



STATE OF TENNESSEE
SOLICITATION # 34513-01210
AMENDMENT # ONE

January 6, 2010

THE SUBJECT SOLICITATION IS HEREBY AMENDED AS FOLLOWS.

1. The following Solicitation Schedule of Events updates or confirms scheduled Solicitation dates.

EVENT	TIME (central time)	DATE	UPDATED / CONFIRMED
1) State Issues Solicitation		December 17, 2009	CONFIRMED
2) Letter of Intent to Respond Due	4:30 p.m.	December 21, 2009	CONFIRMED
3) Written Questions Due	2:00 p.m.	December 28, 2009	CONFIRMED
4) State Responds to Written Questions		January 6, 2010	CONFIRMED
5) RESPONSE DEADLINE	2:00 p.m.	January 13, 2010	CONFIRMED
6) State Identifies Responsive & Responsible Solicitation Responses		January 14, 2010	CONFIRMED
7) State Identifies the Best, Responsive & Responsible Cost Offer		January 15, 2010	CONFIRMED
8) State Releases Award Notification	2:00 p.m.	January 19, 2010	CONFIRMED
9) Contract Signing		January 29, 2010	CONFIRMED
10) Contract Signature Deadline	2:00 p.m.	February 1, 2010	CONFIRMED

2. The following State responses to the questions detailed shall amend or clarify this Solicitation accordingly. (NOTE: Any restatement of Solicitation text in the Question/Comment column below shall NOT be construed to change the actual wording of the Solicitation document.)

[The text of questions is exactly as submitted by the Proposers. The State has not edited them in any way.]

QUESTION/COMMENT	STATE RESPONSE
1) The RFP states that all New Hire reporting information received from employers is entered into the New Hire database within (1) one working day of receipt of the record. In an effort to provide the most competitive price, is the state willing to allow the entry of the new records be completed within (2) two working days?	No.

QUESTION/COMMENT	STATE RESPONSE
2) The RFP states that the contractor shall ensure that all Employer maintenance activities on the TCSES will remain current (completed within twenty-four (24) hours of the time information is received). In an effort to provide the most competitive price, is the state willing to allow the entry of the new records be completed within (2) two working days?	No.
3) Does Employer Maintenance activities need to be performed within the confines of the Metropolitan Davidson Co area?	No.
4) Under the freedom of information act, can the state provide a list of companies of that submitted a letter of intent to bid?	A list of companies responding to the Solicitation will be available upon request following the Response Deadline stated in the Solicitation Schedule of Events.
5) In the current optional data elements there is one for "Is the New Hire eligible for medial insurance?" as a yes or no question. It is not listed in the RFP as one of the optional data elements. Does that mean that it does not need to be an optional field anymore?	This data element will remain as an Optional field in the required file layout. Please refer to Item #20 below for detailed information on the file format/protocol the Contractor shall follow when transmitting a file of New Hire records to load into the child support system.
6) What is the volume of New Hire data from employers via fax? What is the volume of New Hire data via first-class mail? What is the volume of data via the telephone?	Average monthly volumes are as follows: Fax – 3,665 Telephone – 179 Mail – Data unavailable
7) How many records per month require follow up due to missing, incomplete or illegible mandatory information?	An average of 569 per month.
8) How many pieces of correspondence need response by the Contractor each month?	Data unavailable.
9) Please confirm that the intent of A.14 is that all maintenance activities take place within 1 working day of the time the information is received. In other words, for both A.11 and A.14 if a report or information is received on a Friday, information would need to be entered by close of business on Monday.	Yes.
10) Please provide monthly statistics for the past year for employer maintenance activities.	Please visit the following website to access available statistics: http://state.tn.us/humanserv/fa/Additional_-_Information_Pertinent_to_New_Hire_Rptg.pdf

QUESTION/COMMENT	STATE RESPONSE
<p>11) Please confirm that all 410,198 employers must be in the informational notification and the ongoing outreach program. Please confirm that the contractor is responsible for all printing and postage costs related to outreach. Please confirm that that State will provide an electronic file to the Contractor of the 410,198 employers if the expectation is that all of them are included in the outreach efforts. Will the current PO Box, URL, and/or telephone number be transferred to the new Contractor?</p>	<p>It is the State's intent that any vendor transition should appear seamless to the employer community, and would include a transfer from the current Contractor to the new vendor of the P.O. Box, URL, and telephone number. As such, Section A.18. of Attachment 1 has been amended to remove the requirement that an initial notification be provided. The Contractor will be responsible for all printing and postage costs related to outreach activities. Identification of employers to be targeted for the ongoing outreach program will be left to the Contractor's discretion. The TN Dept. of Labor & Workforce Development will provide an electronic file directly to the Contractor.</p>
<p>12) Is there a requirement that the office be located within the greater Nashville area or at a minimum with the State of Tennessee so that the State can inspect the operation without additional costs to the State for travel?</p>	<p>No.</p>
<p>13) Please define "space usable" as referenced in the second bullet.</p>	<p>"Space Usable" – This record has not been reviewed by Employer Maintenance. The employer information may or may not be complete; it may contain a complete address and information, or it may be missing certain key elements.</p>
<p>14) Please provide the Number of calls placed on hold, number calls abandoned, time waiting on hold, and number of busy signals received during the year on a daily, weekly, and monthly basis. On a weekly basis, what are the average number of outbound calls and duration made to resolve discrepancies or missing information for New Hire Reporting and Employer Maintenance?</p>	<p>The current vendor reports that all calls are answered (not placed on hold/abandoned). The vendor reports a weekly average of 19 calls made to employers to resolve discrepancies or missing information. The duration of the calls is not tracked.</p>
<p>15) Will the State provide a copy of the current Contractor's transition plan?</p>	<p>A copy of the current Contractor's Transition Plan will be provided to a new vendor pursuant to contract award.</p>
<p>16) Would the State agree that neither party will be liable for special, indirect, incidental, consequential, punitive, or exemplary damages (including loss of profits, loss of revenue, or loss of good will) for any claim, whether based on warranty, contract, tort (including negligence), strict liability, or otherwise, even if the party has been advised of the possibility of such damages?</p>	<p>No.</p>
<p>17) Would the State be willing to provide Contractor with the right to terminate the contract without cause, understanding that such a provision may be in the best interests of the Contractor and the State?</p>	<p>No.</p>
<p>18) Does the State have any restriction on the physical location of office and staff to perform this work?</p>	<p>No.</p>
<p>19) How many FTE does the current vendor have performing the duties of the New Hire reporting program?</p>	<p>7.5</p>

Position Title	Number of Positions	Full-Time (FT / Part-Time (PT)
Operations Manager	1	FT
IT and Development	1	PT
Case Management Lead	1	FT
Case Management New Hire	1	FT
Case Management – Emp Maintenance	1	FT
New Hire Customer Service/Data Entry Specialist	3	FT

QUESTION/COMMENT	STATE RESPONSE
20) Does the State have an expected file format/protocol the Contractor shall follow when transmitting a file of New Hire records to load into the child support system?	Please visit the following website to access the New Hire Report File Layout: http://state.tn.us/humanserv/fa/Additional - Information Pertinent to New Hire Rptg.pdf
21) Will Contractor have access to the existing database table structure and sample export dataset prior to delivery?	In the event of a vendor transition, this information will be included in the Transition Plan provided by the current vendor.
22) Will Contractor engage directly with employers electing to use alternate form containing the same data as the W-4 form or will State be responsible for determination for options for each employer?	The Contractor will engage directly with employers electing to use alternate forms to ensure that such forms contain the same data as the W-4 form.
23) What is the monthly outbound fax volume?	Monthly Average - 10
24) What is the monthly inbound fax volume?	See Item #6 above.
25) What is monthly inbound mail volume?	Data unavailable.
26) What is monthly outbound mail volume?	Monthly Average - 82
27) What is the average call handle time?	Data unavailable.
28) Regarding the existing new hire website that allows employers to submit electronic new hire transactions, is the vendor required to transition the current website for hosting, maintenance, and ongoing support?	Please see Item #11 above.
29) What is monthly volume of documents needing imaging?	The current vendor does not image documents.
30) What is the State's preferred method for receiving electronic correspondence?	As attachments to e-mail, using Secure File Transfer Protocol.
31) On average, how many New Hire reports are received per workday and what percentage are submitted electronically? Can the state provide the monthly totals for the last 3 years broken out by manual and electronic records?	Please visit the following website to access a Monthly Volume report for the past 12 months: http://state.tn.us/humanserv/fa/Additional - Information Pertinent to New Hire Rptg.pdf
32) Does the State operate an employer maintenance unit? If so, how are the duties of the vendor's unit and the State's unit coordinated to ensure no duplication of effort?	The State does operate an Employer Maintenance Unit. Please see the excerpt from the <i>Employer Maintenance Unit User's Guide</i> copied below for additional information.

