

AGENDA
ADVISORY COUNCIL ON STATE PROCUREMENT MEETING #051
MONDAY, DECEMBER 12, 2022, 1:00 P.M.
MULTI-MEDIA ROOM

AGENDA ITEM		PAGE #
I.	Call to Order	--
II.	Approve Minutes from August 18, 2022, Meeting.....	3
III.	Advisory Council Agenda Items Overview..... (see attached documentation)	9
IV.	New Business Proposed revisions to the following Central Procurement Office documents (see attached documentation): (1) Contractor Hosted Data, Audit, and Other Requirements..... (2) Boycott of Israel (3) GU Model (fee-for-service contract with a federal or local government entity) Instructions (4) TDOT Request to Grant Templates..... (5) Optional Terms for OCJP section D.6. Conflicts of Interest GR and GG..... (6) Notice of Intent to Award (7) Configurator Invitation to Bid "Questions" Term..... (8) Procurement Procedures Manual of the CPO, § 7. Managing The Relationship with the Contracting Party..... (9) Contractor Scorecard Template (NEW) (10) Grant Contract "GR" D.19. Contract Term..... (11) GG D.19. Term (12) Grant Management and Subrecipient Monitoring Policy and Procedures, Policy Number 2013-007..... (13) Optional Term for GR and GG: State Sponsored Insurance Plans Enrollment (NEW)	 12 16 20 22 28 30 36 40 48 51 57 62 90
V.	Other Business	--
VI.	Adjournment	--

**MINUTES OF AUGUST 18, 2022
MEETING**

MINUTES
ADVISORY COUNCIL ON STATE PROCUREMENT MEETING #050
THURSDAY, AUGUST 18, 2022, 2:00 P.M.
NASHVILLE ROOM AND WEBEX

Members in Attendance:

Mike Perry, Hannah Salita, Buddy Lea, Chris Benson, Brian Wilcox, Jasmine Quattlebaum, Jennifer Pfeiffer

Paul Krivacka, Jenny Young, Debi Moss, Robin Upchurch, Davis Nwankwo, Randy Dean, Kay Morgan, Chadwick Nottingham, Jessica Starling, Toni Stuart, Shannon Mohundro, Lorraine Lassourreille, Bryan Chriske, Alyssia Zamora, Genell Jordan, Terry Mason, Trent Andrews, Kelly Johns

I. Call to Order: Mr. Mike Perry, Chief Procurement Officer, called the meeting to order and recognized that a quorum of voting members was present.

II. Minutes from April 26, 2022, Meeting: Mr. Perry asked if there were any corrections or additions to the meeting minutes from April 26, 2022. Hearing none, a motion was made by Mr. Chris Benson, Business Operations Director, Finance and Administration, to accept the minutes as presented. Mr. Buddy Lea, Assistant Commissioner, Department of Finance and Administration, seconded the motion. All members voted in favor – none opposed.

III. New Business:

Mr. Perry asked Paul Krivacka, Lead Attorney/Director of Category Management, Central Procurement Office, to present the following New Business agenda items:

Mr. Krivacka asked to take agenda items (1) and (2) together.

Mr. Krivacka proceeded to present agenda items (1) and (2):

- (1) Proof of Financial Responsibility – RFP Template
- (2) Proof of Financial Responsibility – RFQ Template

Mr. Krivacka summarized the following points about the Proof of Financial Responsibility – RFP Template and Proof of Financial Responsibility – RFQ Template proposal:

Financial Responsibility – RFP Template

- Agenda Items #1 and #2 concern the financial responsibility-related question options asked during the solicitation process. This change will bring symmetry to both templates, so the same options are available for use in both the RFP and RFQ Templates.
- This proposal will change the bank reference question concerning the relationship between the respondent and its bank to determine whether a "satisfactory" business relationship exists (instead of a letter of good standing). This change has been recently requested by several banks.
- This proposal will also update the Credit Bureau Report option to more broadly request "Financial Documentation" to permit private companies to supply other documentation that demonstrates the respondent's financial ability to perform .

Proof of Financial Responsibility –RFQ Template

- This proposal will update the RFQ Attachment A options to be consistent with the changes to the RFP Template questions regarding Financial Responsibility, as detailed in Agenda Item #1.

Buddy Lea asked if there was a listing of satisfactory sources of financial data in any instructions or other information from the Central Procurement Office ("CPO") or if it is just broadly stated. Mr. Krivacka responded that it enumerates the kind of documentation CPO will seek. However, it does give CPO some flexibility to make adjustments. The CPO Risk Manager will review the documents that are submitted.

Hearing no further discussion on agenda items (1) and (2), Mr. Benson made a motion to recommend the Proof of Financial Responsibility – RFP Template and Proof of Financial Responsibility – RFQ Template proposals as presented to the Procurement Commission for approval. Ms. Hanna Salita, Program Director, Office of Administrative Services, seconded the motion. All members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda item (3):

(3) Emergency Purchases E-Form Update

Mr. Krivacka presented the following points regarding the Emergency Purchases E-Form Update proposal:

- This proposal adds additional fields to the Emergency Purchases E-Form.
- These proposed changes will assist the Central Procurement Office with reporting requirements and address the scenario of amending or supplementing an already approved Emergency Purchase Request Authorization EFORM.

Mr. Perry stated that this is an improvement to Emergency Purchase procedures that the CPO implemented post-pandemic to provide a way of documenting and maintaining a permanent record of Emergency Purchases.

Hearing no further discussion on agenda item (3), Mr. Lea made a motion to recommend the Emergency Purchases E-Form Update proposal as presented to the Procurement Commission for approval. Mr. Benson seconded the motion. All members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda item (4):

(4) Procurement Procedures Manual of the CPO, § 7. Managing The Relationship with the Contracting Party

Mr. Krivacka presented the following points about the Procurement Procedures Manual of the CPO, § 7. Managing The Relationship with the Contracting Party proposal:

- This request adds guidance for circumstances where a procurement professional includes a scorecard to evaluate the Contracting Party's performance as an optional contract management tool.

Hearing no further discussion on agenda item (4), Mr. Lea made a motion to recommend the Procurement Procedures Manual of the CPO, § 7. Managing The Relationship with the Contracting Party proposal as presented to the Procurement Commission for approval. Mr. Benson seconded the motion. All members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda item (5):

(5) Contractor Scorecard Template (NEW)

Mr. Krivacka presented the following points regarding the Contractor Scorecard Template (NEW) proposal:

- This request adds new template language for circumstances where Procurement Professionals will utilize a Contractor Scorecard. The intent is that the contract term will be included in Contract Section A.#. The scope will be standardized.
- This proposal also includes a new Contractor Scorecard Template Metrics Attachment. The intent is that the metrics attachment can be modified as needed to meet the specific requirements and performance metrics particular to the Contract.

Mr. Perry mentioned that the scorecard will allow CPO to capture information relative to vendor performance and that this is in the pilot stage. Mr. Benson inquired about which agencies are being used for the pilot phase, and Mr. Perry responded that the Department of General Services. Mr. Krivacka mentioned that an Edison module with a vendor scorecard is currently in development.

Hearing no further discussion on agenda item (5), Mr. Benson made a motion to recommend the Contractor Scorecard Template (NEW) proposal as presented to the Procurement Commission for approval. Mrs. Salita seconded the motion. All members voted in favor – none opposed

Mr. Krivacka then proceeded to present agenda item (6):

(6) Publication 1075 Attachment (Update)

Mr. Krivacka presented the Publication 1075 Attachment (Update) proposal:

- The Agenda Packet removes a duplicative copy and includes the following correction to Agenda Item # 6.
- The previous version of IRS Publication 1075 included two different attachment options: (Option a: Safeguarding Contract Language for General Services; and Option b, Safeguarding Contract Language for Technology Services.)
- The current publication 1075 only has one model option as Exhibit 7 for the Safeguarding Contract Language.
- Therefore, the State's instructional text no longer needs to reference two options, and the instructions have been modified accordingly.
- This request is to assist State Agencies with compliance with the updated IRS Publication 1075, Tax Information Security Guidelines for Federal, State, and Local Agencies: (<https://www.irs.gov/pub/irs-pdf/p1075.pdf>).
- This request updates the specific contract language included as an Attachment in the FA Template to comply with the model language of Exhibit 7 of IRS Publication 1075 (Rev. 11-2021).

Hearing no discussion on agenda item (6), Mr. Benson made a motion to recommend the Publication 1075 Attachment (Update) proposal as presented to the Procurement Commission for approval. Mr. Lea seconded the motion. All members voted in favor – none opposed.

Mr. Krivacka then proceeded to present agenda item (7):

(7) Assistance Listing Number (Formerly Known as the CFDA Number)

Mr. Krivacka presented the Assistance Listing Number (Formerly Known as the CFDA Number) proposal:

- This request will correct references from "CFDA Number" to "Assistance Listing Number" as an optional term utilized by the Department of Health and the FA and GU coversheets.

Hearing no discussion on agenda item (7), Mr. Lea made a motion to recommend the Assistance Listing Number (Formerly Known as the CFDA Number) proposal as presented to the Procurement Commission for approval. Mr. Benson seconded the motion. All members voted in favor – none opposed.

Adjournment: Hearing no other business, a motion for adjournment was made. All members voted in favor – none opposed, whereupon the August 18, 2022, the Advisory Council meeting was adjourned.

ADVISORY COUNCIL AGENDA ITEMS OVERVIEW

Overview of Agenda Items:

1. Contractor Hosted Data Update:

- This request modifies the Section E. “Contractor Hosted Services Confidential Data, Audit, and Other Requirements” to align with recent changes in federal standards for government data as detailed in the Federal Information Processing Standards Publication.

2. Boycott of Israel:

- This request revises the reference from the public chapter number to the TCA citation (Tenn. Code Ann. § 12-4-119), for ease of reference.
- Also, added to the Purchase Order Terms and Conditions in case applicable.

3. GU Model (fee-for-service contract with a federal or local government entity)

- Some federal government agencies have requested that the State use the word “Agreement” instead of “Contract” and “Agency” instead of “Contractor”.
- This request would permit State Agencies to accommodate that request without the need to submit a Rule Exception Request each time.

4. TDOT Request to Grant Templates

- This request adds new terms and revises current optional terms for use by TDOT to address program needs.
- Some of the changes are requested to be in compliance with the requirements of Federal Transit Administration’s (“FTA’s”) regulations, and FTA’s February 9, 2021 Master Agreement and an Executive Order. Please see 49 CFR 26.29, 2 Part 200 Appendix II.A, E.O. No 13043, and 2/9/21 Master Agreement sections §12(e)(4)(ii) (p. 53-55), §3(i)(6) (p.17), §34(a) (p.90), and §39 (p.94)
- Additional language was also added to comply with changes to the Infrastructure Investment and Jobs Act.

5. Optional Terms for OCJP section D.6. Conflicts of Interest GR and GG:

- Many local government and non-profit applicants for Department of Finance and Administration, Office of Criminal Justice Programs, grants include part-time or limited services of faculty or employees of the State of Tennessee as part of their criminal justice or victim service program activities (for example SANE nurses or expert trainers). These employees are typically experts in a particular field, hold a special certification, or are uniquely suited to fill a particular role. The State employees have no connection with the issuance of state grants to local criminal justice related nonprofits or local governments, other than perhaps strengthening the proposed local program with the availability of their talent and expertise and the services they are uniquely qualified to provide. There is no conflict of interest; however, the broad language of the TN contract policy inadvertently inhibits sharing of these resources. This amendment ensures that State employees who are the only source of expertise are not paid twice for the same activities.

6. Notice of Intent to Award

- This request updates the Notice of Intent to Award to accomplish the following: (1) adding instructions regarding the computation of time; (ii) Copying list of documents included in the open file; and (iii) adding note for instructions if requesting an open records request.

7. Configurator Invitation to Bid “Questions” Term:

- This request will add additional information to the Questions term in the Edison configurator.
- In particular this request puts respondents on notice that protests based on any objection to the ITB 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 (aligns the current “Questions” term to have similar instructions as are currently included in the RFP.)

8. Procurement Procedures Manual of the CPO, § 7. Managing the Relationship with the Contracting Party.

- This requested change to the Manual and the following Contractor Scorecard Template are to address suggestions brought forward at the last Procurement Commission meeting.
- This requested change to the Manual adds guidance for circumstances where a procurement professional includes a scorecard to evaluate the Contracting Party’s performance as an optional contract management tool.

