



AGENDA

**ADVISORY COUNCIL ON STATE PROCUREMENT MEETING #030
TUESDAY, OCTOBER 4, 2016 – 2:00 P.M.
TN TOWER – 3rd FLOOR, NASHVILLE ROOM**

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I. Call to Order	--
II. Approve Minutes from August 2, 2016 Meeting (see attached documentation)	3
III. New Business Proposed revisions to the following Central Procurement Office documents (see attached documentation):	
(1) Amendment Request	13
(2) Edison Contract Entry Record Status Reset Request Model.....	19
(3) Strategic Technology Solutions (“STS”) Pre-Approval Endorsement Request	29
(4) <i>Procurement Procedures Manual of the Central Procurement Office</i> – Section 6.7. - Purchase Order Exemptions	35
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IV. Other Business	--
V. Adjournment	--

**MINUTES OF AUGUST 2, 2016
MEETING**

**MINUTES
ADVISORY COUNCIL ON STATE PROCUREMENT MEETING #029
TUESDAY, AUGUST 2, 2016 – 2:00 P.M.
TN TOWER – 3rd FLOOR – NASHVILLE ROOM**

Members in Attendance:

Mike Perry, Jason Mumpower, Buddy Lea, Sondra Howe, Rick Peppers, Terry Anderson, Michelle Lane, Scottie Domenico, Christopher Todd

Others in Attendance:

Don Ivancic, Bryan Chriske, Charissa Taylor, Jenny Young, Christopher Ivey, Paul Krivacka, Kyle Hunter, Meryl McVicker, Thad Watkins, Lorraine Lassourreille, Sherry Whitby

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

II. Minutes from the May 31, 2016 Meeting: Mr. Perry asked if there were any corrections or additions to the minutes from the May 31, 2016 meeting. Seeing none, a motion was made by Jason Mumpower, Chief of Staff, Office of the Comptroller of the Treasury, to accept the minutes as presented. The motion was seconded by Buddy Lea, Assistant Commissioner, Department of Finance and Administration. All members voted in favor – none opposed.

III. New Business: Mr. Perry asked Paul Krivacka, Lead Attorney/Director of Category Management, Central Procurement Office, to present the Central Procurement Office (“CPO”) documents from the New Business section of the agenda.

For ease of presentation Mr. Krivacka asked permission to present the first three agenda items together as they all pertain to the Iran Divestment Act. Mr. Perry asked if any Advisory Council member had an objection to Mr. Krivacka’s request and stated that questions could be asked on each agenda item individually. Seeing no objections, Mr. Krivacka continued.

Mr. Krivacka summarized the following points with regard to (1) Iran Divestment Act Provision in Configurator, FA Template, and PO Template Terms and Conditions, (2) Iran Divestment Act Provision – New Bid Factor in Edison and Request For Qualifications (RFQ) and Request For Proposals (RFP) Templates - Statement of Certifications and Assurances, and (3) Iran Divestment Act Certification – New:

- The Iran Divestment Act was passed recently by the Tennessee Legislature and contains several requirements with respect to procurements. The Iran Divestment Act requires the CPO to compile a list of companies that for the most part have been

debarred or suspended from doing business with the State because of their business dealings with the Republic of Iran; and it affects how the CPO does procurements including some things that are contained in contracts. The Iran Divestment Act also proposes requirements with regard to renewals and extensions of contracts. Therefore, the first three agenda items are needed because of the Iran Divestment Act.

(1) Iran Divestment Act Provision in Configurator, FA Template, and PO Template Terms and Conditions

- The CPO added additional language in the templates that provides:

The requirements of Tenn. Code Ann. § 12-12-101, et. seq., addressing contracting with persons with investment activities in Iran, shall be a material provision of this Contract. The Contractor agrees, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

(2) Iran Divestment Act Provision – New Bid Factor in Edison and Request For Qualifications (RFQ) and Request For Proposals (RFP) Templates - Statement of Certifications and Assurances

- The current language in the bid factor provides:

By submission of this bid, each bidder and each person signing on behalf of any respondent certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

- With respect to the RFP and RFQ language, it provides:

The Respondent must sign and complete the Statement of Certifications and Assurances below as required, and it must be included in the Technical Response (as required by RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A, Item A.1.).

- The proposed change adds an additional certification:

The Respondent affirms the following statement, as required by the Iran Divestment Act Tenn. Code Ann. § 12-12-111.: "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint response each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each Respondent is not on the list created pursuant to § 12-12-106." For reference purposes, the list is currently available online at <http://www.tn.gov/generalservices/article/Public-Information-library>.

Mr. Krivacka stated that the language change above would apply to the RFP and RFQ templates.

(3) Iran Divestment Act Certification – New

- Currently, the Iran Divestment Certification language does not exist in State contracts; however, as a condition to renew or extend a contract, the CPO is proposing to require that the new certification form be signed as a condition for renewal or extension.

Mr. Krivacka noted that the Office of the Comptroller of the Treasury (“COT”) had submitted the following questions in advance of the meeting regarding these agenda items:

Q1. As it relates to the Iran Divestment Act documents, what kind of training and checklists are being provided to State agencies and CPO personnel to assist in ensuring that the required forms are submitted?

A1. The CPO will draft a job aid that can be posted on the CPO training website instructing procurement professionals about the requirements of the new law. The CPO will also mention it in the advisory circular that contains various provisions adopted by the Procurement Commission and it will be discussed at the monthly meetings of CPO user groups.

Q2. The Iran Divestment Act Certification document includes a web link to the list of entities determined to be engaged in investment activities in Iran. The list is a South Carolina list. Will there be a customized Tennessee list?

A2. The CPO had several meetings with the sponsor of the legislation, Chairman Ketron. Many of the reasons why the CPO adopted the South Carolina list were as a result of consultation with the sponsor. Per Section 1 of PC0817 (uncodified new Tenn. Code Ann. s 12-12-106(a)(1)), the Chief Procurement Officer is to publish a list of persons “using credible information freely available to the public”. One concern of creating a Tennessee customized list was the resources needed to do an investigation to determine whether or not companies should be on the list. There are many other states that have very similar legislation on the books that have compiled similar lists. It did not seem to make sense to expend the necessary resources when other states have already done so using the exact same legislation. The CPO has determined that the list published by the State of South Carolina is credible information freely available to the public and meets the requirements of the Iran Divestment Act. The CPO has also consulted with the sponsor of the legislation about using the South Carolina list. There are 11 other states which have this statute on their books (California, Florida, New York, Indiana, Maryland, New Jersey, Michigan, Rhode Island, Connecticut, South Carolina, and Pennsylvania), according to United Against Nuclear Iran, which provided model legislation to state legislatures. Many or most of the companies on South Carolina’s list are on other states’ lists as well and upon CPO review, the South Carolina list was found to be the most comprehensive.

Mr. Krivacka noted that it is not uncommon for states to borrow work product from other states. Leveraging the expertise of other states has been done by the Department of Revenue as well as the CPO.

Mr. Perry recalled that during the legislative session the CPO was able to address any fiscal note that traveled with the legislation by using the information. The fiscal note analysis contemplated lower costs that were the result of using publicly available information, such as the list compiled by the State of South Carolina. Mr. Perry continued that this was done in

consultation with the sponsor of the legislation.

Mr. Perry stated that Mr. Krivacka had presented agenda items (1), (2), and (3) and asked for any questions or discussion on any one of the three items. Seeing none, Mr. Lea made a motion to recommend agenda items (1) Iran Divestment Act Provision in Configurator, FA Template, and PO Template Terms and Conditions, (2) Iran Divestment Act Provision – New Bid Factor in Edison and Request For Qualifications (RFQ) and Request For Proposals (RFP) Templates - Statement of Certifications and Assurances, and (3) Iran Divestment Act Certification – New as presented to the Procurement Commission for approval. Mr. Mumpower seconded the motion. All members voted in favor – none opposed.

