEPHONE #</b>	
<b>E-MAIL ADDRESS:</b>	

(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.*

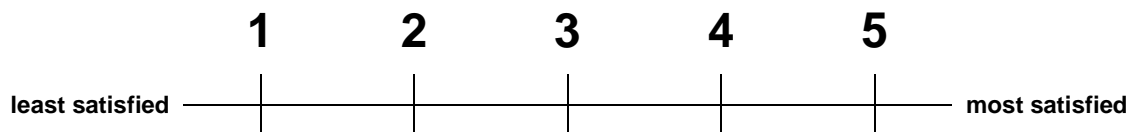
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	
least satisfied						most satisfied

## RFP # 40100-17102 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.*



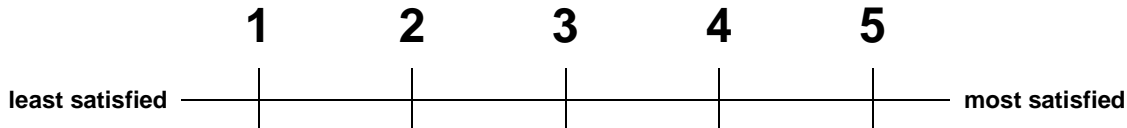
What, if any, comments do you have regarding the score selected above?

RFP # 40100-17102 REFERENCE QUESTIONNAIRE — PAGE 3

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(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?

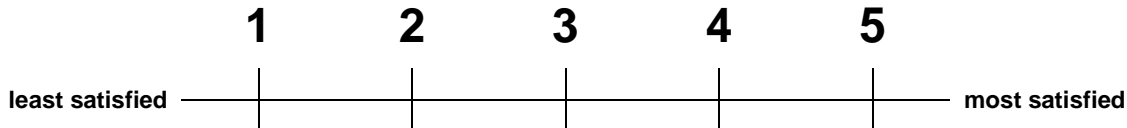
*Please respond by circling the appropriate number on the scale below.*



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>	
<b>GENERAL QUALIFICATIONS &amp; EXPERIENCE</b> (maximum: 20)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>REPEAT AS NECESSARY</i>						
	<b>AVERAGE:</b>		<b>AVERAGE:</b>		<b>AVERAGE:</b>	
<b>TECHNICAL QUALIFICATIONS, EXPERIENCE &amp; APPROACH</b> (maximum: 50)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>REPEAT AS NECESSARY</i>						
	<b>AVERAGE:</b>		<b>AVERAGE:</b>		<b>AVERAGE:</b>	
<b>COST PROPOSAL</b> (maximum: 30)	<b>SCORE:</b>		<b>SCORE:</b>		<b>SCORE:</b>	
<b>TOTAL RESPONSE EVALUATION SCORE:</b> (maximum: 100)						

*Solicitation Coordinator Signature, Printed Name & Date:*

**RFP # 40100-17102 *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

(fee-for-goods or services contract with an individual, business, non-profit, or governmental entity of another state)

<b>Begin Date</b>	<b>End Date</b>	<b>Agency Tracking #</b>	<b>Edison Record ID</b>		
<b>Contractor Legal Entity Name</b>			<b>Edison Vendor ID</b>		
<b>Goods or Services Caption</b> (one line only)					
<b>Contractor</b> <input checked="" type="checkbox"/> Contractor		<b>CFDA #</b>			
<b>Funding —</b>					
<b>FY</b>	<b>State</b>	<b>Federal</b>	<b>Interdepartmental</b>	<b>Other</b>	<b>TOTAL Contract Amount</b>
<b>TOTAL:</b>					
<p><b>Contractor Ownership Characteristics:</b></p> <p><input type="checkbox"/> Minority Business Enterprise (MBE): African American, Asian American, Hispanic American, Native American</p> <p><input type="checkbox"/> Woman Business Enterprise (WBE)</p> <p><input type="checkbox"/> Tennessee Service Disabled Veteran Enterprise (SDVBE)</p> <p><input type="checkbox"/> Tennessee Small Business Enterprise (SBE): \$10,000,000.00 averaged over a three (3) year period or employs no more than ninety-nine (99) employees.</p> <p><input type="checkbox"/> Other:</p>					
<p><b>Selection Method &amp; Process Summary</b> (mark the correct response to confirm the associated summary)</p> <p><input type="checkbox"/> Competitive Selection      Describe the competitive selection process used</p> <p><input type="checkbox"/> Other      Describe the selection process used and submit a Special Contract Request</p>					
<p><b>Budget Officer Confirmation:</b> There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.</p>					
<b>Speed Chart</b> (optional)		<b>Account Code</b> (optional)			

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

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

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

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

Contractor Edison Registration ID # **Number**

**A. SCOPE:**

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

A.2. The Contractor will supply the State with roadway profiler data collection vehicles as needed. Contractor will include all hardware and software as specified in this Contract. Contractor will provide annual software maintenance for both the vehicle and user workstations. Contractor will train Tennessee Department of Transportation employees in the use of the profiler vehicles and software. All specifications throughout Section A are considered minimum. All vehicles will include the following systems:

- Onboard computer system software and hardware
- A vehicle suitable for data acquisition at normal highway speeds (up to 70mph)
- Dedicated workstation software
- Linear Referencing
- On-board laser based inertial profiler system
- ASTM E950 Class I Compliant Longitudinal Profiler for Road Roughness
- Roughness measurement ASTM E1926
- DMI
- GPS based navigation
- Real time sensor data graphs
- Windows 64 bit native user interface
- All systems shall use U.S. customary units with an option to use SI units (metric).

