



STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES

**REQUEST FOR PROPOSALS # 34513-32126  
AMENDMENT # 1  
FOR STATE DISBURSEMENT AND CUSTOMER  
PAYMENT INFORMATION UNITS**

**DATE: JULY 8, 2024**

**RFP # 34513-32126 IS AMENDED AS FOLLOWS:**

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

EVENT	TIME (central time zone)	DATE
1. RFP Issued		May 24, 2024
2. Disability Accommodation Request Deadline	2:00 p.m.	May 31, 2024
3. Notice of Intent to Respond Deadline	2:00 p.m.	June 4, 2024
4. Written "Questions & Comments" Deadline	2:00 p.m.	June 20, 2024
5. State Response to Written "Questions & Comments"		July 8, 2024
6. Response Deadline	2:00 p.m.	July 16, 2024
7. State Schedules Respondent Oral Presentations		July 18, 2024
8. Respondent Oral Presentations		July 24, 2024 - July 26, 2024
9. State Completion of Technical Response Evaluations		August 12, 2024
10. State Opening & Scoring of Cost Proposals	2:00 p.m.	August 13, 2024
11. Negotiations		August 14, 2024 – August 16, 2024
12. State Notice of Intent to Award Released <u>and</u> RFP Files Opened for Public Inspection	2:00 p.m.	August 19, 2024
13. End of Open File Period		August 27, 2024
14. State sends contract to Contractor for signature		August 28, 2024
15. Contractor Signature Deadline	2:00 p.m.	August 30, 2024

**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.

<b>RFP SECTION</b>	<b>PAGE #</b>	<b>QUESTION / COMMENT</b>	<b>STATE RESPONSE</b>
3.1.1.2	6	<b>1.</b> The RFP requires Bidders to respond using 12-point font. May Bidders use a smaller, still readable font for each of the following: a) headers and footers b) requirement text c) exhibits/figures/graphics d) tables	Respondent may use smaller than 12 pt. font for graphics, tables, and organizational charts, provided all text is legible.
3.1.1.2	6	<b>2.</b> Please confirm whether each of the following are included in the page limits: a) tabs b) title page c) tables of contents	The listed documents that are not part of the Technical Response are not counted in the 200-page count.
3.1.1.2	6	<b>3.</b> Can the project schedule be exempted from the 12-point font size requirement in order to properly display all fields in the MS Project PDF version?	Yes. Font for graphics, tables, and organizational charts, provided should be legible
3.1.1.2	6	<b>4.</b> In order to fully respond to the RFP requirements, will the State please consider allowing vendors to include the following responses in an Appendix that will be excluded from the 200-page limit?  Resumes required in Section B.13 Draft Implementation Plan required in Section C.3 Draft Disaster Recovery/Business Continuity Plan required in Section C.5	Documents that are not part of the Technical Response are not counted in the 200-page limit. Resumes, draft plans submitted with the technical response, and project schedule will be considered as part of the 200-page limit. See RFP # 34513-32126, Section 3.1.1.2. for clarification.
3.2.2.2	7	<b>5.</b> Are there any restrictions on the file size that can be submitted?	State inboxes have a 10MB file limit.
3.2.2	7	<b>6.</b> Does the state require digital media submission OR Email submission or both?	Either Digital or Email.
Attachment 6.3	29	<b>7.</b> Please confirm the date on the SDU Transaction Fee for Contract Year 1 should be March 1, 2025, not March 1, 2022.	Please see amended Item # 3 below.
Attachment 6.6 (A.15)	42	<b>8.</b> Are funds for unidentified payments deposited to the State's bank account on the day of receipt?	Yes, however unidentified payments are not transferred to TCSES until the payment has been identified as per RFP 34513-32126, Attachment 6.6. <i>Pro Forma</i> Contract, Section A.19, or on the 10 <sup>th</sup> business day per RFP 34513-32126, Attachment 6.6. <i>Pro Forma</i> Contract, Section A.21.
Attachment 6.6 (A.21)	43	<b>9.</b> Are unidentified payments sent to TCSES on the day of receipt? Is information for unresolved	No. Please see response to Question #8 above. The State allows for an Information