(4) Click-Wrap Agreement Approval Request

Mr. Krivacka presented the following points with regard to the Click-Wrap Agreement Approval Request:

- Tennessee is one of the few states that have a process by which click-wrap agreements are reviewed and approved. This is probably one of the greatest areas of difficulty for state governments simply because it is a new process with respect to technology. It has become very difficult to use the traditional government procurement and contracting model in the cyber world. The Click-Wrap Agreement Approval Request is CPO's attempt to gain some control over transactions in the cyber world.
- The proposed change will include a place to add the contact information for both the agency and the Contractor. It is helpful to have the contact information at hand as currently, there is some time lost trying to figure out who to communicate with for questions or comments regarding the vendor's terms and conditions. This change will help expedite the CPO review process.

Mr. Krivacka asked for any questions or discussion. Mr. Perry added that click-wrap agreements are agreements that most people have seen, for example when they are attempting to upgrade software on their iPhone, and they contain terms and conditions you are asked to agree to before proceeding. Mr. Perry continued that staff in State agencies are encountering these click-wrap agreements when they attempt to purchase software off the Internet. The click-wrap agreements may contain terms and conditions that they do not understand and stipulations that may put the State at risk or be harmful to the best interest of the State. The Click-Wrap Agreement Approval Request provides a process for the CPO to review these agreements and to work with the vendor to resolve any issues if they contain anything harmful to the best interest of the State.

Mr. Lea asked about any instructions or job aids for agencies so that agency staff know the proper procedure to be used when they encounter click-wrap agreements. Mr. Krivacka indicated that the information will be included in the CPO advisory circular and will be addressed at the CPO user group meetings.

Mr. Perry added that the CPO worked collaboratively with the Strategic Technology Solutions ("STS") team in development of the Click-Wrap Agreement Approval Request and in reviewing the click-wrap agreements which are fairly common. Mr. Lea added that one challenge is the large population of State staff who can be presented with click-wrap agreements that have nothing to

do with procurement procedures or processes within their division. Often it is program staff on the front lines that run across these agreements so it is very important that the procurement professionals who attend the CPO meetings cascade down the proper procedures to all agency staff who might possibly encounter the click-wrap agreements. Mr. Perry stated that Mr. Lea's suggestion was excellent and that the CPO would give more thought to how to disseminate the click-wrap agreement procedures, which will affect a broad spectrum of agency staff. Mr. Perry indicated that one thing that comes to mind is to contact Mark Bengel, Chief Information Officer, STS, and ask that the information be disseminated through various directors in the State IT group as well as their user groups.

Mr. Perry asked if there were any additional questions or comments on agenda item (4). Seeing none, Mr. Lea made a motion to recommend the Click-Wrap Agreement Approval Request as presented to the Procurement Commission for approval. The motion was seconded by Mr. Mumpower. All members voted in favor – none opposed.

(5) *Procurement Procedures Manual of the Central Procurement Office – Section 4.3, Identification Codes*

Mr. Krivacka presented the following points with regard to *Procurement Procedures Manual of the Central Procurement Office – Section 4.3, Identification Codes*:

- The Manual has been updated to reflect the conversion from the National Institute of Government Purchasing (NIGP) to the United Nations Standard Products and Services Code (UNSPSC).
- UNSPSC was strategically initiated with the State to provide greater granularity to the State's spend analysis process, especially with the State's growing e-procurement spend. The proposed change is to adopt the UNSPSC codes over the previous NIGP codes.

Mr. Perry added that the UNSPSC codes are more granular, allow the CPO to capture more data, and they make approvals more meaningful. For example, the same code under NIGP for a printer also applies to a toner cartridge; so the approver for purchase of the device would also be triggered to approve purchase of a replacement toner cartridge for the printer. Mr. Perry stated that UNSPSC codes are compatible with Edison, the state's ERP system, and as a result required less modification during the recent upgrade to the Edison 9.2 system.

Mr. Perry asked for any questions or discussion. Seeing none, Mr. Lea made a motion to recommend the *Procurement Procedures Manual of the Central Procurement Office – Section 4.3, Identification Codes* as presented to the Procurement Commission for approval. The motion was seconded by Mr. Mumpower. All members voted in favor – none opposed.

Mr. Krivacka requested that agenda items (6) and (7) be presented together as they both pertain to the subject of Tied Responses. Mr. Perry asked if any Advisory Council member had an objection to Mr. Krivacka's request. Seeing no objections, Mr. Krivacka continued.

- (6) Procurement Procedures Manual of the Central Procurement Office – Section 5.13.2, Tied Responses – Resolution
- (7) Central Procurement Office Policy Number 2013-002, *Procurement Methods Policy and Procedures*, Section 17 – Tie Responses

Mr. Krivacka summarized the following points with regard to agenda item (6) *Procurement Procedures Manual of the Central Procurement Office – Section 5.13.2, Tied Responses – Resolution*, and agenda item (7) Central Procurement Office Policy Number 2013-002, *Procurement Methods Policy and Procedures*, Section 17 – Tie Responses:

- The TCA reference has been updated from Tenn. Code Ann. § 12-4-121 to 12-3-1113 as the result of a legislative change that transferred 12-4-121 to 12-3-1113.
- In addition to updating the statutory reference, Policy No. 2013-002 was further modified to add an opportunity to further negotiate before resorting to a coin toss to break a tie.

With the proposed change, the priority language to break a tie will now read as follows:

- First preference shall be given to a “Tennessee Respondent.” A “Tennessee Respondent” means a business that is:
 - Incorporated in this State;
 - Has its principal place of business in this State; or
 - Has an established physical presence in this State.
- Second preference shall be given to certified disadvantaged business enterprise (“DBE”) respondents.
- Third preference shall be given to the respondent who was the low cost respondent on other items being procured for the same solicitation.
- Fourth preference shall be given to the respondent who offers the best delivery.
- Fifth preference shall be given to further negotiations to break the tie.
- If a tie remains, it shall be broken by lot or coin toss.

Mr. Krivacka asked for any questions or discussion. Mr. Perry stated that the need for a coin toss has happened during his career but rarely. Mr. Perry continued that the coin toss could occur most commonly with federally regulated items such as cigarettes. Years ago the state used to purchase cigarettes for the prisons and because of fair trade laws, all the prices were the same so a coin toss had to be used.

Mr. Perry asked if there were any questions on agenda items (6) and (7). Seeing none, Mr. Mumpower made a motion to recommend agenda item (6) *Procurement Procedures Manual of the Central Procurement Office – Section 5.13.2, Tied Responses – Resolution*, and agenda item (7) Central Procurement Office Policy Number 2013-002, *Procurement Methods Policy and Procedures*, Section 17 – Tie Responses as presented to the Procurement Commission for approval. Mr. Lea seconded the motion. All members voted in favor – none opposed.

(8) Central Procurement Office Policy Number 2015-010, *Statewide Purchasing Card Policy and Procedures*

Mr. Krivacka stated that agenda item (8) is probably the largest of the agenda items and even though agenda item (9) also pertains to purchasing cards, he would like to present them separately. Mr. Krivacka highlighted the following major changes with regard to Central Procurement Office Policy Number 2015-010, *Statewide Purchasing Card Policy and Procedures*:

- Removed all references to Citibank & CitiManager and their customer service numbers to make the policy supplier neutral. The reason why is because the State is about to award the purchasing card contract to a new vendor so the policy should be supplier neutral.
- Removed references to "Vendor" and replaced them with "Supplier", the preferred term after the Edison upgrade.
- Section 5.1 - changed "and" to "or" because the individual cardholder and the State Agency Approver do not both need to dispute transactions. Typically, the cardholder is responsible for disputing transactions with the Bank that appear to be fraudulent or a merchant error and the State Agency approver will confirm the Transactions.
- Section 5.4. - the supervisor only approves or rejects Transactions. It is the responsibility of the Cardholder to dispute Transactions.
- Removed references to "hard-copy" and "original receipts" in section 5.1. This is to be consistent with the language in section 3.2.1. which provides that the p-card documents may be maintained in either paper or electronic format.
- Sections 5.2. and 9.1 - replaced the word "audit" with the word "reviewed." These two words have very different meanings for auditors and were used inconsistently. The intent was never for the P-Card Administrator to perform an annual audit and this change clears up an ambiguity.
- Added instructions for State Agencies who choose to have a designated State Agency Central Fiscal Office P-Card to establish the protocol, either within the procedures at section 8.2 or as an addendum to their procedures.
- Section 10.4 - replaced reference to the "general ledger" to the "chart of accounts"... the state agency should ensure that all transactions are allocated to the chart of accounts on or before the billing cycle reconciliation due date (which is normally by the 20th of each month).