Employer Maintenance Unit User's Guide – Section XX

XX. DIFFERENCES BETWEEN NEW HIRE VENDOR AND CENTRAL OFFICE EMPLOYER MAINTENANCE PROCEDURES

The Central Office Employer Maintenance unit and the contracted New Hire unit responsibilities differ. Simply stated, the New Hire Vendor is primarily responsible for the ongoing daily maintenance of records received from 'New Hire' source while the Central Employer Maintenance Unit is primarily responsible for the ongoing daily maintenance of records received from 'all other' sources.

1. The nightly New Hire interface results in the following:
 - If the incoming employer matches an existing TCSES employer that has a usable 'Y' code, this employer is automatically loaded to the TCSES member (EMPD screen) with a Status of 'A'/Current (confirmed), the Source code is populated as 'NEW', and a confirmed date is populated. (Vendor does nothing.)
 - If the incoming employer does not match an existing TCSES employer that has a 'Y' usable code but does match a TCSES employer that has a blank usable code, the employer is automatically loaded to the TCSES member (EMPD screen). In this instance, the employer Status is automatically made 'M' Pending Maintenance. (Vendor is responsible for research and TCSES updates.)
 - If the incoming employer is does not match an existing TCSES employer, the newly hired TCSES member's employment information is not automatically updated. Instead, the contracted New Hire vendor is provided the information for research and manual TCSES updates. (Vendor is responsible for research and TCSES updates.)
2. When the contracted New Hire vendor manually loads TCSES member employment information (or when the daily New Hire interface automatically loads this information), the EMPD Source code of 'New' is used. Also, the employer will automatically have a 'Y' usable code on the TCSES EMNT screen.

For those employers that must be researched/worked manually by the New Hire vendor, if the employer cannot be contacted by phone for verification of the various addresses, the vendor sends a letter to the employer at the address provided with the new hire information. If a response is returned, the vendor proceeds with employer maintenance and TCSES updates. If the letter is not returned timely, the vendor updates TCSES making the employer non-usable (EMNT screen) and closes the member's employment record (EMPD screen).

3. If a newly hired member is a TCSES Non-Custodial parent (NCP) but that member has more than one TCSES member ID number (MID), the New Hire vendor provides this information to the TCSES Help Desk for research and correction of the multiple MIDs.
4. The New Hire vendor is responsible for the following reports:

Conflicting Employer Report (New Hire source)

This report contains Employer information provided from New Hire Vendor, that 'conflicts' with similar existing Employer information found on TCSES.

Daily Add/Update Report (Employers Added Yesterday)

This report consists of employers that were added the previous day.

MINCA Report

This daily report consists of all employer ID numbers where the NCP member is associated with an active docket on a TCSES case, and the 'Usable' code is blank. A confirmed employer is needed so that an Income Assignment order will be generated for a member. These employers are on the member's employment (EMPD) screen in 'M' Pending Maintenance status waiting to be worked.

Non-Match Report

The incoming New Hire employers listed on this report did not match an existing TCSES employer. These employers could not be automatically loaded to TCSES, and this report is provided to the vendor for working.

Partial Report

This report consists of all employer address records with a partial indicator of Y.

Red Report

All employer address records with a usable code of N or spaces.

Yellow Report (Employers Added Yesterday-New Hire source)

This report consists of TCSES employers that are in 'M' Pending Maintenance status. These employers were entered by case create, locate interfaces, and users.

QUESTION/COMMENT	STATE RESPONSE
33) How many FTE does the current vendor have performing the employer maintenance duties?	Please refer to Item #19 of these responses.
34) Please provide historical and projected transaction volumes for the employer research and update requirements. Does the current vendor use a database to store multiple employer addresses? If yes, will that database be available to the new vendor?	Please refer to Item #10 above for historical transaction volumes. Projected volumes are not currently available. In the event of a vendor transition, the database used by the current vendor to store multiple employer addresses would be made available to the new vendor.
35) How will DHS advise the vendor that employer research and update work is necessary, in the absence of a new-hire report from a specific employer? Please describe the process.	In the event of a vendor transition, appropriate reports will be provided to the Contractor either by a reporting mechanism or by e-mail. Specifics of the process will be discussed with the Contractor pursuant to contract award.
36) Is the vendor expected to make presentations to employer and payroll groups at conferences and workshops? If so, approximately how many occur per year?	Presentations to employers and payroll groups will be left to the Contractor's discretion, but are not a requirement of the outreach program.
37) Please provide the number of employers in the State of Tennessee intended to receive this all-employer mailing, as well as the source of the mailing list.	Please see Item #11 above.
38) Will the state provide the mailing list for the initial mailing to inform employers of new reporting procedures?	Please see Item #11 above.
39) Will the State provide quarterly wage data for purposes of monitoring employer compliance, or does the State currently rely on federal EPP data?	The State relies on Federal EPP data.

QUESTION/COMMENT	STATE RESPONSE
40) Is the contractor responsible for printing all outreach materials, or will the State print some or all of the materials? If the State prints some of the materials, please provide specifics on what is printed.	The contractor is responsible for printing all outreach materials.
41) How many calls from employers were received in the last 12 months?	2,153
42) Rather than requiring specific individuals for the Project Manager or other key management personnel, would the State accept Contractor's commitment to provide individuals with the correct knowledge, skills, and abilities?	The Project Manager requirements remain as stated in Section A.28. of Attachment 1 to the Solicitation.
43) Would the State agree that Contractor will have the right to remove or reassign the Project Manager or other key management personnel as a result of circumstances beyond Contractor's reasonable control, including but not limited to resignation, illness, or disability?	Should the project manager or other key personnel change as a result of circumstances beyond Contractor's reasonable control, such change should be handled in the manner described in Section A.28 of Attachment 1 to the Solicitation.
44) Given that the compensation is based on unknown volume, would the State agree to a minimum amount of compensation regardless of volume?	No.
45) Would the State agree to pay the undisputed amount of an invoice within 30 calendar days after receipt of that invoice?	The State will pay the undisputed amount of an invoice within 45 calendar days after receipt of that invoice.
46) May Contractor have at least 30 days to cure a breach of contract?	The State will not change the language in Section E.6. of the contract. If the Contractor desires a longer than fifteen day timeframe to cure a breach, it must request this in writing, and provide a reason that a longer than fifteen day timeframe is needed. The opportunity to cure a breach of contract is exercised at State option.
47) Would the State agree that if rules, policies, procedures, guidelines or changes in regulations in laws affect the cost of providing the services, the State will make an equitable adjustment in compensation?	If changes to the Scope of Services are required, any associated change in compensation would be at the State's discretion.
48) Would the State agree that Contractor may terminate for cause after providing the State with 30 days' notice of default and an opportunity to cure?	No.
49) Would the State agree to limit the Contractor's liability to the Maximum Liability?	Contractor liability will be limited to two (2) times the Maximum Liability amount of the contract.
50) Would the Department describe the format in which existing data will be transferred during the contract services transition period?	In the event of a vendor transition, the electronic data will be transferred by the current vendor. This is part of the Transition Plan referenced in Item #21 above.
51) Is the three year past New Hire Reporting experience criteria a requirement?	Yes.
52) Clarification of timing of events. Some areas of the RFP refer to 24 hour response time vs 1 working day. Is this in relationship to the stated official staffing hours? For example, if the contractor receives a complaint at 4:00 p.m. on Friday, does sending an email sufficient for contacting the State? Please elaborate.	If a complaint is received at 4:00 p.m., the State should be notified of the complaint no later than 4:00 p.m. of the following <u>work day</u> .