9. Contractor Scorecard Template – NEW

- This request adds new template language for circumstances where Procurement Professionals will utilize a Contractor Scorecard.
- The intent is that the contract term, to be included at Contract Section A.#. Scope, will be standardized, and the scorecard metrics may be customized. All metrics must be able to be measured objectively and correlate to specific requirements in the contract.

10. GR D.19 Contract Term

11. GG D.19. Term

- These requests revise the GG and GR D.19. Contract Term to move from an email reporting system to a direct-entry reporting system into the Edison Supplier Portal.

12. Policy Number 2013-007

- This request will add a new section 12. “Central Database” and definitions to assist with compliance with Tenn. Code Ann. § 4-56-110.

13. Optional Terms for GR and GG: State Sponsored Insurance Plans Enrollment

- Adds optional language to the GR and GG Templates for the following purpose: Ensure that grant recipients do not enroll members or officials in a state sponsored health insurance plan unless the Grantee qualifies as a governmental or quasigovernmental entity under federal law applicable to ERISA.

**CONTRACTOR HOSTED DATA UPDATE
REDLINE**

REQUEST: Revise the Contractor Hosted Services Requirements and Confidential Data Options at section E.#.a.2. as follows:

General Requirements

- E.#. Contractor Hosted Services Confidential Data, Audit, and Other Requirements
- a. "Confidential State Data" is defined as data deemed confidential by State or Federal statute or regulation. The Contractor shall protect Confidential State Data as follows:
- (1) The Contractor shall ensure that all Confidential State Data is housed in the continental United States, inclusive of backup data.
 - (2) The Contractor shall encrypt Confidential State Data at rest and in transit using the current version of Federal Information Processing Standard ("FIPS") 140-2 or 140-3 (current applicable version) validated encryption technologies. The State shall control all access to encryption keys. The Contractor shall provide installation and maintenance support at no cost to the State.

**CONTRACTOR HOSTED DATA UPDATE
CLEAN**

REQUEST: Revise the Contractor Hosted Services Requirements and Confidential Data Options at section E.#.a.2. as follows:

General Requirements

- | |
|---|
| <p>E.#. Contractor Hosted Services Confidential Data, Audit, and Other Requirements</p> <p>a. "Confidential State Data" is defined as data deemed confidential by State or Federal statute or regulation. The Contractor shall protect Confidential State Data as follows:</p> <p>(1) The Contractor shall ensure that all Confidential State Data is housed in the continental United States, inclusive of backup data.</p> <p>(2) The Contractor shall encrypt Confidential State Data at rest and in transit using the current version of Federal Information Processing Standard ("FIPS") 140-2 or 140-3 (current applicable version) validated encryption technologies. The State shall control all access to encryption keys. The Contractor shall provide installation and maintenance support at no cost to the State.</p> |
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**BOYCOTT OF ISRAEL
REDLINE**

REQUEST: Add to PO Terms and Revise the Boycott of Israel language from Public Chapter No. to Tennessee Code Ann. Reference, now that it is codified:

Track Changes:

D.35. Boycott of Israel. The Contractor certifies that it is not currently engaged in, and covenants that it will not, for the duration of the Contract, engage in a Boycott of Israel, as that term is defined in ~~Public Chapter No. 775~~Tenn. Code Ann. § 12-4-119.

**BOYCOTT OF ISRAEL
CLEAN**

REQUEST: Add to PO Terms and Revise the Boycott of Israel language from Public Chapter No. to Tennessee Code Ann. Reference, now that it is codified:

D.35. Boycott of Israel. The Contractor certifies that it is not currently engaged in, and covenants that it will not, for the duration of the Contract, engage in a Boycott of Israel, as that term is defined in Tenn. Code Ann. § 12-4-119.

**GU MODEL
(FEE-FOR-SERVICE CONTRACT WITH
A FEDERAL OR LOCAL
GOVERNMENT ENTITY)
NEW**

REQUEST: Add the following to the Tennessee or Local Federal Government (GU Model) instructions:

If the contract is to be used with a governmental entity that requests the term "Agreement" be used instead of "Contract" or "Agency" be used instead of "Contractor," these may be substituted without an approved Rule Exception Request.

**TDOT REQUEST TO GRANT
TEMPLATES
REDLINE**

REQUEST: Add or Revise the following optional clauses to the Grant Contract (“GR”) and Governmental Grant (“GG”) Templates optional clauses for use by Tennessee Department of Transportation as follows:

Add the following as new terms:

- E.#.** CDC Mask Order. The Grantee agrees to comply with the Centers for Disease Control (CDC) Order of January 29, 2021, titled Requirement for Persons to Wear Masks While on Conveyances and at Transportation Hubs. The Grantee agrees to comply with CDC, USDOT and FTA requirements as applicable, except to the extent exempted under those requirements. The Grantee agrees that FTA may take enforcement action for non-compliance with the CDC Mask Order.
- E.#.** Notice to Third Party Participants. Federal requirements that apply to the State or the Award, the accompanying Underlying Agreement, and any Amendments thereto, may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the State’s Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and Applicable changes to those federal requirements will apply to each Third Party Agreement and parties thereto at any tier.
- E.#.** Seat Belt Use. The Grantee agrees implement Executive Order No. 13043, “Increasing Seat Belt Use in the United States,” April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by:
- (1) Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles; and
 - (2) Including a “Seat Belt Use” provision in each Third Party Agreement related to the Award.
- E.#.** Dispute, Breach, Litigation Resolution. If a current or prospective legal matter that may affect the Federal Government emerges, the Grantee must promptly notify the State. The Grantee must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.
- (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
 - (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
 - (3) Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Underlying Agreement. Notwithstanding the preceding sentence, the State may return all liquidated damages it receives to its Award Budget for its Underlying Agreement rather than return the federal.

E.#. Grantee Match. Prior to execution of this grant contract, the Grantee will be required to deposit its share of the estimated total project cost to the State.

Additional deposits will be required if actual costs exceed the estimated costs. Any excess in the amount deposited above actual costs will be refunded.

If the cost of this project increases by more than fifteen percent (15%) of the estimated grant contract amount during the progress of the work, the parties agree to enter into a supplemental agreement setting out the respective financial obligations of the State, Grantee, and the Federal Transit Administration.

Revise the following terms:

E.#. Disadvantaged Business Enterprises. It is the policy of the Tennessee Department of Transportation that disadvantaged business enterprises (DBEs), as defined in 49 CFR 26, have the maximum opportunity to participate in the performance of subcontracts financed in whole or in part with Federal funds under this Grant Contract. Consequently, the DBE requirements of 49 CFR 26 apply to this Grant Contract. In this regard, the Grantee shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that DBEs have the maximum opportunity to compete for and perform subcontracts.

Delete the Vehicle Disposal Process and Vehicle Disposal Proceeds and add the following new term, Vehicle Disposal Process and Proceeds:

~~E.#. Vehicle Disposal Process. The Grantee shall adhere to disposal process as described in the State Management Plan for FTA Programs of the Tennessee Department of Transportation on file with the Federal Transit Administration (FTA)~~

~~E.#. Vehicle Disposal Proceeds. All proceeds from the disposal of the vehicle as described in the vehicle disposal process shall be accounted for and used for transportation program activity expenses.~~

E.#. Vehicle Disposal Process and Proceeds. The Grantee shall adhere to the disposal process described in the State Management Plan for Federal Transit Administration (FTA) Programs of the Tennessee Department of Transportation on file with the FTA, subject to the following exception pursuant to the Infrastructure Investment and Jobs Act (IIJA), 49 U.S.C. § 5334 (h)(4)(8): For rolling stock, equipment, and aggregate supplies that have met their minimum useful life and were (1) purchased with federal assistance, (2) with a fair market value of more than \$5,000, and (3) were sold after November 15, 2021, the Grantee may retain only a portion of the funds, in the amount of \$5,000 plus the percentage of the amount over \$5,000 that is proportional to the percentage of the State's share and the percentage of the local share in the original award. Any remaining federal share must be returned to the FTA and cannot be retained for public transportation use. If this Grant Contract includes federal funds, then the Grantee shall return any such remaining federal share to the State, and the State then will return the funds to FTA.

**TDOT REQUEST TO GRANT
TEMPLATES
CLEAN**

REQUEST: Add or Revise the following optional clauses to the Grant Contract (“GR”) and Governmental Grant (“GG”) Templates optional clauses for use by Tennessee Department of Transportation as follows:

Add the following as new terms:

- E.#.** CDC Mask Order. The Grantee agrees to comply with the Centers for Disease Control (CDC) Order of January 29, 2021, titled Requirement for Persons to Wear Masks While on Conveyances and at Transportation Hubs. The Grantee agrees to comply with CDC, USDOT and FTA requirements as applicable, except to the extent exempted under those requirements. The Grantee agrees that FTA may take enforcement action for non-compliance with the CDC Mask Order.
- E.#.** Notice to Third Party Participants. Federal requirements that apply to the State or the Award, the accompanying Underlying Agreement, and any Amendments thereto, may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the State’s Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and Applicable changes to those federal requirements will apply to each Third Party Agreement and parties thereto at any tier.
- E.#.** Seat Belt Use. The Grantee agrees implement Executive Order No. 13043, “Increasing Seat Belt Use in the United States,” April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by:
- (1) Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles; and
 - (2) Including a “Seat Belt Use” provision in each Third Party Agreement related to the Award.
- E.#.** Dispute, Breach, Litigation Resolution. If a current or prospective legal matter that may affect the Federal Government emerges, the Grantee must promptly notify the State. The Grantee must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.
- (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
 - (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
 - (3) Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Underlying Agreement. Notwithstanding the preceding sentence, the State may return all liquidated damages it receives to its Award Budget for its Underlying Agreement rather than return the federal.

E.#. Grantee Match. Prior to execution of this grant contract, the Grantee will be required to deposit its share of the estimated total project cost to the State.

Additional deposits will be required if actual costs exceed the estimated costs. Any excess in the amount deposited above actual costs will be refunded.

If the cost of this project increases by more than fifteen percent (15%) of the estimated grant contract amount during the progress of the work, the parties agree to enter into a supplemental agreement setting out the respective financial obligations of the State, Grantee, and the Federal Transit Administration.

Revise the following terms:

E.#. Disadvantaged Business Enterprises. It is the policy of the Tennessee Department of Transportation that disadvantaged business enterprises (DBEs), as defined in 49 CFR 26, have the maximum opportunity to participate in the performance of subcontracts financed in whole or in part with Federal funds under this Grant Contract. Consequently, the DBE requirements of 49 CFR 26 apply to this Grant Contract. In this regard, the Grantee shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that DBEs have the maximum opportunity to compete for and perform subcontracts.

Delete the Vehicle Disposal Process and Vehicle Disposal Proceeds and add the following new term, Vehicle Disposal Process and Proceeds:

E.#. Vehicle Disposal Process and Proceeds. The Grantee shall adhere to the disposal process described in the State Management Plan for Federal Transit Administration (FTA) Programs of the Tennessee Department of Transportation on file with the FTA, subject to the following exception pursuant to the Infrastructure Investment and Jobs Act (IIJA), 49 U.S.C. § 5334 (h)(4)(8): For rolling stock, equipment, and aggregate supplies that have met their minimum useful life and were (1) purchased with federal assistance, (2) with a fair market value of more than \$5,000, and (3) were sold after November 15, 2021, the Grantee may retain only a portion of the funds, in the amount of \$5,000 plus the percentage of the amount over \$5,000 that is proportional to the percentage of the State's share and the percentage of the local share in the original award. Any remaining federal share must be returned to the FTA and cannot be retained for public transportation use. If this Grant Contract includes federal funds, then the Grantee shall return any such remaining federal share to the State, and the State then will return the funds to FTA.

**OPTIONAL TERMS FOR OCJP SECTION
D.6. CONFLICTS OF INTEREST
NEW**

**REQUEST: Add the following to the Grant Contract (“GR”) and Governmental Grant (“GG”)
Templates options:**

GR Template:

Option: Conflicts of Interest

Replace the Section with the following Conflicts of Interest provision if the contracting agency is the Office of Criminal Justice, and as applicable.