Mr. Perry asked if there were any questions or comments. Mr. Mumpower made a motion to recommend agenda item (8) Central Procurement Office Policy Number 2015-010, *Statewide Purchasing Card Policy and Procedures* as presented to the Procurement Commission for approval pending a question from Mr. Lea that was offered at the same time. Mr. Lea asked if all the changes Mr. Krivacka listed, especially the one referencing the chart of accounts, had been coordinated through the Department of Finance and Administration, Division of Accounts. Mr. Krivacka confirmed that the changes regarding the chart of accounts had been coordinated with staff from the Division of Accounts. Seeing no other questions or comments, Mr. Lea seconded the motion. All members voted in favor - none opposed.

(9) State Agency P-Card Procedures Model

Mr. Krivacka stated that State agencies develop their procedures based on the State Agency

P-Card Procedures model and submit them to the CPO for approval. Prior to approval, the CPO reviews and makes sure the agency procedures contain all the right elements and are not in conflict with CPO policies on P-Cards.

Mr. Krivacka presented the following points with regard to changes to the State Agency P-Card Procedures Model:

- Included the P-Card team email address for instructional guidance. This is in line with other models that include generic email addresses.
- Copied over similar changes from the Policy including removing references to a particular bank and to vendors.
- Added the option to add “[Reserved]” to the virtual p-card. This term was a cause of concern for a lot of agencies who do not want to reference something in their procedures that they are not actively using.
- Section 5.1 - the issue was that agencies do not control allocation to the general ledger but they are responsible for ensuring that transactions are accurately assigned to the appropriate chart of accounts, reconciled, and approved in a timely manner. This update removes any confusion.
- Sections 5.2 and 7.1 – Cardholders are responsible for disputing transactions not their supervisors.
- Changed STL definition, Section 10.2, regarding the \$50,000 single transaction limit for Central Fiscal P-Card.
- Added instructional language to address an agency’s internal controls if an agency chooses to have a designated State Agency Central Fiscal Office P-Card. They may either add it to section 8.2 of the procedures or as an addendum to the procedures.
- Section 11 - Purchases Reserved for the Designated State Agency Central Fiscal P-Card. This updates that there may be more than one person if alternates are chosen in a particular agency’s procedures.

Mr. Krivacka asked for any questions or discussion. Mr. Lea asked if state agencies that used the prior P-Card Procedures Model to adopt their procedures, and they had been approved by the CPO and COT, must resubmit revised P-Card Procedures to reflect these new changes after approval by the Procurement Commission. Mr. Krivacka indicated that as a general rule, agencies will continue to use their existing P-Card Procedures until such time as they need updating. Mr. Krivacka continued that there have been a number of changes recently and it may make sense for agencies to submit an updated version, but if an agency does not, the P-Card Procedures that are approved and on file for that agency will remain in effect. Mr. Perry commented that he believes the only instance that would require an agency to update their P-Card Procedures would be if the agency P-Card procedures were less stringent than the State Agency P-Card Policy.

Mr. Perry also explained that Edison, the state’s ERP system, has the ability to embed a P-Card number associated with a particular agency or user and a particular contract, like Staples. This is referred to as a virtual P-Card which means there is no physical P-Card in someone’s hands, just a P-Card number that is embedded in the system that gets charged for the transactions on that contract. The virtual P-Card is far less risky and much more efficient as it is truly an electronic transaction. Mr. Perry continued that several agencies are using virtual P-Cards in association with several contracts. Mr. Lea added that one of the reasons the State encourages

the use of virtual P-Cards is to ensure that the State maximizes the dollar volume of P-Card spend which increases the level of rebates to the State. Mr. Lea stated that increasing rebates to the State is simply good stewardship and efficient and effective use of State assets.

Mr. Perry asked if there were any additional questions or comments. Seeing none, a motion was made by Mr. Lea to recommend the State Agency P-Card Procedures Model as presented to the Procurement Commission for approval. The motion was seconded by Mr. Mumpower. All members voted in favor – none opposed.

IV. Other Business: Mr. Perry asked if there was any other business to be brought before the Council and saw none.

V. Adjournment: Seeing no other business, a motion for adjournment was made by Mr. Lea and seconded by Mr. Mumpower. All members voted in favor – none opposed.

AMENDMENT REQUEST

REDLINE VERSION

Amendment Request

This request form is not required for amendments to grant contracts. Route a completed request, as one file in PDF format, via e-mail attachment sent to: Agsprs.Agsprs@tn.gov

APPROVED	
CHIEF PROCUREMENT OFFICER	DATE

Agency request tracking #	
1. Procuring Agency	
2. Contractor	
3. Edison contract ID #	
4. Proposed amendment #	
5. Contract's <u>Original</u> Effective Date	
6. Current end date	
7. Proposed end date	
8. Current Maximum Liability or Estimated Liability	\$
9. Proposed Maximum Liability or Estimated Liability	\$
10. <u>Office for Information Resources Strategic Technology Solutions</u> Pre-Approval Endorsement Request – information technology service (N/A to THDA)	<input type="checkbox"/> Not Applicable <input type="checkbox"/> Attached
11. eHealth Pre-Approval Endorsement Request – health-related professional, pharmaceutical, laboratory, or imaging	<input type="checkbox"/> Not Applicable <input type="checkbox"/> Attached
12. Human Resources Pre-Approval Endorsement Request – state employee training service	<input type="checkbox"/> Not Applicable <input type="checkbox"/> Attached
13. Explain why the proposed amendment is needed	
14. If the amendment involves a change in Scope, describe efforts to identify reasonable, competitive, procurement alternatives to amending the contract.	

Agency request tracking #	
Signature of Agency head or authorized designee, title of signatory, and date (the authorized designee may sign his or her own name if indicated on the Signature Certification and Authorization document)	

AMENDMENT REQUEST

CLEAN VERSION

Amendment Request

This request form is not required for amendments to grant contracts. Route a completed request, as one file in PDF format, via e-mail attachment sent to: Agsprs.Agsprs@tn.gov

APPROVED

CHIEF PROCUREMENT OFFICER

DATE

Agency request tracking #	
1. Procuring Agency	
2. Contractor	
3. Edison contract ID #	
4. Proposed amendment #	
5. Contract's Original Effective Date	
6. Current end date	
7. Proposed end date	
8. Current Maximum Liability or Estimated Liability	\$
9. Proposed Maximum Liability or Estimated Liability	\$
10. Strategic Technology Solutions Pre-Approval Endorsement Request – information technology service (N/A to THDA)	<input type="checkbox"/> Not Applicable <input type="checkbox"/> Attached
11. eHealth Pre-Approval Endorsement Request – health-related professional, pharmaceutical, laboratory, or imaging	<input type="checkbox"/> Not Applicable <input type="checkbox"/> Attached
12. Human Resources Pre-Approval Endorsement Request – state employee training service	<input type="checkbox"/> Not Applicable <input type="checkbox"/> Attached
13. Explain why the proposed amendment is needed	
14. If the amendment involves a change in Scope, describe efforts to identify reasonable, competitive, procurement alternatives to amending the contract.	