RFP SECTION	PAGE #	QUESTION / COMMENT	STATE RESPONSE
		identification issues sent to the State as a report?	Recovery Period of ten (10) Business Days prior to deposit.  Reconciliation reports are required daily to show the amount of payments deposited, the amount of payments received and transferred in the TCSES payment file.
Attachment 6.6 (B.1 and B.2)	53	<b>10.</b> The language states, "In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty-six (66) months."  The initial term of the contract, from September 1, 2024, to February 28, 2030, is already 66 months.  Can you please clarify this Term Extension clause?	Yes. Please see Item # 4 below.
Attachment 6.6 (D.5)	56	<b>11.</b> Will the State please consider providing the Contractor with the ability to recover reasonable unamortized and/or wind-down costs associated with the State opting to terminate the contract for its convenience and not due to the fault of the Contractor?	No, the State will not entertain changes to this provision.
Attachment 6.6 (D.6)	56	<b>12.</b> Will the State please consider providing the Contractor with a reasonable notice and cure period to remedy any deficiency prior to terminating the contract for cause?	No, the State will not entertain changes to this provision.
Attachment 6.6 (D.18)	58	<b>13.</b> Will the State please consider limiting the Contractor's total liability to the Maximum Liability and adding an exclusion of indirect, consequential, incidental, and special damages provision that provides the same protections afforded to the State under the contract?	No, the State will not entertain changes to this provision.
Attachment 6.6 (D.19)	58	<b>14.</b> Will the State please consider limiting Contractor's indemnification obligations to the State to claims directly caused by Contractor's own breach of contract, negligence and/or willful misconduct in performance of its contractual duties?	No, the State will not entertain changes to this provision.
Attachment 6.6 (E.4)	67	<b>15.</b> Will all 5 Trust Service Criteria (TSC) for SOC 2 Type 2 audits be required for this contract? I.e., Security, Availability, Processing Integrity, Confidentiality, and Privacy. If all 5 TSCs are not required, would the State please provide which TSCs will be required as part of the annual SOC 2 Type 2 audit?	Yes. All five (5) Trust Service Criteria (TSC) for SOC Type II audits are required.
Attachment 6.6 (E.15)	73-74	<b>16.</b> Will the State please consider aggregately capping any liquidated damages assessed against the Contractor at 10% of the monthly invoice amount?	No, the State will not entertain changes to this provision.

RFP SECTION	PAGE #	QUESTION / COMMENT	STATE RESPONSE
Attachment 6.6 (E.15)	73-74	<b>17.</b> Will the State please consider adding excused events language into the final contract that protects the Contractor against liquidated damage assessments in the following circumstances: (i) when changes in scope, direction, budget, processes, or program funding are made at the request of the State and such changes adversely affect Contractor's ability to perform in accordance with the Performance Standards; (ii) when force majeure events occur; (iii) when Contractor's ability to perform in accordance with the Performance Standards is caused by the actions or inactions of the State or third-parties under the State's control?	No, the State will not entertain changes to this provision.
Attachment 6.6 (E.16)	74	<b>18.</b> In the event the State opts to exercise its right to Partial Takeover and terminate the contract in part and/or materially de-scope the project, will the State please consider negotiating an equitable adjustment in price for the remaining scope of the project?	Please see amended Item # 5 below.
		<b>19.</b> What is the average dollar amount deposited to the State's bank account each month for child support collections?	The average monthly deposit for each month for child support collections is \$47,865,902.
		<b>20.</b> What is the breakdown between the number of paper payments each month and electronic payments?	Jan. 23 – Electronic 76% Jan. 23 – Paper – 24% Feb. 23 – Electronic 77% Feb. 23 – Paper – 23% Mar. 23 – Electronic – 78% Mar. 23 – Paper – 22% Apr. 23 – Electronic – 77% Apr. 23 – Paper – 23% May 23 – Electronic – 76% May 23 – Paper – 24% Jun. 23 – Electronic – 78% Jun. 23 – Paper – 22% Jul. 23 – Electronic – 76% Jul. 23 – Paper – 24% Aug. 23 – Electronic – 77% Aug. 23 – Paper – 23% Sep. 23 – Electronic – 78% Sep. 23 – Paper – 22% Oct. 23 – Electronic – 77% Oct. 23 – Paper – 23% Nov. 23 – Electronic – 78% Nov. 23 – Paper – 22% Dec. 23 – Electronic – 79% Dec. 23 – Paper – 21%
		<b>21.</b> What is the number of paper financial instruments each month?	Jun. 23 Work Item Count - 44,647 Jun. 23 Debit Count - 75,137 July 23 Work Item Count – 44,966 July 23 Debit Count – 77,470 Aug. 23 Work Item Count – 43,998 Aug 23 Debit Count – 73,607 Sep. 23 Work Item Count – 45,238 Sep. 23 Debit Count – 75,860 Oct. 23 Work Item Count – 43,240