A.3. Warranty. Contractor represents and warrants that the term of the warranty (“Warranty Period”) shall be the greater of: (a) twenty-four (24) months after the provision and acceptance by the State of goods or services provided by Contractor; or (b) any other warranty generally offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. During the Warranty Period, any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a “Defect” and shall be considered “Defective.” If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect at no additional charge.

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

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



A.4. 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.

A.5. Roadway Profiler Sport Utility/Van Vehicle Specifications

A.5.1 The base regional roadway profiler data collection vehicle must include the following features:

- 2016/2017 Sport Utility, Mid-Size, 4 Door,4x2
- GPS based navigation
- The maximum mileage allowable for any of the new vehicles shall be less than 1,000 miles.
- Engine: 3.5L, 6 cylinder EFI – Gasoline
- Cruise control
- Transmission: Six (6) speed, automatic over drive
- Tires: Five (5) All terrain, on/off road radial, BW, Manufacturer's Std. Spare
- Brakes: Power, 4 Wheel ABS
- Battery: 12V min., Manufacturer's Standard, Maintenance Free
- Alternator: Manufacturer's Standard
- Steering: Power
- Mirrors, Exterior: Right/Left Side, Manufacturer's Standard Size, Power
- Bumper: Rear, Manufacturer's Standard
- Radio: AM/FM/CD, Factory Installed
- Air Conditioner: Factory Installed
- Paint: Oxford White clear-coat
- Fuel Tank: 26 gallon min. capacity
- Glass: Tinted, All Windows
- Air Bag: Dual (Driver Side & Passenger Side)
- Differential: Limited Slip
- Interior color: Grey or tan
- Transfer Case: Electronic Shift or Equal
- Skid Plates over the transfer case, may be dealer installed
- Front Wheel: Auto Locking Hubs
- Monitor stand with tilt capability
- Shocks: Manufacturer's Standard
- Two (2) captain chairs in the front
  - Power seat adjustment
  - Lumbar support
  - Heavy duty tubular steel seat frame
  - Durable stain-resistant covering
  - Seating system tested and certified to meet or exceed DOT safety standard FMVSS#207 per section S 4.2 and S4.3
- Floor Mats: Front & Rear, factory Installed
- Power Outlet: 12 Volt
- Tilt & Cruise Control, Factory Installed
- Power Windows & Door Locks: Factory Installed
- Warranty: Manufacturer's Standard
- Lightbar: LED, 4 corner, wide angle, linear super-LED modulus standard. Up to 12 wide angle linear super-LED lightheads. Seventy-five (75) signal alert flashes per

minute, per head (default pattern). Super-LED built-in traffic advisor with control head, amber color lenses. Lightbar shall be between 46" to 54" in length, 12" to 18.5" in width, and a height of 2"-3" (excluding mounting brackets). Domes and inserts shall be constructed of polycarbonate. All light functions shall be mounted inside the primary domes and configured to provide the following functions:

- The outer position shall be linear amber LED w/amber lens
  - The middle position shall be linear white LED w/clear lens
  - The inner position shall be linear amber LED w/amber lens
  - The center position shall be linear amber LED w/amber lens
  - Switch control to be equal or exceed the maximum electrical requirements of the light bar
- All lenses shall be polycarbonate, high material. This light bar shall not have any strobes. All lights are linear super-LED modules. The light bar is to have no rotating oscillating lights.

A.5.2. The base headquarters roadway profiler data collection vehicle must include the following features:

- 2016 /2017 model One Ton Cargo full size van
- GPS based navigation
- The maximum mileage allowable for any of the new vehicles shall be less than 1,000 miles.
- Swing-outside/rear cargo door
- Interior Lighting.
- Heating – front and rear
- Floor Mats: Front & Rear, factory Installed
- High-Capacity air conditioning (front and rear)Two (2) captain chairs in the front
  - Power seat adjustment
  - Lumbar support
  - Heavy duty tubular steel seat frame
  - Durable stain-resistant covering seating system tested and certified to meet or exceed DOT safety standard FMVSS#207per section S 4.2 and S4.3.
- Engine – 3.7L V6
- Electronic 4-speed Automatic with Overdrive
- 200+ Amp heavy duty power supply
- 4-wheel anti-lock brake system
- Fuel Tank: 26 gallon min. capacity
- Paint: Oxford White clear-coat
- Interior color: Grey or tan
- Power exterior mirrors
- Power windows and door locks
- Cruise control
- All season tires including full size spare
- Automatic transmission
- Windows in the rear and side door (s) will be tinted
- High top roof
- Interior insulation, finished walls and ceiling, covered floor, interior lighting, storage compartments, equipment racks, and work surfaces Finish walls, Ceiling lighting
- Four (4) 120AC outlets @ 20A
- Air conditioned vents inside equipment rack
- Oversized storage cabinet
- Monitor stand with tilt capability
- Lightbar: LED, 4 corner, wide angle, linear super-LED modulus standard. Up to 12 wide angle linear super-LED lightheads. Seventy-five (75) signal alert flashes per

minute, per head (default pattern). Super-LED built-in traffic advisor with control head, amber color lenses. Lightbar shall be between 46" to 54" in length, 12" to 18.5" in width, and a height of 2"-3" (excluding mounting brackets). Domes and inserts shall be constructed of polycarbonate. All light functions shall be mounted inside the primary domes and configured to provide the following functions:

