STATE OF TENNESSEE
DEPARTMENT OF SAFETY AND HOMELAND SECURITY

REQUEST FOR PROPOSALS # 34901-00282
AMENDMENT # 1
FOR GOODS OR COURT REPORTER SERVICE - DYERSBURG, TN

DATE: 8/12/15

RFP # 34901-00282 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 (all dates are state business days)
1. Solicitation Issued		August 12, 2015
2. Offer Deadline	2:00 p.m.	August 20, 2015
3. State Completes Qualifications Evidence Review & Identifies Responsive & Responsible Offers		August 26, 2015
4. State Identifies the Best, Responsive & Responsible Cost Offer	2:00 p.m.	August 27, 2015
5. State Releases Award Notification	2:00 p.m.	August 28, 2015
6. Contract Signing		September 9, 2015
7. Contractor Signature Deadline	2:00 p.m.	September 16, 2015

2. **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 SAFETY AND HOMELAND SECURITY

SOLICITATION # 34901-00282
FOR COURT REPORTER SERVICE – DYERSBURG, TN

1. INTRODUCTION

The State of Tennessee, Department of Safety and Homeland Security, hereinafter referred to as "the State," has issued this solicitation with the intent of awarding a contract for Court Reporter Service for Dyersburg, TN.

2. SCOPE OF SERVICE, CONTRACT PERIOD, & REQUIRED TERMS AND CONDITIONS

The *Pro Forma Contract* attached to this solicitation (Attachment D) represents the contract document that the contractor selected by the state must sign. It details the State's required:

- 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).

3. PROCUREMENT SCHEDULE

The following schedule represents the State's best estimates for this procurement, however, the State reserves the right, at its sole discretion, to adjust the schedule at any time, or to cancel or cancel and reissue a similar solicitation.

EVENT	TIME (central time zone)	DATE (all dates are state business days)
1. Solicitation Issued		July 22, 2015
2. Offer Deadline	2:00 p.m.	July 30, 2015
3. State Completes Qualifications Evidence Review & Identifies Responsive & Responsible Offers		August 5, 2015
4. State Identifies the Best, Responsive & Responsible Cost Offer	2:00 p.m.	August 6, 2015
5. State Releases Award Notification	2:00 p.m.	August 7, 2015
6. Contract Signing		August 19, 2015
7. Contractor Signature Deadline	2:00 p.m.	August 26,2015

4. RESPONSE REQUIREMENTS

4.1. **Two Part Offer.** An offer in response to this solicitation must respond only as required by this solicitation document and must consist of two parts: *Qualifications Evidence* (including any supporting documentation) and a *Cost Offer*.

The State may determine an offer to be non-responsive and ineligible for contract award if it fails to address all items, organize and properly reference the *Qualifications Evidence*, or to include the *Cost Offer* exactly as required below.

4.1.1. *Qualifications Evidence* – The *Qualifications Evidence Guide* (Attachment A) details specific mandatory requirements for an offer in response to this solicitation. An Offeror must duplicate and use Attachment A, completed with proposal page numbers, to cover (as a table of contents), organize, reference, and complete the *Qualifications Evidence* portion of the solicitation response.

4.1.2. *Cost Offer* – The *Cost Offer* must be in the form of a completed, exact copy of the *Cost Offer* document at Attachment C of this solicitation. It must be completed EXACTLY as indicated.

NOTICE: The *Cost Offer* must incorporate ALL costs for services under the contract for the total contract period, and it must record the proposed price of the subject service exactly as required by the *Cost Offer* document and must NOT record any other rates, amounts, or information.

4.2. **Offer Prohibitions.** An offer in response to this solicitation MUST NOT:

- include the Offeror's own contract terms and conditions;
- restrict the rights of the State or otherwise qualify either the offer to deliver services as required by this solicitation or the *Cost Offer*;
- include, for consideration in this procurement process or subsequent contract negotiations, incorrect information that the Offeror knew or should have known was materially incorrect.