QUESTION/COMMENT	STATE RESPONSE
53) Will the format of the data supplied from the existing database be in the same format as is routinely sent from the contractor to the state?	Yes.
54) Employer's electronic submissions should be sent via FTP, CD, 3.5 diskette only or entered on-line. Current forms on the State's site list other electronic media (magnetic tapes), which are outdated and require specialized equipment. Can these be eliminated? By not offering these expensive, specialized methods, will this eliminate us from the bid?	The Contractor must be prepared to receive New Hire data via all methods listed in Section A.8. of Attachment 1.
55) Is email the preferred method of communication with the State?	Yes.
56) Is email the preferred method of communication with the Employers, assuming the address is available?	Yes, if an e-mail address is available.
57) Is there any requirement to compare the New Hire data with the quarterly State tax or unemployment filings? (Many states use this comparison to calculate accuracy and/or compliance)	No.
58) If a comparison is performed, is there a penalty charged to the non-compliant employer? Is the contractor responsible to provide this information or to perform any collection services?	If the Contractor identifies an employer as being out of compliance with New Hire reporting requirements, the Contractor will report the employer to the State for appropriate action.
59) For the TCSES employer record maintenance, can it be done electronically? If not, can details of the manual process be provided? Can screen shots of the screens be provided?	TCSES employer record maintenance cannot be done electronically. Please refer to the Attachment referenced in Item #32 of these responses for information on the manual process. In the event of a vendor transition, training, including screen shots, will be provided.
60) Clarification of <u>Maximum Liability</u> section versus the transaction price quote. How will the maximum liability amount be determined if the underlying pricing is per transaction?	The Maximum Liability will be calculated based on projected transactions.
61) According to the information provided, there were 5,146,317 in the 2 years ending 11/18/09. From 10/13/08 thru 10/30/09 there were 1,573,393 leaving approximately 3,572,924 for the prior year. Correct?	The State cannot validate the assumption used for this calculation.
62) Are there any State provisions to phase-out the manual reporting options? This would require employers to either file via an on-line form or submit electronically, therefore drastically reducing paperwork. (Remember this is a 5 year contract)	There are no such State provisions at this time.
63) Does the current contract state that the current 800# will be transferred to the new Contractor?	Please see Item #11 above.
64) Does the current contract state that the current PO BOX will be transferred to the new Contractor?	Please see Item #11 above.
65) Is there a specific dollar amount to be spent in relationship to outreach?	No.

QUESTION/COMMENT	STATE RESPONSE
66) Because the RFP did not state specifically, we assume that the vendor is not required to establish a physical office in TN. Is this true?	There is not a requirement that a physical office be located in Tennessee.

3. Delete Solicitation # 34513-01210 Attachment 1 – *pro forma* Contract Sections A.18 and A.37 in their entirety and insert the following in their respective places:

- A.18. The Contractor shall develop an ongoing informational and outreach program pre-approved by the State to inform employers, contractors, or their contracted payroll company conducting business within the State of Tennessee of the federally mandated New Hire reporting requirements.

- A.37. The Contractor shall, upon termination or expiration of this Contract, immediately (not to exceed thirty (30) days) return to the State all information maintained by the Contractor to satisfy Child Support and federal audit requirements. The Contractor shall also transfer title to the State (to the extent that title has not already been transferred) and deliver in the manner, and at the times, and to the extent directed by the State, all software developed or modified, files, data, manuals, or other documentation, in any form, that are complete or under development pursuant to the terms of this Contract, at the time of the Contractor's receipt of the Notice of Termination, or date of contract expiration as appropriate, regardless of the status of completion. Transfer shall also include, but not be limited to, the telephone number(s), Post Office Box, and URL associated with the New Hire Program.



STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES

SOLICITATION # 34513-01210

**PROFESSIONAL SERVICE SOLICITATION FOR
OPERATION OF NEW HIRE REPORTING AND TENNESSEE
CHILD SUPPORT ENFORCEMENT SYSTEM (TCSES) EMPLOYER
MAINTENANCE**

1. INTRODUCTION

The state intends to award a contract for the operation of the New Hire Project, and to conduct any necessary data cleanup and ongoing employer maintenance activities on TCSES. In performing services under the contract, the vendor will utilize the existing database within TCSES or its replacement system, as well as a database to be developed by the Contractor.

The routine reporting of information to the National New Hire Registry on newly hired, rehired or recalled employees is required pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. Many newly-hired employees that are reported are associated with one or more child support cases in TCSES, and the employer may or may not reside in the TCSES employer database. Before associating the employer with an individual associated with a case in the TCSES system, employer maintenance activities may be needed to clean up existing data and/or to load the new data.

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

The *Pro Forma* Contract (Solicitation Attachment 1) represents the contract document that the contractor selected by the state must sign.

3. PROCUREMENT SCHEDULE

The state reserves the right, at its sole discretion, to adjust the procurement schedule as necessary. The following table represents the best estimate of the schedule that will be followed.

EVENT	TIME (central time)	DATE
1. State Issues Solicitation		December 17, 2009
2. Letter of Intent to Respond Due	4:30 p.m.	December 21, 2009
3. Written Questions Due	2:00 p.m.	December 28, 2009
4. State Responds to Written Questions		January 6, 2010
5. RESPONSE DEADLINE	2:00 p.m.	January 13, 2010
6. State Identifies Responsive & Responsible Solicitation Responses		January 14, 2010
7. State Identifies the Best, Responsive & Responsible Cost Offer		January 15, 2010

8. State Releases Award Notification	2:00 p.m.	January 19, 2010
9. Contract Signing		January 29, 2010
10. Contractor Signature Deadline	2:00 p.m.	February 1, 2010
The state reserves the right, at its sole discretion, to amend or cancel this solicitation at any time.		

4. RESPONSE REQUIREMENTS

An offer in response to this solicitation must consist of two parts, *Qualifications Evidence* (including any supporting documentation) and *Cost Offer*, exactly as specified below.

4.1. Qualifications Evidence. The Qualification Evidence and supporting documentation must detail responses or provide documentation as required to address each of the following requirements (of the potential contractor or potential contractor's employees as applicable):

- a. Detail the name, e-mail address, mailing address, telephone number, and facsimile number of the contact person regarding the offer.
- b. Submit a *Statement of Certifications and Assurances* document (Solicitation Attachment 2) completed and signed by an individual empowered to bind the Offeror to the provisions of this solicitation and any resulting contract. The document must be signed without exception or qualification. **NOTE: If the signatory of this document is not the Offeror (if an individual) or the Offeror's President or Chief Executive Officer, evidence indicating the signatory's authority to bind the Offeror MUST BE ATTACHED to the document.**
- c. Submit a *Conflict of Interest Attestation* document (Solicitation Attachment 3), signed by an individual empowered to bind the Offeror to the provisions of this solicitation and any resulting contract.
- d. Documentation that the Offeror is currently engaged, or has been engaged within the past three years, in the successful operation of a New Hire Registry project at the state level in Tennessee or another state, and similar to the project described in this professional services solicitation. Project operation of less than nine months' duration shall not be deemed to document "successful operation". The Offeror shall list the state(s) in which it currently, or within the past three years, has operated said project, the timeline for which it was responsible for the operation of the project, and shall provide a copy of the contract governing such service provision, upon request by the State at a later time.

4.2. Cost Offer. The Cost Offer must be in the form of a completed, exact copy of the *Cost Offer* document (Attachment 4).

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

1. RESPONSE SUBMISSION FORMAT AND DELIVERY

5.1. SUBMISSION FORMAT

- 5.1.1. The Qualifications Evidence outlined above in items 4.1.a-d. must be submitted to the State in the following form:
- 5.1.2. One (1) original must be placed in one sealed envelope labeled "**Qualifications Evidence—Solicitation #: 34513-01210**" and stating the legal name of the entity

submitting the solicitation response. **Do not include the hard copy Cost Offer or any cost information.**

5.1.3. One (1) completed, exact copy of the Cost Offer must be submitted in a **separate sealed envelope** labeled “**Cost Offer—Solicitation #: 34513-01210**” and stating the legal name of the entity submitting the solicitation response.

5.1.4. If the Offeror encloses the separately sealed Qualification Evidence and Cost Offer documents (as detailed above) in a larger package for mailing, the Offeror must clearly mark the outermost package:

“Contains Separately Sealed Qualification Evidence and Cost Offer for Solicitation # 34513-01210”

5.1.5. Any information in addition to that which is explicitly required in 4.1. and 4.2. above will be considered extraneous and not reviewed or evaluated.

5.2. RESPONSE DELIVERY

No later than the response deadline detailed in procurement schedule above, a potential contractor must deliver to the state ALL documentation required for both the *Qualifications Evidence* and the *Cost Offer* components of an offer in response to this solicitation. It must be delivered to:

David Gilliam, Coordinator
Tennessee Department of Human Services
400 Deaderick St.
11th Floor, Citizens Plaza Building
Nashville, TN 37243-1403
RFX.DHS@tn.gov
Phone # (615) 313-2270
Fax # (615) 313-5356

Responses may not be submitted via e-mail or facsimile transmission.