- The outer position shall be linear amber LED w/amber lens
  - The middle position shall be linear white LED w/clear lens
  - The inner position shall be linear amber LED w/amber lens
  - The center position shall be linear amber LED w/amber lens
  - Switch control to be equal or exceed the maximum electrical requirements of the light bar
- All lenses shall be polycarbonate, high material. This light bar shall not have any strobes. All lights are linear super-LED modules. The light bar is to have no rotating oscillating lights.

A.5.3. The onboard computer system shall include all hardware, software, controllers, interface components, and auxiliary equipment and systems required for full functionality in acquiring, locating, processing, storing, and presenting images, data, and information at highway speeds between 10-70MPH. All systems and subsystems shall be integrated and synchronized to maximize the efficiency of the data collection process.

A.6. Vehicle – Modifications to the interior and exterior of the vehicle to accommodate the subsystems.

A.6.1. Modifications to the interior and exterior of the vehicle will securely mount all data collection subsystems.

A.6.2. All contractor-installed locking compartments shall be keyed alike.

A.6.3. All contractor-installed controls, gauges, indicators, pilot lamps, and switches shall be mounted in one control panel and permanently labeled to indicate function and on-off position.

A.6.4. If cameras are mounted in the interior of the vehicle, they shall not interfere with the sun visor.

A.6.5. All contractor-installed wiring and subsystem wiring shall be color-coded or permanently labeled for identification and correspond to the contractor wiring diagram. Subsystem wiring and any other wiring should be contained to prevent entanglement.

A.6.6. The vehicle shall be free of decals, emblems, identification, logos and advertising by the contractor, subcontractors, and dealers. Standard brand and model identification of the vehicle manufacturer is acceptable.

A.6.7. Interior insulation, finished walls and ceiling, covered floor, interior lighting, storage compartments, equipment racks, and work surfaces.

A.6.8. There should be a minimum of six inches between vehicle interior equipment and driver/passenger seats to allow the driver/passenger to make adjustments to the seat for comfort.

A.7. Vehicle – Auxiliary Power Unit to Power Data Collection Subsystems

A.7.1. The contractor shall supply and install an auxiliary power unit (APU) large enough to supply continuous electrical power to all onboard computer, electrical, and related subsystems.

- A.7.2. Auxiliary power shall include a power inverter with breaker box and battery backup supply to power subsystems in the event of APU failure.
- A.7.3. Total power consumption of installed equipment, two additional laptops and cell phone chargers shall not exceed APU capacity.
- A.7.4. APU failure shall not disable the vehicle electrical system.
- A.7.5. The APU shall include surge protection to prevent damage to the vehicle and all data collection subsystems.
- A.7.6. APU installation shall comply with the manufacturer's recommendations and standards.
- A.7.7. APU installation shall not adversely affect the vehicle including all subsystems, compliance with emission standards, and warranty coverage.
- A.7.8. The APU shall be an auxiliary alternator powered by the vehicle's engine.
- A.7.9. External Power: The Contractor shall install an external, weatherproof, electrical hookup to allow common house current to power the subsystems for an indefinite period. The hookup shall totally preclude the possibility of back-feed to utility lines.
- A.8. Vehicle – Safety
  - A.8.1. The vehicle and all installed subsystems shall comply with provisions of OSHA regulation 1910.95 for occupational noise level exposure without hearing protection.
  - A.8.2. While in full operation noise levels for the driver and operator shall never exceed 85 decibels.
  - A.8.3. All safety hazards on vehicle shall be appropriately labeled.
  - A.8.4. All laser light sources shall be shielded or equipped with safety interlock to prevent excessive exposure to operators and bystanders.
  - A.8.5. Fire Extinguishers: 1 eleven pound Halotron I fire extinguishers in quick-release brackets and installed in DOT-approved locations.
  - A.8.6. Audible alarm that sounds when vehicle is backing up.
  - A.8.7. Wired back-up camera 7 inch minimum high resolution monitor with a 120° minimum wide angle rear view and the back-up camera system shall be standalone not affecting any other system.
  - A.8.8. The fully equipped vehicle shall not exceed the vehicle's manufacturer's weight capacity ratings.
  - A.8.9. The operators shall be protected from injury due to cameras and mounts in the interior of the vehicle.
  - A.8.10. The Contractor shall supply five sets of safety eyewear to protect operators from exposure to laser devices installed on the vehicle.
    - Eyewear shall be recommended by the manufacturer of the laser system.
    - Eyewear shall be certified to ANSI Z136.1.
    - Eyewear shall fit over prescription eyewear.