Agency request tracking #	
Signature of Agency head or authorized designee, title of signatory, and date (the authorized designee may sign his or her own name if indicated on the Signature Certification and Authorization document)	

**EDISON CONTRACT ENTRY RECORD
STATUS RESET REQUEST MODEL**

REDLINE VERSION

EDISON CONTRACT ENTRY RECORD STATUS RESET REQUEST MODEL

At the last step of contracting document approval routing, the Edison Contract Entry Record status is reset from "Open" to "Approved." The action denotes only that the contract, as may be amended, has been approved by required authorities. (It is not an indication of any review or endorsement of any entry in an Edison Record field.)

There are several reasons why procuring agency staff may need to set an Edison record status to "Open" after it was previously set to "Approved." Reasons may include, but are not limited to, changing the data recorded in Edison Record fields for any reason or even opening a record by mistake. Likewise, there may be reasons that a contract document summary cover sheet must be revised (although an amendment is not necessary). This policy addresses how the procuring agency must request the RESET an Edison record status from "Open" to "Approved" or a summary cover sheet revision.

ALL instructions below must be followed **EXACTLY**.

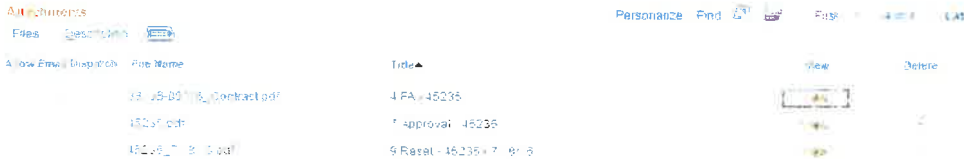
- Use the Edison system "amendment" process to submit an *Edison Record Status Reset Request*. (It will document approvals for a contract entry record status reset as requested and any associated revision of the record data, however it will **NOT** effect or constitute an actual contract amendment. These requests will not be logged or tracked, and **OCRCPO** affirmative responses within the Edison approval routing will be perfunctory and for purposes of system processing only. The substantive approvals will be those recorded by the procuring agency and F&A Budget (as may be automatically required by the Edison System) as well as Comptroller staff.)
- Complete an *Edison Record Status Reset Request* using the model format (complete form fields and replace **RED** instructional text with the correct information in regular style print of conforming font and color as appropriate). The model is posted on the OCR web site at continues below: www.intranet.state.tn.us/finance/ocr/doc/request-reset.doc.
- Save or scan the request as a PDF file and attach it to the relevant Edison Document Management record (just as a contract amendment an Amendment Request would be attached for an actual contract amendment).
- Complete the title field for the attached request exactly as follows (replace **DATE** with the request date):

Field Code Changed
Field Code Changed

DATE EDISON RECORD STATUS RESET REQUEST - NOT AN AMENDMENT

9 - Reset - # Number

(as in this picture below)



- Insert an **Approval Comment** on the Edison Approval Routing page exactly as follows (replace **DATE** with the request date):

DATE EDISON RECORD STATUS RESET REQUEST - NOT AN AMENDMENT

(as in this picture below)

The screenshot shows the Edison system interface. At the top, there is a navigation bar with the Edison logo and the text "The State of Tennessee's Enterprise Resource Planning System". Below this, there are links for "Home", "Worklist", "MultiChannel Console", and "Add". The main content area is titled "Post Budget" and displays a workflow diagram. The diagram consists of two boxes, each labeled "Not Routed" and "Multiple Approvers" with "Document Approval - Comptroller" below. The boxes are connected by a right-pointing arrow. Below the workflow diagram, there is a section titled "Approval Comment History" containing a single entry: "Melinda C McClary at 2/2/2010 7:51 AM" followed by "2/2/10 EDISON RECORD STATUS RESET REQUEST - NOT AN AMENDMENT". This entry is circled in red.

NOTICE: The record will be DENIED in approval routing if the approval comment is not completed exactly as required.

- (6) Submit the request for procuring agency and F&A approval routing (as with a contract amendment) approvals.

The "amendment" process will document procuring agency and F&A Budget approval for OCR to reset the status of an Edison Record (as may be revised), but **Note:** the Edison Record Status Reset Request approval will NOT effect or constitute an actual contract amendment.

Edison Contract Entry Record Status Reset Request

Request Date

Edison Contract Record ID #

SECTION A – complete if the request does NOT involve a summary cover sheet revision

Why was the record status ~~was~~ set to Open?

Complete the schedule below to detail the exact changes made to the Edison record.
(in lieu of completing the schedule, attach "before" and "after" Edison screen prints of revised fields)

EDISON FIELD ID	BEFORE REVISION ENTRY	POST REVISION ENTRY
-----------------	-----------------------	---------------------

SECTION B – complete if the request involves a summary cover sheet revision

Why is the summary cover sheet revision necessary?

Does the revised summary cover sheet document following this page detail all and highlight each necessary change from the prior Summary Cover Sheet?

YES NO

SECTION C – complete for ALL requests

Are ALL Edison record changes (if any) compliant with the subject contract (as amended)?

CONFIRMED NOT CONFIRMED

Signature of Fiscal Officer (who reviewed the subject Edison Record & approved this request)

Fiscal Officer Title

Document comparison by Workshare Compare on Monday, September 19, 2016
4:01:12 PM

Input:	
Document 1 ID	file://P:\Procurement Commission Agendas\Upcoming and Approved for website posting\5. 2016 10.20 PC Meeting\2016 10.04 Advisory Council Meeting\request-reset7.1.11.doc
Description	request-reset7.1.11
Document 2 ID	file://P:\Procurement Commission Agendas\Upcoming and Approved for website posting\5. 2016 10.20 PC Meeting\2016 10.04 Advisory Council Meeting\Edison Contract Entry Record Status Reset Request - Copy.doc
Description	Edison Contract Entry Record Status Reset Request - Copy
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
<small>Document Properties</small>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	20
Deletions	16
Moved from	0
Moved to	0
Style change	0

Format changed	0
Total changes	36

**EDISON CONTRACT ENTRY RECORD
STATUS RESET REQUEST MODEL**

CLEAN VERSION

EDISON CONTRACT ENTRY RECORD STATUS RESET REQUEST MODEL

At the last step of contracting document approval routing, the Edison Contract Entry Record status is reset from "Open" to "Approved." The action denotes only that the contract, as may be amended, has been approved by required authorities. (It is not an indication of any review or endorsement of any entry in an Edison Record field.)

There are several reasons why procuring agency staff may need to set an Edison record status to "Open" after it was previously set to "Approved." Reasons may include, but are not limited to, changing the data recorded in Edison Record fields for any reason or even opening a record by mistake. Likewise, there may be reasons that a contract document summary cover sheet must be revised (although an amendment is not necessary). This policy addresses how the procuring agency must request the RESET an Edison record status from "Open" to "Approved" or a summary cover sheet revision.

ALL instructions below must be followed EXACTLY.

- (1) Use the Edison system "amendment" process to submit an *Edison Record Status Reset Request*. (It will document approvals for a contract entry record status reset as requested and any associated revision of the record data, however it will **NOT** effect or constitute an actual contract amendment. These requests will not be logged or tracked, and CPO affirmative responses within the Edison approval routing will be perfunctory and for purposes of system processing only. The substantive approvals will be those recorded by the procuring agency and F&A Budget (as may be automatically required by the Edison System) as well as Comptroller staff.
- (2) Complete an *Edison Record Status Reset Request* using the model format (complete form fields and replace **RED** instructional text with the correct information in regular style print of conforming font and color as appropriate). The model continues below: .
- (3) Save or scan the request as a PDF file and attach it to the relevant Edison Document Management record (just as an Amendment Request would be attached for an actual contract amendment).
- (4) Complete the **title field** for the attached request exactly as follows (replace **DATE** with the request date):

9 – Reset - # Number

(as in this picture below)

File Name	Title	View	Delete
33136-00116_Contract.pdf	4 IFB - 45235	View	Delete
45235.pdf	7 Approval - 45235	View	Delete
45235_7_18_16.pdf	9 Reset - 45235 - 7/18/16	View	Delete

- (5) Insert an **Approval Comment** on the **Edison Approval Routing** page exactly as follows (replace **DATE** with the request date):

DATE EDISON RECORD STATUS RESET REQUEST - NOT AN AMENDMENT

(as in this picture below)

The screenshot shows the Edison system interface. At the top left is the Edison logo. The top right contains the text "The State of Tennessee's Enterprise Record" and navigation links: "Home | Worklist | MultiChannel Console | Add t". Below this is a "Post Budget" section with a workflow diagram. The workflow consists of two "Not Routed" boxes, each labeled "Multiple Approvers" and "Document Approval - Comptrolle". The first box has a green plus icon and an arrow pointing to the second box, which also has a green plus icon and an arrow pointing to the right. Below the workflow is an "Approval Comment History" section. A red oval highlights the following text: "Melinda C McClary at 2/2/2010 - 7:51 AM" and "2/2/10 EDISON RECORD STATUS RESET REQUEST - NOT AN AMENDMENT".