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			Oct. 23 Debit Count – 74,474 Nov. 23 Work Item Count – 41,532 Nov. 23 Debit Count – 69,875 Dec. 23 Work Item Count – 41,919 Dec. 23 Debit Count – 72,580 Jan. 24 Work Item Count – 40,348 Jan. 24 Debit Count – 69,330 Feb. 24 Work Item Count – 39,434 Feb. 24 Debit Count – 67,487 Mar. 24 Work Item Count – 41,621 Mar. 24 Debit Count – 71,927 Apr. 24 Work Item Count – 40,366 Apr. 24 Debit Count – 69,711 May 24 Work Item Count – 40,424 May 24 Debit Count – 69,888
		<b>22.</b> What is the number of NSF's (total returned checks) each month?	<b>For the year of 2024:</b> Jan 2024 - 120 Feb 2024 - 87 Mar 2024 - 81 April 2024 – 83 May 2024 - 97
Attachment 6.6 (A.37)	7-8	<b>23.</b> What is the Average Handle Time (AHT) or length of these calls?	The average time handled is 03:17 per call (mm:ss)
		<b>24.</b> What is the monthly or annual volume of outbound calls made by the SDU and CPU?	CPU annual average is 54,673 calls. SDU is not reported.
Attachment 6.6 (A.50)	9-10	<b>25.</b> What is the size in terabytes (TBs) of data and images to be transitioned from the current vendor for this contract?	Database size is 160 GB. Image size is 4.24 TB
1.1	1	<b>26.</b> Can the State please provide the transaction and call volumes for calendar year 2023?	2023 Transactions: 3,963,084 2023 Call volumes 54,673
2.1	5	<b>27.</b> Will the State please consider extending the response deadline one additional week to allow Respondents adequate time to incorporate necessary changes resulting from the State's written response to questions and comments?	No. The State will not entertain any extensions to the RFP 34513-32126, Section 2.1 Schedule of Events.
3.1.1.2	6	<b>28.</b> Are the documents required in Section A—Mandatory Requirement Items excluded from the 200 page count? May the Disaster Recovery/Business Continuity Plan and implementation schedule be provided as appendices and excluded from the 200 page count? May text within headers, footers, tables, and graphics be smaller than 12 point font?	Documents that are not part of the Technical Response are not counted in the 200-page limit. Resumes, draft plans submitted with the technical response, and project schedule will be considered as part of the 200-page limit. See RFP 34513-32126, Section 3.1.1.2. for clarification. Yes. Twelve (12) point. font for graphics, tables, and organizational charts, provided should legible.
Attachment 6.2, A.4	20-21	<b>29.</b> Can the State confirm that a Dun & Bradstreet full credit report dated within the last three months is sufficient documentation to meet the requirements of this section?	Yes, that will meet requirements of this section.

RFP SECTION	PAGE #	QUESTION / COMMENT	STATE RESPONSE
RFP Attachment 6.3	29	<b>30.</b> Should 2022 for the Contract Year 1 be changed to 2025?	Yes. Please see amended Item # 3 below.
RFP Attachment 6.6 (A.21.B.(1) to (3))	6	<b>31.</b> Would it be appropriate to change the 4:30 deadline in these subsections to match the 5:30 deadlines for posting payments to the correct account and processing the daily collections file as stated in Sections A.8 and A.13?	No. The 4:30 PM CST is a deadline for the ten (10) Business Day Recovery Period and not the deadline for transferring the unidentified receipts to the TCSES Suspense file. The Contractor shall transfer all unidentified receipts after the ten (10) Business Day Recovery period has ended.
RFP Attachment 6.6 (A.24)	6	<b>32.</b> The State's current designated bank for foreign currency deposits does not provide for the same day conversion of foreign funds. Is the requirement for same day conversion applicable only if the State's designated bank provides this service? Or does the Contractor need to provide a depository bank for foreign currency deposits ensuring the bank can offer same day conversion of foreign funds?	Please see amended Item # 6 below.
RFP Attachment 6.6. (A.26)	6	<b>33.</b> Can the State please clarify if all correspondence is to be forwarded to the State's customer service email address or only correspondence unrelated to A.37?	Yes, the contractor shall forward all correspondence that is not listed under RFP 34513-32126, Attachment 6.6 <i>Pro Forma</i> Contract, Section A.37. to the State's Customer Service Contact, per RFP 34513-32126, Attachment 6.6 <i>Pro Forma</i> Contract, Section A.26.
RFP Attachment 6.6 (A.51 – 59)	11-14	<b>34.</b> Should Sections A.51 (second A.51) through A.59 be renumbered as A.52-A.60?	Yes. Please see amended Item # 7 below.
RFP Attachment 6.6 (A.50 – 59)	10-14	<b>35.</b> Sections A.50 through A.59 fall under the Customer and Employer Payment Information Operation heading. Does the State desire a narrative addressing any of these provisions? If yes, should these items be addressed in response to RFP Attachment 6.2, Item C.6 1) or 2)?	Yes. Respondent shall provide narrative that addresses the approach to operations of services as detailed in RFP 34513-32126, Attachment 6.2 Technical Response & Evaluation Guide – Section C, Item C.6.