4.3. **Offer Delivery.** No later than the Offer Deadline (refer to section 3, above), a potential contractor must deliver to the state ALL documentation required for both the *Qualifications Evidence* and the *Cost Offer* components of an offer in response to this solicitation. It must be delivered to:

Daniel Leeson
Sourcing Account Specialist
Central Procurement Office
Department of General Services
WRS Tennessee Tower, 3rd Floor
312 Rosa L. Parks Ave., Nashville, TN 37243
(615) 253-4009

5. OFFER REVIEW & CONTRACT AWARD

The State will review the *Qualifications Evidence* of each offer and make relevant determinations before evaluating associated *Cost Offers*. An evaluation team of at least three state employees will review the *Qualifications Evidence* and any supporting documentation submitted with each offer. For an offer to be acceptable and eligible for contract award, all evaluators must determine that the *Qualifications Evidence* documents that the Offeror meets minimum requirements specified by this solicitation and is, at least, minimally acceptable as a contractor for the subject services.

The Solicitation Coordinator will, then, review the *Cost Offer* submitted by each Offeror deemed acceptable for contract award to assess whether it complies, without qualification, with solicitation instructions. The Solicitation Coordinator will identify the responsive, responsible *Cost Offer*

indicating the lowest cost to the state. The State will award the contract to the individual or entity making said offer indicating the lowest cost.

In the event that two or more responsive, responsible *Cost Offers* indicate the same lowest cost, the Solicitation Coordinator will request a *Best and Final Cost Offer* from the Offerors proposing that lowest cost. Should a second tie result, the State will award the contract to one of the tied Offerors by chance.

6. GENERAL INFORMATION & REQUIREMENTS

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

6.2. **Communications.** Reference Solicitation # 34901-00282, in all communications relating to this solicitation, and direct any such communications to the following person designated as the Solicitation Coordinator.

Daniel Leeson
Sourcing Account Specialist
Central Procurement Office
Department of General Services
WRS Tennessee Tower, 3rd Floor
312 Rosa L. Parks Ave., Nashville, TN 37243
(615) 253-4009

Unauthorized contact about this solicitation with other employees or officials of the State of Tennessee may result in disqualification from consideration as a contractor.

Notwithstanding the foregoing, potential responders may also contact the following as appropriate:

- staff of the Governor's Office of Diversity Business Enterprise for assistance available to minority-owned, women-owned, and small businesses as well as general, public information relating to this solicitation; and
- the following individual designated by the State to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and associated federal regulations:

Shannon Hall, M.A., Assistant Director
Talent Management Division
TN Dept. of Safety and Homeland Security
1158 Foster Avenue
Nashville, TN 37243
(615) 251-5170
Fax: (615) 401-7688

6.3. **Conflict of Interest.** The state shall <u>not</u> consider an offer from, and this solicitation shall <u>not</u> result in a contract with:

- an individual who is, or within the past six months has been, an employee of the State of Tennessee or who is a volunteer member of a State board or commission that votes for, lets out, overlooks, or any manner superintends the services being procured in this solicitation;
- a company, corporation, or any other contracting entity in which an ownership of two percent (2%) or more is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee (this will not apply either to financial interests that have been placed into a "blind trust" arrangement pursuant to which the employee does not have knowledge of the retention or disposition of such interests or to the ownership of publicly traded stocks or bonds where such ownership constitutes less than 2% of the total outstanding amount of the stocks or bonds of the issuing entity);
- a company, corporation, or any other contracting entity which employs an individual who is, or within the past six months has been, an employee of the State of Tennessee in a position that would allow the direct or indirect use or disclosure of information, which was obtained through or in connection with his or her employment and not made available to the general public, for the purpose of furthering the private interest or personal profit of any person; or,
- any individual, company, or other entity involved in assisting the State in the development, formulation, or drafting of this solicitation or its scope of services (such person or entity being deemed by the State as having information that would afford an unfair advantage).

For these purposes, the state will deem an individual to be an employee of the State of Tennessee until such time as all compensation for salary, termination pay, and annual leave has been paid.