6. EVALUATION PROCESS

A team of at least three procuring agency employees will review the *Qualifications Evidence* and any supporting documentation submitted with each offer. For an offer to be acceptable and eligible for contract award, the evaluators must determine that it documents that the Offeror meets minimum qualifications and requirements specified by the solicitation and is, at least, minimally acceptable as a contractor for the subject services. The procurement coordinator will review the *Cost Offer* submitted by each Offeror deemed acceptable for contract award by evaluators to assess whether it complies, without qualification, with solicitation instructions. The procurement coordinator will identify the responsive, responsible *Cost Offer* indicating the lowest cost to the state. The procuring agency will award the contract to the individual or entity making said offer indicating the lowest cost to the state. In the event that two or more *Cost Offers* indicate the same cost to the state, the procurement coordinator will request a best and final *Cost Offer* from the tied Offerors. Should a second tie result, the contract award shall be decided by chance.

7. GENERAL INFORMATION

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

7.2. **Conflict of Interest.** For the purposes of applying these requirements, the state will deem an individual to be an employee or official of the State of Tennessee until such time as all compensation for salary, termination pay, and annual leave has been paid. This solicitation shall not result in a contract with:

- an individual who is, or within the past six months has been, an employee or official of the State of Tennessee;
 - a company, corporation, or any other contracting entity in which an ownership of two percent (2%) or more is held by an individual who is, or within the past six months has been, an employee or official of the State of Tennessee (this will not apply either to financial interests that have been placed into a “blind trust” arrangement pursuant to which the employee does not have knowledge of the retention or disposition of such interests or to the ownership of publicly traded stocks or bonds where such ownership constitutes less than 2% of the total outstanding amount of the stocks or bonds of the issuing entity); or,
 - a company, corporation, or any other contracting entity which employs an individual who is, or within the past six months has been, an employee or official of the State of Tennessee in a position that would allow the direct or indirect use or disclosure of information, which was obtained through or in connection with his or her employment and not made available to the general public, for the purpose of furthering the private interest or personal profit of any person.
- 7.3. **Disclosure of Response Contents.** All materials submitted to the state in response to this solicitation become the property of the State of Tennessee. Selection for award does not affect this right. Upon completion of evaluations, indicated by the award notification (refer to the Procurement Schedule), the full contents and associated documents submitted in response to this solicitation will be open for review by the public. By submitting a response to this solicitation, a potential contractor acknowledges and accepts that the full contents and associated documents submitted in response to this solicitation will become open to public inspection.
- 7.4. **Communication.** Any communication regarding this *Professional Service Solicitation for Operation of a New Hire Reporting Project and Tennessee Child Support Enforcement System (TCSES) Employer Table Maintenance* must be directed in writing to the procurement coordinator via e-mail at: RFX.DHS@tn.gov and reference RFS #: 34513-01210 in the subject line.
- 7.5. **Intent to Respond.** Entities planning to respond to this *Professional Service Solicitation for Operation of a New Hire Reporting Project and Tennessee Child Support Enforcement System (TCSES) Employer Table Maintenance* are asked to submit a *Letter of Intent to Respond* in accordance with the Procurement Schedule outlined in item # 3. above. The letter should include the name, title, mailing address, e-mail address, phone number, and fax number of the point of contact for this bid solicitation. Letters should be submitted via e-mail to RFX.DHS@tn.gov. Submission of a *Letter of Intent to Respond* creates no obligation and is not a prerequisite for submitting a solicitation response; however, it is necessary to ensure receipt of responses to the questions submitted pursuant to item 7.6. below.
- 7.6. **Question and Answer Period.** In the interest of providing respondents with sufficient information to prepare their cost offers, the State will facilitate a question and answer period. Questions must be submitted in writing via e-mail to RFX.DHS@tn.gov in accordance with the Procurement Schedule outlined in item # 3. above. The State, at its sole discretion, will prepare responses to the questions and e-mail them to each entity having submitted a *Letter of Intent to Respond*, in accordance with the Procurement Schedule outlined in item # 3. above. In addition, questions and responses will be posted via an amendment to this Solicitation at: <http://www.state.tn.us/finance/rds/ocr/rfp.html>. Said responses will be uniform and will include all questions posed and all responses given, regardless of the Offeror submitting the question(s.)
- 7.7. **Additional Information.** Please visit the following webpage to access additional information regarding the *Professional Service Solicitation for Operation of New Hire Reporting and Tennessee Child Support Enforcement System (TCSES) Employer Maintenance*: <http://state.tn.us/humanserv/fa/index.html>

SOLICITATION # 34513-01210
ATTACHMENT 1 –PRO FORMA CONTRACT

CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF HUMAN SERVICES
AND
CONTRACTOR NAME

This Contract, by and between the State of Tennessee, Department of Human Services, hereinafter referred to as the "State" and **CONTRACTOR LEGAL ENTITY NAME**, hereinafter referred to as the "Contractor," is for the provision of development, execution and maintenance of a New Hire Reporting Project, and the performance of data cleanup and ongoing maintenance of the Employer Table on the Tennessee Child Support Enforcement System (TCSES) (or replacement system), as further defined in the "SCOPE OF SERVICES."

The Contractor is **A/AN INDIVIDUAL, FOR-PROFIT CORPORATION, NON-PROFIT CORPORATION, SPECIAL PURPOSE CORPORATION OR ASSOCIATION, PARTNERSHIP, JOINT VENTURE, OR LIMITED LIABILITY COMPANY.**

Contractor Federal Employer Identification or Social Security Number: **ID NUMBER**

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

A. SCOPE OF SERVICES:

- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services section or elsewhere in this Contract.
- A.2. The Contractor shall be responsible for the operation of the processes relating to New Hire Reporting, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) [Public Law 104-193; 42 U.S.C. § 653a], and enabled by Tennessee Code Annotated Sections 36-5-1101 through 36-5-1108.
- A.3. The Contractor shall establish a database of New Hire records and shall transmit a file of New Hire records daily that will be loaded into the child support data system. The Contractor shall assume responsibility for the ongoing maintenance of employer data residing in the child support data system (presently known as TCSES) directly via online access to the TCSES application.
- A.4. The Contractor shall adhere to the State's application and interpretation of any statutory or regulatory requirements relative to the operation of processes relating to New Hire Reporting.
- A.5. The Contractor's database must be capable of converting employer data presently residing in a database developed by Tennessee's current New Hire Reporting/Employer Maintenance vendor.
- A.6. The Contractor shall be responsible for all costs associated with operation of processes relating to New Hire Reporting.
- A.7. The Contractor shall receive data via a W-4 form, or at the employer's option, an alternate form containing the same data as the W-4 form. The W-4 form, or the alternate, shall be provided to the Contractor by the employer not later than twenty (20) days after the employer hires the employee, or, in the case of an employer transmitting reports electronically, by two (2) monthly transmissions (if necessary) not less than twelve (12) days nor more than sixteen (16) days apart.
- A.8. The Contractor shall receive New Hire data from employers via facsimile transmission, first-class mail, telephone, or electronically. The Contractor shall be responsible for loading all data received by mail into the Contractor's database.
- A.9. The Contractor shall enter in the New Hire database the following information, when available, from W-4's and other records. (NOTE: The reporting by employers of items shown in italics is mandatory, and the Contractor shall make all reasonable efforts to obtain this information if it is missing or illegible on the record received from the employer.)

- a) *Employee's Name*
- b) *Employee's Address*
- c) *Employee's Social Security Number*
- d) *Employer's Name*
- e) *Employer's Address*
- f) *Employer's Federal Employer Identification Number (FEIN)*
- g) *Employee's Date of Hire*
- h) Payroll Processing Address (including state and zip)
- i) If Employee Left Employment During Reporting Period
- j) Employee's Date of Birth
- k) Employee's Gender Code
- l) Employee's Work State
- m) Earned Income Tax Credit Y/N
- n) Employer's E-mail Address