- (6) Submit the request for approvals.

Note: the *Edison Record Status Reset Request* approval will NOT effect or constitute an actual contract amendment.

Edison Contract Entry Record Status Reset Request

Request Date

Edison Contract Record ID #

SECTION A – complete if the request does NOT involve a summary cover sheet revision

Why was the record status set to Open?

Complete the schedule below to detail the exact changes made to the Edison record.
(in lieu of completing the schedule, attach "before" and "after" Edison screen prints of revised fields)

EDISON FIELD ID	BEFORE REVISION ENTRY	POST REVISION ENTRY
-----------------	-----------------------	---------------------

SECTION B – complete if the request involves a summary cover sheet revision

Why is the summary cover sheet revision necessary?

Does the revised summary cover sheet document following this page detail all and highlight each necessary change from the prior Summary Cover Sheet?

YES NO

SECTION C – complete for ALL requests

Are ALL Edison record changes (if any) compliant with the subject contract (as amended)?

CONFIRMED NOT CONFIRMED

Signature of Fiscal Officer (who reviewed the subject Edison Record & approved this request)

Fiscal Officer Title

**STS PRE-APPROVAL ENDORSEMENT
REQUEST**

REDLINE VERSION



STS Pre-Approval Endorsement Request E-Mail Transmittal

TO : STS Contracts
Department of Finance & Administration
E-mail : it.abc@tn.gov

FROM :
E-mail : _____

DATE :

RE : Request for STS Pre-Approval Endorsement

<p>Applicable RFS #</p> <p><u>State Security Confidential Information Applicability</u> <u>Under Tenn. Code Ann. §10-7-504(i) vendor identity or a description of the goods or services provided by the vendor shall be confidential.</u></p> <p><input type="checkbox"/> <u>Applicable</u></p> <p><input type="checkbox"/> <u>Not Applicable</u></p> <p>STS Endorsement Signature & Date:</p> <p>_____ Chief Information Officer <i>NOTE: Proposed contract/grant support is applicable to the subject IT service technical merit.</i></p>

Strategic Technology Solutions (STS) pre-approval endorsement is required pursuant to procurement regulations pertaining to contracts with information technology as a component of the scope of service. This request seeks to ensure that STS is aware of and has an opportunity to review the procurement detailed below and in the attached document(s). This requirement applies to any procurement method regardless of dollar amount.

Please indicate STS endorsement of the described procurement (with the appropriate signature above), and return this document via e-mail at your earliest convenience.

Contracting Agency	
Agency Contact (name, phone, e-mail)	

Applicable RFS #
Attachments Supporting Request (mark all applicable) Note: The complete draft procurement document and the applicable documents listed below must accompany this request when submitted to STS. Special Contract Requests and Amendment Requests without Agency Head signature are acceptable. STS is aware that these documents will not have CPO signature when submitted with this request. <input type="checkbox"/> Solicitation Document <input type="checkbox"/> Special Contract Request <input type="checkbox"/> Amendment Request <input type="checkbox"/> Proposed Contract/Grant or Amendment <input type="checkbox"/> Original Contract/Grant and Previous Amendments (if any)
Information Systems Plan (ISP) Project Applicability To avoid delay of STS pre-approval, the applicability of an ISP project to the procurement must be confirmed with agency IT staff prior to submitting this request to STS. If necessary, agency IT staff should contact STS Planning with questions concerning the need for an ISP project. IT Director/Staff Name Confirming (required): <input type="checkbox"/> Applicable – Approved ISP Project# <input type="checkbox"/> Not Applicable
Subject Information Technology Service Description Provide a brief summary of the information technology services involved. Clearly identify included technologies such as system development/maintenance, security, networking, etc. As applicable, identify the contract or solicitation sections related to the IT services.

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**STS PRE-APPROVAL ENDORSEMENT
REQUEST**

CLEAN VERSION



STS Pre-Approval Endorsement Request E-Mail Transmittal

TO : STS Contracts
 Department of Finance & Administration
 E-mail : it.abc@tn.gov

FROM :
 E-mail : _____

DATE :

RE : Request for STS Pre-Approval Endorsement

<p>Applicable RFS #</p> <p>State Security Confidential Information Applicability Under Tenn. Code Ann. §10-7-504(i) vendor identity or a description of the goods or services provided by the vendor shall be confidential.</p> <p><input type="checkbox"/> Applicable <input type="checkbox"/> Not Applicable</p> <p>STS Endorsement Signature & Date:</p> <p>Chief Information Officer</p> <p><i>NOTE: Proposed contract/grant support is applicable to the subject IT service technical merit.</i></p>
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Strategic Technology Solutions (STS) pre-approval endorsement is required pursuant to procurement regulations pertaining to contracts with information technology as a component of the scope of service. This request seeks to ensure that STS is aware of and has an opportunity to review the procurement detailed below and in the attached document(s). This requirement applies to any procurement method regardless of dollar amount.

Please indicate STS endorsement of the described procurement (with the appropriate signature above), and return this document via e-mail at your earliest convenience.

Contracting Agency	
Agency Contact (name, phone, e-mail)	

Applicable RFS #**Attachments Supporting Request** (mark all applicable)

Note: The complete draft procurement document and the applicable documents listed below must accompany this request when submitted to STS. Special Contract Requests and Amendment Requests without Agency Head signature are acceptable. STS is aware that these documents will not have CPO signature when submitted with this request.

- Solicitation Document
- Special Contract Request
- Amendment Request
- Proposed Contract/Grant or Amendment
- Original Contract/Grant and Previous Amendments (if any)

Information Systems Plan (ISP) Project Applicability

To avoid delay of STS pre-approval, the applicability of an ISP project to the procurement must be confirmed with agency IT staff prior to submitting this request to STS. If necessary, agency IT staff should contact STS Planning with questions concerning the need for an ISP project.

IT Director/Staff Name Confirming (required):

- Applicable – Approved ISP Project#
- Not Applicable

Subject Information Technology Service Description

Provide a brief summary of the information technology services involved. Clearly identify included technologies such as system development/maintenance, security, networking, etc. As applicable, identify the contract or solicitation sections related to the IT services.

PROCUREMENT PROCEDURES
MANUAL OF THE CENTRAL
PROCUREMENT OFFICE
SECTION 6.7, PURCHASE ORDER
EXEMPTIONS

REDLINE VERSION

REQUEST: Add the following to the Procurement Procedures Manual of the Central Procurement Office Table of Contents and revise Section 6.7. as follows:

6.7. *Purchase Order Exemptions.*

Due to the unique nature of the goods or services involved, the CPO will not require a Purchase Order to accompany payment requests for the enumerated items below.