- Eyewear shall provide wrap-around protection.

A.9. Vehicle – Operating Conditions

- A.9.1. The vehicle including all subsystems shall remain fully operational in ambient air temperatures ranging from 0°F to 112°F.
- A.9.2. The vehicle including all subsystems shall withstand storage at ambient air temperatures ranging from -13°F to 112°F.
- A.9.3. The vehicle including all subsystems shall remain fully operational at elevations ranging up to 3000 feet above sea level.

A.10. Distance Measuring Instrument (DMI)

- A.10.1. The vehicle shall be equipped with a DMI to reference all images, data, and information to the State highway system by Route Number and Log Mile.
- A.10.2. The system shall include automated calibration and validation for the DMI.
  - Calibration constants shall be computed automatically.
  - The operator shall have the option to accept or decline calibration change.
  - The system shall include any physical objects needed accomplish the calibration.
- A.10.3. The measured distance shall be accurate to 0.1% for speeds to 70 mph.
- A.10.4. Testing for acceptance by State will include the DMI Check Test described in ASTM E950-09.
- A.10.5. Vehicle speed shall range to 70 mph without affecting subsystem integrity and measurement quality.
- A.10.6. A digital encoder, mechanically linked to one of the vehicle wheels, shall be provided for suitable digital distance/speed information to the signal processing electronics.

A.11. Linear Referencing

- A.11.1. The data collection menu shall allow the operator to select routes/travel ways from a list.
- A.11.2. The system shall accept and validate operator key entry to identify the beginning and ending log miles of any continuous highway segment.
- A.11.3. The system shall allow the operator to simultaneously or independently mark the all data streams with "event marks" for certain highway features such as bridges, railroad crossings, etc.

A.12. Software

- A.12.1. 64 Bit Data Acquisition software application
- A.12.2. Graphical user interface
- A.12.3. Real time graphical display of accelerometers signal outputs
- A.12.4. Real time graphical display of laser sensors signal outputs
- A.12.5. Real time graphical display of longitudinal profiles
- A.12.6. Real time graphical display of vehicle speed

- A.12.7 Real time graphical display of vehicle heading
- A.12.8. Real time storage of sensor data on disk
- A.12.9. Menu driven calibration procedures
- A.12.10. Loading/saving/editing road section database records
- A.12.11. Automatic calibration of distance measurement system
- A.12.12. Ability to pause/run system and to undo the ending of a road section
- A.12.13. Ability to recover data saved on disk in case of a power failure
- A.12.14. Ability to automatically put system in pause mode when vehicle stops
- A.12.15. Ability to display in real-time the location of the vehicle on a GPS map
- A.12.16. Ability to load shape files as navigation background on the GPS map
- A.12.17. Ability to display on the GPS map the starting and ending points of the road sections
- A.12.18. Ability to display on a GPS map the sections already tested with a specific color
- A.12.19. Ability to display on a GPS map the sections not tested with a specific color
- A.13. On-Board Laser Based Inertial Profiler System
  - A.13.1. The system shall collect data continuously between operator- triggered start and end points
  - A.13.2. The system shall collect data continuously between photocell- triggered start and end points.
  - A.13.3. Provide a dual wheel path, permanently mounted inertial profiling system with two Gocator line lasers or equivalent spaced sixty-nine (69) inches, center-to-center of the line laser footprints. Use the Gocator line laser model 2342 or equivalent, or the newest version of the Gocator 2300 line laser series or equivalent that is commercially available for surface profile measurements. Provide the manufacturer's laser quality records and user's manual. Identify the specific line laser model to be used with the inertial profiling system in the bid documents. Capable of adjusting the angle of the line lasers from 0 to 30 degrees perpendicular to travel direction.
  - A.13.4. The system shall be capable of measuring profile on pavement with an IRI range of 5 inches per mile to 800 inches per mile.
  - A.13.5. Compliant with active ASTM E950 Class 1 Standard
  - A.13.6. Calculates IRI roughness according to ASTM E1926 standard
  - A.13.7. As the profiles are being measured, the system shall calculate, report, and record the International Roughness Index (IRI) as described in ASTM E1926 for each wheel path based on a simulated vehicle speed of 70mph. Calculates Ride Quality Index, Ride Number (RN), and Half-car Roughness Index measurements (HCIRI).