- A.10. The Contractor shall date and time stamp any letters of inquiry or other correspondence received from employers, and shall review and respond to such inquiries for matters under their purview. For correspondence received that would require a State response, the Contractor shall scan all correspondence not received electronically, and shall send such correspondence to the State no less frequently than once per week, along with any additional information needed for the State to respond. Any electronic correspondence received by the Contractor requiring a response by the State will be forwarded upon receipt.
- A.11. The Contractor shall ensure that all New Hire reporting information received from employers is entered into New Hire database within one (1) working day of receipt of the record. (Reference Attachment A – Associated Breaches and Liquidated Damages)
- A.12. The Contractor shall research and update TCSES employer information and match newly-hired or re-hired employees to employers directly via online access to the TCSES application. In researching TCSES employer information, phone calls and/or other contacts will be routinely required with the employer to verify pertinent information including, but not limited to, legal address, physical address, worker's compensation address, employment address, and payroll address.
- A.13. The Contractor shall examine and edit TCSES employer information directly via online access to the TCSES application, in order to ensure that multiple TCSES employer numbers are not assigned to an employer. This task shall include the closing or adding of employer numbers for many members who are not "New Hires".
- A.14. The Contractor shall ensure that all Employer maintenance activities on TCSES will remain current (completed within twenty-four (24) hours of the time information is received). (Reference Attachment A – Associated Breaches and Liquidated Damages)
- A.15. The Contractor shall determine if data received from employers is illegible or incomplete, and shall contact the employer to complete, correct, or verify the data before transmission of the record to the State.
- A.16. The Contractor shall meet all state and federal performance standards and/or requirements pertaining to New Hire Reporting. (Reference Public Law 104-193 [42 United States Code § 653a]; Section 3401d of the IRS Code of 1986, [26 United States Code § 3401]; 45 Code of Federal Regulations §§ 303.32; 303.100; 303.108; and 308.2 and other applicable provisions of the Code of Federal Regulations; and Tennessee Code Annotated Sections 36-5-1101 *et seq.*)
- A.17. The Contractor shall provide to the State the Contractor's Disaster Recovery Plan.
- A.18. No later than February 15, 2010, the Contractor shall provide an informational notification to employers to enable their New Hire reporting to the Contractor effective March 1, 2010. The Contractor shall develop an ongoing informational and outreach program pre-approved by the State to inform employers, contractors, or their contracted payroll company conducting business within the State of Tennessee of the federally mandated New Hire reporting requirements.

- A.19. The Contractor shall ensure that all brochures, pamphlets, notices and/or press releases state that the Tennessee Department of Human Services is funding the New Hire Project, and any complaints, comments or recommendations should be reported to the Department of Human Services at 1-800-838-6911. Prior State approval of all brochures, pamphlets, notices and press releases is required. (Reference Section E.20 Printing Authorization for additional requirements regarding printed materials produced for distribution.)
- A.20. The Contractor shall ensure that its key management staff attend appropriate meetings sponsored by the State as requested.
- A.21. The Contractor shall develop a method for State approval to verify and track employer compliance with federal and State New Hire reporting requirements. The Contractor shall consider an employer to be non-compliant if the employer: 1) Reports, but does not report in a timely fashion as described in Tennessee Code Annotated Section 36-5-1104; or, 2) Refuses to report.
- A.22. The Contractor shall report employers identified as being out of compliance with New Hire reporting requirements to the State, along with the reason(s) the employer was deemed to be out of compliance. The Contractor shall also report to the State when such employers come into compliance with the New Hire reporting process.
- A.23. The Contractor shall offer a toll-free number for employers or State staff to use for obtaining information and/or assistance, and such number shall be included in all informational material. All calls not related to the New Hire process or the Employer Maintenance process must be directed to the State in a prompt and efficient manner. Operating days/hours for the customer service program shall coincide with days/hours that State offices are staffed.
- A.24. The Contractor shall provide sufficient telephone lines to ensure that callers are able to contact the Contractor. The Contractor shall monitor calls received to ensure sufficient lines are in operation to preclude a caller waiting on line more than three (3) minutes. If all telephone lines are in use with staff assisting customers, voicemail shall be available for customers to leave messages. Such voicemail messages shall be responded to no later than the close of the next business day. Upon request, the Contractor shall provide to the State the following management reports related to incoming call handling: 1) Number of calls placed on hold; 2) Number of calls abandoned; 3) Time waiting on hold; and 4) Number receiving busy signals. Management reports shall be available to the State, when requested, on a daily, weekly, and monthly basis.
- A.25. The Contractor shall plan and implement employer and/or employee complaint processing and resolution procedures.
- A.26. The Contractor shall notify the State within twenty-four (24) hours of any complaints against the Contractor and advise the State of the resolution of the complaint. (Reference Section A.25 and Attachment A – Breaches and Associated Liquidated Damages)
- A.27. The Contractor shall provide technical assistance to answer employers' ongoing questions regarding New Hire reporting.
- A.28. The Contractor shall name a Project Manager for the contract. This individual will be the primary contact for the State with regard to day-to-day New Hire operational matters. If, during the term of this Contract, the Contractor shall contemplate changing the Project Manager or other key management personnel, it shall notify the State in writing of its intent, and provide sufficient information regarding replacement personnel to allow the State to determine whether proposed replacements are acceptable.
- A.29. The Contractor shall maintain documentation sufficient to meet all child support enforcement and federal audit requirements. The State shall have the right to inspect any or all of the Contractor's records at any time.
- A.30. The Contractor agrees to participate in any statewide corrective plan deemed necessary by the State in response to an audit failure, regardless of whether the Contractor's office failed the audit.
- A.31. The Contractor shall cooperate fully with any data collection and evaluation activities or audits carried out by the State or federal government under this Contract.

- A.32. The Contractor shall destroy information gathered pursuant to the performance of its duties under this Contract, at periodic intervals as defined by the State and in a manner consistent with State policy and federal regulations for destruction of private or confidential data. The Contractor shall provide to the State certification detailing the information destroyed, with such certification to include the number of files, the batch numbers (as appropriate), time covered by the destroyed information, and a statement indicating all copies of employer records have been destroyed and the automated records deleted.
- A.33. The Contractor shall not use or permit to be used, for any commercial purposes, the names and/or addresses of cases referred from the State.
- A.34. The Contractor shall not grant media interviews or issue press releases relative to activities carried out under the terms of this Contract without the written permission of the Department of Human Services, Child Support Division.
- A.35. The Contractor shall ensure, at a minimum, that offices providing services under the terms of this Contract remain open and staffed on all days that the State is open and staffed. At a minimum, core hours established for the operation of the State Office will be adhered to (8:00 a.m. to 4:30 p.m. Central Time). (Reference Attachment A – Breaches and Associated Liquidated Damages)
- A.36. The Contractor shall provide secure storage for all documents related to this Contract.
- A.37. The Contractor shall, upon termination or expiration of this Contract, immediately (not to exceed thirty (30) days) return to the State all information maintained by the Contractor to satisfy Child Support and federal audit requirements. The Contractor shall also transfer title to the State (to the extent that title has not already been transferred) and deliver in the manner, at the times, and to the extent directed by the State, all software developed or modified, files, data, manuals, or other documentation, in any form, that are complete or under development pursuant to the terms of this Contract, at the time of the Contractor's receipt of the Notice of Termination, or date of contract expiration as appropriate, regardless of the status of completion.
- A.38. The Contractor shall submit to the State for its approval, six (6) months prior to Contract termination, a transition plan that provides for an orderly and controlled transition to either the State or a new Contractor. This plan shall include, at a minimum: 1) A list of all positions and responsibilities and the number of staff in each position; 2) A detailed plan for the turnover of information including the sequence of events, timeframes, and, if necessary, a reasonable transport plan for case files and all documentation related thereto; 3) A commitment to maintain performance measures that are consistent with the requirements of this Contract; and 4) All other information requested by the State that the State, at its sole discretion, believes is necessary to effectuate a smooth transition to either the State or a new Contractor.
- A.39. The Contractor shall comply with State telecommunications protocols and file standards utilized in the file transfer interfaces and in the access to State systems as dictated by the State.
- A.40. The State will provide access to State data resources, as necessary, using State standard software policies and procedures. The State will provide an Internet accessible, secure file transfer protocol (FTP) account for file exchange. The State will provide access to State applications, e-mail accounts, and remote access to State data resources, if necessary, as approved by the State and utilizing State standard software, policies, and procedures.
- A.41. The State will maintain the State New Hire Registry and receive verified New Hire data daily from the Contractor.
- A.42. The State shall submit New Hire information to the National New Hire Registry.
- A.43. The State shall provide TCSES Employer Maintenance training to a maximum of four (4) of the Contractor's lead staff, and shall provide TCSES User's Guides to Support New Hire Reporting.
- A.44. The State shall, to the extent possible, assist in identifying employers for the purpose of outreach by the Contractor; however, it is the Contractor's responsibility to identify and inform employers of New Hire requirements under this Contract.

B. CONTRACT TERM:

This Contract shall be effective for the period commencing on February 1, 2010 and ending on December 31, 2014. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed **WRITTEN DOLLAR AMOUNT (\$NUMBER)**. The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.

- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.
- b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Service Unit	Amount Per Transaction— Contract Period Mar. 1, 2010- Feb. 28, 2011	Amount Per Transaction— Contract Period Mar. 1, 2011- Feb. 29, 2012	Amount Per Transaction— Contract Period Mar. 1, 2012- Feb. 28, 2013	Amount Per Transaction— Contract Period Mar. 1, 2013- Feb. 28, 2014	Amount Per Transaction— Contract Period Mar. 1, 2014- Dec. 31, 2014
Rate for Each Manual New Hire Transaction Processed	[\$NUMBER]	[\$NUMBER]	[\$NUMBER]	[\$NUMBER]	[\$NUMBER]
Rate for Each Electronic New Hire Transaction Processed	[\$NUMBER]	[\$NUMBER]	[\$NUMBER]	[\$NUMBER]	[\$NUMBER]

Milestone Event	Contract Period Mar. 1, 2010- Feb. 28, 2011	Contract Period Mar. 1, 2011- Feb. 29, 2012	Contract Period Mar. 1, 2012- Feb. 28, 2013	Contract Period Mar. 1, 2013- Feb. 28, 2014	Contract Period Mar. 1, 2014- Dec. 31, 2014
TCSES Employer Maintenance Fixed Monthly Cost Amount—Contingent upon satisfactory provision of Employer Maintenance services	[\$NUMBER]	[\$NUMBER]	[\$NUMBER]	[\$NUMBER]	[\$NUMBER]

- c. The Contractor shall utilize the period from February 1, 2010 through February 28, 2010 as a pre-implementation period. However, no compensation will be paid to the Contractor until actual service delivery begins March 1, 2010.

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in Section C.3, above, and as required below prior to any payment.
- a. The Contractor shall submit invoices no more often than monthly, with all necessary supporting documentation, to:
- Tennessee Department of Human Services
Child Support Fiscal Services
6th Floor Citizens Plaza Building
400 Deaderick St.
Nashville, TN 37243-1403
- b. The Contractor agrees that each invoice submitted shall clearly and accurately (all calculations must be extended and totaled correctly) detail the following required information.
- (1) Invoice/Reference Number (assigned by the Contractor);
 - (2) Invoice Date;
 - (3) Invoice Period (period to which all invoiced charges are applicable);
 - (4) Contract Number (assigned by the State to this Contract);
 - (5) Account Name: Department of Human Services; Child Support Division;
 - (6) Account/Customer Number (uniquely assigned by the Contractor to the above-referenced Account Name);
 - (7) Contractor Name;
 - (8) Contractor Federal Employer Identification Number or Social Security Number (as referenced in this Contract);
 - (9) Contractor Contact (name, phone, and/or fax for the individual to contact with billing questions);
 - (10) Contractor Remittance Address;
 - (11) Complete Itemization of Charges, which shall detail the following:
 - i. Service or Milestone Description (including name /title as applicable) of each service invoiced;
 - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced;
 - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced;
 - iv. Amount Due by Service; and
 - v. Total Amount Due for the invoice period.
- c. The Contractor understands and agrees that an invoice to the State under this Contract shall:
- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
 - (2) not include any future work but will only be submitted for completed service; and
 - (3) not include sales tax or shipping charges.
- d. The Contractor agrees that timeframe for payment (and any discounts) begins when the State is in receipt of each invoice meeting the minimum requirements above.
- e. The Contractor shall complete and sign a "Substitute W-9 Form" provided to the Contractor by the State. The taxpayer identification number contained in the Substitute W-9 submitted to the State shall agree to the Federal Employer Identification Number or Social Security Number referenced in this Contract for the Contractor. The Contractor shall not invoice the State for services until the State has received this completed form.

- C.6. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.
- C.8. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any Contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other Contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least Ninety (90) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total 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 Contractor in connection with any work contemplated or performed relative to this Contract.

- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment B, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.
 - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request.
 - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.
- D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.10. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance

with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401 *et seq.*

- D.11. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.12. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.13. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.14. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

- D.15. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.16. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.17. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.18. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.19. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.20. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.21. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

NAME & TITLE OF STATE CONTACT PERSON
 STATE AGENCY NAME
 ADDRESS
 EMAIL ADDRESS
 Telephone # NUMBER
 FAX # NUMBER

The Contractor:

NAME & TITLE OF CONTRACTOR CONTACT PERSON
 CONTRACTOR NAME
 ADDRESS
 EMAIL ADDRESS
 Telephone # NUMBER
 FAX # NUMBER

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

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.
- E.5. Voluntary Buyout Program. The Contractor acknowledges and understands that, for a period of two years beginning August 16, 2008, restrictions are imposed on former state employees who received a State of Tennessee Voluntary Buyout Program (VBP) severance payment with regard to contracts with state agencies that participated in the VBP.

- a. The State will not contract with either a former state employee who received a VBP severance payment or an entity in which a former state employee who received a VBP severance payment or the spouse of such an individual holds a controlling financial interest.
- b. The State may contract with an entity with which a former state employee who received a VBP severance payment is an employee or an independent contractor. Notwithstanding the foregoing, the Contractor understands and agrees that there may be unique business circumstances under which a return to work by a former state employee who received a VBP severance payment as an employee or an independent contractor of a State contractor would not be appropriate, and in such cases the State may refuse Contractor personnel. Inasmuch, it shall be the responsibility of the State to review Contractor personnel to identify any such issues.
- d. With reference to either subsection a. or b. above, a contractor may submit a written request for a waiver of the VBP restrictions regarding a former state employee and a contract with a state agency that participated in the VBP. Any such request must be submitted to the State in the form of the *VBP Contracting Restriction Waiver Request* format available from the State and the Internet at: www.state.tn.us/finance/rds/ocr/waiver.html. The determination on such a request shall be at the sole discretion of the head of the state agency that is a Party to this Contract, the Commissioner of Finance and Administration, and the Commissioner of Human Resources.

E.6. Breach. A party shall be deemed to have breached the Contract if any of the following occurs:

- failure to perform in accordance with any term or provision of the Contract;
- partial performance of any term or provision of the Contract;
- any act prohibited or restricted by the Contract, or
- violation of any warranty.

For purposes of this Contract, these items shall hereinafter be referred to as a “Breach.”

- a. Contractor Breach— The State shall notify Contractor in writing of a Breach.
 - (1) In event of a Breach by Contractor, the State shall have available the remedy of Actual Damages and any other remedy available at law or equity.
 - (2) Liquidated Damages— In the event of a Breach, the State may assess Liquidated Damages. The State shall notify the Contractor of amounts to be assessed as Liquidated Damages. The parties agree that due to the complicated nature of the Contractor’s obligations under this Contract it would be difficult to specifically designate a monetary amount for a Breach by Contractor as said amounts are likely to be uncertain and not easily proven. Contractor hereby represents and covenants it has carefully reviewed the Liquidated Damages contained in above referenced, Attachment A and agree that said amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of Breach, and are a reasonable estimate of the damages that would occur from a Breach. It is hereby agreed between the parties that the Liquidated Damages represent solely the damages and injuries sustained by the State in losing the benefit of the bargain with Contractor and do not include any injury or damage sustained by a third party. The Contractor agrees that the liquidated damage amount is in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or other section of this Contract.

The State may continue to withhold the Liquidated Damages or a portion thereof until the Contractor cures the Breach, the State exercises its option to declare a Partial Default, or the State terminates the Contract. The State is not obligated to assess Liquidated Damages before availing itself of any other remedy. The

State may choose to discontinue Liquidated Damages and avail itself of any other remedy available under this Contract or at law or equity; provided, however, Contractor shall receive a credit for said Liquidated Damages previously withheld except in the event of a Partial Default.

- (3) Partial Default— In the event of a Breach, the State may declare a Partial Default. In which case, the State shall provide the Contractor written notice of: (1) the date which Contractor shall terminate providing the service associated with the Breach; and (2) the date the State will begin to provide the service associated with the Breach. Notwithstanding the foregoing, the State may revise the time periods contained in the notice written to the Contractor.

In the event the State declares a Partial Default, the State may withhold, together with any other damages associated with the Breach, from the amounts due the Contractor the greater of: (1) amounts which would be paid the Contractor to provide the defaulted service; or (2) the cost to the State of providing the defaulted service, whether said service is provided by the State or a third party. To determine the amount the Contractor is being paid for any particular service, the Department shall be entitled to receive within five (5) days any requested material from Contractor. The State shall make the final and binding determination of said amount.

The declaration of a Partial Default prior to the State's assessment of Liquidated Damages does not preempt the State's right to withhold Liquidated Damages for the period during which the Contractor has failed to perform the services in question. Upon Partial Default, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount. Contractor agrees to cooperate fully with the State in the event a Partial Default is taken.