~~No Purchase Order is required when using the P-Card in compliance with the P-Card Policy.~~

6.7.1. Purchases over \$10,000.

The items listed below do not require a Purchase Order or a contract if: ~~they~~ meet the following criteria:

- (a) they are not available on a statewide or agency term contract;
- (b) they are supported by an invoice from the vendor of the goods or services; and
- (c) performance occurs in no more than ninety (90) days; ~~and~~
~~The ten thousand dollar (\$10,000) limit does not apply to items with an asterisk.~~

- Telephone bills*
- Utility bills, including connection fees*
- Postage charges in connection with use of postage meter machines owned or leased by the State
- Title insurance*

6.7.2. Purchases \$10,000 and under.

The items listed below do not require a Purchase Order or a contract if: ~~they meet~~ the following criteria:

- (a) they are not available on a statewide or agency term contract;
- (b) they are supported by an invoice from the vendor of the goods or services;
- (c) performance occurs in no more than ninety (90) days; and,

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(d) the purchase does not exceed ten thousand dollars (\$10,000);

- Landfill charges
- Books, periodicals, or publications
- Advertisements, e.g., through sponsorships, radio, television, print, or internet
- Freight charges not incurred in connection with the purchase of supplies or equipment
- Bonding fees
- Notary public fees
- Deed registration fees
- Court fees
- Fees in connection with titles or title searches
- Building permits
- Meeting expenses, e.g., charges for reserving a meeting venue and expenses for refreshments served at meetings
- Vehicle rental while on approved travel
- Tuition, fees, and supplies for state employee training
- Chemical and pesticide samples tested by the Tennessee Department of Agriculture as required by federal or state law (individual purchases cannot exceed \$200.00)
- Prescriptions for the emergency treatment of clients or wards of the State
- Late fees incurred under the Prompt Pay Act
- Postage charges not in connection with a State leased or owned postage meter machine

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PROCUREMENT PROCEDURES
MANUAL OF THE CENTRAL
PROCUREMENT OFFICE
SECTION 6.7, PURCHASE ORDER
EXEMPTIONS

CLEAN VERSION

REQUEST: Add the following to the *Procurement Procedures Manual of the Central Procurement Office Table of Contents* and revise Section 6.7. as follows:

6.7. *Purchase Order Exemptions.*

Due to the unique nature of the goods or services involved, the CPO will not require a Purchase Order to accompany payment requests for the enumerated items below.

6.7.1. *Purchases over \$10,000.*

The items listed below do not require a Purchase Order or a contract if:

- (a) they are not available on a statewide or agency term contract;
- (b) they are supported by an invoice from the vendor of the goods or services;
- and,
- (c) performance occurs in no more than ninety (90) days:

- Telephone bills
- Utility bills, including connection fees
- Postage charges in connection with use of postage meter machines owned or leased by the State
- Title insurance

6.7.2. *Purchases \$10,000 and under.*

The items listed below do not require a Purchase Order or a contract if:

- (a) they are not available on a statewide or agency term contract;
- (b) they are supported by an invoice from the vendor of the goods or services;
- (c) performance occurs in no more than ninety (90) days; and,
- (d) the purchase does not exceed ten thousand dollars (\$10,000):

- Landfill charges
- Books, periodicals, or publications
- Advertisements, e.g., through sponsorships, radio, television, print, or internet

- Freight charges not incurred in connection with the purchase of supplies or equipment
- Bonding fees
- Notary public fees
- Deed registration fees
- Court fees
- Fees in connection with titles or title searches
- Building permits
- Meeting expenses, e.g., charges for reserving a meeting venue and expenses for refreshments served at meetings
- Vehicle rental while on approved travel
- Tuition, fees, and supplies for state employee training
- Chemical and pesticide samples tested by the Tennessee Department of Agriculture as required by federal or state law (individual purchases cannot exceed \$200.00)
- Prescriptions for the emergency treatment of clients or wards of the State
- Late fees incurred under the Prompt Pay Act
- Postage charges not in connection with a State leased or owned postage meter machine

**OPTIONAL CONTRACT CLAUSE –
PRISON RAPE ELIMINATION ACT
("PREA")**

NEW

REQUEST: Add the Prison Rape Elimination Act (PREA) to the document configurator and to all contract templates and models as an optional special term and condition. Replace the word "Contractor" with "Grantee" when applicable.

Prison Rape Elimination Act (PREA)

Add the following Section as appropriate.

Prison Rape Elimination Act (PREA). The Contractor must comply with the Prison Rape Elimination Act (PREA) of 2003 (Federal law 42 U.S.C. 15601 et. seq.), with all applicable Federal PREA standards, and with all State policies and standards related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse within facilities/programs/offices owned, operated, or contracted.

**DIVISION OF HEALTH CARE FINANCE
& ADMINISTRATION (“HCFA”)
LIQUIDATED DAMAGES REQUEST**

NEW

REQUEST: Revise the FA Template instructions, considerations, and options to include optional language related to “Liquidated Damages” for HCFA. The optional language will include adding to the *pro forma* contract at Section A. Scope, Section E. Special Terms and Conditions, and a new Contract Attachment.

Option: Liquidated Damages – HCFA

The incorporation of the *pro forma* Liquidated Damages language below will require an approved Liquidated Damages Request. The below language may only be utilized by the Division of Health Care Finance & Administration (HCFA) and does not require an approved Rule Exception Request.

Add the following section to the *pro forma* contract Scope:

A.#. Control Memorandum Process.

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

and NPCDs may be issued consecutively or simultaneously.

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

AND add the following section to section E. Special Terms and Conditions:

E.# Liquidated Damages.

In the event of a Contract performance or compliance failure by the Contractor, the State may, but is not obligated to address such Contract performance or compliance failure and/or assess damages ("Liquidated Damages") in accordance with Attachment Reference of the Contract. The State shall notify the Contractor of any amounts to be assessed as Liquidated Damages via the Control Memorandum process specified in Contract Section A.#. 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 Contract performance or compliance failure, as these amounts are likely to be uncertain and not easily proven. Contractor has carefully reviewed the Liquidated Damages contained in Contract Attachment Reference and agrees that these amounts represent a reasonable relationship between the

amount and what might reasonably be expected in the event of a Contract performance or compliance failure, are a reasonable estimate of the damages that would occur from a Contract performance or compliance failure, and are not punitive. The Parties agree that although the Liquidated Damages represent the reasonable estimate of the damages and injuries sustained by the State due to the Contract performance or compliance failure, they do not include any injury or damage sustained by a third party. The Contractor agrees that the Liquidated Damages are in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or any other sections of this Contract.

The State is not obligated to assess Liquidated Damages as a result of a Contract performance or compliance failure before availing itself of any other remedy. In the event of multiple Contract performance or compliance failures, the Parties recognize that the cumulative effect of these Contract performance failures may exceed the compensation provided by Liquidated Damages. The State may choose to avail itself of any other remedy available under this Contract or at law or equity. The Parties further recognize that the State may not obtain both Liquidated Damages and Actual Damages for the same occurrence of a Contract performance or compliance failure.

Without regard to whether the State has imposed Liquidated Damages or pursued any other remedy due to any action or inaction by the Contractor, the State may impose a corrective action plan or similar measure through a Control Memorandum. Such measure is neither punitive nor related to any damages the State might suffer.