- D.6. Conflicts of Interest. The Grantee acknowledges, understands, and agrees that this Grant Contract shall be null and void if the Grantee is, or within the past six months has been, an employee of the State of Tennessee or if the Grantee is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee. The Grantee further warrants that no part of the total Grant Contract 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 Grantee in connection with any work contemplated or performed relative to this Grant Contract. Notwithstanding the foregoing, when administering a Federal or State grant, the Tennessee Department of Finance and Administration, Office of Criminal Justice Programs may contract with an entity for which a current employee of the State of Tennessee is providing criminal justice or victim service related professional services including training for allied professionals as an employee or independent contractor of the entity outside of his/her hours of state employment, provided that such outside employment does not violate applicable law, the state agency’s policies, or create a conflict of interest.

GG Template:

Option: D.6. Conflicts of Interest

Replace the Section with the following Conflicts of Interest provision if the contracting agency is the Office of Criminal Justice, and as applicable.

- D.6. Conflicts of Interest. The Grantee warrants that no part of the total Grant Contract 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 Grantee in connection with any work contemplated or performed relative to this Grant Contract. Notwithstanding the foregoing, when administering a Federal or State grant, the Tennessee Department of Finance and Administration, Office of Criminal Justice Programs may contract with an entity for which a current employee of the State of Tennessee is providing criminal justice or victim service related professional services including training for allied professionals as an employee or independent contractor of the entity outside of his/her hours of state employment, provided that such outside employment does not violate applicable law, the state agency’s policies, or create a conflict of interest.

**NOTICE OF INTENT TO AWARD
REDLINE**

NOTICE OF INTENT TO AWARD

For all solicitation types, procurement professionals should complete this document and send it to respondents after the State has completed evaluation of responses. Procurement professionals should complete form fields and follow, replace, or otherwise address red instructional text (e.g., **State Agency Name**, **amount**, **will/will not**) as indicated and with conforming font and color. This paragraph should be deleted before sending the document to respondents.

~~–For purposes of computing the deadline of seven (7) calendar days exclude the first day and include the last, unless the last day is a Saturday, Sunday, or a legal holiday, and then it shall also be excluded. For solicitations that are confidential, as provided by Tenn. Code Ann. § 10-7-504(i), respondents must first have executed a nondisclosure agreement with the State in order to view the open file.~~

Appropriate letterhead

Date:

Dear Respondents:

Thank you for your responses to **Solicitation Number or Event Number**. The State has completed its evaluation of all responses, and the subject procurement records are open for public inspection by appointment ~~only~~ from **date** through **date** between 8:00AM Central Time and 4:30PM Central Time. ~~If you have any questions, To set up an appointment or ask any questions,~~ contact the Solicitation Coordinator listed below.

~~name at email address or phone number.~~

The following respondent is recommended for contract award:

Name

This notification by the State of intent to award **shall NOT create rights, interests, or claims of entitlement in** any respondent. This notification is not an acceptance of any offer, and the State retains the right to reject any response.

As provided in the CPO's Procurement Procedures Manual, the open file for this solicitation consists of the following:

- A copy of the solicitation and any amendments or clarifications thereof;
- A copy of any approved Rule Exception Request;
- Any Conflict of Interest Disclosure documentation;
- Any evaluator attestations;
- A list of all vendors solicited to participate in the procurement;
- A copy of each evaluated response;
- A copy of each evaluation sheet;

- A copy of any clarifications sent to respondents;
- A copy of any negotiations (including BAFOs and Target Pricing);
- A copy of all correspondence between the vendor and the State regarding clarifications or negotiations;
- Any Cost Proposal and Scoring Guide or Bid Abstracts and Bid Analysis with the total evaluation cost amount and score for each evaluated response;
- Any completed Proposal Score Summary Matrix;
- A copy of all technical scores;
- A copy of all cost scores;
- A copy of all SME reports;
- The Evaluation Notice/File Open for Inspection letter;
- A copy of the protest procedures and the exact dollar amount of the Protest Bond;
- Documentation of any decision to determine a response bypassed or non-responsive;
- Any correspondence or documentation detailing the evaluation process, clarifications, and negotiations; and
- A copy of any pre-proposal conference and site-visit sign-in sheets.

NOTE: Any other records not contained in the open file may be obtained by submitting an Open Records Act Request through the following link:

<https://www.tn.gov/generalservices/about-dgs/public-records-requests.html>

I appreciate your interest in doing business with the State of Tennessee and hope that you will respond to future solicitations.

Appropriate signature

Name and title of signatory

**NOTICE OF INTENT TO AWARD
CLEAN**

NOTICE OF INTENT TO AWARD

For all solicitation types, procurement professionals should complete this document and send it to respondents after the State has completed evaluation of responses. Procurement professionals should complete form fields and follow, replace, or otherwise address red instructional text (e.g., **State Agency Name, amount, will/will not**) as indicated and with conforming font and color. This paragraph should be deleted before sending the document to respondents.

For purposes of computing the deadline of seven (7) calendar days exclude the first day and include the last, unless the last day is a Saturday, Sunday, or a legal holiday, and then it shall also be excluded. For solicitations that are confidential, as provided by Tenn. Code Ann. § 10-7-504(i), respondents must first have executed a [nondisclosure agreement](#) with the State in order to view the open file.

Appropriate letterhead

Date:

Dear Respondents:

Thank you for your responses to **Solicitation Number or Event Number**. The State has completed its evaluation of all responses, and the subject procurement records are open for public inspection by appointment from **date** through **date** between 8:00AM Central Time and 4:30PM Central Time. If you have any questions, contact the Solicitation Coordinator listed below.

The following respondent is recommended for contract award:

Name

This notification by the State of intent to award **shall NOT create rights, interests, or claims of entitlement in** any respondent. This notification is not an acceptance of any offer, and the State retains the right to reject any response.

As provided in the CPO's Procurement Procedures Manual, the open file for this solicitation consists of the following:

- A copy of the solicitation and any amendments or clarifications thereof;
- A copy of any approved Rule Exception Request;
- Any Conflict of Interest Disclosure documentation;
- Any evaluator attestations;
- A list of all vendors solicited to participate in the procurement;
- A copy of each evaluated response;
- A copy of each evaluation sheet;
- A copy of any clarifications sent to respondents;
- A copy of any negotiations (including BAFOs and Target Pricing);

- A copy of all correspondence between the vendor and the State regarding clarifications or negotiations;
- Any Cost Proposal and Scoring Guide or Bid Abstracts and Bid Analysis with the total evaluation cost amount and score for each evaluated response;
- Any completed Proposal Score Summary Matrix;
- A copy of all technical scores;
- A copy of all cost scores;
- A copy of all SME reports;
- The Evaluation Notice/File Open for Inspection letter;
- A copy of the protest procedures and the exact dollar amount of the Protest Bond;
- Documentation of any decision to determine a response bypassed or non-responsive;
- Any correspondence or documentation detailing the evaluation process, clarifications, and negotiations; and
- A copy of any pre-proposal conference and site-visit sign-in sheets.

NOTE: Any other records not contained in the open file may be obtained by submitting an Open Records Act Request through the following link:

<https://www.tn.gov/generalservices/about-dgs/public-records-requests.html>

I appreciate your interest in doing business with the State of Tennessee and hope that you will respond to future solicitations.

Appropriate signature

Name and title of signatory

**CONFIGURATOR INVITATION TO BID
“QUESTIONS” TERM
REDLINE**

REQUEST: Revise the Edison configurator terms as follows:

Questions and Comments. Each prospective Respondent must carefully review this ITB, including but not limited to, attachments, terms and conditions, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called “questions and comments”). Protests based on any objection to the ITB 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.

Any prospective Respondent having questions and comments concerning this ITB must provide them in writing to the Solicitation Coordinator. ~~Respondents may submit written questions about this ITB to the Solicitation Coordinator.~~ All questions and comments must be submitted no later than [Enter Date (as Month ##, 20##)].

**CONFIGURATOR INVITATION TO BID
“QUESTIONS” TERM
CLEAN**

REQUEST: Revise the Edison configurator terms as follows:

Questions and Comments. Each prospective Respondent must carefully review this ITB, including but not limited to, attachments, terms and conditions, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called “questions and comments”). Protests based on any objection to the ITB 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.

Any prospective Respondent having questions and comments concerning this ITB must provide them in writing to the Solicitation Coordinator. All questions and comments must be submitted no later than **[Enter Date (as Month ##, 20##)]**.

**PROCUREMENT PROCEDURES
MANUAL OF THE CPO, § 7. MANAGING
THE RELATIONSHIP WITH THE
CONTRACTING PARTY
REDLINE**

REQUEST: Revise section 7 of the Procurement Procedures Manual of the Central Procurement Office as follows:

7. Managing the Relationship with the Contracting Party.

Once a contract has been awarded and duly approved, a contractual relationship exists between the State and the awarded respondent. The procurement professional responsible for managing the contract should do all of the following:

- Maintain a detailed, written audit trail of all discussions and agreements.
- When documenting contracting party tasks, the operative phrase is “the contracting party shall.”
- Get a written commitment from contracting party team members, escalation, etc.
- Clearly define roles and responsibilities.
- The rules of engagement may include onsite attendance requirements if necessary, but if so, these requirements should be clearly communicated.
- Clearly define and communicate any implementation strategies.
- Reserve the right to review contracting party designs and request necessary changes.
- Request submittal of any project plans in advance for approval.
- Request submittal of test plans in advance for approval.
- Specify documentation required from the contracting party, including media and format.
- Specify support and maintenance to be provided the contracting party or the State.
- Prearrange change control processes and pricing to address scope creep.

Specify that any training provided by the contracting party, the cost of which is not included in the contract price, must be preapproved by the appropriate State official.

In some instances, the procurement professional may also be responsible for completing a scorecard to evaluate the Contracting Party's performance. Generally, inclusion of a scorecard may be approved when a solicitation is complex; involves a significant amount of State spend (e.g., over twenty million dollars (\$20,000,000)); or presents other unique risks that preponderate in favor of including a scorecard.

The Supplier Scorecard module in Edison may be utilized to help facilitate the scorecard evaluation process. Prior to beginning a scorecard evaluation in Edison for the first time, a Procurement Professional must submit an Edison security request to access the Supplier Scorecard module in Edison.

To avoid the inadvertent disclosure of confidential information, the Supplier Scorecard feature in Edison should not be utilized for Contracting Parties that have been identified as providing confidential contracts under the Tennessee Public Records Act (see Tenn. Code Ann. § 10-7-504(i) and the STS endorsement, when applicable).

If the Procurement Professional decides to utilize the scorecard, then the scorecard shall be utilized to measure the Contracting Party's performance against the requirements and obligations as specified in the Contract. The Procurement Professional submitting the evaluation should carefully review the Contract requirements; consult State Agency end users as needed; and have specified knowledge of the Contracting Party's performance.

The frequency of reviews should reflect State Agency resources and the State Agency's desired outcomes with respect to Contract Management. The frequency of reviews should be consistent with the contract term, calendared, and include adequate time set aside for evaluations.

Before submitting an evaluation, any commentary should be carefully reviewed by the evaluator's supervisor to ensure that all entries are proofread; accurate; and professional. Also, prior to entering an unsatisfactory evaluation or score, the Procurement Professional should have a CPO specialist to review and approve the score to ensure against bias, favoritism of the Contracting Party's competitors, personality conflicts or other matters not reflecting on the Contracting Party's performance.

After submitting an evaluation score, the Procurement Professional shall provide an opportunity to discuss scorecard evaluations with the Contracting Party. This will enable both parties to better understand expectations. This should also be used as an opportunity to remove misunderstandings of requirements and for the evaluator to offer feedback to the Contracting Party to improve the Contractor's performance relative to contract requirements. The Contracting Party debriefing should also provide the Contracting Party with an opportunity to

provide supplemental or rebuttal information that would cause the State to change or improve its score. All scoring should be fair, transparent, and timely. Evaluation results may be used for any purpose consistent with CPO rules, policies, and procedures.

**PROCUREMENT PROCEDURES
MANUAL OF THE CPO, § 7. MANAGING
THE RELATIONSHIP WITH THE
CONTRACTING PARTY
CLEAN**

REQUEST: Revise section 7 of the Procurement Procedures Manual of the Central Procurement Office as follows:

7. Managing the Relationship with the Contracting Party.

Once a contract has been awarded and duly approved, a contractual relationship exists between the State and the awarded respondent. The procurement professional responsible for managing the contract should do all of the following:

- Maintain a detailed, written audit trail of all discussions and agreements.
- When documenting contracting party tasks, the operative phrase is “the contracting party shall.”
- Get a written commitment from contracting party team members, escalation, etc.
- Clearly define roles and responsibilities.
- The rules of engagement may include onsite attendance requirements if necessary, but if so, these requirements should be clearly communicated.
- Clearly define and communicate any implementation strategies.
- Reserve the right to review contracting party designs and request necessary changes.
- Request submittal of any project plans in advance for approval.
- Request submittal of test plans in advance for approval.
- Specify documentation required from the contracting party, including media and format.
- Specify support and maintenance to be provided the contracting party or the State.
- Prearrange change control processes and pricing to address scope creep.