- (4) Opportunity to Cure—

- (a) At the State's option, the Contractor shall have the opportunity to cure a breach of contract resulting in failure to perform. The request for a cure period must be submitted in writing within three (3) business days of Contractor being notified of, or becoming aware of, a failure to perform the services as outlined within this Contract.
- (b) The cure period granted under subsection (a) shall not exceed fifteen (15) business days. The Contractor may submit a written request for a cure period longer than fifteen (15) days, setting forth the reasons for such request.
- (c) This opportunity to cure shall not be available in circumstances in which the Contractor intentionally withholds its services or otherwise refuses to perform. The State will not consider a request to cure contract performance where there have been repeated problems with respect to identical or similar issues, if a cure period would unreasonably delay completion of the Contract, or if State operations dependent on the Contract would be adversely impacted.

- (5) Contract Termination— In the event of a Breach, the State may terminate the Contract immediately or in stages. The Contractor shall be notified of the termination in writing by the State. Said notice shall hereinafter be referred to as Termination Notice. The Termination Notice may specify either that the termination is to be effective immediately, on a date certain in the future, or that the Contractor shall cease operations under this Contract in stages. In the event of a termination, the State may withhold any amounts which may be due Contractor without waiver of any other remedy or damages available to the State at law or at equity. The Contractor shall be liable to the State for any and all damages incurred by the State and any and all expenses incurred by the State

which exceed the amount the State would have paid Contractor under this Contract. Contractor agrees to cooperate with the State in the event of a Contract Termination or Partial Takeover.

- b. **State Breach**— In the event of a Breach of Contract by the State, the Contractor shall notify the State in writing within 30 days of any Breach of Contract by the State. Said notice shall contain a description of the Breach. Failure by the Contractor to provide said written notice shall operate as an absolute waiver by the Contractor of the State's Breach. In no event shall any Breach on the part of the State excuse the Contractor from full performance under this Contract. In the event of Breach by the State, the Contractor may avail itself of any remedy at law in the forum with appropriate jurisdiction; provided, however, failure by the Contractor to give the State written notice and opportunity to cure as described herein operates as a waiver of the State's Breach. Failure by the Contractor to file a claim before the appropriate forum in Tennessee with jurisdiction to hear such claim within one (1) year of the written notice of Breach shall operate as a waiver of said claim in its entirety. It is agreed by the parties this provision establishes a contractual period of limitations for any claim brought by the Contractor.

E.7. **Partial Takeover.** The State may, at its convenience and without cause, exercise a partial takeover of any service which the Contractor is obligated to perform under this Contract, including but not limited to any service which is the subject of a subcontract between Contractor and a third party, although the Contractor is not in Breach (hereinafter referred to as "Partial Takeover"). Said Partial Takeover shall not be deemed a Breach of Contract by the State. Contractor shall be given at least 30 days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the State will assume and the date of said assumption. Any Partial Takeover by the State shall not alter in any way Contractor's other obligations under this Contract. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the service as determined by the State. The amounts shall be withheld effective as of the date the State assumes the service. Upon Partial Takeover, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.8. **Confidentiality of Records.** The Contractor agrees that strict standards of confidentiality of records shall be maintained in accordance with State and Federal law and regulations (Reference T.C.A. Section 71-1-131, Section 71-3-119, T.C.A. Sections 45-10-101 et seq., and 45-10-118; T.C.A. Section 50-7-701, 45 Code of Federal Regulations 205.50, 26 U.S.C. 6103(f); 42 U.S.C. 653, 42 U.S.C. 13020b-7, and all other applicable State and Federal laws regulations and any and all data-sharing agreements between the Tennessee Department of Human Services and the Federal Government, specifically including, but not limited to, the SDS-BENDEX-SVES for 1137 and/or Child Support Benefit Programs Data Matching Agreement between the Social Security Administration and the Tennessee Department of Human Services.

- a. All material and information provided to the Contractor by the State or acquired by the Contractor on behalf of the State whether verbal, written, electronic, magnetic tape, cards or otherwise shall be regarded as confidential information in accordance with the provisions of Federal and State law and ethical standards and shall not be disclosed, except as otherwise permitted by law, regulation or court order. All necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with Federal and State law and ethical standards.
- b. The Contractor further agrees that any information provided by the State relative to applicants or recipients of public assistance or child support services is to be used only for the administration of this Contract or in any investigation, prosecution, or criminal, civil or administrative proceeding, conducted pursuant to this Contract. The Contractor agrees to provide safeguards to restrict the use or disclosure of any information concerning such applicants or recipients to purposes stated herein. The Contractor agrees to immediately notify the State if any court order, subpoena or other process is directed to the Contractor for disclosure of the financial or other records compiled pursuant to this contract or for any other records which have been provided to the Contractor by the State.

- c. The safeguards so provided shall also prohibit disclosure to any legislator, legislative or other committee or legislative body, of any information which identifies by name, address, or other identifying information, any such applicant or recipient, except as otherwise permitted by law.
- d. The Contractor agrees that any Federal or State tax related information will be treated as confidential, and will be used solely for purposes of administering the child support program, unless otherwise required by law.
- e. It shall be the Contractor's responsibility to ensure that any destruction of confidential information, as described in this section, will be accomplished in a manner consistent with State policy and Federal regulations pertaining to the destruction of private or confidential data.
- f. The Contractor's obligations under this section do not apply to information: in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.
- g. In performance of this Contract, the Contractor specifically agrees to comply with and assume responsibility for its employees' compliance with the following requirements regarding Federal tax information:
 - 1) All work will be done under the supervision of the Contractor or the Contractor's employees.
 - 2) Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract. Disclosure to anyone other than an officer or employee of the Contractor will be prohibited.
 - 3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
 - 4) The Contractor certifies that the data processed during the performance of this Contract will be completely purged from all data storage components of its computer facility, and no output will be retained by the Contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the Contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
 - 5) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the State or its designee. When this is not possible, the Contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the State or its designee with a statement containing the date of destruction, description of material destroyed, and the method used for destruction.
 - 6) All computer systems processing, storing, or transmitting Federal tax information must meet Department of Defense Trusted Computer System Evaluation Criteria (TCSEC) (DOD 5200.28-STD). To meet functional and assurance requirements, the operating security features of the system must have the following minimum requirements: a security policy, accountability, assurance, and documentation. All security features must be available and activated to protect against unauthorized use of and access to Federal

tax information.

- 7) No work involving Federal tax information furnished under this Contract will be subcontracted without prior written approval from the State.
 - 8) The Contractor will maintain a list of employees with authorized access to confidential information identified in this section. Such list will be provided to the State and, upon request, to the IRS reviewing office.
 - 9) The State will have the right to void the Contract if the Contractor fails to provide the safeguards described above.
- h. Criminal /Civil Sanctions: Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as five thousand dollars (\$5,000.00) or imprisonment for as long as five (5) years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than one thousand dollars (\$1,000.00) with respect to each instance of unauthorized disclosure. These penalties are prescribed by Internal Revenue Code (IRC) sections 7213 and 7431 and set forth at 26 CFR §301.6103(n)-1.

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as one thousand dollars (\$1,000.00) or imprisonment for as long as one (1) year, or both, together with the costs of prosecution. Such person shall also notify each officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of one thousand dollars (\$1,000.00) for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431.

Additionally, it is incumbent upon the Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. §552a. Specifically, 5 U.S.C. §552a(i)(1), which is made applicable to Contractors by 5 U.S.C. §552a(m)(1), provides that any officer or employee of a Contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who, knowing that disclosure of the specific material is prohibited, willfully disclosed the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than five thousand dollars (\$5,000.00).

- i. Inspection: The IRS and the State shall have the right to send its officers and employees into the offices, plants or other facilities of the Contractor for inspection of the facilities and operations provided for the performance of any work under this Contract. On the basis of such inspection, specific measures may be required in cases where the Contractor is found to be non-compliant with Contract safeguards.

- j. The Contractor agrees that all personnel of the Contractor, and all personnel of subcontractors performing services under this Contract for the Contractor, authorized to handle Federal tax related information will sign, annually, an IRS Confidentiality Form, to be provided by the State, with the original signed forms to be maintained by the Contractor, along with a current list of its employees, and those of its subcontractors, performing services under this Contract. These IRS Confidentiality Forms, and the list of Contractor's employees and those of its subcontractors performing services under this Contract, shall be made available to the State and the IRS upon request.
- k. It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.9. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.
- E.10. Public Accountability. If the Contractor is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4 or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor shall display in a prominent place, located near the passageway through which the public enters in order to receive services pursuant to this Contract, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:

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

- E.11. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

- E.12. Limitation of Liability. The parties agree that the Contractor's liability under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this section limit the liability of the Contractor for intentional torts, criminal acts, or fraudulent conduct.