AND add the following Contract Attachment, Liquidated Damages:

ATTACHMENT REFERENCE

LIQUIDATED DAMAGES

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

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

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

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

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

LIQUIDATED DAMAGES REQUEST

REDLINE VERSION

Liquidated Damages Request

An approved Liquidated Damages Request is required if a Liquidated Damages provision is included in a contract. Route a completed request, as one file in PDF format, via e-mail attachment sent to: Agsprs.Agsprs@tn.gov

APPROVED

**CHIEF PROCUREMENT OFFICER
DATE**

Request Tracking #	_____
1. Contracting Agency	_____
2. Solicitation or Contract #	_____
3. Requestor Contact Information — name, e-mail address & telephone #	_____
4. Goods or Services Description — brief summary only — do NOT restate the proposed scope of service	_____
5. Complete the table below, deleting or adding additional Liquidated Damages Events as necessary. In lieu of completing the fields below, the requestor may also include the details requested below on a separate document attached to this completed request.	
Liquidated Damages Event # 1 <i>Enter event giving rise to the liquidated damages (attach contract and include contract section references to describe Contractor's required activity or deliverable as applicable)</i>	_____
Liquidated Damages Amount <i>Enter assessed monetary amount if requirement above (the Liquidated Damages Event) is not met (e.g., one thousand dollars (\$1,000.00) for each day beyond the deadline that any service deliverable is not completed).</i>	_____
Method used to estimate the Liquidated Damages Amount <i>Explain how the liquidated damages amount was selected. Reminder: assessment amounts should be a reasonable estimate of the damages that would occur from the Liquidated Damages Event above.</i>	_____
Liquidated Damages Event # 2	_____

Request Tracking #	_____
Liquidated Damages Amount	_____
Method used to estimate the Liquidated Damages Amount	_____
Signature of Agency head, authorized designee, or Agency Legal Counsel, title of signatory, and date (the authorized designee may sign his or her own name if indicated on the Signature Certification and Authorization document)	

<u>Request Tracking #</u>	_____
<u>1. Contracting Agency</u>	_____
<u>2. Solicitation or Contract #</u>	_____
<u>3. Requestor Contact Information – name, e-mail address & telephone #</u>	_____
<u>4. Goods or Services Description brief summary only– do NOT restate the proposed scope of service</u>	_____
<u>5. Complete the table below, deleting or adding additional Liquidated Damages Events as necessary. In lieu of completing the fields below, the requestor may also include the details requested below on a separate document attached to this completed request.</u>	

<u>Liquidated Damages Event</u> <i>Enter event giving rise to the liquidated damages (attach contract and include contract section references to describe Contractor's required activity or deliverable as applicable)</i>	<u>Liquidated Damages Amount</u> <i>Enter assessed monetary amount if the Liquidated Damages Event occurs (e.g., one thousand dollars (\$1,000.00) for each day beyond the deadline that any service deliverable is not completed).</i>	<u>Method used to estimate the Liquidated Damages Amount</u> <i>Explain how the liquidated damages amount was selected. Reminder: assessment amounts should be a reasonable estimate of the damages that would occur from the Liquidated Damages Event.</i>

Signature of Agency head, authorized designee, or Agency Legal Counsel, title of signatory, and date (the authorized designee may sign his or her own name if indicated on the Signature Certification and Authorization document)

Document comparison by Workshare Compare on Tuesday, September 20, 2016 12:35:27 PM

Input:	
Document 1 ID	file:///P:/Procurement Commission Agendas/Upcoming and Approved for website posting/5. 2016 10.20 PC Meeting/2016 10.04 Advisory Council Meeting/Liquidated_Damages_Request_final_copy_6.20.16.docx
Description	Liquidated_Damages_Request_final_copy_6.20.16
Document 2 ID	file:///P:/Procurement Commission Agendas/Upcoming and Approved for website posting/5. 2016 10.20 PC Meeting/2016 10.04 Advisory Council Meeting/Liquidated_Damages_Request_clean.docx
Description	Liquidated_Damages_Request_clean
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Legend:	
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Split/Merged cell	
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Statistics:	
	Count
Insertions	25
Deletions	29
Moved from	0
Moved to	0

Style change	0
Format changed	0
Total changes	54

LIQUIDATED DAMAGES REQUEST

CLEAN VERSION

Liquidated Damages Request

An approved Liquidated Damages Request is required if a Liquidated Damages provision is included in a contract. Route a completed request, as one file in PDF format, via e-mail attachment sent to: Agsprs.Agsprs@tn.gov

APPROVED

CHIEF PROCUREMENT OFFICER

DATE

Request Tracking #	
1. Contracting Agency	
2. Solicitation or Contract #	
3. Requestor Contact Information – name, e-mail address & telephone #	
4. Goods or Services Description <i>brief summary only– do NOT restate the proposed scope of service</i>	
5. Complete the table below, deleting or adding additional Liquidated Damages Events as necessary. In lieu of completing the fields below, the requestor may also include the details requested below on a separate document attached to this completed request.	

Liquidated Damages Event <i>Enter event giving rise to the liquidated damages (attach contract and include contract section references to describe Contractor's required activity or deliverable as applicable)</i>	Liquidated Damages Amount <i>Enter assessed monetary amount if the Liquidated Damages Event occurs (e.g., one thousand dollars (\$1,000.00) for each day beyond the deadline that any service deliverable is not completed).</i>	Method used to estimate the Liquidated Damages Amount <i>Explain how the liquidated damages amount was selected. Reminder: assessment amounts should be a reasonable estimate of the damages that would occur from the Liquidated Damages Event.</i>

Signature of Agency head, authorized designee, or Agency Legal Counsel, title of signatory, and date (the authorized designee may sign his or her own name if indicated on the Signature Certification and Authorization document)

**REQUEST FOR QUALIFICATIONS
TEMPLATE – SECTION A. MANDATORY
REQUIREMENTS**

REDLINE VERSION

TECHNICAL RESPONSE & EVALUATION GUIDE

All Respondents must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). All Respondents must also detail the response page number for each item in the appropriate space below.

The Solicitation Coordinator will review all responses to determine if the Mandatory Requirement Items are addressed as required and mark each with pass or fail. For each item that is not addressed as required, the Evaluation Team must review the responses and attach a written determination. In addition to the Mandatory Requirement Items, the Solicitation Coordinator will review each response for compliance with all RFQ requirements.

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		The Technical Response must be delivered to the State no later than the Technical Response Deadline specified in the RFQ § 2, Schedule of Events.	
		The Technical Response must not contain cost or pricing information of any type.	
		The Technical Response must not contain any restrictions of the rights of the State or other qualification of the response.	
		A Respondent must not submit alternate responses.	
		A Respondent must not submit multiple responses in different forms (as a prime and a subcontractor).	
	A.1.	Provide the Statement of Certifications and Assurances (RFQ Attachment E) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFQ and any resulting contract. The document must be signed without exception or qualification.	
	A.2.	Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall perform work under the contract has a possible conflict of interest (<i>e.g.</i> , employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	A.3.	INSERT APPROPRIATE MANDATORY REQUIREMENT OPTIONS AS NEEDED. (FOLLOWING A.2., YOU MUST INCLUDE AT LEAST ONE OPTION TO DETERMINE FINANCIAL RESPONSIBILITY).	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
	A.#.	IF NEEDED, INSERT ADDITIONAL MANDATORY REQUIREMENT OPTIONS. IF MORE THAN ONE ADDITIONAL OPTION IS NEEDED, CREATE A NEW, ADDITIONAL ROW BELOW AND ADD THE OPTION LANGUAGE.	
<i>State Use – Solicitation Coordinator Signature, Printed Name & Date:</i>			

ATTACHMENT A: TECHNICAL RESPONSE & EVALUATION GUIDE

Option: Page Limitation.

Add the following row to the RFQ Attachment A table (in the grayed out top area) if a page limitation was included in RFQ § 3.4., Response Prohibitions.

	The Technical Response must not exceed _____ pages in length;	
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Proof of Financial Ability to Perform

One or more of the following optional provisions for a respondent to show its financial ability to perform must be added to RFQ Attachment A table if appropriate. Solicitation coordinators should consider the effect on competition of requiring excessive financial ability to perform documentation in light of the goods or services being procured. In the interests of flexibility, one or more of the following optional provisions must be utilized.

Option: Bank Reference

Add the following row to the RFQ Attachment A table (after the template items) if appropriate to require the submission of a bank reference as evidence of Respondent's financial stability/responsibility.

	<u>A.#</u>	Provide a current bank reference indicating that the Respondent's business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.	
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Option: Credit References

Add the following row to the RFQ Attachment A table (after the model items) if appropriate to require the submission of vendor credit references as evidence of Respondent's financial stability/responsibility.

	<u>A.#</u>	Provide two current positive credit references from vendors with which the Respondent has done business written in the form of standard business letters, signed, and dated within the past three (3) months.	
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Option: Credit Bureau Report

Add the following row to the RFQ Attachment A table (after the model items) if appropriate to require the submission of a credit bureau report as evidence of Respondent's financial stability/responsibility.