Specify that any training provided by the contracting party, the cost of which is not included in the contract price, must be preapproved by the appropriate State official.

In some instances, the procurement professional may also be responsible for completing a scorecard to evaluate the Contracting Party's performance. Generally, inclusion of a scorecard may be approved when a solicitation is complex; involves a significant amount of State spend (e.g., over twenty million dollars (\$20,000,000)); or presents other unique risks that preponderate in favor of including a scorecard.

The Supplier Scorecard module in Edison may be utilized to help facilitate the scorecard evaluation process. Prior to beginning a scorecard evaluation in Edison for the first time, a Procurement Professional must submit an Edison security request to access the Supplier Scorecard module in Edison.

To avoid the inadvertent disclosure of confidential information, the Supplier Scorecard feature in Edison should not be utilized for Contracting Parties that have been identified as providing confidential contracts under the Tennessee Public Records Act (see Tenn. Code Ann. § 10-7-504(i) and the STS endorsement, when applicable).

If the Procurement Professional decides to utilize the scorecard, then the scorecard shall be utilized to measure the Contracting Party's performance against the requirements and obligations as specified in the Contract. The Procurement Professional submitting the evaluation should carefully review the Contract requirements; consult State Agency end users as needed; and have specified knowledge of the Contracting Party's performance.

The frequency of reviews should reflect State Agency resources and the State Agency's desired outcomes with respect to Contract Management. The frequency of reviews should be consistent with the contract term, calendared, and include adequate time set aside for evaluations.

Before submitting an evaluation, any commentary should be carefully reviewed by the evaluator's supervisor to ensure that all entries are proofread; accurate; and professional. Also, prior to entering an unsatisfactory evaluation or score, the Procurement Professional should have a CPO specialist to review and approve the score to ensure against bias, favoritism of the Contracting Party's competitors, personality conflicts or other matters not reflecting on the Contracting Party's performance.

After submitting an evaluation score, the Procurement Professional shall provide an opportunity to discuss scorecard evaluations with the Contracting Party. This will enable both parties to better understand expectations. This should also be used as an opportunity to remove misunderstandings of requirements and for the evaluator to offer feedback to the Contracting Party to improve the Contractor's performance relative to contract requirements. The Contracting Party debriefing should also provide the Contracting Party with an opportunity to

provide supplemental or rebuttal information that would cause the State to change or improve its score. All scoring should be fair, transparent, and timely. Evaluation results may be used for any purpose consistent with CPO rules, policies, and procedures.

**CONTRACTOR SCORECARD
TEMPLATE
NEW**

CONTRACTOR SCORECARD TEMPLATE

Under CPO Rules, the CPO is responsible for management of all Statewide Contracts. If the Procurement Professional decides to utilize the scorecard, then the scorecard shall be utilized to measure the Contracting Party's performance against the requirements and obligations as specified in the Contract. The procuring State Agency shall be responsible for contract management of all contracts procured by the CPO on behalf of the State Agency or within their delegated authority. The scorecard's purpose is to aid in the contract management process by facilitating a uniform way to evaluate contractor performance. This template prescribes the format and content for contracts involving the incorporation of a contractor scorecard. A contractor scorecard is optional and may be appropriate in complex solicitations that involve a significant amount of State spend (e.g., over twenty million dollars (\$20,000,000) and longer than 12 months; or presents other unique risks that preponderate in favor of including a scorecard). To assist with maintaining confidentiality of Contractor's names, the Contractor Scorecard feature in Edison should not be utilized for Suppliers identified as providing confidential contracts under the Tennessee Public Records Act (see Tenn. Code Ann. §10-7-504(i)). For assistance with using the Edison Contractor Scorecard Module please visit: <https://www.teamtn.gov/cpo/learning-development/cpo-job-aids.html>. Note any Deviations from this template require an approved Rule Exception Request.

Procurement professionals shall complete text fields and follow, replace, or otherwise address red instructional text (e.g., **State Agency Name**, **amount**, **will/will not**) as indicated with appropriate font and color and add the following as a new Scope item in the *pro forma* Contract.

Contractor Scorecard

If the Contractor's performance will utilize the Contractor Scorecard, insert the following as a contract term, at section A.#. Scope, to put the Contractor on notice and to communicate expectations.

<p>A.#. <u>Contractor Scorecard</u>. During the course of this Contract, Contractor performance may be measured against the desired outcomes utilizing the Contractor Scorecard metrics substantially similar to those included as Contract Attachment [Insert Reference]. The State will complete a Contractor Scorecard every number (#) months. The State will conduct a de-briefing with the Contractor to discuss scores and opportunity to improve scores. In the event the Contractor receives a score of AMOUNT (#) or less, the Contractor may submit additional information for the State's reconsideration of the evaluation or request an opportunity to discuss the evaluation with the Contract Administrator or his or her designee. Evaluation results may be utilized to determine whether or not the State will exercise any renewal or extension options under the Contract. Evaluation results may also be used for any purpose consistent with CPO rules, policies, and procedures.</p>

Contractor Scorecard Template Metrics, Attachment

Due to the unique nature of performance metrics essential to each Contract's success, modify metrics as needed to meet the specific requirements and performance metrics particular to the Contract. All metrics must be able to be measured objectively and correlate to specific requirements in the contract. Criteria that is not specifically related to the contract shall be avoided. Procurement professionals are authorized to customize one or more questions as needed.

ATTACHMENT REFERENCE

Contractor Scorecard

Contractor Name:		
Completed By Name & Agency Role:		Date:
Evaluation Question:	Evaluation Score 0 = lowest (worst) - 5 = highest (best) or N/A	Comments: (Optional)
Compliance with Contract specifications: 1. Have the quality of goods or services provided by the Contractor met the terms of the Contract, as outlined in Contract section #?		
Timeliness: 2. Were the goods or services provided by the Contractor delivered or provided on time, as required by Contract section #?		
Customer Service: 3. Are phone calls and emails returned, as required by Contract section #?		
4. If there was a defect or other problem with the Contractor's performance, did the Contractor remedy these issues within time period provided in Contract section #?		
Documentation: 5. Are invoices submitted in a timely manner and correctly, in accordance with Contract Section C.5.?		
6. Are any reports submitted timely, correctly, and as requested, in accordance with Contract section #?		

**GR D.19. CONTRACT TERM
REDLINE**

REQUEST: Revise the Grant Contract (“GR”) at Section D.19 and remove related attachments as follows:

D.19. Audit Report. For purposes of this Section, pass-through entity means a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program.

The Grantee shall provide audited financial statements to the Tennessee Comptroller of the Treasury (“Comptroller”) if during the Grantee’s fiscal year, the Grantee: (1) expends seven hundred fifty thousand dollars (\$750,000) or more in direct and indirect federal financial assistance and the State is a pass-through entity; (2) expends seven hundred fifty thousand dollars (\$750,000) or more in state funds from the State; or (3) expends seven hundred fifty thousand dollars (\$750,000) or more in federal financial assistance and state funds from the State, and the State is a pass-through entity.

At least ninety (90) days before the end of its fiscal year, the Grantee shall complete Attachment [reference the Notice of Information for Audit Report Purposes document (“IAP”) form online (accessible through the Edison Supplier Portal)] to notify the State whether or not Grantee is subject to an audit. The Grantee should submit only one, completed ~~document- form online~~ during the Grantee’s fiscal year. Immediately after the fiscal year has ended, the Grantee shall fill out the End of Fiscal Year (“EOFY”) form (accessible through the Edison Supplier portal). ~~Any Grantee that is subject to an audit and so indicates on Attachment [reference the Notice of Audit Report document] shall complete Attachment [reference the Parent Child Information document].~~ If the Grantee is subject to an audit, Grantee shall obtain the Comptroller’s approval before engaging a licensed, independent ——— public accountant to perform the audit. The Grantee may contact the Comptroller for assistance identifying auditors.

The audit contract between the Grantee and the Auditor shall be on a contract form prescribed by the Comptroller. The Grantee shall be responsible for payment of fees for an audit prepared by a licensed, independent public accountant. Payment of the audit fees by the Grantee shall be subject to the provision relating to such fees contained within this Grant Contract. The Grantee shall be responsible for reimbursing the Comptroller for any costs of an audit prepared by the Comptroller.

All audits shall be performed in accordance with the Comptroller’s requirements, as posted on its web site. When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget’s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public. The Grantee shall also submit a copy of the ~~Notice of Audit Report, Parent Child Form, and~~ audit report to the State [contact listed in D.8. or to optional contact information]:

ATTACHMENT REFERENCE

Notice of Audit Report

Check one of the two boxes below and complete the remainder of this document as instructed. Send completed documents as a PDF file to cpo.auditnotice@tn.gov. ***The Grantee should submit only one, completed "Notice of Audit Report" document to the State ninety (90) days prior to the Grantee's fiscal year.***

~~Grantee Legal Entity Name is subject to an audit for fiscal year #.~~

~~Grantee Legal Entity Name is not subject to an audit for fiscal year #.~~

~~Grantee's Edison Vendor ID Number:~~

~~Grantee's fiscal year end:~~

~~Any Grantee that is subject to an audit must complete the information below.~~

Type of funds expended	Estimated amount of funds expended by end of Grantee's fiscal year
Federal pass-through funds a. Funds passed through the State of Tennessee b. Funds passed through any other entity	a.— b.—
Funds received directly from the federal government	
Non-federal funds received directly from the State of Tennessee	

~~Auditor's name:~~

~~Auditor's address:~~

~~Auditor's phone number:~~

~~Auditor's email:~~

ATTACHMENT REFERENCE

Parent-Child Information

Send completed documents as a PDF file to cpe.auditnotice@tn.gov. ***The Grantee should submit only one, completed "Parent-Child Information" document to the State during the Grantee's fiscal year if the Grantee indicates it is subject to an audit on the "Notice of Audit Report" document.***

"Parent" means an entity whose IRS filing contains the information of at least one other entity.

"Child" means an entity whose information is contained in another entity's IRS filing.

Grantee's Edison Vendor ID number:

Is Grantee Legal Entity Name a parent? Yes No

If yes, provide the name and Edison Vendor ID number, if applicable, of any child entities.

Is Grantee Legal Entity Name a child? Yes No

If yes, complete the fields below.

Parent entity's name: _____

Parent entity's tax identification number: _____

Note: If the parent entity's tax identification number is a social security number, this form must be submitted via US mail to:

Central Procurement Office, Grants Program Manager
3rd Floor, WRS Tennessee Tower
312 Rosa L Parks Avenue
Nashville, TN 37243

Parent entity's contact information

Name of primary contact person: _____

Address: _____

Phone number: _____

Email address: _____

Parent entity's Edison Vendor ID number, if applicable: _____

**GR D.19. CONTRACT TERM
CLEAN**

REQUEST: Revise the Grant Contract (“GR”) at Section D.19 and remove related attachments as follows:

- D.19. Audit Report. For purposes of this Section, pass-through entity means a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program.

The Grantee shall provide audited financial statements to the Tennessee Comptroller of the Treasury (“Comptroller”) if during the Grantee’s fiscal year, the Grantee: (1) expends seven hundred fifty thousand dollars (\$750,000) or more in direct and indirect federal financial assistance and the State is a pass-through entity; (2) expends seven hundred fifty thousand dollars (\$750,000) or more in state funds from the State; or (3) expends seven hundred fifty thousand dollars (\$750,000) or more in federal financial assistance and state funds from the State, and the State is a pass-through entity.

At least ninety (90) days before the end of its fiscal year, the Grantee shall complete the Information for Audit Purposes (“IAP”) form online (accessible through the Edison Supplier Portal) to notify the State whether or not Grantee is subject to an audit. The Grantee should submit only one, completed form online during the Grantee’s fiscal year. Immediately after the fiscal year has ended, the Grantee shall fill out the End of Fiscal Year (“EOFY”) form (accessible through the Edison Supplier portal). If the Grantee is subject to an audit, Grantee shall obtain the Comptroller’s approval before engaging a licensed, independent public accountant to perform the audit. The Grantee may contact the Comptroller for assistance identifying auditors.