- 3. RFP 34513-32126, Attachment 6.3 Cost Proposal & Scoring Guide is deleted in its entirety and replaced with the new attachment RFP 34513-32126, Attachment 6.3 Cost Proposal & Scoring Guide attached hereto.**

**COST PROPOSAL & SCORING GUIDE**

**NOTICE: THIS COST PROPOSAL MUST BE COMPLETED EXACTLY AS REQUIRED**

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

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

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

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

<b>RESPONDENT SIGNATURE:</b>			
<b>PRINTED NAME &amp; TITLE:</b>			
<b>DATE:</b>			
<b>RESPONDENT LEGAL ENTITY NAME:</b>			
<b>Cost Item Description</b>	<b>Proposed Cost</b>	<b>State Use Only</b>	
		<b>Evaluation Factor</b>	<b>Evaluation Cost</b> (cost x factor)
SDU Transaction Fee Contract Year 1 (March 1, 2025 – February 28, 2026)	<b>\$NUMBER</b> per receipt created and processed within the SDU.	Five (5) million	
SDU Transaction Fee Contract Year 2 (March 1, 2026 – February 28, 2027)	<b>\$NUMBER</b> per receipt created and processed within the SDU.	Five (5) million	
SDU Transaction Fee Contract Year 3 (March 1, 2027 – February 29, 2028)	<b>\$NUMBER</b> per receipt created and processed within the SDU.	Five (5) million	

<b>RESPONDENT LEGAL ENTITY NAME:</b>			
<b>Cost Item Description</b>	<b>Proposed Cost</b>	<b>State Use Only</b>	
		<b>Evaluation Factor</b>	<b>Evaluation Cost (cost x factor)</b>
SDU Transaction Fee Contract Year 4 (March 1, 2028 – February 28, 2029)	<b>\$NUMBER</b> per receipt created and processed within the SDU.	Five (5) million	
SDU Transaction Fee Contract Year 5 (March 1, 2029 – February 28, 2030)	<b>\$NUMBER</b> per receipt created and processed within the SDU.	Four million, five hundred thousand. (4,500.000)	
Annual Customer Payment Information Operation Contract Year 1 (March 1, 2025 – February 28, 2026)	<b>\$NUMBER</b> per Contract Year	One (1)	
Annual Customer Payment Information Operation Contract Year 2 (March 1, 2026 – February 28, 2027)	<b>\$NUMBER</b> per Contract Year	One (1)	
Annual Customer Payment Information Operation Contract Year 3 (March 1, 2027 – February 29, 2028)	<b>\$NUMBER</b> per Contract Year	One (1)	
Annual Customer Payment Information Operation Contract Year 4 (March 1, 2028 – February 28, 2029)	<b>\$NUMBER</b> per Contract Year	One (1)	
Annual Customer Payment Information Operation Contract Year 5 (March 1, 2029 – February 28, 2030)	<b>\$NUMBER</b> per Contract Year	One (1)	
<b>EVALUATION COST AMOUNT</b> (sum of evaluation costs above):			
The Solicitation Coordinator will use this sum and the formula below to calculate the Cost Proposal Score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.			
$\frac{\text{lowest evaluation cost amount from all proposals}}{\text{evaluation cost amount being evaluated}}$		$\times 30$ (maximum section score)	$=$ <b>SCORE:</b>
<i>State Use – Solicitation Coordinator Signature, Printed Name &amp; Date:</i>			



**4. RFP 34513-32126, Attachment 6.6 Pro Forma Contract, Section B.2. is deleted in its entirety.**

~~B.2. Term Extension. The State may extend the Term an additional period of time, not to exceed one hundred eighty (180) days beyond the expiration date of this Contract, under the same terms and conditions, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.~~

**5. RFP 34513-32126, Attachment 6.6 Pro Forma Contract, Section E.16 is deleted in its entirety and replaced with the following:**

E.16. Partial Takeover of Contract. Reserved. 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.

**6. RFP 34513-32126, Attachment 6.6 Pro Forma Contract, Section A.24 is deleted in its entirety and replaced with the following:**

A.24. The Contractor shall convert all foreign currency into U.S. dollars prior to processing and deposit of funds. All conversions must be initiated the same day payment is received during normal business hours.

**7. RFP 34513-32126, Attachment 6.6 Pro Forma Contract, Sections A.50 through A.59 are deleted in their entirety and replaced with the following:**

A.50. Contract Services Transition. Upon expiration or termination of this Contract, the Contractor shall assist the State to ensure an orderly transfer of responsibility and continuity of those services required under the terms of the Contract to an organization designated by the State.

a. The Contractor shall deliver, FOB destination, all records, documentation, reports, data, hard copy and electronic files, roster of current staff, recommendations, customer inquiries, customer complaints, or tracking logs, which were required to be produced under the terms of the Contract to the State or the State's designee promptly and with due diligence after receipt of the written request. Electronic files shall be delivered in a TIFF, PDF, or other format as may be prescribed by the State, based on instructions supplied to the Contractor at least sixty (60) days prior to the required delivery date.

b. The Contractor shall discontinue providing the service or accepting new assignments under the terms of this Contract, on the date specified by the State, in order to ensure the completion of such service prior to the termination of the Contract.

c. The Contractor shall, upon request and at no additional cost to the State, help to provide an understanding of the State's SDU and CPU operations for any potential future Contractors.