- A.13.8. Uses raw laser height measurements to calculate faulting and texture.
- A.13.9. Data acquisition software native 64 bit Windows application
- A.13.10. Longitudinal profile storage frequency: 38mm / 1.5in (.75 inches raw data spacing).
- A.13.11. Storage media: real time hard disk
- A.13.12. Data backup: USB removable hard disk
- A.13.13. Provide, as a minimum,  $\pm$  4G accelerometers, one for each laser. The housing unit should permit the operator to check and perform required accelerometer calibrations. Provide the manufacturer's accelerometer calibration records and user manual.
- A.13.14. Software to collect and store the raw sensor data at minimum of 1.5 inches.
- A.13.15. Software to calculate longitudinal profile, HCIRI, IRI and rutting.
- A.13.16. The system shall have automated calibration and validation procedures for accelerometer, bounce test, and block test.
- Calibration constants shall be computed automatically.
  - The operator shall have the option to accept or decline calibration change.
  - The system shall include any physical objects needed accomplish the calibration.
- A.13.17. The Contractor shall provide the equipment necessary for proper calibration. The Contractor shall provide the equipment operator all necessary training.
- A.13.18. Testing for acceptance by State shall include applicable tests to ensure compliance with ASTM E950-09.
- A.13.19. Vehicle speed shall range to 70 mph without affecting subsystem integrity and measurement quality.
- A.13.20. All inertial profilers will be required to pass all five pavement types at the Texas Transportation Institute inertial profiling certification center in accordance with TX DOT Tex 1001s and AASHTO R 56 cross-correlation.
- A.14. On-board GPS System - This system is considered an add-on and will be priced separately from the vehicle.
- A.14.1. The system shall be able to associate all collected data and images with latitude, longitude, and elevation.
- A.14.2. GPS system and inertial measurement unit (IMU) are used to provide the location coordinates of roadway features, including the beginning and ending of each road segment, and to provide information for creating maps using ESRI ArcView or equivalent.
- A.14.3. The system shall have the ability to track for up to 3 minutes without signal.
- A.14.4. 12 Satellite GPS Receiver, DGPS capable
- A.14.5. Frequency: L1
- A.14.6. Tracking channels: 12
- A.14.7. Satellite Differential Corrections ready

- A.14.8. Static accuracy: Submeter
- A.14.9. Dynamic accuracy: 2-5meters
- A.14.10. GPS antenna mounted above vehicle.
- A.14.11. The system shall collect and store Northing, Easting in TN State Plane Coordinates (Northing and Easting) and elevation associated with the images, sensor data, and MPs.
- A.15. 3D Surface Imaging and Crack Detection with Rutting, Faulting, and Macrotecture. This system is considered an add-on and will be priced separately from the vehicle.
  - A.15.1 The system shall be a Laser Crack Measurement System by Pavemetrics or equivalent.
  - A.15.2. The system shall provide road crack detection, including length, type, and severity.
  - A.15.3. The system shall provide high speed cameras and advanced optic to acquire high resolution 3D profiles of the road.
  - A.15.4. The system shall provide 4,000 point road rut detection (depth, type)
  - A.15.5. The system shall detect road lane lines.
  - A.15.6. The system shall detect joints and faulting on concrete roads.
  - A.15.7. The system shall include two laser profilers.
  - A.15.8. The system shall provide a sampling rate of 5600 profiles.
  - A.15.9. The system shall provide a transversal field of view of 4m.
  - A.15.10. The system shall provide a transversal resolution of 1mm.
  - A.15.11. The system shall include a depth range of operation up to 250mm.
  - A.15.12. The system shall include a depth resolution of 0.5mm.
  - A.15.13. The system shall include two accelerometers.
  - A.15.14. The system shall provide IRI calculation.
  - A.15.15. The system shall provide slope, crossfall, and super elevation.
  - A.15.16. The system shall provide macrotecture measurement over 100% of the lane width.
  - A.15.17. The system shall provide day and night operation.
  - A.15.18. The system DMI Pulse frequency minimum 2500Hz.
  - A.15.19. The system shall include a longitudinal profile in ProVal format.
  - A.15.20. The system shall provide vehicle drift correction using lane markings.
  - A.15.21. The system shall adhere to the following ASTM standards: E950, E965, E1703, E1845, D5340, D6433.



A.15.22. The system shall adhere to the following AASHTO standards: PP67, PP68, PP69, and PP70.

A.16. Vehicle Data Processing Workstation

A.16.1. The system shall include computers and software with adequate speed, capacity, and power to control onboard data acquisition subsystems at speeds up to 70 mph.

A.16.2. The system shall include keyboards and monitors for the operator in the front passenger seat.

A.16.3. The system shall be fully operable by a single operator located at either position—in the front passenger seat.

A.16.4. The system shall monitor all measurement and imaging subsystems, display their operational status, and report malfunctions and out-of-range measurement errors in real time.

A.16.5. The system shall include diagnostics for each installed measurement and imaging subsystem.

A.16.6. The system shall be remotely operable by the Contractor to support system diagnostics.

A.16.7. The system shall be remotely accessible by (WIFI) for diagnostics and troubleshooting of data collection vehicle.

A.16.8. The system shall allow inoperable subsystems to be disabled so data collection can continue with operable subsystems.

A.16.9. The system shall display vehicle positions by linear referencing and global positioning textually and by map:

- current vehicle position
- data collection starting and ending points

A.16.10. The system shall include multiple external removable hard drives to be used for transfer of at least 2,000 miles of data from the vehicle to an office-based workstation.

A.16.11. The system shall simultaneously store all acquired images and sensor data on dual redundant external removable hard drives in the event of a drive failure the data will not be lost.

A.16.12. The system shall preclude the overwriting of data files and provide a warning when storage is approaching maximum capacity.

A.16.13. The system shall be able to recover data saved on internal hard drives in the event of power failure.