The audit contract between the Grantee and the Auditor shall be on a contract form prescribed by the Comptroller. The Grantee shall be responsible for payment of fees for an audit prepared by a licensed, independent public accountant. Payment of the audit fees by the Grantee shall be subject to the provision relating to such fees contained within this Grant Contract. The Grantee shall be responsible for reimbursing the Comptroller for any costs of an audit prepared by the Comptroller.

All audits shall be performed in accordance with the Comptroller’s requirements, as posted on its web site. When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget’s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public. The Grantee shall also submit a copy of the audit report to the State **[contact listed in D.8. or to optional contact information]:**

**GG D.19. TERM
REDLINE**

REQUEST: Revise the Governmental Grant (“GG”) at Section D.19 and remove related attachment as follows:

D.19. Audit Report. The Grantee shall be audited in accordance with applicable Tennessee law.

~~If the Grantee is subject to an audit under this provision, then the Grantee shall complete Attachment [reference the Parent Child Information document].~~

~~At least ninety (90) days before the end of its fiscal year, the Grantee shall complete the Information for Audit Purposes (“IAP”) form online (accessible through the Edison Supplier portal) to notify the State whether or not Grantee is subject to an audit. The Grantee should submit only one, completed form online during the Grantee’s fiscal year. Immediately after the fiscal year has ended, the Grantee shall fill out the End of Fiscal Year (“EOFY”) (accessible through the Edison Supplier portal).~~

When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget’s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.

ATTACHMENT REFERENCE

Parent Child Information

~~The Grantee should complete this form and submit it with the Grant Contract. The Grantee should submit only one, completed “Parent Child Information” document to the State during the Grantee’s fiscal year.~~

~~“Parent” means an entity whose IRS filing contains the information of at least one other entity.~~

~~“Child” means an entity whose information is contained in another entity’s IRS filing.~~

~~Grantee’s Edison Vendor ID number:~~

~~Is Grantee Legal Entity Name a parent? Yes No~~

~~If yes, provide the name and Edison Vendor ID number, if applicable, of any child entities.~~

~~Is Grantee Legal Entity Name a child? Yes No~~

~~If yes, complete the fields below.~~

~~Parent entity’s name: _____~~

~~Parent entity’s tax identification number: _____~~

~~Note: If the parent entity’s tax identification number is a social security number, this form must be submitted via US mail to:~~

~~Central Procurement Office, Grants Program Manager~~

~~3rd Floor, WRS Tennessee Tower
312 Rosa L Parks Avenue
Nashville, TN 37243~~

~~Parent entity's contact information~~

~~_____~~
~~Name of primary contact person: _____~~

~~_____~~
~~Address: _____~~

~~_____~~
~~Phone number: _____~~

~~_____~~
~~Email address: _____~~

~~Parent entity's Edison Vendor ID number, if applicable: _____~~

**GG D.19. TERM
CLEAN**

REQUEST: Revise the Governmental Grant (“GG”) at Section D.19 and remove related attachment as follows:

D.19. Audit Report. The Grantee shall be audited in accordance with applicable Tennessee law.

At least ninety (90) days before the end of its fiscal year, the Grantee shall complete the Information for Audit Purposes (“IAP”) form online (accessible through the Edison Supplier portal) to notify the State whether or not Grantee is subject to an audit. The Grantee should submit only one, completed form online during the Grantee’s fiscal year. Immediately after the fiscal year has ended, the Grantee shall fill out the End of Fiscal Year (“EOFY”) (accessible through the Edison Supplier portal).

When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget’s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.

POLICY NUMBER 2013-007
REDLINE

Policy Number 2013-007
Central Procurement Office
Grant Management and Subrecipient Monitoring Policy and Procedures

Effective: May 28, 2013
Last Amended: ~~February 20, 2020~~ January 19, 2023
Prepared by: The Central Procurement Office of the State of Tennessee

1. Purposes.

To provide guidance to assist State Agencies to determine a counter party's status as a Contractor, Recipient, or Subrecipient.

To provide uniformity in the reporting of, and controls over, the expenditure of Grant funds in connection with the delivery of services by Recipients and Subrecipients.

To establish guidelines for Recipient and Subrecipient monitoring by Grantor State Agencies.

2. Scope.

This Policy applies to all State Agencies that award Federal or State Grants to Recipients or Subrecipients. Direct Appropriation Grants are exempt from this Policy.

3. Definitions.

For purposes of this Policy, the following terms have the meanings described below:

"Central Database" – means the database established and required by Tenn. Code Ann. § 4-56-110, which requires the collection and storage of information regarding Recipients and Subrecipients for monitoring purposes.

"Central Procurement Office" - means the State office established and empowered by Tenn. Code Ann. § 4-56-104.

"Chief Procurement Officer" - means the official as defined by Tenn. Code Ann. § 4-56-104.

"Cognizant State Agency" - means the State Agency whose funds comprise the greatest percentage of Grants received by a Grantee as determined by the Central Procurement Office.

"Contract" - means any duly authorized and legally binding written agreement or purchase order for goods or services by and between the State of Tennessee and any person or any separate entity with the independent legal capacity to contract and sue and be sued. The term "Contract" shall also have the meaning ascribed to it in 2 CFR § 200.22.

"Contractor" – means an entity that receives a Contract as defined in this Policy and in the

U.S. OMB's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

“Cost Allocation Plan”- means the method of distributing to various programs the costs which benefit more than one program and are not directly assigned as approved by the Department of Finance and Administration.

“Direct Appropriation Grant” - means a grant listed on the Department of Finance and Administration Division of Budget's annual direct appropriation list.

“End of Fiscal Year Form” – means the form that captures information related to each Grantee's end of fiscal year figures.

“Endowment Grant”- means a limited Grant Contract that originates from a specific appropriation, effecting a Grant and conveyance of funds or property to a Grantee for a particular purpose to benefit the general public as a whole or some population of the general public. An Endowment Grant is used to transfer funds to a Grantee pursuant to an appropriation.

“Federal Grant” -means a Grant that is funded in whole or in part through federal funds.

“Grant”- means any grant of money, loans, or non-cash assistance awarded to the State or awarded by the State to a person or legal entity, for the furnishing by the State of assistance, whether financial or otherwise, to any person or entity, to support a program authorized by law. A Grant cannot be used for the primary purpose of procuring an end product, whether in the form of supplies, services, or construction, or any contract resulting from such a Grant that should otherwise be provided on a competitive basis.

“Grant Budget”- means a budget itemizing one or more specific activities or purposes under the Grant and the maximum amounts a Grantee may be reimbursed.

“Grant Contract” – means the duly authorized and legally binding written agreement by and between the State of Tennessee and Recipient or Subrecipient that contains the terms and conditions governing the parties' duties and responsibilities with respect to a Grant. A Grant Contract does not include a Contract for the purchase of goods or services for the State of Tennessee's own use or consumption.

“Grantee”- means the person or entity receiving a Grant as a Recipient or Subrecipient.

“Grantor State Agency”-means a State Agency that provides a Grant to a person or entity.

“Information for Audit Purposes Form” – means the form that captures information about Recipients and Subrecipients for the purpose of monitoring State and Federal audit requirements

“Policy” - means Policy Number 2013-007 of the Central Procurement Office.

“Recipient” - means a Grantee that is a recipient of a Grant. The term Recipient does not include a Subrecipient.

“State”- means the State of Tennessee, including its departments, agencies, and entities that fall under its purview.

“State Agency” - means the departments, agencies, and entities of the State of Tennessee.

“State Grant” - means a Grant that is funded exclusively through State funds.

“Subrecipient”- means a non-federal entity that receives a Grant from a pass-through entity to carry out part of a federal program, but excludes the beneficiary of such program. A Subrecipient may also be a recipient of other Federal Grants directly from a federal awarding agency.

4. Determination of a Contractor, Recipient, or Subrecipient.

A State Agency must make case-by-case determinations whether each Grant it makes for the disbursement of federal or State program funds casts the party receiving such funds in the role of a Contractor, Recipient or Subrecipient.

When determining whether an agreement creates a Contractor, Recipient, or Subrecipient relationship, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed below may not be present in all cases, and the State Agency must use its judgment in classifying each agreement as creating either a Grantee or Contractor relationship. The U.S. OMB’s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* provides guidance on how to distinguish between a Subrecipient and a Contractor in 2 C.F.R. § 200.330.

4.1 Contractor – A contract for goods and services that creates a State-Contractor relationship is typically one for the purpose of obtaining goods or services for the State Agency’s own use and consumption.

The characteristics that support the classification of an entity as a Contractor includes whether the entity:

- Provides the goods or services within its normal business operations;
- Provides similar goods or services to many different purchasers;
- Normally operates in a competitive environment;
- Provides goods or services that are ancillary to the operation of a state or federal program; and
- Is not subject to compliance requirements of the state or federal program as a result of the agreement at issue, though similar requirements may apply for other reasons.

If the non-federal entity is a Contractor, the State Agency must ensure that the procurement, receipt, and payment for goods and services complies with applicable state

and federal laws, regulations, and policies that apply to the procurement of goods and services, following one of the approved methods for awarding a Contract (e.g., *CPO Policy 2013-004-Contract Management Policy and Procedures*).

If the Grantor State Agency determines that a Contractor relationship exists, they would not use a Grant Contract model or template.

4.2 Recipient – A Recipient receives a State Grant from the State for the purpose of carrying out a portion of a State Grant.

The characteristics that support the classification of an entity as a Recipient include whether the entity:

- Determines who is eligible to receive State assistance;
- Has its performance measured in relation to whether objectives of a State program were met;
- Has responsibility for programmatic decision making;
- Is responsible for adherence to applicable State program requirements specified in the State Grant; and
- In accordance with the agreement at issue, uses the State financial assistance to carry out a program for a public purpose specified in the authorizing statute, as opposed to providing goods or services for the benefit of the State Agency.

For any entity determined to be a Recipient, the Grantor State Agency must comply with the monitoring requirements in Section 9 of this Policy.

4.3 Subrecipient – A Subrecipient receives a Federal Grant from the State for the purpose of carrying out all or a portion of a Federal Grant creating a federal assistance relationship with the Subrecipient.

The characteristics that support the classification of an entity as a Subrecipient include whether the entity:

- Determines who is eligible to receive federal assistance;
- Has its performance measured in relation to whether objectives of a federal program were met;
- Has responsibility for programmatic decision making;
- Is responsible for adherence to applicable federal program requirements specified in the Federal Grant; and
- In accordance with the agreement at issue, uses the federal financial assistance to carry out a program for a public purpose specified in the authorizing statute, as opposed to providing goods or services for the benefit of the State Agency.

For any entity determined to be a Subrecipient, the Grantor State Agency must comply with the monitoring requirements in Section 9 of this Policy.

5. Documentation of Grantee Selection Process.

The Grantor State Agency shall document the Grantee selection process. The Grantor State

Agency shall provide a summary of the Grantee selection process to the Central Procurement Office.

6. Alternative Payment Methodologies.

Any Grantor State Agency seeking to use the partial, periodic, or total advance payment language contained in the Grant templates must submit a Rule Exception Request – Advance Payments, justifying why using that language would be in the best interests of the State. If a Grantor State Agency is advancing federal funds, the Grantor State Agency must ensure that the Grantee disburses those funds immediately in accordance with 2 C.F.R. § 200.305.

In accordance with 2 C.F.R. § 200.305, advance payments must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the Grantee (i.e., the Grantee’s disbursement of allowable costs incurred) in carrying out the purpose of the approved program or project.

7. Cognizant State Agency Determination Process.

The Cognizant State Agency shall be responsible for approving the Recipient or Subrecipient’s Cost Allocation Plan. Other State Agencies that grant funds to the Recipient or Subrecipient must abide by the Cost Allocation Plan approved by the Cognizant State Agency. The Cognizant State Agency is the State Agency whose funds comprise the greatest percentage of State Grant funds received by the Recipient or Subrecipient. The Central Procurement Office determines the Cognizant State Agency for each Recipient or Subrecipient. To provide for continuity of the Cognizant State Agency determination, the determination of the predominant amount of funding must be determined every five years. Once assigned, the term of responsibility shall continue until redetermined. A State Agency may submit to the Central Procurement Office a written request and justification for a Cognizant State Agency redetermination at any time during the five-year period. For example, if the State Agency no longer provides the greatest percentage of funds received by the Recipient or Subrecipient, they could request a redetermination prior to the five-year redetermination.