A.51. Contractor's Financial Responsibility for Overpayments or Misapplied Payments. The Contractor shall be financially responsible for all misapplied and overpayments credited to the incorrect Obligor's case and docket and disbursed to an Obligee where a Recoupment is determined by the State to be caused by negligence or other acts of the Contractor or Contractor's staff or agents.

- a. The Contractor shall make all effort attempts to collect payments that have been misapplied, overpaid to the incorrect Obligor's case, and disbursed to an Obligee where a Recoupment balance is created. Such attempts shall include but not limited to telephone calls, email correspondence, and written notifications to any overpaid customer.
- b. Each month for the Term of this Contract, the State shall provide the Misapplied Report to the Contractor. The Misapplied Report shall contain the financial transactions deemed to be misapplied or overpaid as initially determined by the State that result in a Recoupment balance. The State will review the Recoupment amount with the Contractor within ten (10) Business Days of the date of the report. The Misapplied Report shall contain at a minimum:
  - i. Payment date;
  - ii. Date the misapplied or overpayment was corrected;
  - iii. Misapplied or overpaid case number;
  - iv. Correct case payment was to apply;
  - v. Receipt transaction number;
  - vi. Receipt transaction dollar amount;
  - vii. Total amount misapplied or overpaid; and
  - viii. Recoupment of payment actions taken.
- c. The Contractor shall have six (6) months in which to resolve each misapplied or overpaid amounts beginning the date the misapplied or overpayment is discovered and determined to be valid by the State.
- d. Each month, the State shall notify the Contractor, in writing, of the State's final determination of the amounts misapplied or overpaid subsequent to the review.
- e. Upon final determination of the amount of misapplied or overpayments, reimbursement to the State by the Contractor of the amount of misapplied or overpayments may be made by the State's withholding of the amount of such misapplied or overpayments from any future invoice or invoices for services provided to the State under this Contract, until the total of all overpayments under this Contract are reimbursed to the State.
- f. The State shall, at its discretion, permit the Contractor to reimburse the State directly for misapplied or overpaid amounts; provided, such direct payment by the Contractor shall be made within thirty (30) days of the date of notice by the State to the Contractor following final determination by the State. If, in such case(s), direct payment is not made within thirty (30) days of the date of notice to the Contractor, the State may then withhold the amount of such misapplied or overpayments from any future invoice or invoices for services provided to the State.
- g. If misapplied or overpayments occur at such time that reimbursement of the full amount of the misapplied or overpayments cannot be made from withholding amounts due in any future invoices, the Contractor shall reimburse the State directly for the full amount of the misapplied or overpayments within thirty (30) days of the date of written notice to the Contractor of the final determination by the State.
- h. Nothing herein shall limit the State's remedies for breach or such other legal remedies that may be available to the State for the recovery of misapplied or overpayments resulting from the negligence or other acts of Contractor or Contractor's staff or agents.

**A.52.** The Contractor shall make all effort attempts to collect from the Obligor or employer that presents any payment and received by the State that have been determined to be a NSF or rejected for other reasons. Attempts to collect shall include but not limited to: telephone calls, email correspondence and written notifications. The attempts made shall be documented on the Project Status Report for review by the State.

**A.53.** The State shall:

- a. Provide a VRS and transfer appropriate calls to the Contractor;
- b. Offer telephonic interpreting services for Limited English Proficiency clients at no charge to clients;
- c. Provide access to State applications, e-mail accounts and data resources, as necessary and approved by the State, subject to applicable State policies and procedures;
- d. Provide an internet accessible, secure file transfer protocol account for file exchange;
- e. Provide train-the-trainer training on the use of the State's automated TCSES system; and
- f. Provide a post office box in Nashville, Tennessee for the purposes of receiving child support payments.

**A.54.** With the exception of official State holidays, the State shall provide the Contractor access to the TCSES system for CPU activities from 7:00 a.m. to 4:30 p.m. Central Time, Monday through Friday.

**A.55.** Background Investigation Requirements. The Contractor shall conduct a background investigation on all prospective contract employees, as well as those with whom the Contractor sub-contracts, whose duties will or may include access to FTI.

The Contractor shall ensure that all prospective contract employees and contractors, whose duties will or may include access to FTI, consent to the following background investigation prior to accessing FTI:

- a. FBI fingerprint background check;
- b. Local law enforcement background check (including but not limited to the State of Tennessee and locations where the applicant has lived, worked, or attended school within the last five (5) years); and
- c. Citizenship and residency checks to verify new applicant's eligibility to legally work in the United States (e.g., a United States citizen or foreign citizen with the necessary authorization) through E-Verify.