6.4. **Disclosure of Proposal Contents.** All materials submitted to the state in response to this solicitation become the property of the State of Tennessee. Selection for award does not affect this right. Upon completion of evaluations, indicated by the award notification (refer to section 3, above), the full contents and associated documents submitted in response to this solicitation will be open for review by the public. By submitting an offer, a potential contractor acknowledges and accepts that the full contents and associated documents submitted in response to this solicitation will become open to public inspection.

ATTACHMENT A

QUALIFICATIONS EVIDENCE GUIDE

The offer must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The offer must also detail the *Qualifications Evidence* page number for each item in the appropriate space below, and use this guide to cover the Qualifications Evidence (as its table of contents).

In addition to the items below, the State will review each offer for compliance with all solicitation requirements, including but not limited to:

- The offer must be delivered to the State no later than the Offer Deadline.
- The *Qualifications Evidence* and the *Cost Offer* must be submitted as required.
- The offer must NOT contain any qualification, limitation, or other restrictions.

OFFEROR LEGAL ENTITY NAME:		
Page # (Offeror completes)	**Item Ref.**	**QUALIFICATIONS EVIDENCE**
	A.1.	Detail the name, e-mail address, mailing address, telephone number, and facsimile number of the person the State should contact regarding the offer.
	A.2.	Provide the Solicitation Attachment B, *Statement of Certifications and Assurances* completed and signed by an individual empowered to bind the Offeror to the provisions of this solicitation and any resulting contract. The document must be signed without exception or qualification.
	A.3.	Provide a statement, based upon reasonable inquiry, of whether the Offeror or any individual who shall perform work under the contract has a possible conflict of interest (*e.g.*, employment by the State of Tennessee) and, if so, the nature of that conflict. *Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to reject any offer or cancel any award.*
	A.4.	Provide a statement of whether the Offeror or, to the Offeror's knowledge, any of the Offeror's employees, agents, independent contractors, or subcontractors, proposed to provide work on a contract pursuant to this solicitation, have been convicted of, pled guilty to, or pled *nolo contendere* to any felony. If so, include an explanation providing relevant details. *Any issues relating to such a matter shall be solely within the discretion of the State, and the State reserves the right to reject any offer or cancel any award.*
	A.5.	Provide a statement of whether there is any material, pending litigation that the Offeror should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this solicitation or is likely to have a material adverse effect on the Offeror'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 Offeror's performance in a contract pursuant to this solicitation. *Any issues relating to such a matter shall be solely within the discretion of the State, and the State reserves the right to reject any offer or cancel any award.*
	A.6.	Provide a copy of Tennessee Court Reporter license and provide evidence of 1 year experience as a Certified Court Reporter or that work has been previously performed as a court reporter with the Tennessee Department of Safety's Legal Section.
	A.7.	Provide evidence of Proposer's prepared and redacted Chancery Court record and shorthand sample.

ATTACHMENT B

STATEMENT OF CERTIFICATIONS AND ASSURANCES

An individual legally empowered to contractually bind the Offeror must complete and sign the *Statement of Certifications and Assurances* below as required, and this signed statement must be included with the offer as required by the Solicitation Attachment A.

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

1. The Offeror will comply with all of the provisions and requirements of the solicitation.
2. The Offeror will provide, for the total contract period, all services defined in the Scope of Services specified by the *Pro Forma Contract* attached to the solicitation.
3. The Offeror accepts and agrees, without qualification, to all terms and conditions set out by the *Pro Forma Contract* attached to the solicitation.
4. The Offeror acknowledges and agrees that a contract resulting from the solicitation shall incorporate, by reference, the offer in response to the solicitation as a part of the contract.
5. The Offeror will comply, as applicable, with:
   (a) the laws of the State of Tennessee;
   (b) Title VI of the federal Civil Rights Act of 1964;
   (c) Title IX of the federal Education Amendments Act of 1972;
   (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
   (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
6. To the knowledge of the undersigned, the information detailed within the offer in response to the solicitation is accurate.
7. The offer submitted in response to the solicitation 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 Offeror in connection with the solicitation or any resulting contract.