8. Cost Allocation Plans.

Cost Allocation Plans shall comply with the applicable accounting and financial standards, either Financial Accounting Standards Board (“FASB”) standards or Governmental Accounting Standards Board (“GASB”) standards. Recipients or Subrecipients shall submit any proposed Cost Allocation Plans to the Cognizant State Agency for approval. Methods used for allocating costs may differ between Recipients and Subrecipients. Once a Recipient or Subrecipient receives approval for its Cost Allocation Plan, all other Grantor State Agencies shall accept the approved Cost Allocation Plan. However, Grantor State Agencies are not required to fully fund the costs that are charged to a particular program under an approved Cost Allocation Plan if such costs are not allowable under the Grantor State Agency’s agreement with the Recipient or Subrecipient or exceed the prescribed funding percentage or budgets.

8.1 Types of Costs.

8.1.1 Allowable Costs

The total cost of a Grant is the sum of the allowable direct and allocable indirect costs less any applicable credits. There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Grant or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect cost in order to avoid possible double-charging of Grants.

Allowable costs must be reasonable for the performance of the Grant and allocable. Unallowable costs include:

- Alcoholic beverages
- Bad debts
- Contingencies
- Contributions and donations
- Entertainment
- Fines and penalties
- Fundraising and investment management
- Legal services related to claims against the federal government

8.1.2 *Allocable Costs*

A cost is allocable to a particular Grant or other cost objective if the goods or services involved are chargeable or assignable to that Grant or cost objective in accordance with relative benefits received. This standard is met if the cost:

- (1) Is incurred specifically for the Grant;
- (2) Benefits both the Grant and other work of the Recipient or Subrecipient and can be distributed in proportions that may be approximated using reasonable methods; and
- (3) Is necessary to the overall operation of the Recipient or Subrecipient and is assignable in part to the Grant.

8.1.3 *Direct Costs*

Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a Grant, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. Such costs include:

- Salaries of persons who provide direct services to program beneficiaries and work on only one program (e.g., aging director, transportation program director);
- Travel costs that can be specifically identified to benefit a particular program;
- Equipment purchased for use in only one program;
- Maintenance or insurance for purchased equipment;

- Supplies which are utilized in only one program;
- A contract for professional services which benefits a single program; and
- Printing which benefits a single program.

8.1.4. *Allocable Direct Costs*

Allocable direct costs are those that benefit more than one program, but do not fall under the criteria of indirect costs. Such costs also include:

- Salaries and benefits of program employees whose work benefits more than one program (e.g., nurses, eligibility workers, etc.);
- Travel costs of employees whose work benefits more than one program;
- Occupancy costs of programs;
- Telephone costs of programs;
- Supplies utilized by more than one program;
- Rental and maintenance of equipment used by more than one program;
- Audit costs; and
- Contracted services that benefit more than one program.

8.1.5. *Indirect Costs (facilities & administrative costs)*

Indirect costs are overhead or administrative costs incurred for joint purposes that cannot easily be allocated to a single use. Such costs include:

- Executive director's salary and benefits (or the administrative portion thereof if the executive director spends time on program-related activities);
- Fiscal officer's salary and benefits;
- Secretarial support of administrative employees;
- Supplies of administrative employees;
- Travel of administrative employees;
- Occupancy costs (e.g., rent and utilities) of administrative employees; and
- Postage and telephone costs of administrative employees.

The salaries of administrative and clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:

- (1) Administrative or clerical services are integral to a project or activity;
- (2) Individuals involved can be specifically identified with the project or activity;
- (3) Such costs are explicitly included in the budget or have the prior written approval of the federal awarding agency; and
- (4) The costs are not also recovered as indirect costs.

8.2 Cost Allocation.

8.2.1. *Allocation Methods*

Requirements for developing and submitting indirect cost rate proposals and Cost Allocation Plans are contained in Appendices III-VII of the *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards* as follows below. In the event that a federal requirement for cost rate proposals or Cost Allocation Plans conflicts with a state requirement, the federal requirement shall control.

(1) Appendix III to Part 200—Indirect Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs): https://www.ecfr.gov/cgi-bin/text-idx?SID=e93c4c33f5e7b3748124a284dd68aef9&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200_1521.iii

(2) Appendix IV to Part 200—Indirect Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations; https://www.ecfr.gov/cgi-bin/text-idx?SID=e93c4c33f5e7b3748124a284dd68aef9&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200_1521.iv

(3) Appendix V to Part 200—State/Local Government and Indian Tribe Central Service Cost Allocation Plans; https://www.ecfr.gov/cgi-bin/text-idx?SID=e93c4c33f5e7b3748124a284dd68aef9&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200_1521.v

(4) Appendix VI to Part 200—Public Assistance Cost Allocation Plans; https://www.ecfr.gov/cgi-bin/text-idx?SID=e93c4c33f5e7b3748124a284dd68aef9&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200_1521.vi

(5) Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals. https://www.ecfr.gov/cgi-bin/text-idx?SID=e93c4c33f5e7b3748124a284dd68aef9&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200_1521.vii

8.2.2. *Instructions for Cost Allocation Plans*

Each Recipient and Subrecipient shall prepare a narrative describing in detail the methods used to allocate costs to the various programs. The plan should include an organizational chart and documents and schedules to support the allocation methods.

The following guidelines should be used when preparing the Cost Allocation Plan:

- The nature of the charges to be allocated will depend on the sophistication of the accounting system. The more sophisticated the system, the fewer the types of charges will be treated as allocable direct expense and

included for distribution. For example, if each employee keeps a detailed time report, the payroll expenditures might be charged directly to each program, and cost allocation per se would not be involved.

- The Cost Allocation Plan must include plans for allocation of allocable direct costs as well as indirect costs. Allocable direct costs will be included with other direct costs of the program in reports to the Grantor State Agency. Allocations that are reported in separate line items on the grantor reports should involve the indirect cost pool only. An entity may wish to have more than one cost allocation pool so that certain types of costs are allocated on different bases.
- The Cognizant State Agency shall review proposed Cost Allocation Plans.
- Once the cost allocation plan has been approved by the Cognizant State Agency, all other funding state agencies must accept the approved plans. Where a contracting State Agency has reason to believe that special factors affecting its awards necessitate special consideration, the contracting State Agency should communicate this to the Cognizant State Agency.
- If a dispute arises between the Cognizant State Agency and a Grantor State Agency, the dispute shall be resolved through an appeals process headed by the Commissioner of the Department of Finance and Administration or his or her designee.

9. Grantor State Agency Monitoring Requirements.

9.1 General Requirements for all Grant Contracts

All Grantor State Agencies must:

(a) Evaluate each Recipient or Subrecipient's risk of noncompliance with Federal and State statutes, regulations, and any applicable terms and conditions, for purposes of determining the appropriate monitoring described in paragraphs (b) and (c) of this section, which may include consideration of such factors as:

- (1) The Recipient or Subrecipient's prior experience with the same or similar Grants;
- (2) The results of previous audits including whether or not the Recipient or Subrecipient receives a Single Audit in accordance with Subpart F—Audit Requirements of the U.S. OMB's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, and the extent to which the same or similar Grant program has been audited as a major program;
- (3) Whether the Recipient or Subrecipient has new personnel or new or substantially changed systems; and
- (4) The extent and results of federal awarding agency monitoring (e.g., if the Recipient or Subrecipient also receives Federal Grants directly from a Federal awarding agency).

(b) Monitor the activities of the Recipient or Subrecipient as necessary to ensure that the Grant is used for authorized purposes, in compliance with Federal and State statutes, regulations, and any applicable terms and conditions; and that Grant performance goals are achieved. Grantor State Agency monitoring of Recipients and Subrecipients must include:

(1) Receiving and reviewing financial and performance reports required by the Grantor State Agency.

(2) Following-up and ensuring that the Recipients or Subrecipients take timely and appropriate action on all deficiencies pertaining to the Grant provided to the Recipient or Subrecipient from the Grantor State Agency detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the Federal Grant provided to the Subrecipient from the pass-through entity as required by 2 CFR § 200.521 Management decision.

(c) Depending upon the Grantor State Agency's assessment of risk posed by the Recipient or Subrecipient (as described in paragraph (a) of this section), the Grantor State Agency shall use these tools, when appropriate, to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing Recipients or Subrecipients with training and technical assistance on program-related matters;

(2) Performing on-site reviews of the Recipients or Subrecipients' program operations; and

(3) Arranging for agreed-upon-procedures engagements as described in 2 CFR § 200.425 Audit services.

(d) Verify that every Subrecipient is audited as required by Subpart F—Audit Requirements of the U.S. OMB's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* when it is expected that the Subrecipient's Federal Awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 CFR § 200.501 Audit requirements.

The Grantor State Agency shall perform more frequent monitoring for Recipients or Subrecipients determined to be high-risk or if previous monitoring cycles revealed serious deficiencies. If federal Subrecipient monitoring requirements on monitoring frequency are more stringent than those under this Policy, the Grantor State Agency shall comply with the federal requirements.

The Grantor State Agency should assign risk to all Recipients or Subrecipients (e.g., in accordance with 2 C.F.R. § 200.331). At minimum, the Grantor State Agency's risk assignment process shall include the considerations identified in Section 9.2.2 below.

9.2 Annual Monitoring Plan

Each year, all State Agencies governed by this Policy shall develop and submit an annual monitoring plan for review and approval to the Central Procurement Office by October 1.

9.2.1. *Monitoring Plan Components*

The monitoring plan is a summary of the Grantor State Agency planned monitoring activities for the upcoming annual monitoring cycle and shall include:

- The total Grant Contracts population;
- The State Agency's monitoring cycle, e.g., the state or federal fiscal year;
- All Grant Contracts the State Agency will monitor during its monitoring cycle;
- A description of each State or Federal program to be monitored;
- Sample monitoring guides to be utilized for each monitored program;
- Full-time equivalents and personnel classifications for all staff dedicated to monitoring activities;
- A risk assessment for each Recipient or Subrecipient and its related contracts;
- An explanation of the criteria used to assign risk to Recipients or Subrecipients and their related contracts;
- An explanation of each finding from the previous monitoring cycle;
- An explanation of the State Agency's corrective action process for each finding; and,
- The most current list of all Subrecipients that have completed a Federal Single Audit.

9.2.2. *Determining the Population to be Monitored*

When selecting the population of Grant Contracts to be included in its annual monitoring plan, Grantor State Agencies shall consider:

- The Recipients or Subrecipients' risk of noncompliance with federal and State statutes, regulations, and any applicable terms;
- The level of programmatic or financial risk to the State; and,
- Whether the Recipient or Subrecipient has had prior findings indicating serious deficiencies.

9.2.3 *Monitoring Activities*

The Grantor State Agency's monitoring of the Recipients or Subrecipients identified in its annual monitoring plan shall include:

- Any program-specific monitoring requirements;
- All applicable requirements of Title VI of the *Civil Rights Act of 1964*;
- Reviewing any reports required by 2 C.F.R. §§ 200.328 – 200.329;
- Reviewing financial and programmatic reports required by the Grant Contract; and

- Ensuring that the Recipient or Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Grant that the Grantor State Agency detected and communicated to the Recipient or Subrecipient.

To the extent possible, there should be a separation of duties between monitoring staff and program operations staff to allow for independence and objectivity. Possible conflicts of interest should be disclosed in Grantor State Agency monitoring plans.

9.2.4 *Changes to Monitoring Plans*

A Grantor State Agency shall submit any proposed changes to an approved monitoring plan and an explanation for each proposed change to the Central Procurement Office for review and approval. The Grantor State Agency shall document any approved changes to an existing plan.

9.2.5 *Monitoring Reports and Corrective Action Plans*

Grantor State Agencies shall issue reports summarizing any findings or observations identified during monitoring activities within thirty (30) business days of completing all field work. The Grantor State Agency shall retain a copy of the monitoring report and distribute copies to the Grantee and the Comptroller of the Treasury, Division of State Audit.

Upon receipt of a monitoring report with findings, the Recipient or Subrecipient shall prepare a corrective action plan detailing the actions to be taken to correct such findings. The corrective action plan shall include:

- The name of the contact person responsible for the corrective action plan;
- The corrective actions to be taken; and
- The anticipated completion date.