A.16.14. The system shall provide efficient file management functions including copy, backup, erase, and export.

A.16.15. The system shall generate reports summarizing data collection activity over operator-specified date ranges.

A.16.16. The system shall be able to export ERD to file type usable by ProVal and have the ability to set any point along line to set any point to zero.

## A.17. Vehicle Workstation Software Specifications

- A.17.1. Displays all the sensor and distress results such as roughness, rutting and distress condition index for each road section.
- A.17.2. Queries the system and prints hard copies of the road sections that meet user definable thresholds. For example, the user can load only the road sections with roughness greater than 150 inches per mile.
- A.17.3. Exports specific data fields and database records to other applications using text format output files.
- A.17.4. Process raw sensor data files for roughness, rutting, faulting, texture, geometry and GPS.
- A.17.5. Displays the sensor data using dynamic graphs. User can select the variables to graph such as roughness, rutting, faulting, texture, the distance to graph and the scales of the graph.
- A.17.6. Playback digitized images forward and backwards by pointing and clicking over the desired record.
- A.17.7. Display location information for each digitized image including user definable fields such as section number, section name, distance, mile point, direction, lane number, etc...
- A.17.8. Perform pavement surface distress evaluations
- A.17.9. Main software menus include:
- Open/Save/Save As/Import/Export/Set for road section database management
  - Edit Copy/Cut/Paste/Find/Go to/Filter/Mark for road section record management
  - Import/Export/Print database fields
  - Metric/English units output
  - Sensor Data Reports/Interval/Export/File for sensor data output
  - Sensor data Graphs/Open/Close/Copy/Print
  - Open digitized image window
  - Select window size
  - Play images forward/backward
  - Find mile point location on images
- A.17.10. Hardware (Minimum acceptable listed)
- Processor: 3GHz processing speed
  - HP Officejet H470 Mobile Printer or equivalent
  - Memory: Minimum 8GB PC 800 MHz DDR2 dual channel RAM
  - Hard drive: 90 terabytes hard drive capacity
  - Minimum 2 X 30" high resolution (2560 x 1600) monitors
  - USB3, eSata
  - 2 X gigabit Ethernet
  - Operating system: Microsoft Windows 7 or better,
  - Eight bay removable tray SATA tower and SAS controller card
  - Distance measurement interface and control
  - Uninterruptible power supply system.
  - Enhanced keyboard with mouse pad

- Push button for start and end of road sections

A.18. Input ID and Parameters - The subsystem shall maintain a file which can be used to save calibration data, ID's for all vehicle, operator, date, test location, etc. The system shall display the ID's to the operator at start-up and/or by operation selection and shall save the entries in the file. The system shall contain provisions to accept variables listed below from the operator prior to testing roadway. These variables shall be defined in a table, which controls their usage. The table shall contain each displayed title, length and type of data entered. The software should ensure that the operator enters all required variables. The variable data shall be saved along with the test data for further post processing. Input field shall be a minimum of 80 characters long and shall be alpha-numeric.

A. 18.1. Operator Input ID parameters:

- DATE TESTED
- OPERATOR NAME
- UNIT NO.
- REQUEST TYPE
- COUNTY
- SURFACE TYPE
- TYPE MIX
- ROUTE NO.
- ROUTE TYPE
- CONTRACT ID NUMBER
- PROJECT CONTROL NUMBERS
- PROJECT NUMBER
- CONTRACTOR NAME
- CONTRACTOR NUMBER
- NUMBER OF LANES
- LANE TESTED
- DIRECTION
- BEGIN MILEPOST
- END MILEPOST
- CALIBRATION FACTORS
- COUNTY SEQUENCE
- SPECIAL CASE
- BEGIN STATION
- END STATION
- COMMENT

A.19. Dedicated Desktop Workstation Software

A. 19.1. The Contractor shall supply dedicated workstation software for processing all images and data acquired by the mobile equipment, to be installed on workstation supplied by State.

A. 19.2. The workstation software shall include all of the following features:

- The software shall be updated for life of vehicle. State reserves the right to “opt out” of any software update if it shall disrupt or change any workflows by developed by State.
- Use of digital images without degradation of the images
- Play digitized images forward and backward
- Display the location of measurements and images by frame number, database record, travelway ID, Mile Post, displacement, lane, direction, latitude, and longitude
- Provide user-definable query and filtering functions

- System shall allow user to configure reports of data and images.
- Display all raw and processed measurements and images in tabular and graphical format
- In addition to general purpose viewing, the software shall provide for user viewing of images, data, and information on ordinary networked and stand-alone State workstations with concurrent licensing for pavement distress analysis by a minimum of ten users throughout the State.
- Print or save selected images

A. 19.3. The Contractor shall provide computer workstation software as part of this Contract. The Contractor shall include the cost of any required specialized hardware and/or software that may be required to perform the post-processing of pavement video. Approximately 3 computer workstations will need this software.

#### A.20. Training

A.20.1. The Contractor shall provide on-site training by qualified and technically knowledgeable personnel at a State-selected location.

A.20.2. Training shall thoroughly address operation, maintenance, trouble-shooting, and calibration of all vehicle subsystems.