By signature below, the signatory certifies legal authority to bind the proposing entity to the provisions of this solicitation and any contract awarded pursuant to it. The State may, at its sole discretion and at any time, require evidence documenting the signatory's authority to legally bind the proposing entity.

DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO BIND THE INDIVIDUAL OR ENTITY MAKING AN OFFER IN RESPONSE TO THE SUBJECT SOLICITATION

SIGNATURE & DATE: _____

PRINTED NAME & TITLE: _____

LEGAL ENTITY NAME: _____

FEIN or SSN: _____

ATTACHMENT C

COST OFFER

NOTICE: The Cost Offer Must Be Completed Exactly As Required

The *Cost Offer* schedule, detailed below, shall indicate the proposed price for all services, during the entire contract period, as set forth in the *Pro Forma* Contract attached to the solicitation. The *Cost Offer* shall remain valid for at least 120 days subsequent to opening and thereafter in accordance with any contract resulting from this solicitation.

The evaluation factor associated with each cost item is for evaluation purposes only. The factors do NOT indicate 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 Offeror.

This Cost Offer must be signed by an individual empowered to legally bind the proposing entity to the provisions of this solicitation and any contract awarded pursuant to it. The State may, at its sole discretion and at any time, require evidence documenting the signatory's authority to contractually bind the proposing entity.	
SIGNATURE & DATE:	
PRINTED NAME & TITLE:	

OFFEROR LEGAL ENTITY NAME:			
Cost Item Description	**Proposed Cost**	**Evaluation Factor**	**Evaluation Cost** (cost x factor)
Court Reporter Service – Full Day – service provided over 4 hours in a day. Scope of Services A.3., A.4., and A.7.	$ _____ per Day	240	
Court Reporter Service – Half Day – service provided 4 hours or less in a day. Scope of Services A.3., A.4., and A.7.	$ _____ per Half Day	120	
Court Reporter Service – Overtime (payable in addition to the Full Day rate above only if service provided over 8 hours in a day) Scope of Services A.3., A.4., and A.7.	$ _____ per Hour	24	
Transcript Original – Regular Delivery. Scope of Services A.5.	$ _____ per Page	1	
Transcript Original – Expedited Delivery. Scope of Services A.5.	$ _____ per Page	1	
Transcript Original – Overnight Delivery. Scope of Services A.5.	$ _____ per Page	1	
Original Copy Technical Record Preparation – Scope of Services A.6.	$ _____ per Record	1	

ATTACHMENT C

OFFEROR LEGAL ENTITY NAME:			
Cost Item Description	**Proposed Cost**	**Evaluation Factor**	**Evaluation Cost** (cost x factor)
EVALUATION COST AMOUNT (sum of evaluation costs above)**:** *The state will use this sum to determine the Cost Offer reflecting the lowest cost to the state.*			

ATTACHMENT D

PRO FORMA CONTRACT

The *pro forma* contract detailed in following pages of this exhibit contains some "blanks" (signified by field descriptions in capital letters) that will be completed with appropriate information in the final contract resulting from the solicitation.

ATTACHMENT D

CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF SAFETY AND HOMELAND SECURITY
AND
CONTRACTOR NAME

This Contract, by and between the State of Tennessee, Department of Safety and Homeland Security, hereinafter referred to as the 'State" and Contractor Legal Entity Name, hereinafter referred to as the "Contractor," is for the provision of Court Reporter Services, as further defined in the "SCOPE OF SERVICES."

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 OF SERVICES:

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

A.2. The Contractor providing service pursuant to this Contract shall meet the following minimum requirements:

a. Must have a current and active Tennessee Court Reporter License.

b. One year, full-time work experience as a court reporter or has worked previously as a court reporter with the Department of Safety's Legal Division.

c. Must be proficient in preparing Chancery Court records and shorthand.

A.3. The Contractor shall appear and provide service at each hearing scheduled by the State in Dyersburg, TN. The hearings are normally three (3) to four (4) days each month and usually the second or third week of each month. The State will provide the Contractor with a hearing docket thirty (30) days before the hearing date.