The corrective action plan shall be submitted to the Grantor State Agency for review and approval. The Grantor State Agency shall have thirty (30) business days to approve, reject, or request additional information about the Recipients or Subrecipients' plan. If a corrective action plan is not approved, the Grantor State Agency and the Recipient or Subrecipient shall work together to develop solutions for addressing the monitoring report's findings.

10. Debarment and Suspension.

The State requires all contracts to contain a provision where a contracting party may be considered debarred or suspended from doing business with the State. The State hereby incorporates the Debarment and Suspension provision from Tenn. Comp. R. & Regs. 0690-03-01-.17 (2)(t) as mandatory language in all affected Grant Contracts.

11. Compliance Reviews.

State Agency records obtained under this Policy are subject to evaluation by the Chief Procurement Officer, the Comptroller of the Treasury, or their duly appointed representatives.

12. Central Database.

The Central Database is a resource to be utilized by Grantees and State Agencies, allowing them to enter all information required in the End of Fiscal Year Form and the Information for Audit Purposes Form.

The Cognizant State Agency of each Grantee shall be responsible for verifying that the Grantee has input all required information and that all information in the Central Database is correct. For each Grant Contract, the contracting State Agency shall assist the Grantee with inputting the required information.

Related Statutes, Rules and Policies

Tenn. Code Ann. §§ 4-56-101, *et seq.*

Tenn. Code Ann. §§ 12-3-101, *et seq.*

Tenn. Code Ann. §§ 12-4-101, *et seq.*

Tenn. Comp. R. & Regs. 0690-03-01-.17 (2)(t)

POLICY NUMBER 2013-007
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Policy Number 2013-007
Central Procurement Office
Grant Management and Subrecipient Monitoring Policy and Procedures

Effective: May 28, 2013
Last Amended: **January 19, 2023**
Prepared by: The Central Procurement Office of the State of Tennessee

1. Purposes.

To provide guidance to assist State Agencies to determine a counter party's status as a Contractor, Recipient, or Subrecipient.

To provide uniformity in the reporting of, and controls over, the expenditure of Grant funds in connection with the delivery of services by Recipients and Subrecipients.

To establish guidelines for Recipient and Subrecipient monitoring by Grantor State Agencies.

2. Scope.

This Policy applies to all State Agencies that award Federal or State Grants to Recipients or Subrecipients. Direct Appropriation Grants are exempt from this Policy.

3. Definitions.

For purposes of this Policy, the following terms have the meanings described below:

“Central Database” – means the database established and required by Tenn. Code Ann. § 4-56-110, which requires the collection and storage of information regarding Recipients and Subrecipients for monitoring purposes.

“Central Procurement Office” - means the State office established and empowered by Tenn. Code Ann. § 4-56-104.

“Chief Procurement Officer” - means the official as defined by Tenn. Code Ann. § 4-56-104.

“Cognizant State Agency” - means the State Agency whose funds comprise the greatest percentage of Grants received by a Grantee as determined by the Central Procurement Office.

“Contract” - means any duly authorized and legally binding written agreement or purchase order for goods or services by and between the State of Tennessee and any person or any separate entity with the independent legal capacity to contract and sue and be sued. The term “Contract” shall also have the meaning ascribed to it in 2 CFR § 200.22.

“Contractor” – means an entity that receives a Contract as defined in this Policy and in the

U.S. OMB's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

“Cost Allocation Plan”- means the method of distributing to various programs the costs which benefit more than one program and are not directly assigned as approved by the Department of Finance and Administration.

“Direct Appropriation Grant” - means a grant listed on the Department of Finance and Administration Division of Budget's annual direct appropriation list.

“End of Fiscal Year Form” – means the form that captures information related to each Grantee's end of fiscal year figures.

“Endowment Grant”- means a limited Grant Contract that originates from a specific appropriation, effecting a Grant and conveyance of funds or property to a Grantee for a particular purpose to benefit the general public as a whole or some population of the general public. An Endowment Grant is used to transfer funds to a Grantee pursuant to an appropriation.

“Federal Grant” -means a Grant that is funded in whole or in part through federal funds.

“Grant”- means any grant of money, loans, or non-cash assistance awarded to the State or awarded by the State to a person or legal entity, for the furnishing by the State of assistance, whether financial or otherwise, to any person or entity, to support a program authorized by law. A Grant cannot be used for the primary purpose of procuring an end product, whether in the form of supplies, services, or construction, or any contract resulting from such a Grant that should otherwise be provided on a competitive basis.

“Grant Budget”- means a budget itemizing one or more specific activities or purposes under the Grant and the maximum amounts a Grantee may be reimbursed.

“Grant Contract” – means the duly authorized and legally binding written agreement by and between the State of Tennessee and Recipient or Subrecipient that contains the terms and conditions governing the parties' duties and responsibilities with respect to a Grant. A Grant Contract does not include a Contract for the purchase of goods or services for the State of Tennessee's own use or consumption.

“Grantee”- means the person or entity receiving a Grant as a Recipient or Subrecipient.

“Grantor State Agency”-means a State Agency that provides a Grant to a person or entity.

“Information for Audit Purposes Form” – means the form that captures information about Recipients and Subrecipients for the purpose of monitoring State and Federal audit requirements

“Policy” - means Policy Number 2013-007 of the Central Procurement Office.

“Recipient” - means a Grantee that is a recipient of a Grant. The term Recipient does not include a Subrecipient.

“State”- means the State of Tennessee, including its departments, agencies, and entities that fall under its purview.

“State Agency” - means the departments, agencies, and entities of the State of Tennessee.

“State Grant” - means a Grant that is funded exclusively through State funds.

“Subrecipient”- means a non-federal entity that receives a Grant from a pass-through entity to carry out part of a federal program, but excludes the beneficiary of such program. A Subrecipient may also be a recipient of other Federal Grants directly from a federal awarding agency.

4. Determination of a Contractor, Recipient, or Subrecipient.

A State Agency must make case-by-case determinations whether each Grant it makes for the disbursement of federal or State program funds casts the party receiving such funds in the role of a Contractor, Recipient or Subrecipient.

When determining whether an agreement creates a Contractor, Recipient, or Subrecipient relationship, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed below may not be present in all cases, and the State Agency must use its judgment in classifying each agreement as creating either a Grantee or Contractor relationship. The U.S. OMB’s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* provides guidance on how to distinguish between a Subrecipient and a Contractor in 2 C.F.R. § 200.330.

4.1 Contractor – A contract for goods and services that creates a State-Contractor relationship is typically one for the purpose of obtaining goods or services for the State Agency’s own use and consumption.

The characteristics that support the classification of an entity as a Contractor includes whether the entity:

- Provides the goods or services within its normal business operations;
- Provides similar goods or services to many different purchasers;
- Normally operates in a competitive environment;
- Provides goods or services that are ancillary to the operation of a state or federal program; and
- Is not subject to compliance requirements of the state or federal program as a result of the agreement at issue, though similar requirements may apply for other reasons.

If the non-federal entity is a Contractor, the State Agency must ensure that the procurement, receipt, and payment for goods and services complies with applicable state

and federal laws, regulations, and policies that apply to the procurement of goods and services, following one of the approved methods for awarding a Contract (e.g., *CPO Policy 2013-004-Contract Management Policy and Procedures*).

If the Grantor State Agency determines that a Contractor relationship exists, they would not use a Grant Contract model or template.

4.2 Recipient – A Recipient receives a State Grant from the State for the purpose of carrying out a portion of a State Grant.

The characteristics that support the classification of an entity as a Recipient include whether the entity:

- Determines who is eligible to receive State assistance;
- Has its performance measured in relation to whether objectives of a State program were met;
- Has responsibility for programmatic decision making;
- Is responsible for adherence to applicable State program requirements specified in the State Grant; and
- In accordance with the agreement at issue, uses the State financial assistance to carry out a program for a public purpose specified in the authorizing statute, as opposed to providing goods or services for the benefit of the State Agency.

For any entity determined to be a Recipient, the Grantor State Agency must comply with the monitoring requirements in Section 9 of this Policy.

4.3 Subrecipient – A Subrecipient receives a Federal Grant from the State for the purpose of carrying out all or a portion of a Federal Grant creating a federal assistance relationship with the Subrecipient.

The characteristics that support the classification of an entity as a Subrecipient include whether the entity:

- Determines who is eligible to receive federal assistance;
- Has its performance measured in relation to whether objectives of a federal program were met;
- Has responsibility for programmatic decision making;
- Is responsible for adherence to applicable federal program requirements specified in the Federal Grant; and
- In accordance with the agreement at issue, uses the federal financial assistance to carry out a program for a public purpose specified in the authorizing statute, as opposed to providing goods or services for the benefit of the State Agency.

For any entity determined to be a Subrecipient, the Grantor State Agency must comply with the monitoring requirements in Section 9 of this Policy.

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The Grantor State Agency shall document the Grantee selection process. The Grantor State

Agency shall provide a summary of the Grantee selection process to the Central Procurement Office.

6. Alternative Payment Methodologies.

Any Grantor State Agency seeking to use the partial, periodic, or total advance payment language contained in the Grant templates must submit a Rule Exception Request – Advance Payments, justifying why using that language would be in the best interests of the State. If a Grantor State Agency is advancing federal funds, the Grantor State Agency must ensure that the Grantee disburses those funds immediately in accordance with 2 C.F.R. § 200.305.

In accordance with 2 C.F.R. § 200.305, advance payments must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the Grantee (i.e., the Grantee’s disbursement of allowable costs incurred) in carrying out the purpose of the approved program or project.

7. Cognizant State Agency Determination Process.

The Cognizant State Agency shall be responsible for approving the Recipient or Subrecipient’s Cost Allocation Plan. Other State Agencies that grant funds to the Recipient or Subrecipient must abide by the Cost Allocation Plan approved by the Cognizant State Agency. The Cognizant State Agency is the State Agency whose funds comprise the greatest percentage of State Grant funds received by the Recipient or Subrecipient. The Central Procurement Office determines the Cognizant State Agency for each Recipient or Subrecipient. To provide for continuity of the Cognizant State Agency determination, the determination of the predominant amount of funding must be determined every five years. Once assigned, the term of responsibility shall continue until redetermined. A State Agency may submit to the Central Procurement Office a written request and justification for a Cognizant State Agency redetermination at any time during the five-year period. For example, if the State Agency no longer provides the greatest percentage of funds received by the Recipient or Subrecipient, they could request a redetermination prior to the five-year redetermination.

8. Cost Allocation Plans.

Cost Allocation Plans shall comply with the applicable accounting and financial standards, either Financial Accounting Standards Board (“FASB”) standards or Governmental Accounting Standards Board (“GASB”) standards. Recipients or Subrecipients shall submit any proposed Cost Allocation Plans to the Cognizant State Agency for approval. Methods used for allocating costs may differ between Recipients and Subrecipients. Once a Recipient or Subrecipient receives approval for its Cost Allocation Plan, all other Grantor State Agencies shall accept the approved Cost Allocation Plan. However, Grantor State Agencies are not required to fully fund the costs that are charged to a particular program under an approved Cost Allocation Plan if such costs are not allowable under the Grantor State Agency’s agreement with the Recipient or Subrecipient or exceed the prescribed funding percentage or budgets.

8.1 Types of Costs.

8.1.1 Allowable Costs

The total cost of a Grant is the sum of the allowable direct and allocable indirect costs less any applicable credits. There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Grant or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect cost in order to avoid possible double-charging of Grants.

Allowable costs must be reasonable for the performance of the Grant and allocable. Unallowable costs include:

- Alcoholic beverages
- Bad debts
- Contingencies
- Contributions and donations
- Entertainment
- Fines and penalties
- Fundraising and investment management
- Legal services related to claims against the federal government

8.1.2 *Allocable Costs*

A cost is allocable to a particular Grant or other cost objective if the goods or services involved are chargeable or assignable to that Grant or cost objective in accordance with relative benefits received. This standard is met if the cost:

- (1) Is incurred specifically for the Grant;
- (2) Benefits both the Grant and other work of the Recipient or Subrecipient and can be distributed in proportions that may be approximated using reasonable methods; and
- (3) Is necessary to the overall operation of the Recipient or Subrecipient and is assignable in part to the Grant.

8.1.3 *Direct Costs*

Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a Grant, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. Such costs include:

- Salaries of persons who provide direct services to program beneficiaries and work on only one program (e.g., aging director, transportation program director);
- Travel costs that can be specifically identified to benefit a particular program;
- Equipment purchased for use in only one program;
- Maintenance or insurance for purchased equipment;

- Supplies which are utilized in only one program;
- A contract for professional services which benefits a single program; and
- Printing which benefits a single program.