A.20.3. Training shall thoroughly address operation of the dedicated workstation software.

A.20.4. The Contractor shall supply printed manuals to each trainee.

A.20.5. The Contractor shall permit State to record the training sessions for subsequent training purposes.

#### A.21. Workmanship and Material

A.21.1. All equipment, parts, and materials shall be new and unused current production models.

A.21.2. All equipment shall be fit for the intended purpose.

A.21.3. All equipment shall be free from defects in design, materials, and workmanship.

A.21.4. Design and installation shall provide ease of calibration, maintenance, repair, and serviceability.

A.21.5. Design considerations shall include safety and ergonomics.

A.21.6. All equipment and installation shall comply with all applicable regulations.

A.21.7. All Contractor work shall be performed by qualified personnel in accordance with the highest professional standards and according to the recommended practices of the equipment manufacturers.

A.21.8. Workmanship and parts installation shall not adversely affect warranty coverage of vehicle or system components.

#### A.22. Technical Support and Warranty

A.22.1. Per Section A.3., the Contractor shall provide two years of full warranty, beginning upon final acceptance by State, for all hardware and software supplied by Contractor, including:

- 100% of parts, labor, service, travel
- Software updates
- Technical support including response to technical questions, advice concerning system additions and enhancements, and assistance in evaluating system changes. The contractor shall respond to questions from State within 24 hours.
- Unlimited technical support via email, fax, and telephone during the work week between the hours of 7:00 am and 5:00 pm, Central time.
- Fifty (50) hours per year of incidental programming to enhance or customize software
- Yearly spring vehicle maintenance check where software, hardware, and vehicle equipment is checked to make sure it's performing as intended.

A.22.2. Warranty and any annual service contract parts and workmanship shall be of the same or better quality as the original contractor-installed equipment.

A.22.3. During the warranty and any annual service contract, the Contractor shall commence physical repair within five (5) calendar days of being notified of the situation.

A.22.4. The requirement for a minimum of two years coverage shall not limit the warranty coverage provided by any component manufacturer in excess of two years.

**A.23. Post-Warranty Software and Hardware Annual Service**

A.23.1 Vehicle annually renewable Service Contract. The Contractor shall provide an annual renewable Service Contract for 100% of the parts, labor, service, all subsystems, computer, and travel costs for personnel to travel to Nashville, TN to service the subsystems up to three (3) years with coverage commencing two years after the in-service date as reported by State. Parts and workmanship shall be of the same or better quality as the original contractor-installed equipment. The Contractor shall commence physical repair within five (5) calendar days of being notified of the situation. Work performed by the Contractor shall not diminish the manufacturer's warranty coverage. Warranty-related costs incurred by State as a result of the Contractor's action shall be charged to the Contractor. Costs incurred by State to restore any component or system to full and proper function shall be charged to the Contractor.

A.23.2. Annually renewable software licensing and technical support contract to cover all Contractor supplied software. The Contractor shall provide software licensing, technical support, and software updates for up to three (3) years beyond the initial two (2) year warranty period from the vehicle in-service date as reported by State. Technical support includes responding to technical questions within 24 hours, advice concerning system additions and enhancements, and assistance in evaluating system changes. The Contractor shall include the name(s) and qualifications of the individual(s) assigned to carry out this support. The Contractor shall provide unlimited technical support via email, fax, and telephone during the workweek between the hours of 7:00 am and 5:00 pm, Central Time.

A.24. Correction of Deficiencies. Any corrections of deficiencies relating to the Contract Scope of Services requirements or deliverables and any investigation necessary to determine the source of such deficiencies shall be completed by the Contractor at no cost to the State.

**B. TERM OF CONTRACT:**

B.1. This Contract shall be effective on **DATE** ("Effective Date") and extend for a period of sixty (60) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

**C. PAYMENT TERMS AND CONDITIONS:**

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

<b>Goods or Services Description</b>	<b>Amount</b> (per compensable increment)
Base Regional SUV Roadway Profiler Data Collection Vehicle, Each	\$ / UNIT
Base Headquarters Van Roadway Profiler Data Collection Vehicle, Each	\$ / UNIT
Dedicated Desktop Workstation Software , Each	\$ / UNIT
Headquarter Van Add-On, GPS System, Each	\$ / UNIT
Headquarter Van Add-On, 3D System: Surface Imaging and Crack Detection with Rutting, Faulting, and Macrotecture, Each	\$ / UNIT
Training, Per Day	\$ / UNIT
Annual Post-Warranty Coverage, Per Vehicle	\$ / UNIT
Annual Software Renewal, Per Vehicle	\$ / UNIT

- 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:

Ulises Martinez  
6601 Centennial Blvd,

Building A, 1<sup>st</sup> Floor  
Materials and Tests Division  
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: Department of Transportation, Materials and Tests
- (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:

Ulises Martinez, Transportation Project Specialist Sr.  
 Department of Transportation, Materials and Tests Division  
 6601 Centennial Blvd.  
 Building A, 1<sup>st</sup> Floor  
 Nashville, TN 37243  
[Ulises.Martinez@tn.gov](mailto:Ulises.Martinez@tn.gov)  
 Telephone # (615) 350-4155

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. The State's exercise of a valid Renewal Option or Term Extension does not constitute an amendment so long as there are no other changes to the Contract's terms and conditions.
- 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 1, 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 Attachments 1 and 2;
  - 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.