E.13. Copyrights and Patents. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State for infringement of any laws regarding patents or copyrights which may arise from the Contractor's performance of this Contract. In any such action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any final judgment for infringement. The Contractor further agrees it shall be liable for the reasonable fees of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State. The State shall give the Contractor written notice of any such claim or suit and full right and opportunity to conduct the Contractor's own defense thereof.

E.14. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by *Tennessee Code Annotated*, Section 8-6-106.

E.15. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

E.16. Authorized Individuals.- Each party hereto has provided the other party hereto with a list identifying the individuals from whom the other party is authorized to accept any notices, requests, demands, or other advice which may be given hereunder by the party providing such list. Said lists, which are attached hereto as Attachment C, shall be valid until revoked or

amended by further written notice. The parties hereto shall only be entitled to rely on notices, requests, demands, or other advice given by such individuals.

E.17. Incorporation of Additional Documents: Included in this Contract by reference are the following documents:

- a. The Contract document and its attachments
- b. All Clarifications and addenda made to the Contractor's Solicitation Response
- c. The Professional Service Solicitation and its associated amendments
- d. Technical Specifications provided to the Contractor
- e. The Contractor's Solicitation Response

In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these documents shall govern in order of precedence detailed above.

E.18. Public Exigency Service Provision Extension. The Contractor agrees to continue providing services, when the State, at its discretion, determines there is a public exigency that requires the contracted services to continue. Continuation of services pursuant to this subsection shall be effected via a non-competitive contract amendment, and shall be in six (6) month increments and the total of all public exigency extensions shall not exceed twelve (12) months. Thirty (30) days notice shall be given by the Department before this option is exercised. Contractor payment rates during emergency periods authorized by this section shall be the established rates in effect during the last year of this Contract.

E.19. Contract Services Transition. Upon conclusion of this Contract for whatever reason (expiration or termination), the Contractor shall assist the State to ensure an orderly transfer of responsibility and/or continuity of those services required under the terms of the contract to an organization designated by the State, if requested in writing.

- a. The Contractor shall deliver, free on board (FOB) destination, all records, documentation, reports, data, hard copy and electronic files, recommendations, etcetera, which were required to be produced under the terms of the Contract to the State and/or the State's designee promptly and with due diligence after receipt of the written request.
- b. The Contractor shall discontinue providing the service or accepting new assignments under the terms of this Contract, in a manner and on the date specified by the State, in order to insure the completion of such service prior to the termination of the Contract.

E.20. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of *Tennessee Code Annotated*, Section 12-7-101, *et. seq.*, shall be printed unless a printing authorization number has been obtained and affixed as required by *Tennessee Code Annotated*, Section 12-7-103 (d).

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF HUMAN SERVICES:

VIRGINIA T. LODGE, COMMISSIONER

DATE

APPROVED:

COMMISSIONER OF FINANCE & ADMINISTRATION

DATE

COMPTROLLER OF THE TREASURY

DATE

BREACHES AND ASSOCIATED LIQUIDATED DAMAGES

1	Failure to ensure that all New Hire reporting information received from employers is entered into New Hire database within one (1) working day of receipt of the record (Reference Section A.11)	\$1,000.00	Per daily incident
2	Failure to ensure that all Employer maintenance activities on TCSES remains current (completed within twenty-four (24) hours of the time information is received) (Reference Section A.14)	\$2,500.00	Per incident
3	Failure to notify the State within twenty-four (24) hours of any complaints against the Contractor and advise the State of the resolution of the complaint (Reference Section A.26)	\$500.00 \$1,500.00	For first incident Per subsequent incident
4.	Failure to ensure that offices providing services under the terms of this Contract remain open and staffed on all days that the State is open and staffed and adhere to core hours established for the operation of the State Office (8:00 a.m. to 4:30 p.m. Central Time) (Reference Section A.35)	\$5,000.00	Per incident

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

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

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

CONTRACTOR SIGNATURE

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

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION

AUTHORIZED INDIVIDUALS

CONTRACTOR:

[Name and Title]

[Repeat as Necessary]

STATE:

Virginia T. Lodge, Commissioner, Department of Human Services

Michael L. Adams, Assistant Commissioner, Department of Human Services, Child Support Services Division

SOLICITATION # 34513-01210

ATTACHMENT 2 – STATEMENT OF CERTIFICATIONS AND ASSURANCES

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

1. The Offeror will provide all services as defined in the of the solicitation's *pro forma* contract scope of services for the total contract period.
2. The Offeror accepts and agrees to all terms and conditions set out in the solicitation's *pro forma* contract.
3. The Offeror acknowledges and agrees that a contract resulting from the solicitation may incorporate, by reference, all information provided in response to the solicitation as a part of the contract.
4. The Offeror will comply with:
 - (a) the laws of the State of Tennessee;
 - (b) Title VI of the federal Civil Rights Act of 1964;
 - (c) Title IX of the federal Education Amendments Act of 1972;
 - (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
 - (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
5. To the knowledge of the undersigned, the information detailed within the information submitted in response to the solicitation is accurate.
6. The information submitted in response to the solicitation was independently prepared, without collusion, under penalty of perjury.
7. No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Offeror in connection with the solicitation or any resulting contract.

By signing this Statement of Certifications and Assurances, below, the signatory also certifies legal authority to bind the Offeror to any contract awarded pursuant to the solicitation. If the signatory is not the Offeror (if an individual) or the Offeror's President or Chief Executive Officer, this document must attach evidence showing the individual's authority to bind the Offeror.

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

OFFEROR SIGNATURE:

PRINTED NAME & TITLE:

DATE:

OFFEROR LEGAL ENTITY NAME:

OFFEROR FEDERAL EMPLOYER IDENTIFICATION NUMBER (or SSN):

SOLICITATION # 34513-01210
ATTACHMENT 3 – CONFLICT OF INTEREST ATTESTATION

Based upon reasonable inquiry, neither the Offeror nor any individual who shall perform work under a contract resulting from this solicitation has a possible conflict of interest (e.g., employment by the State of Tennessee).

Signature and Title	Date
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If a perceived conflict of interest exists, such that the attestation above should not be made, detail the nature of that conflict below.

SOLICITATION # 34513-01210
ATTACHMENT 4 – COST OFFER

NOTICE: This Cost Offer MUST be completed EXACTLY as required.

The Cost Offer, detailed below, shall indicate the proposed price for providing all services as defined in the *Pro Forma Contract Scope of Services* for the total contract period. Shaded blocks are for State Use Only.

OFFEROR SIGNATURE:	
PRINTED NAME & TITLE:	
DATE:	
OFFEROR LEGAL ENTITY NAME:	

NOTE: This document must be signed, in the space above, by an individual empowered to bind the Offeror to the provisions of any contract awarded pursuant to this solicitation.

	Cost Item Description	Offered Cost					State Use
		A	B	C	D	E	F
		Contract Period— Mar. 1, 2010- Feb. 28, 2011	Contract Period— Mar. 1, 2011- Feb. 29, 2012	Contract Period— Mar. 1, 2012 Feb. 28, 2013	Contract Period— Mar. 1, 2013 Feb. 28, 2014	Contract Period— Mar. 1, 2014 Dec. 31, 2014	SUM OF COLUMNS A-E ↓
I	Rate for each Manual New Hire Transaction Processed	\$	\$	\$	\$	\$	\$
II	Approximate Number of Manual Transactions Processed *						X 14,000
III	Product of Row I X Row II						\$
IV	Rate for each Electronic New Hire Transaction Processed	\$	\$	\$	\$	\$	SUM OF COLUMNS A-E ↓ \$
V	Approximate Number of Electronic Transactions Processed *						X 117,000
VI	Product of Row IV X Row V						\$
VII	TCSES Employer Maintenance Fixed <u>Monthly</u> Cost Amount	\$	\$	\$	\$	\$	SUM OF COLUMNS A-E ↓ \$

The State will use this Evaluation Cost Amount sum to determine the Cost Offer reflecting the lowest cost to the State. All calculations will result in numbers rounded to two (2) decimal places to the right of the decimal point.

Evaluation Cost Amount
 (Sum of Numbers in darker-shaded blocks in Column F)

State Use – Procurement Coordinator Signature, Printed Name and Date:

*The quantities specified are intended for evaluation purposes ONLY and should NOT be construed by the Offeror as any guarantee or minimum purchase of the associated service by the state and shall NOT create rights, interests, or claims of entitlement in the Contractor resulting from this Solicitation.