All prospective contract employees' background checks will be evaluated in accordance with DHS's Employee Fingerprint and Criminal Background Investigations policy for suitability determination. Specific requirements and procedures for these checks are detailed in the DHS Employee Fingerprint and Criminal Background Investigations policy, DHS Administrative Policies and Procedures: Policy 2.06. At the State's discretion, the background check may not be necessary if DHS has a valid background investigation on file within the past five (5) years regarding the contract or subcontract employee. Background check information will be sent directly to the State, and the State shall be responsible for the cost of conducting background checks for those contractors whose work may include access to FTI.

**A.56.** Contractor access must be limited in accordance with IRC § 6103(l)(6)(B)(ii) and Publication 1075 section 5.5 for the purposes of establishing and collecting child support obligations.

**A.57.** Federal Tax Information (FTI) – Minimum Protection Standards.

The Contractor shall maintain strict security standards in accordance with State policy and all applicable requirements of the most current version of IRS Publication 1075. The objective of these standards is to prevent unauthorized access to FTI. MPS establish a uniform method of physically protecting data and systems as well as non-electronic forms of FTI. This method contains minimum standards that will be applied on a case-by-case basis. Because local factors may require additional security measures, management must analyze local circumstances to determine location, container, and other physical security needs at individual facilities. MPS have been designed to provide management with a basic framework of minimum-security requirements. Federally Mandated Requirements For Technology Services Contracts With Access To Federal Tax Return Information, which appears as Attachment C, is incorporated in this Contract.

The Contractor shall comply with the MPS or "two barrier" rule to protect FTI as further detailed in Section 2.B.2 et seq. of IRS Publication 1075, as may be amended. The objective of these standards is to prevent unauthorized access to FTI. MPS thus requires two barriers. Example barriers under the concept of MPS are outlined below. Each topic represents one barrier and should be used as a starting point to identify two

barriers of MPS to protect FTI. The Contractor shall ensure that the MPS requirements are met in accordance with the following standards.

- a. Secured Perimeter:  
The perimeter is enclosed by slab-to-slab walls constructed of durable materials and supplemented by periodic inspection. Any lesser-type partition must be supplemented by electronic intrusion detection and fire detection systems. All doors entering the space must be locked in accordance with Locking Systems for Secured Areas. In the case of a fence/gate, the fence must have intrusion detection devices or be continually guarded, and the gate must be either guarded or locked with intrusion alarms.
- b. Security Room:  
A security room is a room that has been constructed to resist forced entry. The entire room must be enclosed by slab-to-slab walls constructed of approved materials (e.g., masonry brick, concrete) and supplemented by periodic inspection, and entrance must be limited to specifically authorized personnel. Door hinge pins must be non-removable or installed on the inside of the room.
- c. Badged Employee:  
During business hours, if authorized personnel serve as the second barrier between FTI and unauthorized individuals, the authorized personnel must wear picture identification badges or credentials. The badge must be clearly displayed and worn above the waist.
- d. Security Container  
A security container is a storage device (e.g., turtle case, safe/vault) with a resistance to forced penetration, with a security lock with controlled access to keys or combinations.  
  
The MPS or "two barrier" rule applies to FTI, beginning at the FTI itself and extending outward to individuals without a need-to-know. MPS provides the capability to deter, delay, or detect surreptitious entry. Protected information must be containerized in areas where other than authorized employees may have access after-hours.

A.58. Control Memorandum Process.

- a. The Control Memorandum ("CM") process shall be utilized by the State to clarify Contract requirements, issue instruction to the Contractor, document action required of the Contractor, or request information from the Contractor. In addition, the CM process shall be used by the State to impose assessments of damages, either actual or liquidated. This process will be used to address issues or matters that do not require a contract amendment. Each CM must be in writing and indicate the date on which it was issued. CMs may provide relevant history, background, and other pertinent information regarding the issue(s) being addressed in the CM. Each CM will establish a deadline or timeframe for the Contractor's reply or other action. All CMs submitted to the Contractor must be signed and approved by the State's Project Director (or his/her designee). When the CM pertains to damages, either actual or liquidated, the State may issue consecutive CMs, as may be necessary or appropriate.
- b. A CM may include one (1) or more of the five (5) components of the CM process described below:
  - 1. On Request Report – a request directing the Contractor to provide information by the time and date set out in the CM.
  - 2. Control Directive (CD) – instructions that require the Contractor to complete, within a designated timeframe, one (1) or more deliverables or to perform any other request from the State that is within the scope of the Contract. The CD may include a Corrective Action Plan. A CD may also provide clarification of certain Contract terms. Once a CM/CD has been issued, it shall be considered to be incorporated into this Contract.
  - 3. Notice of Potential Damages (Actual or Liquidated) (NPD) – notification to the Contractor that the State has determined that a potential Contract performance or compliance failure exists and that the State is contemplating assessing damages. The NPD shall identify the Contract provision(s) on which the State determination rests.
  - 4. Notice of Calculation of Potential Damages (Actual or Liquidated) (NCPD) – notification to the Contractor that provides a calculation of the amount of potential damages that the State is contemplating assessing against the Contractor. NPDs and NCPDs may be issued consecutively or simultaneously.

5. Notice of Intent to Assess Damages (Actual or Liquidated) (NIAD) – notification to the Contractor that the State is assessing damages and specifying whether the damages, due to a performance or compliance failure, are actual damages or Liquidated Damages and setting out the performance or compliance failure underlying each intended damage assessment. The NIAD shall identify the NPD and NCPD upon which it is based. The NIAD shall specify the total amount and type of damages, whether actual or liquidated, that the State intends to assess. Following the issuance of an NIAD, the State may elect to withhold damages from payments due to Contractor. The State may not issue a NIAD without first issuing a NPD and a NPCD. The State may not obtain both Liquidated Damages and Actual Damages for the same occurrence of a Contract performance or compliance failure.
- c. Damages for failure to comply with CM. The Contractor shall fully comply with all CMs. Failure to do so may result in the State pursuing recovery of damages, as defined in Section E.10., including Liquidated Damages as listed in Contract Attachment B, a Corrective Action Plan, and/or termination of the Contract.
- d. Appeal of Damages by Contractor. Contractor may appeal either the basis for NPD or calculation of NCPD potential damages, either actual or liquidated. To do so, the Contractor shall submit to the State's Project Director (or his/her designee) a written response to the NPD and/or NCPD within ten (10) Business Days of receipt of a CM which includes a NPD or a NCPD. The State's Project Director (or his/her designee) shall review the appeal and provide notice of his/her determination to the Contractor through a CM. If the Contractor disagrees with the State's Project Director's (or his/her designee) initial appeal determination or the State's Project Director (or his/her designee) is unable to resolve the appeal, the Contractor may submit a written request to the State's Project Director (or his/her designee) that the matter be escalated to senior management of the Agency. Contractor shall submit such a request for escalation within ten (10) Business Days of its receipt of the initial appeal determination from the State's Project Director (or his/her designee) or of notification by the State's Project Director that he/she is unable to resolve the appeal. The State's senior management shall provide written notice of its final determination to the Contractor within ten (10) days of the receipt of the appeal from the Contractor. Upon appeal or escalation, the State shall not increase the amount of the potential damages.

**A.59. Warranty.** Contractor represents and warrants that the term of the warranty ("Warranty Period") shall be the greater of the Term of this Contract or any other warranty generally offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a "Defect" and shall be considered "Defective." If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect, at no additional charge.

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

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

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

**A.60. 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.

8. RFP 34513-32126, Attachment 6.6 *Pro Forma Contract*, Attachment B Liquidated Damages is deleted in its entirety and replaced with the new attachment RFP 34513-32126, Attachment 6.6 *Pro Forma Contract*, Attachment B Liquidated Damages attached hereto.

## LIQUIDATED DAMAGES

In the event of a Contract performance or compliance failure by Contractor and such Contract performance or compliance failure is not included in the following table with an associated Liquidated Damage amount, the parties hereby agree that the State may choose one of the following courses of action in order to obtain redressability for such Contract performance or compliance failure: (1) the State may assess actual damages resulting from the Contract performance or compliance failure against the Contractor in the event that such actual damages are known or are reasonably ascertainable at the time of discovery of such Contract performance or compliance failure or (2) if such actual damages are unknown or are not reasonably ascertainable at the time of discovery of the Contract performance or compliance failure, the State may (a) require the Contractor to submit a corrective action plan to address any such Contract performance or compliance failure and (b) assess liquidated damages against Contractor for an amount that is reasonable in relation to the Contract performance or compliance failure as measured at the time of discovery of the Contract performance or compliance failure. In the event that the State chooses to assess a Liquidated Damage for a Contract performance or compliance failure according to the immediately preceding sentence, in no event shall such Liquidated Damage be in excess of \$1,000 for any single Contract performance or compliance failure.

DHS may elect to apply the following liquidated damages remedies in the event the Contractor fails to perform its obligations under this Contract in a proper and/or timely manner. Upon determination by DHS that the Contractor has failed to meet any of the requirements of this Contract in a proper and/or timely manner, DHS will notify the Contractor in writing of the performance or compliance failure and of the potential liquidated damages to be assessed. Should the performance or compliance failure remain uncorrected for more than thirty (30) calendar days from the date of the original notification of the performance or compliance failure by DHS, DHS may impose an additional liquidated damage of Five Hundred Dollars (\$500) per day from the date of the original notification to Contractor until said performance or compliance failure is resolved.