8.1.4. *Allocable Direct Costs*

Allocable direct costs are those that benefit more than one program, but do not fall under the criteria of indirect costs. Such costs also include:

- Salaries and benefits of program employees whose work benefits more than one program (e.g., nurses, eligibility workers, etc.);
- Travel costs of employees whose work benefits more than one program;
- Occupancy costs of programs;
- Telephone costs of programs;
- Supplies utilized by more than one program;
- Rental and maintenance of equipment used by more than one program;
- Audit costs; and
- Contracted services that benefit more than one program.

8.1.5. *Indirect Costs (facilities & administrative costs)*

Indirect costs are overhead or administrative costs incurred for joint purposes that cannot easily be allocated to a single use. Such costs include:

- Executive director's salary and benefits (or the administrative portion thereof if the executive director spends time on program-related activities);
- Fiscal officer's salary and benefits;
- Secretarial support of administrative employees;
- Supplies of administrative employees;
- Travel of administrative employees;
- Occupancy costs (e.g., rent and utilities) of administrative employees; and
- Postage and telephone costs of administrative employees.

The salaries of administrative and clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:

- (1) Administrative or clerical services are integral to a project or activity;
- (2) Individuals involved can be specifically identified with the project or activity;
- (3) Such costs are explicitly included in the budget or have the prior written approval of the federal awarding agency; and
- (4) The costs are not also recovered as indirect costs.

8.2 Cost Allocation.

8.2.1. *Allocation Methods*

Requirements for developing and submitting indirect cost rate proposals and Cost Allocation Plans are contained in Appendices III-VII of the *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards* as follows below. In the event that a federal requirement for cost rate proposals or Cost Allocation Plans conflicts with a state requirement, the federal requirement shall control.

(1) Appendix III to Part 200—Indirect Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs): https://www.ecfr.gov/cgi-bin/text-idx?SID=e93c4c33f5e7b3748124a284dd68aef9&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200_1521.iii

(2) Appendix IV to Part 200—Indirect Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations; https://www.ecfr.gov/cgi-bin/text-idx?SID=e93c4c33f5e7b3748124a284dd68aef9&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200_1521.iv

(3) Appendix V to Part 200—State/Local Government and Indian Tribe Central Service Cost Allocation Plans; https://www.ecfr.gov/cgi-bin/text-idx?SID=e93c4c33f5e7b3748124a284dd68aef9&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200_1521.v

(4) Appendix VI to Part 200—Public Assistance Cost Allocation Plans; https://www.ecfr.gov/cgi-bin/text-idx?SID=e93c4c33f5e7b3748124a284dd68aef9&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200_1521.vi

(5) Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals. https://www.ecfr.gov/cgi-bin/text-idx?SID=e93c4c33f5e7b3748124a284dd68aef9&mc=true&node=pt2.1.200&rgn=div5#ap2.1.200_1521.vii

8.2.2. *Instructions for Cost Allocation Plans*

Each Recipient and Subrecipient shall prepare a narrative describing in detail the methods used to allocate costs to the various programs. The plan should include an organizational chart and documents and schedules to support the allocation methods.

The following guidelines should be used when preparing the Cost Allocation Plan:

- The nature of the charges to be allocated will depend on the sophistication of the accounting system. The more sophisticated the system, the fewer the types of charges will be treated as allocable direct expense and

included for distribution. For example, if each employee keeps a detailed time report, the payroll expenditures might be charged directly to each program, and cost allocation per se would not be involved.

- The Cost Allocation Plan must include plans for allocation of allocable direct costs as well as indirect costs. Allocable direct costs will be included with other direct costs of the program in reports to the Grantor State Agency. Allocations that are reported in separate line items on the grantor reports should involve the indirect cost pool only. An entity may wish to have more than one cost allocation pool so that certain types of costs are allocated on different bases.
- The Cognizant State Agency shall review proposed Cost Allocation Plans.
- Once the cost allocation plan has been approved by the Cognizant State Agency, all other funding state agencies must accept the approved plans. Where a contracting State Agency has reason to believe that special factors affecting its awards necessitate special consideration, the contracting State Agency should communicate this to the Cognizant State Agency.
- If a dispute arises between the Cognizant State Agency and a Grantor State Agency, the dispute shall be resolved through an appeals process headed by the Commissioner of the Department of Finance and Administration or his or her designee.

9. Grantor State Agency Monitoring Requirements.

9.1 General Requirements for all Grant Contracts

All Grantor State Agencies must:

(a) Evaluate each Recipient or Subrecipient's risk of noncompliance with Federal and State statutes, regulations, and any applicable terms and conditions, for purposes of determining the appropriate monitoring described in paragraphs (b) and (c) of this section, which may include consideration of such factors as:

- (1) The Recipient or Subrecipient's prior experience with the same or similar Grants;
- (2) The results of previous audits including whether or not the Recipient or Subrecipient receives a Single Audit in accordance with Subpart F—Audit Requirements of the U.S. OMB's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, and the extent to which the same or similar Grant program has been audited as a major program;
- (3) Whether the Recipient or Subrecipient has new personnel or new or substantially changed systems; and
- (4) The extent and results of federal awarding agency monitoring (e.g., if the Recipient or Subrecipient also receives Federal Grants directly from a Federal awarding agency).

(b) Monitor the activities of the Recipient or Subrecipient as necessary to ensure that the Grant is used for authorized purposes, in compliance with Federal and State statutes, regulations, and any applicable terms and conditions; and that Grant performance goals are achieved. Grantor State Agency monitoring of Recipients and Subrecipients must include:

(1) Receiving and reviewing financial and performance reports required by the Grantor State Agency.

(2) Following-up and ensuring that the Recipients or Subrecipients take timely and appropriate action on all deficiencies pertaining to the Grant provided to the Recipient or Subrecipient from the Grantor State Agency detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the Federal Grant provided to the Subrecipient from the pass-through entity as required by 2 CFR § 200.521 Management decision.

(c) Depending upon the Grantor State Agency's assessment of risk posed by the Recipient or Subrecipient (as described in paragraph (a) of this section), the Grantor State Agency shall use these tools, when appropriate, to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing Recipients or Subrecipients with training and technical assistance on program-related matters;

(2) Performing on-site reviews of the Recipients or Subrecipients' program operations; and

(3) Arranging for agreed-upon-procedures engagements as described in 2 CFR § 200.425 Audit services.

(d) Verify that every Subrecipient is audited as required by Subpart F—Audit Requirements of the U.S. OMB's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* when it is expected that the Subrecipient's Federal Awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 CFR § 200.501 Audit requirements.

The Grantor State Agency shall perform more frequent monitoring for Recipients or Subrecipients determined to be high-risk or if previous monitoring cycles revealed serious deficiencies. If federal Subrecipient monitoring requirements on monitoring frequency are more stringent than those under this Policy, the Grantor State Agency shall comply with the federal requirements.

The Grantor State Agency should assign risk to all Recipients or Subrecipients (e.g., in accordance with 2 C.F.R. § 200.331). At minimum, the Grantor State Agency's risk assignment process shall include the considerations identified in Section 9.2.2 below.

9.2 Annual Monitoring Plan

Each year, all State Agencies governed by this Policy shall develop and submit an annual monitoring plan for review and approval to the Central Procurement Office by October 1.

9.2.1. *Monitoring Plan Components*

The monitoring plan is a summary of the Grantor State Agency planned monitoring activities for the upcoming annual monitoring cycle and shall include:

- The total Grant Contracts population;
- The State Agency's monitoring cycle, e.g., the state or federal fiscal year;
- All Grant Contracts the State Agency will monitor during its monitoring cycle;
- A description of each State or Federal program to be monitored;
- Sample monitoring guides to be utilized for each monitored program;
- Full-time equivalents and personnel classifications for all staff dedicated to monitoring activities;
- A risk assessment for each Recipient or Subrecipient and its related contracts;
- An explanation of the criteria used to assign risk to Recipients or Subrecipients and their related contracts;
- An explanation of each finding from the previous monitoring cycle;
- An explanation of the State Agency's corrective action process for each finding; and,
- The most current list of all Subrecipients that have completed a Federal Single Audit.

9.2.2. *Determining the Population to be Monitored*

When selecting the population of Grant Contracts to be included in its annual monitoring plan, Grantor State Agencies shall consider:

- The Recipients or Subrecipients' risk of noncompliance with federal and State statutes, regulations, and any applicable terms;
- The level of programmatic or financial risk to the State; and,
- Whether the Recipient or Subrecipient has had prior findings indicating serious deficiencies.

9.2.3 *Monitoring Activities*

The Grantor State Agency's monitoring of the Recipients or Subrecipients identified in its annual monitoring plan shall include:

- Any program-specific monitoring requirements;
- All applicable requirements of Title VI of the *Civil Rights Act of 1964*;
- Reviewing any reports required by 2 C.F.R. §§ 200.328 – 200.329;
- Reviewing financial and programmatic reports required by the Grant Contract; and

- Ensuring that the Recipient or Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Grant that the Grantor State Agency detected and communicated to the Recipient or Subrecipient.

To the extent possible, there should be a separation of duties between monitoring staff and program operations staff to allow for independence and objectivity. Possible conflicts of interest should be disclosed in Grantor State Agency monitoring plans.

9.2.4 *Changes to Monitoring Plans*

A Grantor State Agency shall submit any proposed changes to an approved monitoring plan and an explanation for each proposed change to the Central Procurement Office for review and approval. The Grantor State Agency shall document any approved changes to an existing plan.

9.2.5 *Monitoring Reports and Corrective Action Plans*

Grantor State Agencies shall issue reports summarizing any findings or observations identified during monitoring activities within thirty (30) business days of completing all field work. The Grantor State Agency shall retain a copy of the monitoring report and distribute copies to the Grantee and the Comptroller of the Treasury, Division of State Audit.

Upon receipt of a monitoring report with findings, the Recipient or Subrecipient shall prepare a corrective action plan detailing the actions to be taken to correct such findings. The corrective action plan shall include:

- The name of the contact person responsible for the corrective action plan;
- The corrective actions to be taken; and
- The anticipated completion date.

The corrective action plan shall be submitted to the Grantor State Agency for review and approval. The Grantor State Agency shall have thirty (30) business days to approve, reject, or request additional information about the Recipients or Subrecipients' plan. If a corrective action plan is not approved, the Grantor State Agency and the Recipient or Subrecipient shall work together to develop solutions for addressing the monitoring report's findings.

10. Debarment and Suspension.

The State requires all contracts to contain a provision where a contracting party may be considered debarred or suspended from doing business with the State. The State hereby incorporates the Debarment and Suspension provision from Tenn. Comp. R. & Regs. 0690-03-01-.17 (2)(t) as mandatory language in all affected Grant Contracts.

11. Compliance Reviews.

State Agency records obtained under this Policy are subject to evaluation by the Chief Procurement Officer, the Comptroller of the Treasury, or their duly appointed representatives.

12. Central Database.

The Central Database is a resource to be utilized by Grantees and State Agencies, allowing them to enter all information required in the End of Fiscal Year Form and the Information for Audit Purposes Form.

The Cognizant State Agency of each Grantee shall be responsible for verifying that the Grantee has input all required information and that all information in the Central Database is correct. For each Grant Contract, the contracting State Agency shall assist the Grantee with inputting the required information.

Related Statutes, Rules and Policies

Tenn. Code Ann. §§ 4-56-101, *et seq.*

Tenn. Code Ann. §§ 12-3-101, *et seq.*

Tenn. Code Ann. §§ 12-4-101, *et seq.*

Tenn. Comp. R. & Regs. 0690-03-01-.17 (2)(t)

**OPTIONAL TERMS FOR GR AND GG:
STATE-SPONSORED INSURANCE PLANS
ENROLLMENT
NEW**

**REQUEST: Add the following to the Grant Contract (“GR”) and Governmental Grant (“GG”)
Templates options:**

State Sponsored Insurance Plans Enrollment

Add the following as appropriate.

E.#. State Sponsored Insurance Plan Enrollment. The Grantee warrants that it will not enroll or permit its employees, officials, or employees of contractors to enroll or participate in a state sponsored health insurance plan through their employment, official, or contractual relationship with Grantee unless Grantee first demonstrates to the satisfaction of the Department of Finance and Administration that it and any contract entity satisfies the definition of a governmental or quasi-governmental entity as defined by federal law applicable to ERISA.