D.32. Insurance. Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified below. The COI shall be provided ten (10) business days prior to the Effective Date and again upon renewal or replacement of coverages required by this Contract. If insurance expires during the Term, the State must receive a new COI at least thirty (30) calendar days prior to the insurance's expiration date. If the Contractor loses insurance coverage, does not renew coverage, or for any reason becomes uninsured during the Term, the Contractor shall notify the State immediately.

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

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

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

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

The deductible and any premiums are the Contractor's sole responsibility. Any deductible over fifty thousand dollars (\$50,000) must be approved by the State. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements. The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

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

To achieve the required coverage levels, a combination of a specific policy written with an umbrella policy covering liabilities above stated limits is acceptable (For example: If appropriate limits are two million dollars (\$2,000,000) per occurrence and two million dollars (\$2,000,000) aggregate, acceptable coverage would include a specific policy covering one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) aggregate written with an umbrella policy for one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) aggregate. If the deficient underlying policy is for coverage area without aggregate limits (generally Automobile Liability and Employers' Liability Accident), Contractor shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area as well.

**The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.**

a. Commercial General Liability Insurance

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

b. Workers' Compensation and Employer Liability Insurance

- 1) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:
  - i. Workers' compensation in an amount not less than one million dollars (\$1,000,000) including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease.
- 2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:
  - i. The Contractor employs fewer than five (5) employees;
  - ii. The Contractor is a sole proprietor;

- iii. The Contractor is in the construction business or trades with no employees;
- iv. The Contractor is in the coal mining industry with no employees;
- v. The Contractor is a state or local government; or
- vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

**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. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of Tenn. Code Ann. §§ 12-7-101, *et. seq.*, shall be printed pursuant to this Contract unless a printing authorization number has been obtained and affixed as required by Tenn. Code Ann. § 12-7-103 (d).

E.4. 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.5. 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
- 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.6. 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.7. 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.8. 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.9. 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.10. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible personal property furnished by the State for the Contractor's use under this Contract. Upon termination of this Contract, all property furnished by the State shall be returned to the State in the same condition as when received, less reasonable wear and tear. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the fair market value of the property at the time of loss.
- E.11. Prohibited Advertising or Marketing. The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.
- E.12. 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 #40100-17102 (Attachment 2) 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.13. 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.14. Survival. The terms, provisions, representations, and warranties contained in this Contract which by their sense and context are intended to survive the performance and termination of this Contract, shall so survive the completion of performance and termination of this Contract.

**IN WITNESS WHEREOF,**

**CONTRACTOR LEGAL ENTITY NAME:**

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**CONTRACTOR SIGNATURE**

**DATE**

---

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

**DEPARTMENT OF TRANSPORTATION:**

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**JOHN SCHROER, COMMISSIONER**

**DATE**

**(Fill out only by selected Contractor)**

**ATTESTATION RE: PERSONNEL USED IN CONTRACT PERFORMANCE**

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

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

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**CONTRACTOR SIGNATURE**

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

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**PRINTED NAME AND TITLE OF SIGNATORY**

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**DATE OF ATTESTATION**

**(Fill out only by selected Contractor)**

SAMPLE LETTER OF DIVERSITY COMMITMENT

**(Company Letterhead/Logo)**

**(Address)**

**(Date)**

**(Salutation),**

**(Company Name)** is committed to achieving or surpassing a goal of **(numeral)** percent spend with certified diversity business enterprise firms on State of Tennessee contract # **(Edison document #)**. Diversity businesses are defined as those that are owned by minority, women, small business and Tennessee service-disabled veterans which are certified by the Governor's Office of Diversity Business Enterprise (Go-DBE).

We confirm our commitment of **(percentage)** participation on the **(Contract)** by using the following diversity businesses:

(i) Name and ownership characteristics (i.e., ethnicity, gender, Tennessee service-disabled veteran) of anticipated diversity subcontractors and suppliers:

\_\_\_\_\_

(ii) Participation estimates (expressed as a percent of the total contract value to be dedicated to diversity subcontractors and suppliers):

\_\_\_\_\_ %.

(iii) Description of anticipated services to be performed by diversity subcontractors and suppliers:

\_\_\_\_\_

\_\_\_\_\_

We accept that our commitment to diversity advances the State's efforts to expand opportunity of diversity businesses to do business with the State as contractors and sub-contractors.

Further, we commit to:

1. Using applicable reporting tools that allow the State to track and report purchases from businesses owned by minority, women, Tennessee service-disabled veterans and small business.
2. Reporting quarterly to the Go-DBE office the dollars spent with certified diversity businesses owned by minority, women, Tennessee service-disabled veterans and small business accomplished under contract # **(Edison number)**.

**(Company Name)** is committed to working with the Go-DBE office to accomplish this goal.

Regards,

**(Company authority – signature and title)**