All liquidated damages remedies set forth in the following table may, at DHS's election, be retroactive to the date of the initial occurrence of the failure to comply with the terms of the Contract as set forth in the notice of performance or compliance failure from DHS and may continue until such time as the DHS Deputy Commissioner, or the Deputy Commissioner's representative, determines the performance or compliance failure has been cured.

If liquidated damages are assessed, DHS shall reduce the amount of any payment due to the Contractor in the next invoice by the amount of damages. In the event that damages due exceed the amount DHS is to pay to Contractor in a given payment, DHS shall invoice Contractor for the amount exceeding the amount payable to Contractor, and such excess amount shall be paid by Contractor within thirty (30) calendar days of the invoice date. In situations where the Contractor wishes to dispute any liquidated damages assessed by DHS, the Contractor must submit a written notice of dispute, including the reasons for disputing the liquidated damages, to the DHS Deputy Commissioner or the Deputy Commissioner's representative within thirty (30) calendar days of receipt of the notice from DHS containing the total amount of damages assessed against the Contractor. If the Contractor fails to timely dispute a liquidated damages assessment as set forth herein, such failure shall constitute a bar to the Contractor seeking to have the assessment amount overturned in a forum or court of competent jurisdiction.

Liquidated damages will apply to the Contract performance or compliance failures listed below. Contractor acknowledges that the actual damages likely to result from Contract performance or compliance failures are difficult to estimate and may be difficult for the State to prove. The parties intend that the Contractor's payment of assessed liquidated damages will compensate the State for breach of the Contractor obligations under this Contract. Liquidated damages do not serve as punishment for any breach by the Contractor.

**LIQUIDATED DAMAGES EVENT AND AMOUNTS**

<b>Liquidated Damages Event</b>	<b>Liquidated Damages Amount</b>
<p><b><u>Liquidated Damage Event 1:</u></b></p> <p>Failure to comply with each and every customer call answering requirements pertaining to call documentation, reporting and Performance Standards as established in Reference Sections A.44. And A.45.</p>	<p>A maximum of two thousand dollars (\$2,000.00) per month that the Contractor fails to fully comply with all requirements established in Sections A.44 and A.45.</p>
<p><b><u>Liquidated Damage Event 2:</u></b></p> <p>Failure to comply with the performance timeliness standards set forth in Contract Section A.14.</p> <p>Reference Section A.13</p>	<p>For the Section A.14 deliverable, a maximum of one thousand dollars (\$1,000.00) for each failure to meet the deadline established in Section A.13 and for each hour thereafter.</p>
<p><b><u>Liquidated Damage Event 3:</u></b></p> <p>Failure to comply with the applicable legal standard regarding access to FTI, including but not limited to the physical security standards established in Sections A.57, E.3.g, 1 through 9 and E.3.j. of the Contract and IRS Publication 1075.</p>	<p>One Thousand Dollars (\$1,000.00) per day per deficiency until resolved.</p>
<p><b><u>Liquidated Damage Event 4:</u></b></p> <p>Failure to timely submit accurate reports as required by Contract Sections A.14, A.15, A.33., A.34, and A.44.</p>	<p>A maximum of one thousand dollars (\$1,000.00) per report for each day on and after the Contractor fails to timely provide the accurate report to the State.</p>
<p><b><u>Liquidated Damage Event 5:</u></b></p> <p>Failure to provide the State, no later than April 1, 2025, a tested version of the Disaster Recovery /Business Continuity Plan or to notify the State, by the due date as specified, of alterations to the documented and tested Disaster Recovery / Business Continuity Plan. Reference Section A.5.</p>	<p>Seven Hundred Fifty Dollars (\$750.00) per day that the contractor fails to provide a tested version of the Disaster Recovery/Business Continuity Plan, as required, until resolved.</p>



<p><b><u>Liquidated Damage Event 6:</u></b></p> <p>Failure to provide assistance as requested by the State in support of contract services transition in accordance with Section A.50.</p>	<p>Two Thousand Dollars (\$2,000.00) per day that the Contractor fails to comply with the State's request for assistance in support of contract services transition until resolved.</p>
<p><b><u>Liquidated Damage Event 7:</u></b></p> <p>Failure to comply with the identification of unidentified payment timeliness standards set forth in Contract Section A.34.</p>	<p>A maximum of two thousand dollars (\$2,000.00) for each day on which and after the Contractor fails to perform the duties set forth in Contract Section A.21 at a completion rate of ninety-nine and seven-tenths percent (99.7%) by 4:30 p.m. Central Time on the ninth Business Day after the Contractor received the payment.</p>

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