A.4. For each hearing, the Contractor shall be present at the hearing room one half hour before the hearing and remain to provide service as long as required.

A.5. Transcripts shall only be prepared at the request of the State. All regular delivery transcripts pursuant to this Contract must contain both an original and a condensed copy and must be provided no later than thirty (30) days by regular delivery after the transcript was requested by the State. Expedited and overnight delivery transcripts may be used at the discretion of the State. An expedited delivery transcript shall be transcribed and delivered to State within seven (7) calendar days after request by the State. An overnight delivery transcript shall be transcribed and delivered to the State within twenty-four (24) hours after request by the State.

A.6. For the Original Copy Technical Record Preparation, the Contractor shall organize the pages, prepare an index, bind the reports; and send the original report to the Chancery Court and a copy to State's Legal Section. The case name or case number shall be listed on all correspondence

A.7. The Contractor shall provide all necessary stenograph equipment, supplies and postage as necessary to fulfill the requirements of this Contract.

A.8. Mask writers shall NOT be accepted for use in the delivery of service pursuant to this Contract.

A.9. Warranty. Contractor represents and warrants that throughout the Term of this Contract ("Warranty Period"), the goods or services provided under this Contract shall conform to the terms and conditions of this Contract. 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 all goods or services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, in conformity with standards generally accepted in Contractor's industry.

If Contractor fails to provide the goods or services as warranted, then Contractor will re-provide the goods or services at no additional charge. If Contractor is unable or unwilling to re-provide the goods or services as warranted, then the State shall be entitled to recover the fees paid to Contractor for the Defective goods or services.

A.10. Inspection and Acceptance. The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

B. CONTRACT PERIOD:

This Contract shall be effective on September 1, 2015 ("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:

Service Description	**Amount** 9/1/2014 to 8/31/2019 (per compensable increment)
Court Reporter Service – Full Day – service provided over 4 hours in a day. Scope of Services A.3., A.4., and A.7.	$ AMOUNT per day
Court Reporter Service – Half Day – service provided 4 hours or less in a day. Scope of Services A.3., A.4., and A.7.	$ AMOUNT per half day
Court Reporter Service – Overtime (payable in addition to the Full Day rate above only if service provided over 8 hours in a day) Scope of Services A.3., A.4., and A.7.	$ AMOUNT per hour
Transcript Original – Regular Delivery. Scope of Services A.5.	$ AMOUNT per page
Transcript Original – Expedited Delivery. Scope of Services A.5.	$ AMOUNT per page
Transcript Original – Overnight Delivery. Scope of Services A.5.	$ AMOUNT per page
Original Copy Technical Record Preparation – Scope of Services A.6.	$ AMOUNT per Record

c. The Contractor shall not be compensated for travel time to the primary location of service provision.

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:

TN Department of Safety Legal Office
1150 Foster Ave
Nashville, TN 37243-1000
FAX # 615 253-2098

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 Safety Legal Division;
(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 matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service 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 theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.

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, which are or shall become due and payable to the State of Tennessee by the Contractor.

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 an "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, all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, shall be made by automated clearing house.

b. The Contractor shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The taxpayer identification number in the Substitute W-9 Form must be the same as the Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID.

D. STANDARD 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:

Joe Bartlett
Tennessee Department of Safety and Homeland Security
23rd Floor Tennessee Tower
6174 Macon Road
Memphis, TN 38134
PHONE: 901-372-4361
EMAIL: Joe.Bartlett@tn.gov

The Contractor:

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

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

D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials.

D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.

D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.

D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"),the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.

D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.

D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

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

D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment A, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.

b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.

c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.

d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.

e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.

D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.

D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.

D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.

D.16 Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless for any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.

D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The State's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.

D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for intentional torts, criminal acts, fraudulent conduct, 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 or disqualified.

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);
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.

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.

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE **DATE**

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF SAFETY AND HOMELAND SECURITY:

BILL GIBBONS, COMMISSIONER **DATE**

ATTACHMENT A

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	

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

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION