STATE OF TENNESSEE
DEPARTMENT OF CHILDREN'S SERVICES

REQUEST FOR PROPOSALS # 35910-01475 AMENDMENT # ONE FOR PERFORMANCE BASED (PBC) RESIDENTIAL SERVICES FOR SEVERELY EMOTIONALLY DISTURBED (SED) & AUTISM SPECTRUM/NEURODEVELOPMENTAL DISORDERS

DATE: July 15, 2015

RFP # 35910-01475 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.

2. RFP SCHEDULE OF EVENTS

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

EVENT	TIME (central time zone)	DATE
1. RFP Issued		June 25, 2015
2. Disability Accommodation Request Deadline	2:00 p.m.	June 30, 2015
3. Notice of Intent to Respond Deadline	2:00 p.m.	July 1, 2015
4. Written "Questions & Comments" Deadline	2:00 p.m.	July 7, 2015
5. State Response to Written "Questions & Comments"		July 15, 2015
6. Response Deadline	2:00 p.m.	July 22, 2015
7. State Completion of Technical Response Evaluations		July 31, 2015
8. State Notice of Intent to Award Released and RFP Files Opened for Public Inspection	2:00 p.m.	August 5, 2015
9. End of Open File Period		August 12, 2015
10. State sends contract to Contractor for signature		August 13, 2015
11. Contractor Signature Deadline	2:00 p.m.	August 14, 2015

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 1.7).

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
1	There isn't enough information to respond to this. If we already have a Level 3 contract, serving children with autism. How is this different?	The current Level 3 residential contract is not specific to youth on the Autism Spectrum. The Level 3 Autism Spectrum-Neurodevelopmental Disorder RTC (L3AS-ND RTC) contract is specific to that population. Also, the per diem for the traditional Level 3 contract is $225.00 per child per day. The per diem for the L3AS-ND RTC contract is $300.00 per child per day.
2	We need a definition of the populations to be served: L3 AS-ND RTC, L3 AS-ND PRTF Mid, etc.	• L3 AS-ND RTC: Difficulties with neither transitions nor sensory integration are causing acute impairment to the child/youth's daily functioning and a staffing ratio of 1:4 is adequate to meet the child/youth's supervision needs. • L3 AS-ND PRTF Mild: Difficulties with transitions and/or sensory integration are causing acute impairment to the child/youth's daily functioning and a staffing ratio of 1:3 is required to assist the child/youth during routine transitions and tasks. • L3 AS-ND PRTF High: The child/youth exhibits significant impairments in language/communication skills, activities of daily living, and/or harm to self or others (the latter, in consideration of the resident's size and age). A staffing ratio of 1:1 is required to meet the child/youth's supervision needs and assist him/her during routine transitions and tasks.
3	The RFP does not clearly define the populations contained within. Please provide a description of each level of AS-ND/SED population.	Details of the populations to be served appear in Attachment A and Attachment B of the RFP.
4	Services requested are all Level 3 (Both SED and AS/ND) despite rate variations. Please explain why they are only level 3 and how this is different from the PPM Section 5 titled: UCA Agreements, Programs for Special Populations and Special Needs Level 4 that is designed to serve such populations?	The Department currently employs Unique Care Agreements (UCA) in order to serve those youth who present with a higher level of acuity than can be addressed under the existing contractual menu. This applies to both the Seriously Emotionally Disturbed (SED) population as well as those youth with needs relative to Autism Spectrum and Neurodevelopmental Disorders (AS-ND). These prospective contracts are an effort to bring agencies which can appropriately provide those services into the private provider network. In this way the Department will have the latitude to access those programs directly, thus eliminating the need for multiple UCAs for those services.
5	The RFP demonstrates no difference for the three AS-ND services in the program characteristics section	Differences in programming are detailed in the respective scopes of service (Attachments A & B).

	QUESTION / COMMENT	STATE RESPONSE
	provided, or for the two SED program characteristics. The Private Provider Policy Manual contains no PRTF language. In reviewing licensure standards online, there does not appear to be a licensure standard for PRTF. Please provide a link to access information regarding PRTF. Also, what are the contractual differences between the rates?	The link below provides information concerning standards for a Psychiatric Residential Treatment Facility (PRTF): http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandComplianc/PRTFs.html
6	The link to Attachment E (Disclosure) does not work. Attachments 1, 2, 3 and 4 cited on the RFP Contents page are not attached to RFP.	The link to Attachment E – Disclosure form is now a web-based form. The link to the form is located at: https://pdms.tenncare.tn.gov/Account/Login.aspx?ReturnUrl=%2f Attachments 1, 2 & 3 are now posted. http://www.tn.gov/generalservices/article/request-for-proposals-rfp-opportunities
7	Please explain why a Registered Nurse is in the program characteristics. Licensure and the DCS PPM (Congregate Care, Level III RTF, E.13) state licensed medical or nursing personnel is appropriate. No. #14 in the F. Section of the Services Components also states licensed personnel but not Registered Nurses.	The requirement of a 24-hour Registered Nurse is reflective of the hospital-like setting this type of program must maintain.
8	The cost of ABA is very expensive. Access to ABA services is very challenging due to the small amount of providers who are certified. It has been our experience that ABA therapy is typically denied by insurance coverage (including Tenncare), difficult to access, and limited if approved. The RFP states an equivalent may be utilized however, if written into language as "*WILL*"; the expectation will be the use of that particular service or a service by similar licensed personnel. Can this language be re-written?	If not using ABA, its equivalent must be a research-supported, recognizable program for behavior modification conducted by a professional with specialized knowledge in behavioral intervention.
9	Will BEP funds be paid to agencies serving these populations under contract?	As a stipulation of these contracts, each agency must have a Tennessee Department of Education and DCS-approved educational program in compliance with all necessary educational requirements including special education services, when applicable. As a result of meeting this requirement, those agencies granted either of the SED or

QUESTION / COMMENT	STATE RESPONSE
	AS-ND contracts will have the ability to draw down BEP funds.
10 Is a provider eligible to provide only one type of service under this RFP or is the expectation in line with a continuum model of services. (If you are serving children at the less intensive setting, and the child becomes beyond your scope of services, can he be discharged to another program?)	None of the proposed contracts in this RFP are for continuum services.
11 The Program Characteristics requests services for children/youth ages 5-17. What happens to a child at age 17 that is still in programming, in custody until age 18?	Non-delinquent youth turning 18 while in care will age out. In some cases, those youth may continue to receive services post-18 if they are eligible for Extension of Foster Care.
12 Personnel standards cite a smaller staff ratio of 1:4 to 1:1. PPM Level 3 cites 1:5 ratio. The RFP is requesting more staff and additional staff for 1:1 needs-- 24/7 if needed or as needed, including "continuous" staffing however this is a financial hardship for agencies and the rate does not include this cost as the need increases nor does the rate fluctuate to support that type of additional treatment need. The RFP does not reference a time frame limit to that 1:1 service, leaving it open to ongoing support by 1:1 staff. The AS-ND Program Characteristics is not consistent with the Level of Service Section B staffing ratios.	The elevated rate structure is commensurate with the elevated level of supervision. Establishing the need for high intensity staffing (1:1 ratio) versus mid-level intensity staffing services is a collaborative decision between clinicians and management from both the provider network and the Department.
13 Please define how children all classified as CANS level 3 are then determined low, mid or high intensity AS-ND? (High intensity may address various autistic populations—i.e.; from the higher functioning child with mental health issues, to the nonverbal low functioning child who requires total care and has significant behaviors). Who will determine the intensity of service?	• L3 AS-ND RTC: Difficulties with neither transitions nor sensory integration are causing acute impairment to the child/youth's daily functioning and a staffing ratio of 1:4 is adequate to meet the child/youth's supervision needs. • L3 AS-ND PRTF Mild: Difficulties with transitions and/or sensory integration are causing acute impairment to the child/youth's daily functioning and a staffing ratio of 1:3 is required to assist the child/youth during routine transitions and tasks. • L3 AS-ND PRTF High: The child/youth exhibits significant impairments in language/communication skills, activities of daily living, and/or harm to self or others (the latter, in consideration of the resident's size and age). A staffing ratio of 1:1 is required to meet the child/youth's supervision needs and assist him/her during routine transitions and tasks. The determination as to the intensity of services is a

QUESTION / COMMENT		STATE RESPONSE
		collaborative decision between clinicians and management from both the provider network and the Department.
14	Will this qualify us as a Level 3 provider or would we need to already have been qualified as Level 3 in the RFQ of last year?	Agencies awarded any of these prospective contracts must meet all requirements for the provision of Level 3 services regardless of whether that agency has provided Level 3 services in the past.
15	Can a provider propose services for only one of the two types of needs (e.g., SED OR Autism) or for just males or just females at a site and/ or for less than the total number of stated needs for beds (e.g., 12 beds for girls with SED; 16 beds for boys with SED)?	Respondents may submit proposals for either the SED or AS-ND contracts, or for both. Services may be considered for males, for females or for both as well.
16	What is your definition of SED? How are these youth characteristically different from Level 3 Special Needs?	The distinction between the different scopes is the level of service provided. See Attachments A&B for a definition of SED.
17	What is your definition of SED, High level intensity? How are these youth characteristically different from Level 3 Special Needs?	The distinction between the different scopes is the level of service provided. See Attachments A&B for a definition of SED.
18	Please define the three levels of autism: RTC, Mid-Level Intensity, and High Level Intensity.	• L3 AS-ND RTC: Difficulties with neither transitions nor sensory integration are causing acute impairment to the child/youth's daily functioning and a staffing ratio of 1:4 is adequate to meet the child/youth's supervision needs. • L3 AS-ND PRTF Mild: Difficulties with transitions and/or sensory integration are causing acute impairment to the child/youth's daily functioning and a staffing ratio of 1:3 is required to assist the child/youth during routine transitions and tasks. • L3 AS-ND PRTF High: The child/youth exhibits significant impairments in language/communication skills, activities of daily living, and/or harm to self or others (the latter, in consideration of the resident's size and age). A staffing ratio of 1:1 is required to meet the child/youth's supervision needs and assist him/her during routine transitions and tasks.
19	Does the residential level for Autism not require another behavioral health diagnosis? Just Autism?	Children/youth served in an AS-ND program will present with both a mental health diagnosis and an Autism Spectrum or Neurodevelopmental Disorder diagnosis.
20	Please clarify "licensed as a PRTF". We are familiar with the concept of *psychiatric residential treatment facility*	The link below provides information concerning standards for a Psychiatric Residential Treatment Facility (PRTF):

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	but not with this licensure type in Tennessee.	http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandComplianc/PRTFs.html Differences in programming are detailed in the respective scopes of service (Attachments A & B).
21	Can providers propose for certain age ranges or must providers propose for the entire age range? (e.g., ages 5-11 only or 12-17 only)	Age ranges may be designated.
22	In Admission/Clinical Criteria number C.1 (p. 36), you state that this service is for "initial short term or intermittent stays" …. Does this mean you're looking for more of a CSU environment or are you looking for a several month stay when needed?	The Department is not seeking services in a Crisis Stabilization Unit environment.
23	Page 2 of the RFP describes the "Performance Based Contract" concept. This performance measurement is report to include "…improved timeliness and likelihood of permanency (reunification, adoption or guardianship), reduced paid care days and reduced re-entries into care." A. How is baseline determined? B. Will the Contractor be given the opportunity to provide input for "baseline?" C. Who is responsible for determining the location of the "exit to permanency?" When will that location be determined and communicated to the Contractor? D. Will there be an established exception policy mutually agreed to by the State and the Contractor for the "exit to permanency" baselines due to children requiring special treatment (e.g. level of acuity or lack of safe resources)? E. A PRTF typically functions with clinical autonomy. Federal Medicaid guidelines place treatment responsibility with a treatment team that is led by the	A. Baselines will be constructed utilizing historical outcome data. B. Baselines will be constructed utilizing historical outcome data. C. Permanency is defined as a return to family or relative (reunification), finalized adoption or permanent guardianship. D. Those outlier exceptions or unique circumstances are contained in baseline data. No special treatment is needed. E. The established PBC model rewards and supports treatment decisions made in an effort to achieve timely permanency. F. Children and youth who present placement challenges are contained in baseline data. No exception for these cases is required.

QUESTION / COMMENT	STATE RESPONSE
medical director, who is a Board Certified Child and Adolescent Psychiatrist. Would the DCS structure in clinical decision making support this model of treatment? F. Will there be exceptions made for performance criteria and outcomes for those children who are difficult to place or have no identified placement?	
24 Page 2 of the RFP describes that a total of 36 beds are needed for the SED PRTF services and a total of 24 beds are needed for the AS-ND PRTF services. A. Will multiple providers be awarded beds under the proposed contract? B. Is the expectation that the SED PRTF and the AS-ND PRTF beds be at the same location? C. Will the beds be required to be left vacant for DCS availability? If so, what percentage of the bed rate will be paid to hold beds? D. What input does the provider have for admission criteria? E. Does the provider have the right to refuse if a referral is not in line with their established admission criteria? F. Will specific DCS regions be assigned bed allotments? G. Will DCS consider contracting for a lower number of beds for SED PRTF and AS-ND PRTF beds?	A. The Department may select multiple providers. B. It is not necessary for an SED PRTF program and an AS-ND program be housed in the same facility. C. There will be established DCS capacity for utilization of beds. There will be no "held" beds. D. Admission guidelines are detailed in the scope of services for each contract. E. It is the Department's expectation that each child or youth meeting admission criteria will be placed in the respective program, if capacity is available. F. There will be no regional bed allotment. G. The Department will consider any increment of beds up to the number allowed in the RFP.
25 Page 20 of the RFP describes under A.9 "Please refer to Attachment 1 for a comprehensive list of Licensure requirements." Page 21 of the RFP describes under A.11 "Respondents must utilize Attachment 2 in order to identify the components of their Pre-Service and In-Service training curricula…." Page 21 of the RFP	Attachments 1, 2 & 3 are now posted at: http://www.tn.gov/generalservices/article/request-for-proposals-rfp-opportunities

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	describes under A.12 "Please reference Attachment 3 of the RFQ document…." A. Will Attachments 1, 2 and 3 be provided for review prior to the date of the response deadline 7/22/15 at 2pm?	
26	Page 11, D.5 and D.6 of the proposed contract describes "Termination for Convenience" and "Termination for Cause." A. Would reciprocity for the 30 day written termination notice be extended to the provider? B. Would or could there be an extension of this termination for convenience clause to the Contractor- such that they can give a written 30 day notice as well?	No, these are the terms offered by the State and are not subject to negotiation.
27	Page 47 of the proposed contract describes staffing ratio expectations as "1:4 to 1:1, based on the clinical needs of any child/youth in the program." A. Who determines the staffing ratio need of a child/youth? B. Is the ratio tied to the rate paid? C. Is there flexibility with ratios offered for the SED PRTF beds and the AS-ND PRTF beds? For example, the ability to staff 1:5, 1:6, etc.	A. Establishing the need for high intensity staffing (1:1 ratio) versus mid-level intensity staffing services is a collaborative decision between clinicians and management from both the provider network and the Department. B. Yes. C. Staffing ratios are detailed in the respective scopes of service. They are a part of each respective contract and, as such, are not negotiable.
28	Pages 46 – 47 described the use of the CANS for assessment. A. Will the CANS-DP-ASP be considered for use for the AS-ND PRTF beds? B. Will the CAFAS be accepted for the SED PRTF beds?	A. The version of the Child and Adolescent Needs and Strengths (CANS) assessment tool currently used by DCS will be utilized for placement recommendations. B. Not at this time.
29	Page 80 of Attachment A & Page 53 of Attachment B describes "A preliminary discharge plan with discharge goals, projected length of stay and tentative	A. Discharge goals and treatment parameters will be a collaborative effort between clinicians and management from both the provider and DCS.

	QUESTION / COMMENT	STATE RESPONSE
	aftercare plan will be formulated and shared with…" The MCOs that the facilities currently work with have a network of community providers to refer to and the residents typically discharge to their families/guardians. A. In cases that reunification is identified as the permanency goal, would the FSW and team at DCS be responsible for formulating the discharge goals with the treatment team at the facilities? B. In cases that reunification is not identified as the permanency goal, what would be the expectation of the discharge plan?	B. Discharge goals and treatment parameters will be a collaborative effort between clinicians and management from both the provider and DCS.
30	Are out of state providers allowed to send in a proposal?	Yes, as long as the facility is located within Tennessee and is operational as described in the RFP.
31	Can we limit the population we are willing to serve based on age and/or gender	Age ranges and service to a specific gender may be designated.
32	Who decides levels, and who decides which child requires 1:1 staffing? Is there an appeal process?	Establishing the need for high intensity staffing (1:1 ratio) versus mid-level intensity staffing services is a collaborative decision between clinicians and management from both the provider network and the Department. No appeals process is needed.
33	Is overnight ration 1:8 or 1 per building?	The overnight staffing ratio shall be 1:8.
34	Given the unique needs of this population, and the limited number of aftercare options available, how will DCS take this into consideration when evaluating program?	Understanding the unique nature of this population and its effect on Performance-Based Contracting (PBC) outcomes, a specific stratum has been developed taking into account this population's experience in care.
35	How is family involvement evaluated when there is no family, or there is a refusal of families to participate?	In a case where family involvement is limited or not possible, the provider's efforts to engage the child/youth's family and the barriers to engagement must be documented.
36	On page 6 of the proforma, the PBC performance outcomes are said to be based on pre-established baselines, what are the actual baselines?	Baselines will be constructed utilizing historical outcome data.
37	Are the outcomes for this contract based solely on Level 3, SED or	Individual populations are stratified in order to create

	QUESTION / COMMENT	STATE RESPONSE
	Autism/Neurodevelopmental comparisons or are they established for all Level 3 clients? For example National Best Practices may point to a 5 month length of stay for a neurodevelopmental issue, versus a major depression may only require a 3 month stay. How are we assured that baselines have validity for this particular population?	baselines for Performance-Based Contracting.
38	Is 1:1 mandated for those classed severe or is this a clinical decision made by the facility and team?	Establishing the need for high intensity staffing (1:1 ration) versus mid-level intensity staffing services is a collaborative decision between clinicians and management from both the provider as well as the Department.
39	Can you share what are the current demographics of this population in care today?	A point-in-time reference of 07/13/15 reveals the following demographic traits of the combined SED and AS-ND populations: Total youth served meeting this criteria: 112 Ages 5 – 11: 24 Ages 12 – 18: 88 Male: 70 Female: 42 Adjudication: D-N or Unruly (104) Delinquent (8) East Grand Region: 53 Middle Grand Region: 47 West Grand Region: 22

STATE OF TENNESSEE
DEPARTMENT OF CHILDREN'S SERVICES

REQUEST FOR PROPOSALS
FOR
PERFORMANCE BASED (PBC) RESIDENTIAL SERVICES
FOR
SEVERELY EMOTIONALLY DISTURBED (SED)
&
AUTISM SPECTRUM/NEURODEVELOPMENTAL DISORDERS

RFP # 35910-01475

RFP CONTENTS

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- **6.6. *Pro Forma* Contract**

1. INTRODUCTION

The State of Tennessee, Department of Children's Services (DCS), 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.

Statement of Procurement Purpose

The Department of Children's Services (DCS) is mandated by statute to provide residential care and treatment to children/youth placed in its custody. To that end, the Department must maintain a network of statewide providers, referred to as "DCS Provider Network". This network must have the capability to adequately and appropriately deliver a broad array of services that meet the clinical and behavioral needs of children/youth in state custody. The Department has determined that the current network lacks some critical service components necessary to ensure the treatment and care of custodial children.

For the purposes of this RFP, those services determined to be required to adequately address the need for residential care and treatment includes:

1. Level 3 - Autism Spectrum-Neurodevelopmental Disorders Residential Treatment Center (L3 AS-ND RTC);
2. Level 3 - Severely Emotionally Disturbed-Psychiatric Residential Treatment Facility (L3 SED-PRTF);
3. Level 3 - Severely Emotionally Disturbed-Psychiatric Residential Treatment Facility – High Level Intensity (L3 SED-PRTF High);
4. Level 3 - Autism Spectrum-Neurodevelopmental Disorders Psychiatric Residential Treatment Facility – Mid-Level Intensity (L3 AS-ND PRTF Mid);
5. Level 3 - Autism Spectrum-Neurodevelopmental Disorders Psychiatric Residential Treatment Facility– High Level Intensity (L3 AS-ND PRTF High)

The service requirements and expectations associated with those specific levels of care are more fully defined in the Provider Policy Manual (PPM). The PPM may be accessed using the following hyper link:

http://www.tn.gov/youth/providers/prov_policies.htm

In order to qualify as a network provider, Respondents must demonstrate their ability, experience and qualifications in delivering the clinical services and treatment listed above to children/youth placed in the custody of the State. Respondents must have the infrastructure, training and clinical services needed to facilitate permanency expeditiously for each child/youth served.

The purpose for this RFP is to establish the process of reviewing, evaluating and pre-qualifying Respondents that will become a member of the DCS network of providers delivering direct care and treatment to custodial children/youth. This process will ensure competition and equitability in the procurement of residential care and treatment services.

All services for residential care and treatment are procured utilizing Performance-Based Contracts (PBC). The Department of Children's Services utilizes a system focused on outcomes for children and families within the context of their communities. The PBC methodology helps the Department achieve its goal of improved permanency outcomes for children in its care. It should also be noted that this initiative is in compliance with the terms and conditions of the Brian A. Settlement Agreement.

The PBC concept employs a payment structure that reinforces efforts on the part of provider agencies to implement those services that specifically improve pre-determined outcomes. Outcomes to be analyzed and used in fiscal calculations toward performance measurement include: improved timeliness and likelihood of permanency (reunification, adoption or guardianship), reduced paid care days and reduced re-entries into care.

Outcomes are measured relative to appropriate standards as well as pre-established, network-wide baseline performance. More detail on these PBC outcome measurements is contained in the Pro Forma contract.

Demographics:

SERVICES	Area:	Capacity:	Gender:
1. Level 3 - Autism Spectrum-Neurodevelopmental Disorders Residential Treatment Center (L3 AS-ND RTC)	Statewide	16 beds	Male & Female
2. Level 3 - Severely Emotionally Disturbed-Psychiatric Residential Treatment Facility (L3 SED-PRTF)	Statewide	See Note 1 Below	Male & Female
3. Level 3 - Severely Emotionally Disturbed-Psychiatric Residential Treatment Facility – High Level Intensity (L3 SED-PRTF High)	Statewide	See Note 1 Below	Male & Female
4. Level 3 - Autism Spectrum-Neurodevelopmental Disorders Psychiatric Residential Treatment Facility – Mid-Level Intensity (L3 AS-ND PRTF Mid)	Statewide	See Note 2 Below	Male & Female
5. Level 3 - Autism Spectrum-Neurodevelopmental Disorders Psychiatric Residential Treatment Facility— High Level Intensity (L3 AS-ND PRTF High)	Statewide	See Note 2 Below	Male & Female

Note 1: A total of 36 beds are needed, in the aggregate, for both SED PRTF service types (#2 and #3 above).

Note 2: A total of 24 beds are needed, in the aggregate, for both AS-ND PRTF service types (#4 and #5 above).

Definitions and Abbreviations:

TERM	DEFINITION
RFP	Request for Proposal
DCS	Department of Children's Services
PBC	Performance-Based Contracting
DMHSAS	Department of Mental Health and Substance Abuse Services
COA	Council On Accreditation
CARF	Commission on Accreditation of Rehabilitation Facilities
JCAHCO	Joint Commission on Accreditation of Healthcare Organizations
ICD 10	International Classification of Diseases code, 10th Version

EBP	Evidence-Based Programming
Level 3 or L3	Level 3 services
AS-ND	Autism Spectrum-Neurodevelopmental Disorders
SED	Severely Emotionally Disturbed
RTC	Residential Treatment Center
PRTF	Psychiatric Residential Treatment Facility

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 # 35910-01475

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:

Lisa Love
Tennessee Department of Children's Services
7th Floor, Cordell Hull Bldg.
436 6th Avenue North
Nashville, TN 37243
615-532-2255
Lisa.love@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 www.tn.gov/businessopp/ 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:

Donovan Haynes, Affirmative Action Director
Division for Diversity Initiatives
Tennessee Department of Children's Services
7th Floor, Cordell Hull Bldg.
436 6th Avenue North
Nashville, TN 37243
Phone: 615-741-8422
Donovan.Haynes@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 1.7).

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/generalserv/cpo/sourcing_sub/rfp.shtml.

1.4.8. The State reserves the right to determine, at its sole discretion, the appropriateness and adequacy of responses to written comments, questions, and requests related to this RFP. The State's official, written responses will constitute an amendment of this RFP.

1.4.9. Any data or factual information provided by the State (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. The State will make reasonable efforts to ensure the accuracy of such data or information, however it is the Respondent's obligation to independently verify any data or information provided by the State. The State expressly disclaims the accuracy or adequacy of any information or data that it provides to prospective Respondents.

1.5. Assistance to Respondents With a Handicap or Disability

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

1.6. Respondent Required Review & Waiver of Objections

1.6.1. Each prospective Respondent must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.6., *Pro Forma* Contract, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called "questions and comments").

1.6.2. Any prospective Respondent having questions and comments concerning this RFP must provide them in writing to the State no later than the Written Questions & Comments Deadline detailed in the RFP Section 2, Schedule of Events.

1.6.3. Protests based on any objection to the RFP shall be considered waived and invalid if the objection has not been brought to the attention of the State, in writing, by the Written Questions & Comments Deadline.

1.7. 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.

1.8. Response Deadline

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

2. RFP SCHEDULE OF EVENTS

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

EVENT	TIME (central time zone)	DATE
1. RFP Issued		June 25, 2015
2. Disability Accommodation Request Deadline	2:00 p.m.	June 30, 2015
3. Notice of Intent to Respond Deadline	2:00 p.m.	July 1, 2015
4. Written "Questions & Comments" Deadline	2:00 p.m.	July 7, 2015
5. State Response to Written "Questions & Comments"		July 15, 2015
6. Response Deadline	2:00 p.m.	July 22, 2015
7. State Completion of Technical Response Evaluations		July 31, 2015
8. State Notice of Intent to Award Released and RFP Files Opened for Public Inspection	2:00 p.m.	August 5, 2015
9. End of Open File Period		August 12, 2015
10. State sends contract to Contractor for signature		August 13, 2015
11. Contractor Signature Deadline	2:00 p.m.	August 14, 2015

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 1.7).

3. RESPONSE REQUIREMENTS

3.1. Response Form

A response to this RFP consists of only a Technical Response.

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 Technical Response should be economically prepared, with emphasis on completeness and clarity, and should NOT exceed one hundred fifty (150) pages in length. A response, as well as any reference material presented, must be written in English and must be written on standard 8 ½" x 11" pages (although oversize exhibits are permissible) and all text must be at least a 12 point font. 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 is **NOT** a RFP requirement as the rate for each level of care is pre-established by the State (see the Pro Forma contract).

3.2. Response Delivery

3.2.1. A Respondent must ensure that the original Technical Response 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 documents and copies as specified below.

3.2.2.1. One (1) securely bound (e.g. binder, prongs, staples, report cover **(no binder clips)**) original Technical Proposal paper document, not to exceed one hundred fifty (150) pages, labeled:

"RFP # 35910-01475 TECHNICAL RESPONSE ORIGINAL"

and three **(3) securely bound** (e.g. binders, prongs, staples, report cover **(no binder clips)**) paper copies not to exceed one hundred fifty pages (150) of the Technical Proposal and one (1) digital document in "PDF" format, properly recorded on its own otherwise blank, standard CD-R recordable disc labeled:

"RFP # 35910-01475 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.

NOTE: TECHNICAL PROPOSAL AND EVALUATION GUIDES MUST BE SUBMITTED AS PUBLISHED IN THE RFP. DO NOT RE-TYPE ANY OF THE GUIDES IN ATTACHMENT 6.2. IT *IS* PERMISSIBLE TO WRITE IN THE REQUIRED INFORMATION ON THESE DOCUMENTS. IN ADDITION TO THE INFORMATION REQUIRED IN THE BODY, ALL TECHNICAL GUIDES SHOULD HAVE THE PROPOSER'S NAME ON EACH PAGE AT THE TOP.

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 # 35910-01475 TECHNICAL RESPONSE FROM [RESPONDENT LEGAL ENTITY NAME]"

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

"RFP # 35910-01475 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:

Lisa Love
Tennessee Department of Children's Services
7th Floor, Cordell Hull Bldg.
436 6th Avenue North
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. 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 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.

3.3.5. A Respondent must not submit more than one Technical Response to this RFP, except as expressly requested by the State in this RFP. If a Respondent submits more than one Technical Response, the State will deem all of the responses non-responsive and reject them.

3.3.6. 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).

3.3.7. 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:

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

3.3.7.2 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

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

3.4. Response Errors & Revisions

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

3.5. Response Withdrawal

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

only withdraw all or a portion of a response where the enforcement of the response would impose an unconscionable hardship on the Respondent.

3.6. Additional Services

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

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

3.7. Response Preparation Costs

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

4. GENERAL CONTRACTING INFORMATION & REQUIREMENTS

4.1. RFP Amendment

The State at its sole discretion may amend this RFP, in writing, at any time prior to contract award. However, prior to any such amendment, the State will consider whether it would negatively impact the ability of potential Respondents to meet the response deadline and revise the RFP Schedule of Events if deemed appropriate. If an RFP amendment is issued, the State will convey it to potential Respondents who submitted a Notice of Intent to Respond (refer to RFP Section 1.7). 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 in confidence during the evaluation process. Notwithstanding the foregoing, a list of actual Respondents submitting timely responses may be available to the public, upon request, after technical responses are opened.

4.8.3. Upon completion of response evaluations, indicated by public release of a Notice of Intent to Award, the responses and associated materials will be open for review by the public in accordance with *Tennessee Code Annotated*, Section 10-7-504(a)(7).

4.9. Contract Approval and Contract Payments

4.9.1. After contract award, the Contractor who is awarded the contract must submit appropriate documentation with the Department of Finance and Administration, Division of Accounts.

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

4.9.3. No payment will be obligated or made until the relevant Contract is approved as required by applicable statutes and rules of the State of Tennessee.

4.9.3.1. The State shall not be liable for payment of any type associated with the Contract resulting from this RFP (or any amendment thereof) or responsible for any goods delivered or services rendered by the Contractor, even goods delivered or services rendered in good faith and even if the Contractor is orally directed to proceed with the delivery of goods or the rendering of services, if it occurs before the Contract start date or after the Contract end date.

4.9.3.2. All payments relating to this procurement will be made in accordance with the Payment Terms and Conditions of the Contract resulting from this RFP (refer to RFP Attachment 6.6., *Pro Forma* Contract, Section C).

4.9.3.3. If any provision of the Contract provides direct funding or reimbursement for the competitive purchase of goods or services as a component of contract performance or otherwise provides for the reimbursement of specified, actual costs, the State will employ all reasonable means and will require all such documentation that it deems necessary to ensure that such purchases were competitive and costs were reasonable, necessary, and actual. The Contractor shall provide reasonable assistance and access related to such review. Further, the State shall not remit, as funding or reimbursement pursuant to such provisions, any amounts that it determines do not represent reasonable, necessary, and actual costs.

4.10. **Contractor Performance**

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

4.11. **Contract Amendment**

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

4.12. **Severability**

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

4.13. **Next Ranked Respondent**

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

5. EVALUATION & CONTRACT AWARD

5.1. Evaluation Categories & Maximum Points

The State will consider qualifications, experience and technical approach in the evaluation of each proposal. Points will then be awarded (up to the maximum evaluation points indicated) in each of the categories detailed below. DCS may award a number of contracts under this RFP for all levels of service listed, or any partial number of those services, depending on the Responder's qualifications to deliver that specific level of service.

In order to be awarded a contract for residential services, all Respondents must meet both the Mandatory Requirements in Attachment 6.2, Section A and achieve a combined score no lower than 70 in the evaluation of Attachments 6.2 Section B and 6.2 Section C.

EVALUATION CATEGORY	MAXIMUM POINTS POSSIBLE
General Qualifications & Experience (refer to RFP Attachment 6.2., Section B)	**60**
Technical Qualifications, Experience & Approach (refer to RFP Attachment 6.2., Section C)	**40**

5.2. Evaluation Process

The evaluation process is designed to award the contract resulting from this RFP 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. 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 potential contract award, the team members will fully document the determination.

5.2.2. **Cost Proposal Evaluation.** No cost proposals are required for this RFP as the rates for each level of service have been pre-determined by the State.

5.2.3. **Total Response Score.** The Solicitation Coordinator will calculate the sum of the Technical Response section scores 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 ATTACHMENT 6.1.

RFP # 35910-01475 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. The Technical Response submitted in response to this RFP shall remain valid for at least 120 days in accordance with any contract pursuant to the RFP.

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 <u>must</u> attach evidence showing the individual's authority to bind the Respondent.

<u>DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO BIND THE RESPONDENT</u>

SIGNATURE: _____

PRINTED NAME & TITLE: _____

DATE: _____

RESPONDENT LEGAL ENTITY NAME: _____

RESPONDENT FEDERAL EMPLOYER IDENTIFICATION NUMBER (or SSN): _____

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 documentation must be packaged separately as required (refer to RFP Section 3.2., *et. seq.*).	
		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.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 (*e.g.*, employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	A.3.	Provide a current bank reference indicating that the Respondent's business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.	
	A.4.	Provide two current positive credit references from vendors with which the Respondent has done business written in the form of standard business letters, signed, and dated within the past three (3) months.	
	A.5.	Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit rating for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will not be considered	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	**Item Ref.**	**Section A— Mandatory Requirement Items**	**Pass/Fail**
		responsive.)	
	A.6.	Respondent must provide documentation of its most recent audited financial statement. For the purposes of this RFP, "most recent" shall be defined as the Respondent's audited financial statement for the close of its most recent established fiscal year. Note: The State will recognize these financial statements as recent and valid if the documentation is dated up to nine (9) months following the close of the Respondent's most recent established fiscal year. This documentation must show certified evidence of the Respondent's access to at least 60 days' worth of operating capital. For the purposes of this RFP, operating capital shall be defined as the net amount after current liabilities are subtracted from current assets. This net amount must exceed, or be equal to, 60 days of the Responder's operating expenses.	
	A.7.	Provide an official, current copy of Respondent's accreditation from at least one of the following accreditation bodies: • Council On Accreditation (COA); and/or, • **Commission on Accreditation of Rehabilitation Facilities** (**CARF**); and/or, • Joint Commission on Accreditation of Healthcare Organizations (JCAHCO).	
	A.8.	Respondent must provide documented evidence of five (5) years or more of experience delivering direct care services and/or treatment to children and youth. The Respondent shall verify that these services and/or treatment have been delivered in the following setting(s), according to the contract applied for: • a licensed Residential Treatment Center (if applying for the Autism Spectrum/Neurodevelopmental Disorders contract); and/or, • a licensed Psychiatric Residential Treatment Facility (if applying for one or more of the SED or Autism Spectrum/ Neurodevelopmental Disorders Psychiatric Residential Treatment Facility contracts). In submitting this evidentiary information, the responder must provide the following: a. the name, title, telephone number and e-mail address of the contact responsible for the referenced contract(s); b. the name of the procuring entity; c. a brief description of the type(s) of services provided; and, d. the period of service delivery.	
	A.9.	Provide a listing of each Service Type the respondent will provide and attach copies of current licensure from the appropriate licensing entity (DCS, DMHSAS, etc.) for said Service Type. Please refer to **Attachment 1** for a	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	**Item Ref.**	**Section A— Mandatory Requirement Items**	**Pass/Fail**
		comprehensive list of Licensure requirements. Note: In the event that the Respondent does not hold current licensure for the intended service at the time of RFP submission, the Respondent may submit an affidavit detailing the intent to acquire current licensure for each applied for Service Type. No child or youth may be placed with a prospective respondent until such time as appropriate and current licensure has been acquired and submitted to the State. For the purposes of this RFP, the *Service Type(s) for which the Respondent(s) may submit a proposal are as follows: • Severely Emotionally Disturbed (SED) Psychiatric Residential Treatment Facility; • Severely Emotionally Disturbed (SED) Psychiatric Residential Treatment Facility (High Intensity – Heightened Supervision); • Autism Spectrum/Neurodevelopmental Disorders Psychiatric Residential Treatment Facility (Mid-Level Supervision); • Autism Spectrum/Neurodevelopmental Disorders Psychiatric Residential Treatment Facility (High Intensity – Heightened Supervision); and/or, • Autism Spectrum/Neurodevelopmental Disorders Residential Treatment *Please refer **Attachments A & B** for a more detailed description of each Service Type along with the per diem associated with that Service Type.	
	A.10.	Provide a signed statement attesting that the bed capacity offered in the respondent's proposal is a new or expanded source of bed capacity.	
	A.11.	Provide a brief overview that describes the Responder's training structure. Respondents must utilize **Attachment 2** in order to identify the components of their Pre-Service <u>and</u> In-Service training curricula and verify that the components of both mirror DCS training.	
	A.12.	Provide documentation verifying the Responder's utilization of *Evidenced-Based Programming (EBP) throughout its entire service array. Please reference **Attachment 3** of the RFQ document for guidance in documentation of EBP programming. * The Tennessee General Assembly has established TCA – 37.5.121 in order to ensure that all programs for the treatment, training and rehabilitation of juveniles employ proven evidence-based approaches in the delivery of services. Additional information related to this law can be located at: <u>http://www.state.tn.us/youth/providers/PC0585.pdf</u>	
	A.13.	Provide a guideline which describes your agency's process for performance evaluation of employees with case management responsibilities. Please	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	**Item Ref.**	**Section A— Mandatory Requirement Items**	**Pass/Fail**
		include a copy of your review tool.	
	A.14.	Respondent's Technical Response must not exceed one hundred fifty (!50) pages in length and all text must be at least a 12 point.	
State Use – Solicitation Coordinator Signature, Printed Name & Date:			

TECHNICAL RESPONSE & EVALUATION GUIDE

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

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

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	**Item Ref.**	**Section B— General Qualifications & Experience Items**
		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.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: (a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each; (b) a description of the scope and portions of the goods each subcontractor involved in the delivery of goods or performance of the services each subcontractor will perform; <u>and</u> (c) a statement specifying that each proposed subcontractor has expressly assented to being proposed as a subcontractor in the Respondent's response to this RFP.
	B.15.	Provide documentation of the Respondent's commitment to diversity as represented by the following: (a) <u>Business Strategy</u>. Provide a description of the Respondent's existing programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities, women, Tennessee service-disabled veterans, and small business enterprises. Please also include a list of the Respondent's certifications as a diversity business, if applicable. (b) <u>Business Relationships</u>. Provide a listing of the Respondent's current contracts with business enterprises owned by minorities, women, Tennessee service-disabled veterans and small business enterprises. Please include the following information: (i) contract description and total value; (ii) contractor name and ownership characteristics (*i.e.*, ethnicity, gender, Tennessee service-disabled); (iii) contractor contact name and telephone number. (c) <u>Estimated Participation</u>. Provide an estimated level of participation by business enterprises owned by minorities, women, Tennessee service-disabled veterans, and small business enterprises if a contract is awarded to the Respondent pursuant to this RFP. Please include the following information: (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

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	**Item Ref.**	**Section B— General Qualifications & Experience Items**
		characteristics only and **DO NOT INCLUDE DOLLAR AMOUNTS**); (ii) anticipated goods or services contract descriptions; (iii) names and ownership characteristics (i.e., ethnicity, gender, Tennessee service-disabled veterans) of anticipated subcontractors and supply contractors. 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 https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9265 for more information. (d) Workforce. Provide the percentage of the Respondent's total current employees by ethnicity and gender. 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.
	B.16.	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: (a) the name, title, telephone number and e-mail address of the State contact knowledgeable about the contract; (b) the procuring State agency name; (c) a brief description of the contract's scope of services; (d) the contract period; and (e) the contract number. NOTES: ▪ Current or prior contracts with the State are not a prerequisite and are not required for the maximum evaluation score, and the existence of such contracts with the State will not automatically result in the addition or deduction of evaluation points. ▪ Each evaluator will generally consider the results of inquiries by the State regarding all contracts noted.
	B.17.	Provide customer references from individuals (who are not current or former officials or staff of the State of Tennessee) for projects similar to the services sought under this RFP and which represent: ▪ two (2) of the larger accounts currently serviced by the Respondent, and ▪ three (3) completed projects. All references must be provided in the form of standard reference questionnaires that have been fully completed by the individual providing the reference as required. The standard reference questionnaire, which must be used and completed as required, is detailed at RFP Attachment 6.4. References that are not completed as required will be considered non-responsive and will not be considered. The Respondent will be solely responsible for obtaining the fully completed reference questionnaires, and for including them within the Respondent's sealed Technical Response. In order to obtain and submit the completed reference questionnaires, as required, follow the process detailed below. (a) Customize the standard reference questionnaire at RFP Attachment 6.4. by adding the subject

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	**Item Ref.**	**Section B— General Qualifications & Experience Items**
		Respondent's name, and make duplicates for completion by references. (b) Send the customized reference questionnaires to each individual chosen to provide a reference along with a new standard #10 envelope. (c) Instruct the person that will provide a reference for the Respondent to: (i) complete the reference questionnaire (on the form provided or prepared, completed, and printed using a duplicate of the document); (ii) sign <u>and</u> date the completed, reference questionnaire; (iii) seal the completed, signed, and dated, reference questionnaire within the envelope provided; (iv) sign his or her name in ink across the sealed portion of the envelope; and (v) return the sealed envelope containing the completed reference questionnaire 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). (d) <u>Do NOT open the sealed references upon receipt</u>. (e) Enclose all <u>sealed</u> reference envelopes within a larger, labeled envelope for inclusion in the Technical Response as required. NOTES: ▪ The State will not accept late references or references submitted by any means other than that which is described above, and each reference questionnaire submitted must be completed as required. ▪ The State will not review more than the number of required references indicated above. ▪ While the State will base its reference check on the contents of the sealed reference envelopes included in the Technical Response package, the State reserves the right to confirm and clarify information detailed in the completed reference questionnaires, and may consider clarification responses in the evaluation of references. ▪ The State is under <u>no</u> obligation to clarify any reference information.
	B.18.	Provide a statement and any relevant details addressing whether the Respondent is any of the following: (a) is presently debarred, suspended, proposed for debarment, or voluntarily excluded from covered transactions by any federal or state department or agency; (b) has within the past three (3) years, been convicted of, or had a civil judgment rendered against the contracting party from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (c) is presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed above; and has within a three (3) year period preceding the contract had one or more public transactions (federal, state, or local) terminated for cause or default.
	B.19.	Provide documentation of the Respondent's capacity to serve custodial children and youth in out-of-home care by submitting a detailed and accurate account of the Responder's bed capacity for each individual residential facility site and include the services that will be available at that location. Note: Responders must use **Attachment 4** to document this residential capacity.
	B.20.	Provide a brief overview that describes the Responder's internal structures that assess and monitor

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	**Item Ref.**	**Section B— General Qualifications & Experience Items**
		quality and risk within the agency.
	B.21.	Provide a brief overview of the Responder's clinical programming including the names of the clinical staff and their credentials.
	B.22.	Provide a statement detailing the services that will be provided to children/youth that enter your program with a High School Diploma, GED or *HiSET®* that will ensure independence and reintegration into the community.
SCORE *(for all Section B—Qualifications & Experience Items above)*: *(maximum possible score = 60)*		
State Use – Evaluator Identification:		

TECHNICAL RESPONSE & EVALUATION GUIDE

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

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

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

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

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	**Item Ref.**	**Section C— Technical Qualifications, Experience & Approach Items**	**Item Score**	**Evaluation Factor**	**Raw Weighted Score**
	C.1.	Provide a narrative that illustrates the Respondent's understanding of the State's requirements and project schedule.		**35**	
	C.2.	Provide a narrative that illustrates how the Respondent will complete the scope of services, accomplish required objectives, and meet the State's project schedule.		**35**	
	C.3.	Provide a narrative that illustrates how the Respondent will manage the project, ensure completion of the scope of services, and accomplish required objectives within the State's project schedule.		**30**	
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.			**Total Raw Weighted Score:** *(sum of Raw Weighted Scores above)*		
Total Raw Weighted Score / **Maximum Possible Raw Weighted Score** *(i.e., 5 x the sum of item weights above)*			**X 40** *(maximum possible score)*	**= SCORE:**	
State Use – Evaluator Identification:					
State Use – Solicitation Coordinator Signature, Printed Name & Date:					

RFP ATTACHMENT 6.3.

COST PROPOSAL & SCORING GUIDE

NOTICE:

This RFP does NOT include a provision for a Cost Proposal Evaluation. The contract types and their corresponding service per diem rates listed below are pre-established by the Department of Children's Services and are not subject to negotiation.

COST PROPOSAL SCHEDULE— The Cost, detailed below, shall indicate the 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. All monetary amounts are in U.S. currency.

CONTRACT TYPE	Rate Per child per day
Level 3 - Autism Spectrum-Neurodevelopmental Disorders Residential Treatment Center (L3 AS-ND RTC)	**$300.00**
Level 3 - Severely Emotionally Disturbed-Psychiatric Residential Treatment Facility (L3 SED-PRTF)	**$325.00**
Level 3 - Autism Spectrum-Neurodevelopmental Disorders Psychiatric Residential Treatment Facility – Mid-Level Intensity (L3 AS-ND PRTF Mid)	**$460.00**
Level 3 - Severely Emotionally Disturbed-Psychiatric Residential Treatment Facility – High Level Intensity (L3 SED-PRTF High)	**$565.00**
Level 3 - Autism Spectrum-Neurodevelopmental Disorders Psychiatric Residential Treatment Facility – High Level Intensity (L3 AS-ND PRTF High)	**$565.00**

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 # 35910-01475 REFERENCE QUESTIONNAIRE

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

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

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

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

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

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

NAME:	
TITLE:	
TELEPHONE #	
E-MAIL ADDRESS:	

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

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

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

	1	2	3	4	5	
least satisfied						**most satisfied**

RFP # 35910-01475 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.

	1	2	3	4	5	
least satisfied						**most satisfied**

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

RFP # 35910-01475 REFERENCE QUESTIONNAIRE — PAGE 3

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

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

	1	2	3	4	5	
least satisfied						**most satisfied**

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.

	1	2	3	4	5	
least satisfied						**most satisfied**

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: _____

RFP ATTACHMENT 6.5.

SCORE SUMMARY MATRIX

	RESPONDENT NAME		*RESPONDENT NAME*		*RESPONDENT NAME*	
GENERAL QUALIFICATIONS & EXPERIENCE (maximum: 60)						
EVALUATOR NAME						
EVALUATOR NAME						
REPEAT AS NECESSARY						
	AVERAGE:		**AVERAGE:**		**AVERAGE:**	
TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH (maximum: 40)						
EVALUATOR NAME						
EVALUATOR NAME						
REPEAT AS NECESSARY						
	AVERAGE:		**AVERAGE:**		**AVERAGE:**	
TOTAL RESPONSE EVALUATION SCORE: (maximum: 100)						

Solicitation Coordinator Signature, Printed Name & Date:

RFP ATTACHMENT 6.6.

RFP # 35910-01475 *PRO FORMA* CONTRACT

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

CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF CHILDREN'S SERVICES
AND
CONTRACTOR NAME

This Contract, by and between the State of Tennessee, Department of Children's Services (DCS) ("State") and Contractor Legal Entity Name ("Contractor"), is for the provision of Scope of Goods or Performance Based Residential Services for the Severely Emotionally Disturbed and Autism/Spectrum Neurodevelopmental Disorders, 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 shall maintain appropriate licensure required to provide the services covered by this contract. The Contractor must notify the Department of Children's Services (DCS) Contracts and Grants Management Division immediately, in writing, of any change in licensure status.

A.3. Services will be provided in accordance with the Service Types in Attachment A and Attachment B listed below and shall also meet all requirements for service delivery detailed in the DCS Provider Policy Manual (PPM). The PPM is incorporated herein by reference.

Attachment A – Residential Treatment Specialized: Severely Emotionally Disturbed (SED)
Attachment B – Residential Treatment Specialized: Autism Spectrum / Neurodevelopmental Disorders

Note: The PPM is updated on an as-needed basis. In order to provide any of the listed Service Types, the Respondent must meet the State's criteria for providing said Service Type as prescribed in the most current iteration of the PPM. This would include any changes or additions to the PPM that may subsequently be made during term of the Respondent's existing contract(s).

A.4. DCS shall evaluate each Contractor at fixed intervals to ensure accountability, cost-effectiveness of service provision and achievement of positive outcomes for children and families as evidenced by both qualitative as well as quantitative performance measurement as defined by DCS.

Ongoing performance measurement will contain the evaluation of two (2) distinct cohorts (In-Care and Admissions populations) as defined in the "Commonly Used Performance-Based Contracting Definitions" section on page six [6]). Time frames for these PBC outcome evaluations are described below.

All children and youth being served by the provider at the beginning of the contract cycle will make up the provider's In-Care population. Evaluation of the In-Care cohort's outcomes will occur at the close of the second full fiscal year of performance (FY 2016-17).

All children and youth admitted in FY 2015-16 and in subsequent fiscal years will make up the provider's Admissions populations. All Admission cohorts will be evaluated at the close of the second full fiscal year <u>following the year of their admission</u>. For instance, all children admitted <u>at any time</u> during the 2015-16 fiscal year would not be scheduled for an outcome evaluation until the close of the 2017-18 fiscal year on 06/30/18.

It should also be noted that any Contractor having no previous history of service to DCS custodial youth as a primary Contractor shall only be held responsible for PBC outcomes relative to their FY 2015-16 (and subsequent fiscal years') admissions. Any PBC financial calculation regarding those individual populations will be made at the close of that population's three-year evaluation period.

A.5. DCS shall evaluate the Contractor in the following areas as detailed in the DCS Provider Policy Manual (PPM) including any changes or additions that may subsequently be made:

a. Child Safety
b. Movement
c. Permanency/Successful Program Completion
d. Family Involvement
e. Reporting and Compliance

A.6. The Contractor shall work in compliance with the system DCS is developing for continuous quality improvement, which includes, but is not limited to, the Quality Service Review, the DCS Balanced Scorecard and all other mechanisms established for the ongoing monitoring and evaluation of Contractor performance.

A.7. The Contractor must request a Child & Family Team Meeting (CFTM) from the DCS Home County Family Service Worker (FSW) prior to the move of a child. Notification of emergency moves must be in accordance with the DCS PPM and reported the next business day with an immediate request for a CFTM.

A move is considered any change in placement (internal and external to the agency) location, with the exception of temporary breaks in service, as further defined in the DCS PPM and incorporated herein by reference.

A.8. The Contractor must report the movement of all children within 24 hours of the move occurrence in the DCS's system of record or any alternative method developed by the Department to report placement moves.

A.9. If resource home services are provided as a part of this contract, the Contractor will place children only in resource homes that are in full compliance with the safety requirements detailed in the DCS PPM.

A.10. The Contractor shall incorporate and accept the Child & Adolescent Needs and Strengths (CANS) assessment analysis for establishing a level of care recommendation.

A.11. The Contractor shall utilize the Department's established system of record to document information pertaining to the child and family in accordance with the DCS PPM.

A.12. The Contractor shall be required to identify for each child served the proper International Classification of Diseases code, 10th Version (ICD 10).

A.13. The Contractor shall report all face-to-face (F2F) contact information on every child currently placed with the Contractor into the DCS system of record as outlined in the DCS PPM. The F2F contact information must be submitted to DCS through the system of record and must include child specific identifying information related to the following:

a. The numbers of F2F contact between custodial child and siblings;

b. The numbers of F2F contacts with parent(s) or adults identified as potential permanency placement on permanency plan;

c. The numbers of children and families involved in service planning;

d. The numbers of F2F contacts between custodial child and Contractor Case Manager; and,

e. The numbers of F2F contacts between custodial child on a trial home visit and Contractor Case Manager.

A.14. 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.14. 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.15. kidcentraltn

a. Under the guidance of their Gatekeeper, Contractor/Grantee shall create and maintain an agency program profile in the designated state services directory located at www.kidcentraltn.com. Contractor/Grantee may have more than one service which is appropriate for the directory. The Gatekeeper will provide instructions for which services should be included in the directory. Contractor/Grantee shall update its agency program profile(s) in the designated state services directory at least every six months. In addition, Contractor/Grantee shall update its agency program profile(s) within ten (10) business days of any change in information.

   For the purposes of this section, Gatekeeper shall be the person designated by State to do the following tasks: 1)invite Contractor/Grantee to create a profile; 2)review, approve, and publish program profiles created by Contractor/Grantee; and 3)monitor update activity.

b. If Contractor/Grantee has a website, they must link to www.kidcentraltn.com from an appropriate section of that website. If Contractor/Grantee would like to link to specific features of the kidcentral tn website such as the My Profile, Mobile App, Facebook, or State Services Directory features, State can provide specific copy, links, and images for those features.

   If Contractor/Grantee uses State funds to develop or distribute materials (print or electronic) intended for parents, families, children, or professionals working directly with children or families, Contractor/Grantee must place the kidcentral tn logo on those materials. Examples of covered materials would include brochures, flyers, posters, and promotional postcards or mailers. State provides the kidcentral tn logo at the following link http://tn.gov/generalserv/ba09p/. If Contractor/Grantee would like to apply the full kidcentral tn brand to print materials such as brochures, flyers, posters, or postcards, State also provides those templates at the following link http://tn.gov/generalserv/ba09p/.

This kidcentral tn logo requirement does not apply to materials that have already been printed or designed. This kidcentral tn logo requirement does not apply to materials that originate from the federal government, national organizations, or other groups where Contractor/Grantee serves as a pass through of those materials. The kidcentral tn logo should not be applied to individualized correspondence or individualized materials which are intended for a single family or professional and should not be applied to materials where the subject is purely administrative, such as materials about rules, sanctions, regulations, or enforcement.

B. TERM OF CONTRACT:

This Contract shall be effective on August 16, 2015 ("Effective Date") and extend for a period of twenty-two (22) months, 15 days 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 the authorized number of children/youth served times the number of days services were provided times the level of service rate (youth served X number of days X rate). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

C.2. Compensation Firm. The payment methodology in Section C.3. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.

a. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.

b. The Contractor shall be compensated based upon the following payment methodology:

Goods or Services Description	**Amount** (per child per day)
Level 3 - Autism Spectrum-Neurodevelopmental Disorders Residential Treatment Center (L3 AS-ND RTC)	**$300.00**
Level 3 - Severely Emotionally Disturbed-Psychiatric Residential Treatment Facility (L3 SED-PRTF)	**$325.00**
Level 3 - Autism Spectrum-Neurodevelopmental Disorders Psychiatric Residential Treatment Facility – Mid-Level Intensity (L3 AS-ND PRTF Mid)	**$460.00**
Level 3 - Severely Emotionally Disturbed-Psychiatric Residential Treatment Facility – High Level Intensity (L3 SED-PRTF High)	**$565.00**

Level 3 - Autism Spectrum-Neurodevelopmental Disorders Psychiatric Residential Treatment Facility – High Level Intensity (L3 AS-ND PRTF High)	**$565.00**

c. A "day" shall be defined as any period of time in the 24-hour period of a calendar day. The Contractor shall be paid the full rate per day per client placed with the Contractor, EXCEPT the Contractor shall NOT be paid any amount for the day that the client is removed from the placement with the Contractor.

d. Re-Investment Methodology. The State shall re-invest state dollar savings with the Contractor based on the achievement of pre-established outcomes. The percentage of State dollar savings to be re-invested with the Contractor and any Contractor remittance of DCS expended funds back to the State for unsuccessful outcomes are defined in the following table:

NOTE: Negative percentages reflect Contractor remittance of DCS expended funds back to the State due to overutilization of care days relative to baseline.		Contractor remittance of DCS expended funds back to the State	State Re-Investment of State Dollar Savings	
		Care Days Equal to or Greater than Baseline	Care Days Less than Baseline	Care Days Equal to or Less than Target
10	Exits to permanency less than baseline and re-entries greater than baseline	-100%	80%	90%
11	Exits to permanency less than baseline and re-entries less than baseline range and greater than targeted re-entries	-90%	90%	100%
12	Exits to permanency less than baseline and re-entries less than or equal to targeted re-entries	-85%	95%	105%
13	Exits to permanency greater than baseline and less than targeted exits to permanency and re-entries greater than baseline range	-90%	90%	100%
14	Exits to permanency greater than baseline and less than targeted exits to permanency and re-entries less than baseline range and greater than targeted re-entries	-80%	100%	110%
15	Exits to permanency greater than baseline and less than targeted exits to permanency and re-entries less than or equal to targeted re-entries	-75%	105%	115%

16	Exits to permanency greater than targeted exits to permanency and re-entries equal to or greater than baseline range	-90%	90%	100%
17	Exits to permanency equal to or greater than targeted exits to permanency and re-entries less than baseline range and greater than targeted re-entries	-75%	105%	115%
18	Exits to permanency greater than targeted exits to permanency and re-entries equal to or less than targeted re-entries	-70%	110%	120%

Baseline performance under which PBC providers will be evaluated will be separated into the three (3) Grand Regions of the state: East, Middle and West. This will allow for a more accurate evaluation of service provision within these three distinct geographic areas. It will also serve to align the PBC performance evaluation window with the contract term.

The schedule for PBC Grand Regional performance evaluation will take place at the time intervals outlined in Section A.4.

PBC baselines for this Grand Regional configuration were constructed utilizing the following geographic boundaries:

East Grand Region – East Region, Knox Region, Northeast Region, Smoky Mountain Region, Tennessee Valley Region.

Middle Grand Region – Mid-Cumberland Region, Davidson Region, Upper Cumberland Region, South Central Region.

West Grand Region – Shelby Region, Southwest Region, Northwest Region.

Compensation for re-investment dollars will be paid to the Contractor at the close of any given performance window. Contractor remittance of DCS expended funds back to the State will be netted against payments.

All PBC performance outcomes (Exits, Care Days and Re-entries) will continue to be monitored throughout the term of the contract. Performance expectations will continue to be based on historical performance relative to pre-established Grand Regional PBC baselines.

Commonly Used Performance-Based Contracting Definitions:

In-Care Population - The In-Care population consists of all children and youth being served by the Contractor as of the first day (July 1st) of the initial fiscal year of operation under a performance-based contract. This is a fixed population and at such time as the final In-Care child or youth exits care, outcomes for this population are then concluded. Children who were receiving services in their home at the start of the initial fiscal year of operation under a performance-based contract are not included in the In-Care counts, nor in the performance targets.

Fourth Year In-Care and Admit Population – Those youth *remaining* in a provider's care from their original in-care population as well as their first year admissions population and *any subsequent admission population entering its fourth fiscal year*, will not be eligible for the banking of care days in prospective years beginning in the fourth year of a provider's participation under a performance-based contract.

Beginning in the fourth contract year, new baselines for this group will be set utilizing the expected performance for existing populations. Although these youth are not eligible for the banking of care days, providers ***will*** be able to generate re-investment funds as well as incur financial penalties relative to performance just as with any other population.

Baselines - Baselines express performance expectations relative to population (In-Care and Admissions), strata (age, adjudication, intellectual functioning) and geography (East, Middle and West Grand Regions). Baselines are created using historical data taken from the system of record and reflect the traditional or normal pattern of out-of-home care utilization. All PBC providers are evaluated using these uniform, "network-wide" baseline expectations.

Baseline Admissions - The expected number of children admitted to the Contractor during the fiscal year, based on the historical number of annual admissions.

Baseline Care Days –The average number of expected bed days a Contractor would be anticipated to use for any one given youth within a three fiscal year window according to assigned Strata and Grand Regional affiliation. This three year window begins during the child's initial year of admission. This window ends at the close of the third fiscal year from the child's original admissions year.

Baseline Exits to Permanency – The number and percent of children, from the corresponding in care and admission populations, a Contractor would be expected to exit from out-of-home care, within a three fiscal year window according to assigned Strata and Grand Regional affiliation, to permanency (as defined in this section).

Baseline Re-Entries – The number and percent of children discharged to permanency who may be expected to return to care, given historical performance. For purposes of estimating the reentry to care, return to out-of-home care means any child who returns to out of home care from a permanent exit, whether the foster home is supervised by DCS, or a Contractor. For purposes of calculating the re-entry rate, the base includes children discharged to permanency from either the in care or admission population within the fiscal year, who returns to care with one year of their discharge to permanency. Re-entries (as defined above) will continue to be tracked against the historical performance in the next fiscal year.

Baseline Re-Entries Range – A plus or minus range built around the baseline re-entry rate that captures variation in the re-entry rate observed at the agency level. The range is intended to reflect the fact that factors beyond the control of an agency (e.g., sibling groups) may influence the re-entry rate.

Refreshing Baselines – Baselines for performance are periodically "refreshed". This refreshing consists of dropping the oldest year of the initial baseline performance years data from the calculation and adding the most recent full fiscal year of performance. The window for the baselines will remain an aggregate of three (3) full fiscal years but will be refreshed in this way every subsequent three (3) years hereafter in order to more accurately reflect the expectations attached to certain fixed populations.

Initial baselines for performance are calculated utilizing a provider's last three (3) full fiscal year's worth of data regarding the outcomes of permanent exits, care days used and re-entry into care. This refreshing of baselines is only ever applicable to prospective populations and does not affect the treatment of prior existing in-care or admissions populations.

Targeted Care Days –The total number of out-of-home care days a Contractor is expected to provide given improvements in outcomes for children (i.e., safety and permanency). The difference between the target care days and the baseline care days, expressed as a percentage, is the performance improvement for purposes of calculating the reimbursement.

Targeted Exits to Permanency – The number and percent of children for whom a Contractor can be projected to achieve a permanent exit, given improvement in performance.

Targeted Re-Entries - The number and percentage of returns to out of home care after a successful exit to permanency within one fiscal year.

Re-Entry to Custody – Any child that has a permanent exit from care and returns to custody within one (1) year.

Exits to Permanency – All exits that are intended to provide the child with a stable, permanent family: reunification, guardianship and adoption.

Primary Treatment Center (PTC) & Enhanced Services – The approach for handling the fiscal calculation for these youth (at any provider offering PTC services or enhanced services) will be as follows:

Primary Treatment Centers: In their first (admission) year, the baselines and actuals are calculated using the current PTC rate. For those youth remaining with that provider into the next fiscal year (and for the original in-care population) the calculation will be made as follows:

The calculation for actuals will use the rate associated with the contract type on which the youth was placed following their stay in the PTC; and,

The baselines will be calculated using a method that applies a weighted distribution to the projected baseline population that reflects where PTC youth in the admission population were actually placed following the PTC stay.

Example: An admission cohort includes 25 Level II Continuum spells, 25 Level III Continuum spells and 50 PTC spells.

Upon completion of their PTC stay, 10 youth were placed in the provider's Level III Continuum and the remaining 40 went to their Level II Continuum. In this scenario the baselines will be calculated assuming 35% Level III Continuum and 65% Level II Continuum (this is done within strata).

Enhanced Services: Certain enhanced services have been designed with a time-limited stay in order to more effectively apply those services and to allow for more rapid movement of youth through the system.

Those youth leaving service from an enhanced contract and transferring to another provider will be dropped altogether from that provider's PBC outcomes. They will not, from a PBC standpoint, appear as ever having been served by the enhanced services provider. Youth leaving service from an enhanced contract and being placed on another of the enhanced provider's contracts ***will*** be a part of that provider's PBC outcomes.

In their first (admission) year, the baselines and actuals are calculated using the current enhanced contract rate. For those remaining with that provider into the next fiscal year (and for the original in-care population) the calculation will be made utilizing the rate associated with the contract type on which the youth was placed following their stay in the enhanced program.

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:

Payables
Department of Children's Services
7th Floor Cordell Hull Building
436 6th Avenue North
Nashville, TN 37243-1290

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: DCS Network Development;
(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 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. 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:

Susan Mitchell, Executive Director Network Development
Tennessee Department of Children's Services
8th Floor, Cordell Hull Building
436 6th Avenue North
Nashville, TN 37243
Susan.Mitchell@tn.gov
Phone: 615-741-0461
Fax: 615-532-1130

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 C, 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. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance.

a. The Contractor shall maintain, at minimum, the following insurance coverage:

(1) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars ($1,000,000) per occurrence for employers' liability whichever is greater.

(2) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) aggregate.

(3) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than one million dollars ($1,000,000) per occurrence.

(4) Errors and Omission Coverage with a limit of not less than one million dollars ($1,000,000) per claim and two million dollars ($2,000,000) aggregate.

c. The Contractor shall provide a valid Certificate of Insurance naming the State as an additional insured and detailing Coverage Description; Insurance Company & Policy Number; Exceptions and Exclusions; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability; and Name and Address of Insured. Contractor shall obtain from Contractor's insurance carrier(s) and will deliver to the State waivers of the subrogation rights under the respective policies. Failure to provide required evidence of insurance coverage shall be a material breach of this Contract.

E.3. 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.4. 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.5. 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.6. Public Accountability. If the Contractor is subject to Tenn. Code Ann. §§ 8-4-401, *et seq*., or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about Contractor's operation of the service program. The Contractor shall also display in a prominent place, located near the passageway through which the public enters in order to receive contract-supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating the following:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY THAT YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454

The sign shall be of the form prescribed by the Comptroller of the Treasury. The contracting state agency shall request copies of the sign from the Comptroller of the Treasury and provide signs to contractors.

E.7. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.

E.8. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

a. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

E.9. Liquidated Damages. If the Contractor fails to deliver services in accordance with the scope of services and the DCS Provider Policy Manual, ("Liquidated Damages Event"), the State may assess damages on Contractor ("Liquidated Damages"). The State shall notify the Contractor of amounts to be assessed as Liquidated Damages. The Parties agree that due to the complicated nature of the Contractor's obligations under this Contract it would be difficult to specifically designate a monetary amount for Contractor's failure to fulfill its obligations regarding the Liquidated Damages Event as these amounts are likely to be uncertain and not easily proven. Contractor has carefully reviewed the Liquidated Damages contained in Attachment D and agrees that these amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of a Liquidated Damages Event, and are a reasonable estimate of the damages that would occur from a Liquidated Damages Event. The Parties agree that the Liquidated Damages represent solely the damages and injuries sustained by the State in losing the benefit of the bargain with Contractor and do not include any injury or damage sustained by a third party. The Contractor agrees that the Liquidated Damages are in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or any other sections of this Contract.

The State is not obligated to assess Liquidated Damages before availing itself of any other remedy. The State may choose to discontinue Liquidated Damages and avail itself of any other remedy available under this Contract or at law or equity.

E.10. Partial Takeover of Contract. The State may, at its convenience and without cause, exercise a partial takeover of any service that the Contractor is obligated to perform under this Contract, including any service which is the subject of a subcontract between Contractor and a third party (a "Partial Takeover"). A Partial Takeover of this Contract by the State shall not be deemed a breach of contract. The Contractor shall be given at least thirty (30) days prior written notice of a Partial Takeover. The notice shall specify the areas of service the State will assume and the date the State will be assuming. The State's exercise of a Partial Takeover shall not alter the Contractor's other duties and responsibilities under this Contract. The State reserves the right to withhold from the Contractor any amounts the Contractor would have been paid but for the State's exercise of a Partial Takeover. The amounts shall be withheld effective as of the date the State exercises its right to a Partial Takeover. The State's exercise of its right to a Partial Takeover of this Contract shall not entitle the Contractor to any actual, general, special, incidental, consequential, or any other damages irrespective of any description or amount.

E.11. Unencumbered Personnel. The Contractor shall not restrict its employees, agents, subcontractors or principals who perform services for the State under this Contract from performing the same or similar services for the State after the termination of this Contract, either as a State employee, an independent contractor, or an employee, agent, subcontractor or principal of another contractor with the State.

E.12. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify and/or procure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

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

addition to any claims or remedies available to this State under this Contract or otherwise available at law.

E.13. Federal Funding Accountability and Transparency Act (FFATA). This Contract requires the Contractor to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Contractor provides information to the State as required.

The Contractor shall comply with the following:

a. Reporting of Total Compensation of the Contractor's Executives.

(1) The Contractor shall report the names and total compensation of each of its five most highly compensated executives for the Contractor's preceding completed fiscal year, if in the Contractor's preceding fiscal year it received:

i. 80 percent or more of the Contractor's annual gross revenues from federal procurement contracts and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
ii. $25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and subawards); and
iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.).

As defined in 2 C.F.R. § 170.315, "Executive" means officers, managing partners, or any other employees in management positions.

(2) Total compensation means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 C.F.R. § 229.402(c)(2)):

i. Salary and bonus.
ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
v. Above-market earnings on deferred compensation which is not tax qualified.
vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

b. The Contractor must report executive total compensation described above to the State by the end of the month during which this Contract is awarded.

c. If this Contract is amended to extend the Term, the Contractor must submit an executive total compensation report to the State by the end of the month in which the term extension becomes effective.

d. The Contractor will obtain a Data Universal Numbering System (DUNS) number and maintain its DUNS number for the term of this Contract. More information about obtaining a DUNS Number can be found at: http://fedgov.dnb.com/webform/

The Contractor's failure to comply with the above requirements is a material breach of this Contract for which the State may terminate this Contract for cause. The State will not be obligated to pay any outstanding invoice received from the Contractor unless and until the Contractor is in full compliance with the above requirements.

E.14. 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. This Contract document with any attachments or exhibits (excluding the items listed at subsections b. through d., below);

b. The Brian A. Modified Settlement Agreement;

c. The Department of Children's Services Policy;

d. The document entitled "DCS Provider Policy Manual" including any changes or additions that may subsequently be made, herein attached by reference.

E.15. Occupancy. The Contractor acknowledges that this is a fee-for-service Contract and that neither the State nor the Contractor can guarantee full occupancy.

E.16. First Amendment. The Contractor does not waive its rights under the First Amendment to the United States Constitution.

E.17. Drug -Free Workplace. The Grantee shall provide a drug-free workplace pursuant to the "Drug-Free Workplace Act," 41 U.S.C. §§ 8101 through 8106, and its accompanying regulations.

E.18. Financial Information Required. The State must comply with the Office of Management and Budget Circular (OMB) A-87 to claim reimbursement for a portion of the cost of payments made under this Contract from the federal government under Title IV-E and/or Title XIX. Information will be periodically required to be submitted by the Contractor to enable the State to comply with OMB A-87 and facilitate the submission of claims to the federal government in accordance with DCS' federally approved cost allocation plan. The Contractor will be notified at the time documentation is requested of the date by which the submission is required. The Contractor shall complete a cost report using the best information available in accordance with the cost reporting instructions. The documentation to be submitted by the Contractor shall include, but is not limited to:

a. Annual Contracted Providers Cost Report completing the forms and following the directions provided by the State;

b. Program description and two weekly schedules;

c. Most recently audited financial statement with audit opinion for the audited period;

d. Reconciliation of the Cost Report to the independent audit; and

e. Letter under separate cover from independent auditor addressing whether the cost allocation method used by the Contractor in the Cost Report appears to be reasonable.

Failure to submit the above-stated documentation on the specified date shall be deemed a breach of the Contract and the State shall have the right to terminate the Contract for cause under Section D.4. of the Contract, or to consider such failure a Partial Default.

E.19. Supplemental Conflict of Interest. The Contractor shall not have as any owner, member of the board of directors, or member of the board of trustees, a person who also holds any other position that may influence the placements provided to children in the plaintiff class of Brian A. v. Haslam . Such positions include, but are not limited to juvenile court judges, referees, or other court officers involved in the individual cases of children in foster care.

E.20. Title VI of the Civil Rights Act of 1964. The Contractor shall adhere to the requirements of Title VI of the Civil Rights Act of 1964, as codified in 42 U.S.C. 2000d, which states that "No person in the United States shall, on the ground of race, color or national origin be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance." The Contractor shall have in place or available a process to assist qualified persons of the provided service who may be limited in their English proficiency (LEP).

The Contractor shall deliver to the State on or before July 31st of each fiscal year an implementation plan that describes the Contractor's long-range goals and objectives that will guide the Contractor's efforts to ensure compliance with Title VI of the Civil Rights Act of 1964 pursuant to the guidelines established by the Tennessee Human Rights Commission's Title VI Compliance Program. Title VI plans must be submitted no later than July 31st of each year to:

Director of the Office of Civil Rights
Tennessee Department of Children's Services

E.21. Supplemental Subcontracting. In accordance with the Brian A. Settlement Agreement (specifically, the Racial Disparities Study conducted by Dr. Ruth McRoy) the State is actively working toward decreasing the racial disparity between service providers and target service populations. To help correct this disparity, the State strongly recommends, in situations where subcontracts are necessary, that the Contractor subcontract for services with minority owned or operated subcontractors that can assist the Contractor in meeting the needs of the children and families that are served. The State requires the Contractor to support the State's commitment to achieving diversity and developing programs that reflect the diversity of the population served.

E.22. Monitoring Sub-Contractors. The Contractor shall develop written procedures for monitoring all of its State-approved subcontractors. The procedures must clearly outline the process for assuring that all subcontractors are in compliance with the DCS and Provider Policy Manuals and the subcontracting guidelines detailed at the following web site:
http://www.state.tn.us/youth/providers/prov_policies.htm

The Contractor shall have an established quality assurance/quality improvement plan for all subcontractors.

The Contractor shall also maintain an internal quality improvement process that assesses the overall quality and performance of its subcontractors.

E.23. Working Capital. The Contractor must have a minimum of sixty (60) days working capital in the event payment to the Contractor is interrupted by an emergency or for reasons beyond the Contractor's control to ensure continuity of operations. Working capital must be documented by a review of the Contractor's balance sheet and income statement. Working capital is defined as current assets minus current liabilities. Current assets may include marketable securities as long as they have not been legally pledged against a long term equity interest. Credit lines are not working capital.

Working capital requirements shall be met at the time of initial contracting and maintained during subsequent contracting periods. In the event working capital declines below the sixty (60) day

requirement, the Contractor shall be placed on probation and the Contract will be subject to cancellation at the discretion of the State.

E.24. Financial Statements. The Contractor shall submit to the State independently audited financial statements containing an auditor's report reflecting the auditor's opinion that the statements are presented fairly and found to be in conformity with generally accepted accounting principles. The independent audit must have been performed by a certified public accounting firm in good standing with the American Institute of Certified Public Accountants (AICPA). The financial statements must be complete, and include all statements and notes to the statements as contained within the audit report. The financial statements and audit report shall be submitted within nine (9) months of the Contractor's reporting period to:

Department of Children's Services
Cordell Hull Building, 7th Floor Fiscal Division
436 6th Avenue North
Nashville, TN 37243-3000

The financial statements must represent the Contracting entity. Where the financial statements are for a parent company of the entity providing the service, the Contract must be in the name of the parent company and signed by an authorized representative of the parent company. The entity providing the service may be identified within the Contract as the service provider; however, financial responsibility will belong to the parent company.

E.25. Contractor Gatekeeper Contact. The Contractor shall provide information to the Child Placement & Private Provider's Division (CPPP) relative to the Contractor's gatekeeper or representative empowered to make placement decisions on behalf of the Contractor to allow access to placement 24 hours a day seven days a week to DCS. The information to be provided is as follows: gatekeeper/representative name(s); title; direct telephone number(s), cell phone number and/or pager number(s).

E.26. Performance Standards. The Contractor hereby acknowledges and agrees that its performance under this Contract shall meet the standards set forth in Section A of this Contract, the DCS Provider Policy Manual (PPM), DCS Policy, the Brian A. Settlement Agreement, and the conditions set forth in this Contract. If the Contractor fails to meet these standards, the State, at its exclusive option, may allow up to six (6) months for the provider to achieve compliance with the standards. If performance deficiencies are not resolved to the satisfaction of the State within the prescribed time, and if no extenuating circumstances can be documented by the Contractor to the State's satisfaction, the State may cancel the Contract at the State's discretion.

E.27. Notification of Closure. The Contractor shall notify the State of the closure of its agency or facility no less than thirty (30) days prior to the actual date of closure. Failure to provide the State thirty (30) days written notice of the Contractor's intent to close its operations or any part of its operation shall be considered a breach of this Contract.

E.28. Closure Transition. Within thirty (30) days from the closure notification date, the Contractor shall work with the State to transition all custodial youth placed with the Contractor, shall reconcile all records, transfer case files to DCS, and complete the Contract transition.

E.29. State Ownership of Case Files. The State shall have ownership, right, title, and interest in all case files created, designed, developed, derived, documented, installed, or maintained on behalf of the State pursuant to this Contract. The State shall have unlimited rights to all said case files. The Contractor shall furnish such information and data upon the request of the State, in accordance with this Contract and applicable State law.

E.30. Permanent Education Records. The Contractor shall maintain educational records permanently. These records shall be cut off at discharge or graduation. If the Contractor's school ceases operation, or the State ceases to contract with the Contractor, the permanent educational records

for students who have been in State custody shall be forwarded to the State by the Contractor. The Contractor shall bear all costs for the transfer of all records.

Both paper and electronic media shall be included. Records include, but are not limited to: institution academic transcripts, grade reports, records of grade changes, copies of GED Certificates or State issued diplomas/certificates of any kind, standardized examination reports, birth records, grade point average (GPA), class rank, letters of recommendation and related documentation and correspondence.

Records from closed Contractor schools shall be forwarded at least five (5) business days prior to closure to:

DCS Records Management
Attn/ Records Officer
460 Metroplex Drive, Suite 210
Nashville, TN 37211

E.31. Mergers, Dissolutions, Partnerships & Joint Ventures. As would be the case with any agency dissolution, merger, or acquisition, the agency and the State have financial responsibilities requiring resolution. The Contractor is required to provide ninety (90) days notification prior to any dissolution, merger, or acquisition.

In the event an agency is dissolved, the State maintains rights to assets (representing accounts payable/reinvestment due to the State) as may be distributed voluntarily or by court action. Additionally, the State acknowledges its responsibility for its liabilities (representing accounts payable/reinvestment due to the Contractor).

In the event an agency is merged or acquired by another agency/entity then the due to/from financial responsibilities shall be commensurate with the Articles to the Merger or Acquisition.

E.32. Prison Rape Elimination Act (PREA). The Contractor shall comply with the Prison Rape Elimination Act of 2003 (42 U.S.C. § 15601 *et seq.*), and with all applicable PREA standards and DCS policies related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse in facilities owned, operated or subcontracted by the Contractor. Contractor acknowledges that, in addition to self-monitoring requirements, DCS will conduct announced and unannounced on-site compliance monitoring. Failure to comply with PREA, PREA Standards, or relevant DCS policies may result in termination of the contract.

E.33. HIPPA and HITECH Compliance. As a party to this Contract, the Contractor hereby acknowledges its designation as a covered entity and/or business associate under the HIPAA regulations and agrees to comply with all applicable HIPAA and HITECH (hereinafter "HIPAA/HITECH") regulations. In accordance with HIPAA/HITECH regulations, the Contractor shall, at a minimum:

a. Comply with requirements of the Health Insurance Portability and Accountability Act of 1996 and the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH), including, but not limited to, the transactions and code sets, privacy, security, and identifier regulations, by their designated compliance dates. Compliance includes meeting all required transaction formats and code sets with the specified data sharing agreements required under the regulations;

b. Transmit/receive from/to its providers, subcontractors, clearinghouses and TennCare all transactions and code sets required by the HIPAA/HITECH regulations in the appropriate standard formats, utilizing appropriate and adequate safeguards, as specified under the law and as directed by TennCare so long as TennCare direction does not conflict with the law;

c. Agree that if it is not in compliance with all applicable standards defined within the transactions and code sets, privacy, security and all subsequent

HIPAA/HITECH standards, that it will be in breach of this Contract and will then take all reasonable steps to cure the breach or end the violation as applicable. Since inability to meet the transactions and code sets requirements, as well as the privacy and security requirements can bring basic business practices between TennCare and the Contractor and between the Contractor and its providers and/or subcontractors to a halt, if for any reason the Contractor cannot meet the requirements of this Section, TennCare may terminate this Contract in accordance with the Business Associate Agreement ancillary to this Contract;

d. Ensure that Protected Health Information (PHI) exchanged between the Contractor and TennCare is used only for the purposes of treatment, payment, or health care operations and health oversight and its related functions. All PHI not transmitted for these purposes or for purposes allowed under the federal HIPAA/HITECH regulations shall be de-identified to secure and protect the individual enrollee's PHI;

e. Report to TennCare's Privacy Office immediately upon becoming aware of any use or disclosure of PHI in violation of this Contract by the Contractor, its officers, directors, employees, subcontractors or agents or by a third party to which the Contractor disclosed PHI;

f. Specify in its agreements with any agent or subcontractor that will have access to PHI that such agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to the Contractor pursuant to this Section;

g. Make available to TennCare enrollees the right to amend their PHI in accordance with the federal HIPAA regulations. The Contractor shall also send information to enrollees educating them of their rights and necessary steps in this regard;

h. Make an enrollee's PHI accessible to TennCare immediately upon request by TennCare;

i. Make its internal policies and procedures, records and other documentation related to the use and disclosure of PHI available to the U.S. Secretary of Health and Human Services for the purposes of determining compliance with the HIPAA/HITECH regulations upon request;

j. Create and adopt policies and procedures to periodically audit adherence to all HIPAA/HITECH regulations, and for which Contractor acknowledges and promises to perform, including but not limited to, the following obligations and actions:

    1. Agree to ensure that any agent, including a subcontractor, to whom it provides PHI that was created, received, maintained, or transmitted on behalf of TennCare agrees to use reasonable and appropriate safeguards to protect the PHI.

    2. If feasible, return or destroy all PHI, in whatever form or medium (including any electronic medium) and all copies of any data or compilations derived from and allowing identification of any individual who is a subject of that PHI upon termination, cancellation, expiration or other conclusion of the Agreement, and in accordance with this Section of this Contract. The Contractor shall complete such return or destruction

as promptly as possible, but not later than thirty (30) days after the effective date of the termination, cancellation, expiration or other conclusion of the Agreement. The Contractor shall identify any PHI that cannot feasibly be returned or destroyed. Within such thirty (30) days after the effective date of the termination, cancellation, expiration or other conclusion of the Agreement, the Contractor shall: (1) certify on oath in writing that such return or destruction has been completed; (2) identify any PHI which cannot feasibly be returned or destroyed; and (3) certify that it will only use or disclose such PHI for those purposes that make its return or destruction infeasible;

3. Implement all appropriate administrative, physical and technical safeguards to prevent the use or disclosure of PHI other than pursuant to the terms and conditions of this Contract and, including, but not limited to, privacy, security and confidentiality requirements in 45 CFR Parts 160 and 164;
4. Set up appropriate mechanisms to limit use or disclosure of PHI to the minimum necessary to accomplish the intended purpose of the use or disclosure;
5. Create and implement policies and procedures to address present and future HIPAA/HITECH regulatory requirements as needed, including, but not limited to: use and disclosure of data; de-identification of data; minimum necessary access; accounting of disclosures; enrollee's right to amend, access, request restrictions; notice of privacy practices and right to file a complaint;
6. Provide an appropriate level of training to its staff and employees regarding HIPAA/HITECH-related policies, procedures, enrollee rights and penalties prior to the HIPAA/HITECH implementation deadlines and at appropriate intervals thereafter;
7. Track training of Contractor staff and employees and maintain signed acknowledgements by staff and employees of the Contractor's HIPAA/HITECH policies;
8. Be allowed to use and receive information from TennCare where necessary for the management and administration of this Contract and to carry out business operations where permitted under the regulations;
9. Be permitted to use and disclose PHI for the Contractor's own legal responsibilities;
10. Adopt the appropriate procedures and access safeguards to restrict and regulate access to and use by Contractor employees and other persons performing work for the Contractor to have only minimum necessary access to PHI and personally identifiable data within their organization;
11. Continue to protect and secure PHI AND personally identifiable information relating to enrollees who are deceased;
12. Be responsible for informing its enrollees of their privacy rights in the manner specified under the regulations;
13. Make available PHI in accordance with 45 CFR 164.524;

14. Make available PHI for amendment and incorporate any amendments to PHI in accordance with 45 CFR 164.526; and

15. The Contractor shall track all security incidents as defined by HIPAA/HITECH, and, as required by the HIPAA/HITECH Reports. The Contractor shall periodically report in summary fashion such security incidents.

k. Contractor warrants to the State that it is familiar with the requirements of HIPAA and HITECH and their accompanying regulations, and shall comply with all applicable HIPAA and HITECH requirements in the course of this Contract including but not limited to the following:

1. Compliance with the Privacy Rule, Security Rule, Notification Rule;
2. The creation of and adherence to sufficient Privacy and Security Safeguards and Policies;
3. Timely Reporting of Violations in the Access, Use and Disclosure of PHI; and
4. Timely Reporting of Privacy and/or Security Incidents.

The Contractor warrants that it shall cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and HITECH and their accompanying regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA and HITECH.

The State and the Contractor shall sign documents, including but not limited to business associate agreements, as required by HIPAA and HITECH and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA and HITECH.

Knowing and willful disclosure of PHI in violation of procedures for determining eligibility for exchange participation, premium tax credits and reduced cost-sharing, and individual responsibility exemptions, per person or entity, per use or disclosure may result in Liquidated Damages as set forth in Attachment D.

E.34. Information Holders. TennCare and the Contractor are “information holders” as defined in TCA 47-18-2107. In the event of a breach of the security of Contractor’s information system, as defined by TCA 47-18-2107, the Contractor shall indemnify and hold TennCare harmless for expenses and/or damages related to the breach. Such obligations shall include, but not be limited to, mailing notifications to affected enrollees. Substitute notice to written notice, as defined by TCA 47-18-2107(e)(2) and (3), shall only be permitted with TennCare’s express written approval. The Contractor shall notify TennCare’s Privacy Office immediately upon becoming aware of any security incident that would constitute a “breach of the security of the system” as defined in TCA 47-18-2107.

E.35. Notification of Breach and Notification of Provisional Breach - The Contractor shall notify DCS’s Privacy Office immediately upon becoming aware of any incident, either confirmed or provisional, that represents or may represent unauthorized access, use or disclosure of encrypted or unencrypted computerized data that materially compromises the security, confidentiality, or integrity of enrollee PHI maintained or held by the Contractor, including any unauthorized acquisition of enrollee PHI by an employee or otherwise authorized user of the Contractor’s system. This includes, but is not limited to, loss or suspected loss of remote computing or

telework devices such as laptops, PDAs, Blackberrys or other Smartphones, USB drives, thumb drives, flash drives, CDs, and/or disks.

E.36. Medicaid and CHIP – Verification of Income and Eligibility - The Contractor must provide safeguards that restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan:

i. Purposes directly related to the administration of Medicaid and CHIP include:

a. establishing eligibility;

b. determining the amount of medical assistance;

c. providing services for beneficiaries; and,

d. conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to Medicaid or CHIP administration.

ii.. The Contractor must have adequate safeguards to assure that--

a. Information is made available only to the extent necessary to assist in the valid administrative purposes of those receiving the information, and information received under 26 USC section 6103(l) is exchanged only with parties authorized to receive that information under that section of the Code; and,

b. the information is adequately stored and processed so that it is protected against unauthorized disclosure for other purposes.

iii. The Contractor must have criteria that govern the types of information about applicants and beneficiaries that are safeguarded. This information must include at least--

(a) Names and addresses;

(b) Medical services provided;

(c) Social and economic conditions or circumstances;

(d) Contractor evaluation of personal information;

(e) Medical data, including diagnosis and past history of disease or disability; and

(f) Any information received for verifying income eligibility and amount of medical assistance payments, including income information received from SSA or the Internal Revenue Service,

(g) Any information received for verifying income eligibility and amount of medical assistance payments

(h) Income information received from SSA or the Internal Revenue Service must be safeguarded according to Medicaid and CHIP requirements

(i) Any information received in connection with the identification of legally liable third party resources.

(j) Social Security Numbers.

iv. The Contractor must have criteria approved by the State specifying the conditions for release and use of information about applicants and beneficiaries:

(b) Access to information concerning applicants or beneficiaries must be restricted to persons or Contractor representatives who are subject to standards of confidentiality that are comparable to those of the State.

(c) The Contractor shall not publish names of applicants or beneficiaries.

(d) The Contractor shall obtain permission from a family or individual, whenever possible, before responding to a request for information from an outside source, unless the information is to be used to verify income, eligibility and the amount of medical assistance payment to an authorized individual or entity;

(e) If, because of an emergency situation, time does not permit obtaining consent before release, the Contractor shall notify the State, the family or individual immediately after supplying the information.

(f) The Contractor's policies must apply to all requests for information from outside sources, including governmental bodies, the courts, or law enforcement officials.

(g.) The Contractor shall notify the State of any requests for information on applicants or beneficiaries by other governmental bodies, the courts or law enforcement officials ten (10) days prior to releasing the requested information.

(h) If a court issues a subpoena for a case record or for any Contractor representative to testify concerning an applicant or beneficiary, the Contractor must notify the State at least ten (10) days prior to the required production date so the State may inform the court of the applicable statutory provisions, policies, and regulations restricting disclosure of information, effective until Jan. 1, 2014.

(i) The Contractor shall not request or release information to other parties to verify income, eligibility and the amount of assistance under Medicaid or CHIP, prior to express approval from the State.

E.37. Social Security Administration (SSA) Required Provisions for Data Security. The Contractor shall comply with limitations on use, treatment, and safeguarding of data under the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget guidelines, the Federal Information Security Management Act of 2002 (44 U.S.C. § 3541, *et seq*.), and related National Institute of Standards and Technology guidelines. In addition, the Contractor shall have in place administrative, physical, and technical safeguards for data.

a. The Contractor shall not duplicate in a separate file or disseminate, without prior written permission from DCS, the data governed by the Contract for any purpose other than that set forth in this Contract for the administration of the TennCare program. Should the Contractor propose a redisclosure of said data, the Contractor must specify in writing to TennCare the data the Contractor proposes to redisclose, to whom, and the reasons that justify the redisclosure. TennCare will not give permission for such redisclosure unless the redisclosure is required by law or essential to the administration of the TennCare program.

b. The Contractor agrees to abide by all relevant federal laws, restrictions on access, use, and disclosure, and security requirements in this Contract.

c. The Contractor shall provide a current list of the employees of such contractor with access to SSA data and provide such lists to DCS upon request.

d. The Contractor shall restrict access to the data obtained from TennCare to only those authorized employees who need such data to perform their official duties in connection with purposes identified in this Contract. The Contractor shall not further duplicate, disseminate, or disclose such data without obtaining TennCare's prior written approval.

e. The Contractor shall ensure that its employees:

(1) properly safeguard PHI/PII furnished by TennCare under this Contract from loss, theft or inadvertent disclosure;

(2) understand that they are responsible for safeguarding this information at all times, regardless of whether or not the Contractor employee is at his or her regular duty station;

(3) ensure that laptops and other electronic devices/ media containing PHI/PII are encrypted and/or password protected;

(4) send emails containing PHI/PII only if encrypted or if to and from addresses that are secure; and,

(5) limit disclosure of the information and details relating to a PHI/PII loss only to those with a need to know.

Contractor employees who access, use, or disclose TennCare or DCS SSA-supplied data in a manner or purpose not authorized by this Contract may be subject to civil and criminal sanctions pursuant to applicable federal statutes.

f. Loss or Suspected Loss of Data – If an employee of the Contractor becomes aware of suspected or actual loss of PHI/PII, he or she must immediately contact DCS immediately upon becoming aware to report the actual or suspected loss. The Contractor will use the Loss Worksheet located at http://www.tn.gov/tenncare/forms/phi_piiworksheet.pdf to quickly gather and organize information about the incident. The Contractor must provide DCS with timely updates as any additional information about the loss of PHI/PII becomes available.

g. If the Contractor experiences a loss or breach of said data, DCS will determine whether or not notice to individuals whose data has been lost or breached shall be provided and the Contractor shall bear any costs associated with the notice or any mitigation.

h. DCS may immediately and unilaterally suspend the data flow under this Contract, or terminate this Contract, if DCS, in its sole discretion, determines that the Contractor has: (1) made an unauthorized use or disclosure of DCS SSA-supplied data; or (2) violated or failed to follow the terms and conditions of this Contract.

i. In order to meet certain requirements set forth in the State's Computer Matching and Privacy Protection Act Agreement (CMPPA) with the SSA, the Parties acknowledge that this Section shall be included in all agreements executed by or on behalf of the State. The Parties further agree that FISMA and NIST do not apply in the context of data use and disclosure under this Agreement as the Parties shall neither use nor operate a federal information system on behalf of a federal executive agency. Further, NIST is applicable to federal information systems; therefore, although encouraged to do so, the State, its contractors, agents and providers are not required to abide by the NIST guidelines.

j. This Section further carries out Section 1106(a) of the Act (42 U.S.C. 1306), the regulations promulgated pursuant to that section (20 C.F.R. Part 401), the Privacy of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget ("OMB") guidelines, the Federal Information Security Management Act of 2002 ("FISMA") (44 U.S.C. 3541 et seq.), and related National Institute of Standards and Technology ("NIST") guidelines, which provide the requirements that the SSA stipulates that the Contractor must follow with regard to use, treatment, and safeguarding data in the event data is exchanged with a federal information system.

k. Definitions

(1) "SSA-supplied data" – information, such as an individual's social security number, supplied by the Social Security Administration to TennCare to determine entitlement or eligibility for federally-funded programs (CMPPA between SSA and F&A; IEA between SSA and TennCare).

(2) "Protected Health Information/Personally Identifiable Information" (PHI/PII) (45 C.F.R. 160.103; OMB Circular M-06-19) – Protected health information means individually identifiable health information that is: (i) Transmitted by electronic media; (ii) Maintained in electronic media; or (iii) Transmitted or maintained in any other form or medium.

(3) "Individually Identifiable Health Information" – information that is a subset of health information, including demographic information collected from an individual, and: (1) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (2) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

(4) "Personally Identifiable Information" – any information about an individual maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and information which can be used to distinguish or trace an individual's identity, such as their name, Social Security Number, date and place of birth, mother's maiden name, biometric records, including any other personal information which can be linked to an individual.

E.38. Requirements of Bureau of TennCare.

a. The Contractor, including but not limited to, its employees, agents, subcontractors, or anyone acting for or on behalf of the Contractor shall comply with the requirements as stipulated in the Interagency Contract among the Department of Children's Services (DCS), the Department of Health, Bureau of Health Services Administration (HSA), and the Department of Finance and Administration, Bureau of TennCare (TennCare) as the procuring State agency and as required by Code of Federal Regulations, Title 42, Part 455.100, *et seq.*: The Contractor shall submit an annual *Ownership and Financial Disclosure Form as shown in Attachment E hereto (h*ttp://www.tn.gov/tenncare/forms/disclosureownership.pdf) to DCS. DCS shall collect and store its Contractor's ownership and disclosure forms and furnish them to TennCare upon request.

b. Contractor Requirements: Participation in the TennCare program shall be limited to Contractors who:

1. Agree that the Contractor may not refuse to provide covered medically necessary or covered preventive services to a child under the age of twenty-one (21) or a TennCare Medicaid patient under this Contract for non-medical reasons. However, the Contractor shall not be required to accept or continue treatment of a patient with whom the Contractor feels he/she cannot establish and/or maintain a professional relationship.

2. Agree that emergency services be rendered without the requirement of prior authorization of any kind.

3. **Records Retention-** A TennCare record is any record, in whatever form, including, but not limited to medical records, billing records, financial records including 1099 forms, and/or any records related to services rendered, quality, appropriateness and timeliness of services and/or any records relevant to an administrative, civil and/or criminal investigation and/or prosecution. The CONTRACTOR as well as its subcontractor and providers shall maintain TennCare records necessary to demonstrate that covered services were provided in compliance with state and federal requirements. An adequate record system shall be maintained and that all records be maintained for five (5) years from the close of the provider agreement (behavioral health records shall be maintained at the provider level for ten (10) years after the termination of the provider agreement pursuant to TCA 33-3-101) or retained until all evaluations, audits, reviews or investigations or prosecutions are completed for recording enrollee services, servicing providers, charges, dates and all other commonly accepted information elements for services rendered to enrollees pursuant to the provider agreement (including but not limited to such records as are necessary for the evaluation of the quality, appropriateness, and timeliness of services performed under the provider agreement and administrative, civil or criminal investigations and prosecutions).

4. **TennCare Records-Access to** : TENNCARE, DHHS OIG, Office of the Comptroller of the Treasury, OIG, TBI MFCU, DOJ and their authorized agents, as well as any authorized state or federal agency or entity shall have the right to access through inspection, evaluation, review or request, whether announced or unannounced, or other means, any TennCare records pertinent to this Contract including, but not limited to medical records, billing records, financial records including 1099 forms, and/or any records related to services rendered, quality, appropriateness and timeliness of services and/or any records relevant to an administrative, civil and/or criminal investigation and/or prosecution. Such evaluation, inspection, review or request, and when performed or requested, shall be performed with the immediate cooperation of the provider, during normal business hours, except under special circumstances when after hour admission shall be allowed. Special circumstances shall be determined by the requesting agency. Upon request, the provider shall assist in such reviews including the provision of complete copies of medical records at no cost to the requesting agency. Contractor acknowledges that HIPAA does not bar disclosure of protected health information (PHI) to health oversight agencies, including, but not limited to TennCare, OIG, TBI MFCU, DHHS OIG and DOJ and their authorized agents. Any authorized state or federal agency or entity, including, but not limited to TENNCARE, OIG, TBI MFCU, DHHS OIG, DOJ, Office of the Comptroller of the Treasury, may use these records and information for medical audit, medical review, utilization review and administrative, civil or criminal investigations and prosecutions.

5. Agree that an adequate records system be maintained at the site where medical services are rendered. and that enrollees aged fourteen (14) and over and/or an enrollee's authorized representatives shall be given access to the enrollees' medical records to the extent and in the manner provided by T.C.A. Sections 63-2-101 and 63-2-102, and, subject to reasonable charges, be given copies thereof upon request.

6. Accept monitoring, whether announced or unannounced, of services rendered to enrollees sponsored by the Contractor.

7. Whether announced or unannounced, participate and cooperate in any internal and external Quality Management/Quality Improvement, utilization review, peer review and appeal procedures established by DCS and/or TennCare.

8. Initiate corrective action where necessary to improve quality of care, in accordance with that level of medical care which is recognized as acceptable professional practice in the respective community in which the Contractor practices and/or the standards established by TennCare.

9. Provide for submission of all reports and clinical information required by DCS.

10. Cooperate with all appropriate state and federal Agencies, including TBI MFCU and/or TN OIG, in investigating fraud and abuse. In addition, the Contractor shall fully comply with the provisions of T.C.A. Sections 71-5-2601 and 71-5-2603 in performance of its' obligations under this Contract, including:

    (a) Fraud and abuse in the administration of the program. Suspected fraud and abuse in the administration of the program shall be reported to TBI MFCU and/or TN OIG, as well as to TennCare office of Program Integrity.

    (b) Contractor fraud and abuse. All confirmed or suspected contractor fraud and abuse shall immediately be reported to TBI MFCU as well as to TennCare office of Program Integrity.

    (c) Enrollee fraud and abuse. All confirmed or suspected enrollee fraud or abuse shall be reported immediately to TN OIG.

11. Secure all necessary liability and malpractice insurance coverage as is necessary to adequately protect the enrollees and DCS under this Contract. The Contractor shall provide such insurance coverage at all times during the Contract and upon execution of the Contractor Contract furnish DCS with written verification of the existence of such coverage.

12. The Contractor acknowledges that this Contract incorporates by reference all applicable federal and state laws, TennCare rules and regulations, policies or court orders, and revisions of such laws or regulations, policies and orders shall automatically be incorporated into the Contract, as they become effective or amended. In the event that changes in the Contract are needed as a result of revisions and applicable federal or state law materially affecting the position of either party, DCS and Contractor agree to negotiate such further amendments as may be necessary to correct any inequities.

13. The Contractor recognizes that in the event of termination of the Contract between DCS and TennCare for any reason, the Contractor shall immediately make available, to TennCare, or its designated representative, in a usable form, any or all TennCare Related Documents, whether medical or financial, related to the Contractor's activities undertaken pursuant to the DCS/Contractor Contract. The provision of such records shall be at no expense to TennCare.

14. The Contractor warrants that no part of the total Contract amount provided herein shall be paid directly, indirectly or through a parent organization, subsidiary or an affiliate organization to any state or federal officer or employee of the State of Tennessee or any immediate family member of a state or federal officer or employee of the State of Tennessee as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract unless disclosed to the Commissioner, Tennessee Department of Finance and Administration. For purposes of Section E.38 of this Contract, “immediate family member” shall mean a spouse or minor child(ren) living in the household.

Quarterly, by January 30, April 30, July 30, and October 30 each year, or at other times or intervals as designated by the Director of the Bureau of TennCare and communicated, in writing, to the Contractor by DCS, disclosure shall be made by the Contractor to DCS in writing and DCS shall forward the disclosure to the Director of the Bureau of TennCare, Department of Finance and Administration. The disclosure shall include, but not be limited to, the following:

(a) A list of any state or federal officer or employee of the State of Tennessee as well as any immediate family member of a state or federal officer or employee of the State of Tennessee who receives wages or compensation from the Contractor; and

(b) A statement of the reason or purpose for the wages or compensation.

The disclosures shall be made by the Contractor and reviewed by TennCare in accordance with Standard Operating Procedures and the disclosures shall be distributed to, amongst other persons, entities and organizations, the Commissioner, Tennessee Department of Finance and Administration, the Tennessee Ethics Commission, the TennCare Oversight Committee and the Fiscal Review Committee.

This Contract may be terminated by DCS and/or the Contractor may be subject to sanctions under this Contract if it is determined that the Contractor, its agents or employees offered or gave gratuities of any kind to any state or federal officials or employees of the State of Tennessee or any immediate family member of a state or federal officer or employee of the State of Tennessee if the offering or giving of said gratuity is in contravention or violation of state or federal law. It is understood by and between the parties that the failure to disclose information as required under Section E.38 of this Contract may result in termination of this Contract and the Contractor may be subject to sanctions in accordance with the provisions of this Contract. The Contractor certifies that no member of or delegate of Congress, the United States General Accounting Office, DHHS, Centers for Medicare and Medicaid Services (CMS), or any other federal agency has or will benefit financially or materially from this Contract.

15. Accept general and targeted education regarding emergency appeals, including when an emergency appeal is appropriate, and procedures for providing written certification thereof, and comply with the appeal process, including but not limited to, assisting an enrollee by providing appeal forms and contact information including the appropriate address for submitting appeals for state level review.

16. Display notices of the enrollee's right to appeal adverse action affecting services in public areas of their facility(ies) in accordance with TennCare rules and regulations, subsequent amendments, or any and all court orders. DCS shall ensure that Contractors have correct and adequate supply of public notices. DCS shall ensure that the Contractor will comply with the appeal process, including but not limited to the following:

(a) assisting an enrollee by providing appeal forms and contact information including the appropriate address for submitting appeals for state level review; and,

(b) require, in advance, that the Contractor seek prior authorization, when s/he feels s/he cannot order a drug on the TennCare Preferred Drug List (PDL) as well as taking the initiative to seek prior authorization when contacted by an enrollee or pharmacy regarding denial of a pharmacy service due to system edits (i.e., therapeutic duplication, etc.).

17. Acknowledge that the Contractor has been informed of the package of benefits that Early and Periodic Screening, Diagnosis and Treatment (EPSDT TENNderCare) offers as set out in the TennCare Contractor Risk Agreement (CRA) and which requires Contractors to make treatment decisions based upon children's individual medical and behavioral health needs. The Contractor further acknowledges that a copy of the CRA can be accessed on the TennCare web site shall be furnished to the Contractor upon request. The TennCare Web site is found at: tn.gov/tenncare/pro-mcos.html.

18. Agree not to encourage or suggest, in writing or verbally, that TennCare children be placed into state custody in order to receive medical or behavioral services covered by TennCare.

19. Agree to follow DCS and TennCare procedures for the provision of language interpretation and translation services for any enrollee who needs such services, including but not limited to, enrollees with Limited English Proficiency.

20. Agree that if any requirement in the Contractor's Contract with DCS is determined by TennCare to conflict with the Contract between TennCare and DCS, such requirement shall be null and void and all other provisions shall remain in full force and effect.

21. Certify by signing this Contract, that the Contractor has not been excluded from participation in the Medicare and/or Medicaid programs pursuant to Sections 1128 or 1156 of the Social Security Act or who are otherwise not in good standing with the TennCare program. Require Providers to screen their employees and contractors initially and on an ongoing monthly basis to determine whether any of them has been excluded from participation in Medicare, Medicaid, SCHIP, or any Federal health care programs (as defined in Section 1128B(f) of the Social Security Act) and not employ or contract with an individual or entity that has been excluded. The provider shall be required to immediately report to the MCO any exclusion information discovered. The provider shall be informed that civil monetary penalties may be imposed against providers who employ or enter into contracts with excluded individuals or entities to provide items or services to TennCare members.

22. Agree to provide hours of operation that are no less than the hours of operation offered to commercial enrollees.

23. Agree that the Contractor shall not enter into any subsequent agreements or subcontracts for any of the work contemplated under this Contract without approval of DCS.

24. Nondiscrimination Compliance Requirements. In addition to the requirements of Section D.7 and E.23, the Contractor hereby agrees that it will comply with the following:

    (a) The Contractor shall comply with DCS's written policies and procedures that demonstrate nondiscrimination in the provision of services to TennCare enrollees.

    (b) The Contractor shall have available copies of DCS's standardized discrimination complaint form to provide to an enrollee upon request. When a request for assistance with filing a complaint is made to the Contractor, the Contractor shall assist the complainant in accessing help from DCS. Assistance shall include obtaining a standardized complaint form, language assistance and assistance with communication in alternative formats.

25. Contractor understands that payment by TennCare is conditioned upon the invoice, claim or bill and the underlying transaction complying with Medicaid

laws, regulations, and program instructions (including, but not limited to, the Federal anti-kickback statute, and the Stark law and federal requirements on disclosure, debarment and exclusion screening), and is conditioned on Contractor compliance with all applicable conditions of participation in Medicaid. Contractor understands and agrees that each invoice, claim or bill submitted by Contractor to TennCare constitutes a certification that Contractor has complied with all applicable Medicaid laws, regulations and program instructions (including, but not limited to, the Federal anti-kickback statute and the Stark law), in connection with payment and the services provided under this Agreement.

- Per 42 CFR 455.18: "I understand that payment and satisfaction of this claim will be from federal and state funds, and that any false claims, statements, documents, or concealment of a material fact, may be prosecuted under applicable federal and/or state laws." Acknowledgement by Contractor of this statement shall be made for all claims submitted by the Contractor by either an actual or electronic signature during either the claims submission or claims payment process.

26. In accordance with the Affordable Care Act and TennCare policy and procedures, the Contractor and its subcontractors and providers shall report overpayments and, when it is applicable, return overpayments within sixty (60) days from the date the overpayment is identified. Overpayments that are not returned within sixty (60) days from the date the overpayment was identified may result in a penalty pursuant to state or federal law.

27. The Contractor and its subcontractors and Providers shall comply with the provisions of 42 U.S.C. § 1396a(a)(68)*et seq.* as applicable, regarding policies and education of employees as regards the terms of the False Claims Act and whistleblower protections.

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE **DATE**

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF CHILDREN'S SERVICES:

JAMES M. HENRY, COMMISSIONER **DATE**

ATTACHMENT A

Residential Treatment Specialized: Severely Emotionally Disturbed (SED)

A. Program Characteristics

1. The program serves children/youth ages 5-17 who present with significant psychiatric needs and cannot maintain treatment or safety in the community, but who do not meet medical necessity for acute inpatient hospitalization. The child/youth's psychiatric status may be unstable and over the course of treatment and he/she may experience episodes of heightened acuity that require increased supervision.
2. The program will have the staffing capacity to provide continuous 1:1 supervision when a child/youth presents with extraordinary psychiatric needs.
3. The program is appropriately licensed and is able to provide the services outlined in this document.
4. The program is accredited by *Joint Commission*, *The Commission on Accreditation of Rehabilitation Facilities*, *The Council on Accreditation of Services for Families and Children*, or another accrediting organization with comparable standards.
5. A physician is to serve as the Medical Director for the program and will evaluate residents on a weekly basis. The Medical Director will be available on an on-call basis 24 hours a day.
6. The program is staffed with a Registered Nurse 24 hours a day.
7. The program will comply with all applicable state and federal regulations regarding the use of seclusion and restraint.

B. Levels of Service:

Services	Level of Care	Staffing Ratios:
Severely Emotionally Disturbed-Psychiatric Residential Treatment Facility (L3 SED-**PRTF**)	Lowest Level	Normal staffing pattern
Severely Emotionally Disturbed-Psychiatric Residential Treatment Facility – High Level Intensity (L3 SED-**PRTF High**)	High Level	1:1 Supervision

C. Admission/Clinical Criteria

1. Child/youth present with difficult and challenging needs/behaviors and have an immediate need for initial short-term or intermittent stays in the residential setting. The following medical necessity criteria are met for admission:
   a. The child/youth has a significant mental health disorder (DSM-IV-TR or DSM-

5) and is impaired in social, educational, familial and occupational functioning. This disorder is amenable to “psychiatric treatment” and requires mental health treatment that cannot be successfully provided at a lower level of care. The youth needs psychiatric consultation and access to physician services as well as daily supportive guidance toward stabilization.

b. The child/youth is unable to adequately care for physical needs without external support that is beyond the capacity/capabilities of the family and/or other non-inpatient community support. This inability represents harm to self or others (e.g., reckless self-endangerment).

c. The child/youth’s current living environment, family setting and extended community cannot provide the support and access to therapeutic services necessary to maintain stability or maximize effective daily functioning and/or the youth has not been successful in lower levels of treatment efforts (i.e., has failed to maintain or sustain adequately).

d. The child/youth cannot achieve successful adaptation for the purpose of stabilization, *at this time,* without significant structure and supportive residential guidance that can only be provided through twenty-four (24) hour intervention and supervision in a highly-structured environment.

e. The child/youth meets the age, cognitive capacity, adaptive functioning level and/or developmental level requirements necessary for minimal acceptance in the specific setting.

f. The child/youth does not require medical substance abuse treatment (e.g. detoxification) as the primary need and does not have contraindicated medical conditions that are primary and would supersede the psychiatric symptoms;

2. Child/youth may be of any adjudication type.
3. Child/youth may pose a high risk for elopement, instability in behavior and mental health status or occasionally experience acute episodes. These youth also experience persistent maladjustment of peer and other social relationships or other influencing systems which interfere with learning and social environments.
4. Assessment Requirements:
   a. Child and Adolescent Needs & Strengths (CANS) will be used as a screening tool for children and youth to assist with determination if residential treatment is indicated. Prior to the CFTM, the Regional Licensed Mental Health Clinician will be consulted and the CANS (if available) thoroughly reviewed so the team will have the recommendation available for consideration in placement-related decisions.
   Note: Items that might need to be considered for potential placement in this setting are CANS actionable items scoring a 2 or 3 on risk behaviors and behavioral emotional needs.
   b. Youth Level of Service/Case Management Inventory™ (YLS) - Juvenile Justice youth at this level of service may have low, moderate or high YLS risk levels. Youth with very high YLS risk level scores may be appropriate for admission at this level of care based on unique case circumstances

following classification at a Youth Development Center or assessment in a Level 4 treatment facility.

c. The Regional Licensed Mental Health Clinician will determine "medical necessity" in order for a child or youth to be placed in a residential setting. If a CFT cannot come to a consensus on a recommendation of medical necessity, the situation will be reviewed by Central Office clinical staff. This is intended to ensure that those children or youth who require this level of service are given every opportunity to receive it.

D. Personnel

1. The provider has trained personnel who can meet the developmental, therapeutic, and supervision needs of all children/youth accepted for care and services.
2. The program is under the direct clinical supervision of a licensed mental health professional with training and experience in mental health treatment of children and youth.
3. Staff is appropriately credentialed to provide individual and family counseling/therapy. The agency is responsible for providing the credentials of therapists upon request. If a specific treatment such as Trauma Focused Cognitive Behavior Therapy (TFCBT), Dialectical Behavior Therapy (DBT), or treatment for problem sexual behavior is being provided, the agency is able to demonstrate that the therapist is appropriately trained to deliver this treatment.
4. Educational staff will meet the employment standards outlined in the state Board of Education Rules, Regulations and Minimum Standards.
5. The program will maintain a written agreement with, or employ, a Tennessee-licensed physician as a medical consultant. If the consulting physician is not a psychiatrist, the facility will arrange for the regular, consultative and emergency services of a licensed psychiatrist (TCA 0940-5-37). The psychiatrist is available for consultation with program staff, parent/guardian and/or custodian. For further details see Service Components, below.
6. Residential treatment staff to child/youth ratio: 1:5 (one direct-care, awake staff for every five on-site youth) during the day and 1:8 (one direct-care, awake staff for every eight on-site youth) overnight staff. However, the program must have the staffing capacity to provide continuous 1:1 supervision for any child/youth at the facility, based on his/her level of clinical need. Children/youth requiring 1:1 supervision will be presenting with extraordinary psychiatric needs. Staff persons counted in the staff-to-child/youth ratio may only be persons who are assigned to provide direct program services as described by written job description. During normal sleeping hours the program will provide one direct-care staff person on-site in each building, or physically separated unit of a building in which children/youths are housed. Support staff such as clerical, housekeeping, van and bus driver staff or students involved in an onsite practicum for academic credit may not be counted in the staff-to-child/youth ratio. While these are the minimum standards, it is strongly recommended that two staff be present at any time when children/youths are being supervised.

7. The program will provide, at all times, at least one (1) on-duty staff member trained in First Aid and the Heimlich maneuver and certified in cardiopulmonary resuscitation (CPR) (TCA 0940-5-37).
8. Note: For additional licensure information see Section 0940-5-37.03 Rules of Department of Mental Health and Development Disabilities.

E. Individualized Treatment Plan

1. An Initial Treatment Plan will be developed within the first 72 hours for each child/youth. This plan will be based on initial history and current assessment of child/youth's needs and strengths.
2. A more Comprehensive Treatment Plan will be developed after testing and/or assessment has occurred. The Treatment Planning process will include the family and youth per the CFTM model for collaborative planning. This will be completed within 30 days of admission.
3. The program will ensure that the following assessments are completed prior to development of the child/youth's Comprehensive Treatment Plan:
   a. Assessment of current functioning, and a history in the following areas: Community living skills, living skills appropriate to age, emotional and psychological health, and Educational level (including educational history).
   b. Basic medical history and information;
   c. A six (6) month history of prescribed medication, frequently used over-the-counter medication and alcohol or other drug use;
   d. History of prior mental health and alcohol and drug treatment episodes; and,
   e. Assessment of whether child/youth is currently eligible for special education services in accordance with the State Board of Education Rules, Regulations and Minimum Standards.
4. The Comprehensive Treatment Plan will address referral concerns and identify treatment goals as related to safety, mental health, medical, and educational well-being. The Treatment Plan will include specific steps to work toward permanency, including a visitation plan. This plan may integrate information from tools such as the CANS, FFA, YLS, and Permanency Plan. For example, actionable items on the CANS (items rated 2 or 3) and/or areas that score "moderate or high" on the YLS will be addressed.
5. The Comprehensive Treatment Plan will consider discharge goals and estimated length of stay. Discharge planning will begin at admission and will be an ongoing process.
6. Documentation of the Treatment Plan and of its implementation will be kept in the child/youth record and will include the following, per TCA 0940-5-37-.05:
   a. The child/youth's name on the Treatment Plan
   b. The date of development of the Treatment Plan

c. Individual problems specified in the Treatment Plan which are to be addressed within the particular service/program component, including treatment and educational components

d. Individual objectives which are related to specified problems identified in the Treatment Plan and which are to be addressed by the particular service/program component

e. Interventions and staff responsible for addressing goals and objectives in the Treatment Plan

f. Signatures of the staff providing the services

g. Documentation of participation of child/youth and parent/guardian/legal custodian or conservator where appropriate in the Treatment Planning process. If any of the parties refuse to participate, reasons for refusal will be documented

h. Standardized diagnostic formulation(s), based upon the current Diagnostic and Statistical Manual (DSM) or current International Classification of Diseases (ICD) where appropriate, and assessment documentation on file which is updated as recommended by treatment team

i. Planned frequency of treatment contacts

j. A plan for family involvement in the child/youth's treatment

7. A review of the Treatment Plan will occur at least every thirty (30) days or upon completion of the stated goals and objectives and will include the following documentation, per TCA 0940-5-37-.05:

   a. Dated signatures of appropriate staff

   b. An assessment of progress toward each treatment goal and/or objective with revisions as indicated

   c. A statement of justification for the level of service(s) needed, including suitability for treatment in a less restrictive environment and continued services

F. Service Components & Overview

1. All necessary mental health services will be provided by the agency. This includes necessary assessments such as psychiatric evaluation, psychological evaluation, psychoeducational evaluation, and alcohol and drug assessment. This also includes treatment, such as individual, group, and family therapy, medication management, alcohol and drug treatment, and mental health/behavioral treatment. The cost of all services is included in the per diem rate paid to the provider by DCS. Appropriate agreements with external providers will ensure that those providers will not also bill TennCare or any other insurance provider for the service as it is covered under the per diem. Twenty-four (24) hour awake staff;
2. In addition to a comprehensive treatment plan, other assessments may be requested by the following personnel: DCS Regional Licensed Mental Health Clinician, juvenile court personnel, the Local Education Agency (LEA), or the

treating mental health provider;

3. If additional assessments are requested, the assessment will always be completed and final report made available within thirty (30) days of the date the request was made;
4. Each child/youth will have a clinical team comprised of representatives from front line staff, nursing staff, educators, therapeutic staff and a psychiatrist. The clinical team will participate in monthly documented clinical staffing for each child/youth;
5. The program will provide an evidenced based model(s) as defined by SAMSHA or California Clearing House, designed for the population(s) served;
6. Behavior management system emphasizing positive reinforcements;
7. Development of Individualized Crisis Management Plan, if warranted by youth behavior;
8. Utilization of a nationally-recognized crisis intervention program for the use of seclusion, restraint and restrictive interventions;
9. Provision of recreational activities, social skills training, daily living skills and interdependent living skills. These activities will be appropriate to, and adapted to, the needs, interests and ages of the children/youths. More information about independent living may be found in the IL Core Services portion of the Provider Policy Manual;
10. Group counseling/therapy conducted by an appropriately credentialed staff at least two (2) times per week with each session being at least one (1) hour in length and no longer than one and a half (1.5) hours. Group size is not to exceed ten (10). These are clinically-focused groups and are specific to the specialized needs of the youth such as alcohol and drug, mental health or sexually abusive issues;
11. One (1) hour of individual counseling/therapy will be provided by an appropriately credentialed staff member at least weekly, with sessions lasting no less than one-half (.5) hour.
12. Family counseling/therapy:
    a. Provided by appropriately credentialed/licensed staff to the family identified as the family of care or the permanency family. This family is identified by the DCS Family Service Worker (FSW) as soon as possible after coming in to custody or upon admission to the facility. The agency therapist will have contact with the family of care or permanency family and the DCS FSW either by phone or in person within the first week of admission
    b. Provided at a minimum of two (2) times per month unless contraindicated
    c. Routine contacts with family and youth (visitation, phone calls) are not considered counseling/therapy
    d. Sessions will be one (1) hour in length
    e. Family schedules may necessitate minor changes in the length and frequency of counseling /therapy and these changes are to be documented in the case notes
    f. Contraindications to family involvement and family counseling/therapy will be documented in the Treatment Plan. Provider concerns regarding family involvement will be addressed in writing to the DCS FSW (e-mail notification is allowed)

g. The provider agency is responsible for working with the family to overcome barriers to involvement such as transportation and schedules
h. The DCS FSW will assist with coordination and help to overcome barriers
i. Family counseling/therapy is not contingent on the youth's behavior

13. All medications will be administered by licensed medical or licensed nursing personnel or a certified physician assistant practicing under a protocol approved by the medical staff. Such qualified personnel may only administer medication within the scope of an established protocol.
14. Health Services
    a. The program will arrange access to qualified dental, medical, nursing and pharmaceutical care for children/youths of the program. Children/youths or their families may choose a professional for non-emergency services.
    b. The program will ensure that if the child/youth has not had a physical examination within the twelve (12) months prior to admission they have one within thirty (30) days after admission. Such examinations will include routine screenings (such as vision and hearing), and laboratory examinations (such as Pap smear and blood work) as well as immunizations as determined necessary by the physician. Also included are special studies where the index of suspicion is high and thereafter as often as indicated by the child/youth's physician. Documentation of the physical examination will be placed in the child/youth's record and will include the name of the examining physician, clinic or hospital and date of examination.
15. Emergency Services:
    a. In case of medical or other type of emergencies, the program will provide for immediate access to relevant information in the child/youth's record.
    b. The program will provide immediate notification to the parent/guardian/legal custodian in case of emergency.
    c. The program will provide direct or telephone access to at least one (1) Tennessee licensed mental health professional twenty-four (24) hours a day seven (7) days a week. If the professional is not a psychiatrist, the program will also arrange for the regular, consultative, and emergency services of a psychiatrist.
    d. The program will provide back-up coverage by staff trained to handle acute psychiatric issues on a twenty-four (24) hours per day, seven (7) days per week on-call basis.
    e. The program will secure emergency services for children/youths who pose an imminent physical danger to themselves or others.
16. Individual Health, Hygiene and Grooming in the residential setting
    a. The program will assist children/youth in the independent exercise of health, hygiene and grooming practices.
    b. The program will assist each individual child/youth in securing an adequate allowance of personally owned, individualized, clean and seasonal clothes that are the correct size.

c. The program will assist and encourage individual children/youths in the use of dental, physical or prosthetic appliances or devices and visual or hearing aids.

G. Education of the Child/Youth

1. The facility will have a Tennessee Department of Education and DCS-approved in-house school site and educational program in compliance with all necessary educational requirements including special education services, when applicable (For additional licensure information, see Section 9, Attachment 8, titled *Licensure Matrix).*
2. Providers will meet all criteria outlined in Section 9, Attachment 9, *titled Educational Standards for DCS Providers.*

H. Records Management

The individual record for each child/youth will contain the following information:

1. Documentation of the initial Treatment Plan (within 72 hours), Comprehensive Treatment Plan (within 30 days) and the Individualized Education Program (if required) and of their implementation;
2. Progress notes will be recorded daily and will include written documentation of child/youth progress and changes which have occurred within the implementation of the Treatment Plan. These progress notes will be dated and include the signature, title or degree of the person providing the service;
3. Psychological evaluations and psychiatric progress notes will be dated and include the signature, title or degree of the person providing the service;
4. Documentation of all medications prescribed and/or administered by the facility which indicates date prescribed, type, dosage, frequency, amount and reason for prescription;
5. Narrative summary review at least every six (6) months to include all medications prescribed. This review will also include specific reasons for the continuation of each medication;
6. Documentation of significant behavior and actions taken by staff;
7. A list of each article of the child/youth's personal property valued at one hundred dollars ($100.00) or more and its disposition if no longer in use.
8. Documentation of incidents of abuse, medical problems, accidents, seizures and illnesses. This documentation will include the treatment for such abuse, accidents, seizures, and illnesses and any reports generated as a result. Results of assessments are required by this rule;
9. Discharge summary which details the child/youth's condition at the time of discharge and the signature of person preparing the summary;
10. Documentation of an education plan developed for each child/youth that conforms to the Rules, Regulations and Minimum Standards of the State Board of Education and confirms the Individualized Education Program (IEP) test being

developed by an appropriately constituted IEP Team for all “qualified students with disabilities”;

11. The education plan may include education services provided either by the facility or by the Local Education Agency; and,
12. Appropriate consents and authorizations for the release and obtaining of information about the child/youth will be maintained and current.

I. Monitoring Progress

As described on the Monthly Summary Template, summaries are to be completed on a monthly basis for each family case served by the agency and will be submitted in TFACTS as a Private Provider Monthly summary case recording one time a month. The summary will be entered in the system by the 15th of the next month. This summary will include anything that has changed from the previous month and the youth’s progress toward step-down.

The Monthly Summary Template may be found in the Core Standards section of the Provider Policy Manual.

J. Utilization Review

Agency will participate in DCS Utilization Reviews (UR). UR generally occurs at 30 day intervals.

K. Discharge Criteria

1. A preliminary discharge plan with discharge goals, projected length of stay, and tentative aftercare plan will be formulated and shared with the DCS Regional Licensed Mental Health Clinician, educational specialist, family services worker, and placement support worker.

2. A child/youth is ready for discharge when he/she no longer meets the admission criteria (outlined above) and sufficient aftercare services (e.g., mental health, education, family, medical/physical) have been arranged to allow for a smooth transition.

ATTACHMENT B

Residential Treatment Specialized: Autism Spectrum / Neurodevelopmental Disorders

A. Program Characteristics

1. The program serves youth ages 5-17 who present with both a mental health diagnosis and an Autism Spectrum or Neurodevelopmental Disorder diagnosis. This includes youth with intellectual disabilities who also have a mental health diagnosis.
2. The program will have the staffing capacity to provide continuous 1:1 supervision when a child/youth presents with extraordinary clinical needs.
3. The program is appropriately licensed and is able to provide the services outlined in this document.
4. The program is under the clinical supervision of a licensed mental health professional with training and/or experience in the field of Autism Spectrum and Neurodevelopmental Disorders.
5. A physician with training and/or experience in Autism Spectrum and Neurodevelopmental Disorders is to serve as the medical consultant.
6. Direct treatment is provided by qualified clinical staff trained in the field of Autism Spectrum and Neurodevelopmental Disorders.
7. The program provides ABA services or equivalent.
8. The program provides medication management, up to weekly as needed.
9. The program is staffed with a Registered Nurse 24 hours a day.

B. Levels of Service

Services	Level of Care	Staffing Ratios:
Autism Spectrum-Neurodevelopmental Disorders Residential Treatment Center (**L3 AS-ND RTC**)	Lowest Level	Normal staffing pattern
Autism Spectrum-Neurodevelopmental Disorders Psychiatric Residential Treatment Facility – Mid-Level Intensity (**L3 AS-ND PRTF Mid)**	Mid-Level	Normal staffing pattern
Autism Spectrum-Neurodevelopmental Disorders Psychiatric Residential Treatment Facility – High Level Intensity (L3 AS-ND **PRTF High**)	High Level	1:1 Supervision

C. Admission/Clinical Criteria

1. Child/youth present with difficult and challenging needs/behaviors and have an immediate need for initial short-term or intermittent stays in the residential setting. The following medical necessity criteria are met for admission:

   a. The child/youth has a significant mental health disorder (DSM-IV-TR or DSM-5) and is impaired in social, educational, familial and occupational functioning. The youth also has an Autism Spectrum or Neurodevelopmental diagnosis, though their level of functioning is not due exclusively to intellectual or developmental disability or organic dysfunction. This disorder is amenable to "psychiatric treatment" and requires mental health treatment that cannot be successfully provided at a lower level of care. The youth needs psychiatric consultation and access to physician services as well as daily supportive guidance toward stabilization.

   b. The child/youth is unable to adequately care for physical needs without external support that is beyond the capacity/capabilities of the family and/or other non-inpatient community support. This inability represents harm to self or others (e.g., reckless self-endangerment).

   c. The child/youth's current living environment, family setting and extended community cannot provide the support and access to therapeutic services necessary to maintain stability or maximize effective daily functioning and/or the youth has not been successful in lower levels of treatment efforts (i.e., has failed to maintain or sustain adequately).

   d. The child/youth cannot achieve successful adaptation for the purpose of stabilization, *at this time,* without significant structure and supportive residential guidance that can only be provided through twenty-four (24) hour intervention and supervision in a highly-structured environment.

   e. The child/youth meets the age, cognitive capacity, adaptive functioning level and/or developmental level requirements necessary for minimal acceptance in the specific setting.

   f. The child/youth does not require medical substance abuse treatment (e.g. detoxification) as the primary need and does not have contraindicated medical conditions that are primary and would supersede the psychiatric symptoms;

2. Child/youth may be of any adjudication type.
3. Child/youth may pose a high risk for elopement, instability in behavior and mental health status or occasionally experience acute episodes. These youth also experience persistent maladjustment of peer and other social relationships or other influencing systems which interfere with learning and social environments.
4. Assessment Requirements:

   a. Child and Adolescent Needs & Strengths (CANS) will be used as a screening tool for children and youth to assist with determination if residential treatment is indicated. Prior to the CFTM, the Regional Licensed Mental Health Clinician will be consulted and the CANS (if available) thoroughly reviewed so the team will have the recommendation available for

consideration in placement-related decisions.
Note: Items that might need to be considered for potential placement in this setting are CANS actionable items scoring a 2 or 3 on risk behaviors and behavioral emotional needs.

b. Youth Level of Service/Case Management Inventory™ (YLS) - Juvenile Justice youth at this level of service may have low, moderate or high YLS risk levels. Youth with very high YLS risk level scores may be appropriate for admission at this level of care based on unique case circumstances following classification at a Youth Development Center or assessment in a Level 4 treatment facility.

c. The Regional Licensed Mental Health Clinician will determine "medical necessity" in order for a child or youth to be placed in a residential setting. If a CFT cannot come to a consensus on a recommendation of medical necessity, the situation will be reviewed by Central Office clinical staff. This is intended to ensure that those children or youth who require this level of service are given every opportunity to receive it.

D. Personnel

1. The provider has trained personnel who can meet the developmental, therapeutic, and supervision needs of all children/youths accepted for care and services.
2. The program is under the direct clinical supervision of a licensed mental health professional with training and experience in mental health treatment of children and youth.
3. Staff is appropriately credentialed to provide individual and family counseling/therapy. The agency is responsible for providing the credentials of therapists upon request. If a specific treatment such as Trauma Focused Cognitive Behavior Therapy (TFCBT), Dialectical Behavior Therapy (DBT), or treatment for problem sexual behavior is being provided, the agency is able to demonstrate that the therapist is appropriately trained to deliver this treatment.
4. Educational staff will meet the employment standards outlined in the state Board of Education Rules, Regulations and Minimum Standards.
5. The program will maintain a written agreement with, or employ, a Tennessee-licensed physician as a medical consultant. If the consulting physician is not a psychiatrist, the facility will arrange for the regular, consultative and emergency services of a licensed psychiatrist (TCA 0940-5-37). The psychiatrist is available for consultation with program staff, parent/guardian and/or custodian. For further details see Service Components, below.
6. The facility will have the staffing capacity to provide daytime staff to child/youth ratios ranging from 1:4 to 1:1, based on the clinical needs of any child/youth in the program. Children/youth requiring 1:1 supervision will be presenting with extraordinary clinical needs. The overnight staff to child/youth ratio will range from 1:8 to 1:1. Staff persons counted in the staff-to-child/youth ratio may only be persons who are assigned to provide direct program services as described by

written job description. During normal sleeping hours the program will provide one direct-care staff person on-site in each building, or physically separated unit of a building in which children/youths are housed. Support staff such as clerical, housekeeping, van and bus driver staff or students involved in an onsite practicum for academic credit may not be counted in the staff-to-child/youth ratio. While these are the minimum standards, it is strongly recommended that two staff be present at any time when children/youths are being supervised.

7. The program will provide, at all times, at least one (1) on-duty staff member trained in First Aid and the Heimlich maneuver and certified in cardiopulmonary resuscitation (CPR) (TCA 0940-5-37).
8. Note: For additional licensure information see Section 0940-5-37.03 Rules of Department of Mental Health and Development Disabilities.

E. Individualized Treatment Plan

1. An Initial Treatment Plan will be developed within the first 72 hours for each child/youth. This plan will be based on initial history and current assessment of child/youth's needs and strengths.
2. A more Comprehensive Treatment Plan will be developed after testing and/or assessment has occurred. The Treatment Planning process will include the family and youth per the CFTM model for collaborative planning. This will be completed within 30 days of admission.
3. The program will ensure that the following assessments are completed prior to development of the child/youth's comprehensive Treatment Plan:
   a. Assessment of current functioning, and a history in the following areas: Community living skills, living skills appropriate to age, emotional and psychological health, and Educational level (including educational history).
   b. Basic medical history and information;
   c. A six (6) month history of prescribed medication, frequently used over-the-counter medication and alcohol or other drug use;
   d. History of prior mental health and alcohol and drug treatment episodes; and,
   e. Assessment of whether child/youth is currently eligible for special education services in accordance with the State Board of Education Rules, Regulations and Minimum Standards.
4. The Comprehensive Treatment Plan will address referral concerns and identify treatment goals as related to safety, mental health, medical, and educational well-being. The Treatment Plan will include specific steps to work toward permanency, including a visitation plan. This plan may integrate information from tools such as the CANS, FFA, YLS, and Permanency Plan. For example, actionable items on the CANS (items rated 2 or 3) and/or areas that score "moderate or high" on the YLS will be addressed.
5. The Comprehensive Treatment Plan will consider discharge goals and estimated

length of stay. Discharge planning will begin at admission and will be an ongoing process.

6. Documentation of the Treatment Plan and of its implementation will be kept in the child/youth record and will include the following, per TCA 0940-5-37-.05:
   a. The child/youth's name on the Treatment Plan
   b. The date of development of the Treatment Plan
   c. Individual problems specified in the Treatment Plan which are to be addressed within the particular service/program component, including treatment and educational components
   d. Individual objectives which are related to specified problems identified in the Treatment Plan and which are to be addressed by the particular service/program component
   e. Interventions and staff responsible for addressing goals and objectives in the Treatment Plan
   f. Signatures of the staff providing the services
   g. Documentation of participation of child/youth and parent/guardian/legal custodian or conservator where appropriate in the Treatment Planning process. If any of the parties refuse to participate, reasons for refusal will be documented
   h. Standardized diagnostic formulation(s), based upon the current Diagnostic and Statistical Manual (DSM) or current International Classification of Diseases (ICD) where appropriate, and assessment documentation on file which is updated as recommended by treatment team
   i. Planned frequency of treatment contacts
   j. A plan for family involvement in the child/youth's treatment
7. A review of the Treatment Plan will occur at least every thirty (30) days or upon completion of the stated goals and objectives and will include the following documentation, per TCA 0940-5-37-.05:
   a. Dated signatures of appropriate staff
   b. An assessment of progress toward each treatment goal and/or objective with revisions as indicated
   c. A statement of justification for the level of service(s) needed, including suitability for treatment in a less restrictive environment and continued services

F. Service Components & Overview

1. All necessary mental health services will be provided by the agency. This includes necessary assessments such as psychiatric evaluation, psychological evaluation, psychoeducational evaluation, and alcohol and drug assessment. This also includes treatment, such as individual, group, and family therapy, medication management, alcohol and drug treatment, and mental health/behavioral treatment.

The cost of all services is included in the per diem rate paid to the provider by DCS. Appropriate agreements with external providers will ensure that those providers will not also bill TennCare or any other insurance provider for the service as it is covered under the per diem. Twenty-four (24) hour awake staff;

2. In addition to a comprehensive treatment plan, other assessments may be requested by the following personnel: DCS Regional Licensed Mental Health Clinician, juvenile court personnel, the Local Education Agency (LEA), or the treating mental health provider.
3. If additional assessments are requested, the assessment will always be completed and final report made available within thirty (30) days of the date the request was made.
4. Each child/youth will have a clinical team comprised of representatives from front line staff, nursing staff, educators, therapeutic staff and a psychiatrist. The clinical team will participate in monthly documented clinical staffing for each child/youth;
5. The Program will provide an evidenced based model(s) as defined by SAMSHA or California Clearing House, designed for the population(s) served.
6. Behavior management system emphasizing positive reinforcements;
7. Development of Individualized Crisis Management Plan, if warranted by youth behavior;
8. Utilization of a nationally-recognized crisis intervention program for the use of seclusion, restraint and restrictive interventions.
9. Provision of recreational activities, social skills training, daily living skills and interdependent living skills. These activities will be appropriate to, and adapted to, the needs, interests and ages of the children/youths. More information about independent living may be found in the IL Core Services portion of the Provider Policy Manual.
10. Group counseling/therapy conducted by an appropriately credentialed staff at least two (2) times per week with each session being at least one (1) hour in length and no longer than one and a half (1.5) hours. Group size is not to exceed ten (10). These are clinically-focused groups and are specific to the specialized needs of the youth such as alcohol and drug, mental health or sexually abusive issues;
11. One (1) hour of individual counseling/therapy will be provided by an appropriately credentialed staff member at least weekly, with sessions lasting no less than one-half (.5) hour.
12. Family counseling/therapy:
    a. Provided by appropriately credentialed/licensed staff to the family identified as the family of care or the permanency family. This family is identified by the DCS Family Service Worker (FSW) as soon as possible after coming in to custody or upon admission to the facility. The agency therapist will have contact with the family of care or permanency family and the DCS FSW either by phone or in person within the first week of admission
    b. Provided at a minimum of two (2) times per month unless contraindicated
    c. Routine contacts with family and youth (visitation, phone calls) are not considered counseling/therapy

d. Sessions will be one (1) hour in length
e. Family schedules may necessitate minor changes in the length and frequency of counseling /therapy and these changes are to be documented in the case notes
f. Contraindications to family involvement and family counseling/therapy will be documented in the Treatment Plan. Provider concerns regarding family involvement will be addressed in writing to the DCS FSW (e-mail notification is allowed)
g. The provider agency is responsible for working with the family to overcome barriers to involvement such as transportation and schedules
h. The DCS FSW will assist with coordination and help to overcome barriers; and,
i. Family counseling/therapy is not contingent on the youth's behavior

13. The provider agency will arrange for on-site services of a psychiatrist. The psychiatrist will document face-to-face contact for psychiatric evaluation within two weeks of the date of admission. Psychiatric reviews, when appropriate, occur at least monthly and as needed thereafter for medication management.
14. All medications will be administered by licensed medical or licensed nursing personnel or a certified physician assistant practicing under a protocol approved by the medical staff. Such qualified personnel may only administer medication within the scope of an established protocol.
15. Health Services
    a. The program will arrange access to qualified dental, medical, nursing and pharmaceutical care for children/youths of the program. Children/youths or their families may choose a professional for non-emergency services.
    b. The program will ensure that if the child/youth has not had a physical examination within the twelve (12) months prior to admission they have one within thirty (30) days after admission. Such examinations will include routine screenings (such as vision and hearing), and laboratory examinations (such as Pap smear and blood work) as well as immunizations as determined necessary by the physician. Also included are special studies where the index of suspicion is high and thereafter as often as indicated by the child/youth's physician. Documentation of the physical examination will be placed in the child/youth's record and will include the name of the examining physician, clinic or hospital and date of examination.
16. Emergency Services:
    a. In case of medical or other type of emergencies, the program will provide for immediate access to relevant information in the child/youth's record.
    b. The program will provide immediate notification to the parent/guardian/legal custodian in case of emergency.
    c. The program will provide direct or telephone access to at least one (1) Tennessee licensed mental health professional twenty-four (24) hours a day seven (7) days a week. If the professional is not a psychiatrist, the program will also arrange for the regular, consultative, and emergency services of a psychiatrist.

d. The program will provide back-up coverage by staff trained to handle acute psychiatric issues on a twenty-four (24) hours per day, seven (7) days per week on-call basis.
e. The program will secure emergency services for children/youths who pose an imminent physical danger to themselves or others.

17. Individual Health, Hygiene and Grooming in the residential setting
    a. The program will assist children/youths in the independent exercise of health, hygiene and grooming practices.
    b. The program will assist each individual child/youth in securing an adequate allowance of personally owned, individualized, clean and seasonal clothes that are the correct size.
    c. The program will assist and encourage individual children/youths in the use of dental, physical or prosthetic appliances or devices and visual or hearing aids.

G. Education of the Child/Youth

1. The facility will have a Tennessee Department of Education and DCS-approved in-house school site and educational program in compliance with all necessary educational requirements including special education services, when applicable (For additional licensure information, see Section 9, Attachment 8, titled *Licensure Matrix).*
2. Providers will meet all criteria outlined in Section 9, Attachment 9, *titled Educational Standards for DCS Providers.*

H. Records Management

The individual record for each child/youth will contain the following information:

1. Documentation of the initial Treatment Plan (within 72 hours), Comprehensive Treatment Plan (within 30 days) and the Individualized Education Program (if required) and of their implementation;
2. Progress notes will be recorded daily and will include written documentation of child/youth progress and changes which have occurred within the implementation of the Treatment Plan. These progress notes will be dated and include the signature, title or degree of the person providing the service;
3. Psychological evaluations and psychiatric progress notes will be dated and include the signature, title or degree of the person providing the service;
4. Documentation of all medications prescribed and/or administered by the facility which indicates date prescribed, type, dosage, frequency, amount and reason for prescription;
5. Narrative summary review at least every six (6) months to include all medications prescribed. This review will also include specific reasons for the continuation of each medication;
6. Documentation of significant behavior and actions taken by staff;
7. A list of each article of the child/youth's personal property valued at one hundred dollars ($100.00) or more and its disposition if no longer in use.

8. Documentation of incidents of abuse, medical problems, accidents, seizures and illnesses. This documentation will include the treatment for such abuse, accidents, seizures, and illnesses and any reports generated as a result. Results of assessments are required by this rule;
9. Discharge summary which details the child/youth's condition at the time of discharge and the signature of person preparing the summary;
10. Documentation of an education plan developed for each child/youth that conforms to the Rules, Regulations and Minimum Standards of the State Board of Education and confirms the Individualized Education Program (IEP) test being developed by an appropriately constituted IEP Team for all "qualified students with disabilities";
11. The education plan may include education services provided either by the facility or by the Local Education Agency; and,
12. Appropriate consents and authorizations for the release and obtaining of information about the child/youth will be maintained and current.

I. Monitoring Progress

As described on the Monthly Summary Template, summaries are to be completed on a monthly basis for each family case served by the agency and will be submitted in TFACTS as a Private Provider Monthly summary case recording one time a month. The summary will be entered in the system by the 15th of the next month. This summary will include anything that has changed from the previous month and the youth's progress toward step-down.

The Monthly Summary Template may be found in the Core Standards section of the Provider Policy Manual.

J. Utilization Review

Agency will participate in DCS Utilization Reviews (UR). UR generally occurs at 30 day intervals.

K. Discharge Criteria

1. A preliminary discharge plan with discharge goals, projected length of stay, and tentative aftercare plan will be formulated and shared with the DCS Regional Licensed Mental Health Clinician, educational specialist, family services worker, and placement support worker.
2. A youth is ready for discharge when he/she no longer meets the admission criteria (outlined above) and sufficient aftercare services (e.g., mental health, education, family, medical/physical) have been arranged to allow for a smooth transition.

ATTACHMENT C

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. Attach evidence documenting the individual's authority to contractually bind the Contractor, unless the signatory is the Contractor's chief executive or president.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION

ATTACHMENT D

LIQUIDATED DAMAGES

Liquidated damages are five hundred dollars ($500.00) per day per child that is being served by the contract that has been breached, until the Contractor cures the breach, the State exercised its option to declare a partial default, or the State terminates the Contract. A breach is failure to perform any of the required services detailed in the “Provider Policy Manual” for said contract. Such amount represents the costs and efforts necessary to procure alternative vendor(s) to provide the defaulted service; re-staff individual cases, provide or perform the contract requirements; and/or facilitate contract compliance by the Contractor.

ATTACHMENT E

Provider

Disclosure of Ownership and Control Interest Statement and

Criminal Information

*h*ttp://www.tn.gov/tenncare/forms/disclosureownership.pdf