	<u>A.#</u>	Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit score for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will not be considered responsive.)	
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Option: Credit Rating

Add the following row to the RFQ Attachment A table (after the model items) if appropriate to require the submission of a credit rating as evidence of Respondent's financial stability/responsibility.

	<u>A.#</u>	Provide a current credit rating from Moody's, Standard & Poor's, A.M. Best or Fitch Ratings, verified and dated within the last three (3) months and indicating a positive credit rating for the Respondent.	
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Option: Credit Rating – Credit Bureau Report Option.

Some companies may not have an official credit rating from one of the four major credit rating services. Therefore, requiring credit ratings (as detailed above) without an alternative to the requirement could conceptually prevent certain companies from responding to the RFQ.

The contracting agency should consider the possible impact of the requirement on competition versus the state’s need to reasonably determine the financial stability/responsibility of respondents and decide whether it is appropriate to include an alternative to the requirement.

Insert the following paragraph in the optional credit rating requirement text (above) if appropriate.

OR, in lieu of the aforementioned credit rating, provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit score for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will not be considered responsive.)

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Option: Cash Flow Information.

Add the following row to the RFQ Attachment A table (after the model items) if the contracting agency chooses to review the evidence of Respondent’s financial stability/responsibility.

A.#	<p>Provide documentation disclosing the amount of cash flows from operating activities for the Respondent’s most current operating period. Said documentation must indicate whether the cash flows are positive or negative, and, if the cash flows are negative for the most recent operating period, the documentation must include a detailed explanation of the factors contributing to the negative cash flows.</p> <p>NOTICE: All persons, agencies, firms, or other entities that provide opinions regarding the Respondent’s financial status <u>must</u> be properly licensed to render such opinions. The State may require the Respondent to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders the opinions.</p>
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Option: Certificate of Insurance.

Add the following row to the RFQ Attachment A table (after the model items) ONLY IF a Certificate of Insurance is considered necessary evidence of Respondent’s financial stability/responsibility. (Specifying insurance requirements in the *pro forma* contract does not necessitate adding this optional response requirement.)

Add, delete, or revise subsections detailing insurance coverage requirements as appropriate. (If this response requirement item is added to the RFQ, the appropriate Insurance provision must be detailed in the *pro forma* contract, and the insurance coverage requirements specified in both the RFQ and the *pro forma* contract must agree.)

A.#	<p>Provide a valid, Certificate of Insurance that is verified and dated within the last six (6) months and which details <u>all</u> of the following:</p> <ul style="list-style-type: none"> (a) Insurance Company (b) Respondent’s Name and Address as the Insured (c) Policy Number (d) The following minimum insurance coverage: <ul style="list-style-type: none"> (i) Workers’ Compensation/ Employers’ Liability (<u>including all states coverage</u>) with a limit not less than the relevant
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	<p>statutory amount or WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per occurrence for employers' liability;</p> <p>(ii) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per occurrence and WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) aggregate;</p> <p>(iii) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per occurrence; and</p> <p>(iv) Professional Malpractice Liability with a limit of not less than WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per claim.</p> <p>(e) The following information applicable to each type of insurance coverage:</p> <p>(i) Coverage Description,</p> <p>(ii) Exceptions and Exclusions,</p> <p>(iii) Policy Effective Date,</p> <p>(iv) Policy Expiration Date, and</p> <p>(v) Limit(s) of Liability.</p>	
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Option: Audited Financial Statements.

Add the following row to the RFQ Attachment A table (after the model items) ONLY IF the anticipated contract amount is \geq \$1,000,000.00 AND extraordinary effort to assure Respondent financial stability/responsibility is appropriate.

A.#	<p>Provide the Respondent's most recent independent audited financial statements. Said independent audited financial statements <u>must</u>:</p> <p>(1) reflect an audit period for a fiscal year ended within the last 36 months</p> <p>(2) be prepared with all monetary amounts detailed in United States currency;</p> <p>(3) be prepared under United States Generally Accepted Accounting Principles (US GAAP);</p> <p>(4) include: the auditor's opinion letter; financial statements; and the notes to the financial statements; and</p> <p>(5) be deemed, in the sole discretion of the State to reflect sufficient financial stability to undertake the subject agreement with the State.</p> <p>NOTES:</p> <ul style="list-style-type: none"> ▪ Reviewed or Compiled Financial Statements will not be deemed responsive to this requirement and will <u>not</u> be accepted. ▪ All persons, agencies, firms, or other entities that provide 	
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		opinions regarding the Respondent's financial status <u>must</u> be properly licensed to render such opinions. The State may require the Respondent to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders the opinions.	
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Option: Audited Financial Statements – Line of Credit Option.

Privately held companies may not have or be willing to release audited financial statements for public review. Therefore, requiring audited financial statements (as detailed above) without an alternative to the requirement could conceptually prevent privately held companies from responding to the RFQ.

The contracting agency should consider the possible impact of the requirement on competition versus the state's need to reasonably determine the financial stability/responsibility of respondents and decide whether it is appropriate to include an alternative to the requirement.

Insert the following paragraph before the "NOTES" in the optional audited financial statements requirement text (above) if appropriate.

OR, in lieu of the aforementioned independent audited financial statements, provide a financial institution's letter of commitment for a general Line of Credit in the amount of **WRITTEN AMOUNT ≥ ONE MILLION DOLLARS (\$NUMBER AMOUNT)**, U.S. currency, available to the Respondent. Said letter must specify the Respondent's name, be signed and dated within the past three (3) months by an authorized agent of the financial institution, and indicate that the Line of Credit shall be available for at least **PERIOD ≥ 6 MONTHS**.

Option: Audited Financial Statements – Additional Requirement.

Add the following sentence at the end of the second bulleted note in the optional audited financial statements requirement text ONLY IF the contracting agency legal counsel recommends it in writing.

Any attest or review of the financial status of a Tennessee corporation must be rendered by an accountant or accounting firm licensed or otherwise specifically permitted to provide an attest or review by the Tennessee Board of Accountancy.

Option: Proposal Bond Confirmation.

Add the following row to the RFQ Attachment A table ONLY IF a Proposal Bond is required by the Chief Procurement Officer. All proposal bond amounts shall be stated as a set amount or as a percentage of the contract value. In no event shall the proposal bond amount exceed five percent (5%) of the estimated value of the contract.

	A.#	Provide a proposal bond issued by a surety company licensed to do business in the State of Tennessee in the amount of \$__.	
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Contingent Requirement: Performance Bond Confirmation.

Add the following row to the RFQ Attachment A table ONLY IF a Performance Bond is proposed.

	A.#	Provide a statement confirming that, if awarded a contract pursuant to this RFQ, the Respondent shall deliver a Performance Bond to the State in accordance with the requirements of this RFQ. The statement must be signed by an individual with legal authority to bind the proposing entity to the	
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	provisions of this RFQ and any contract awarded pursuant to it.	
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Option: Additional Mandatory Requirements.

Typically, each mandatory requirement item must be drafted such that an objective “yes/no” determination of whether the requirement was met is reasonable and adequate (clearly not necessitating a qualitative evaluation of the response).

Contracting agency staff may be asked to provide evidence that a proposed mandatory requirement is not inappropriately arbitrary or capricious (e.g., (1) information from an independent, authoritative source indicating that the proposed criteria is a reasonable standard; and (2) a recommendation signed by the contracting agency legal counsel explaining why the proposed requirement is not arbitrary or capricious).

Add mandatory requirement items to the RFQ Attachment A table (after the model items) as appropriate. Do not include a mandatory requirement that entails a response that should or must be more subjectively evaluated. Do not include an arbitrary mandatory requirement.

TECHNICAL RESPONSE & EVALUATION GUIDE

All Respondents must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). All Respondents must also detail the response page number for each item in the appropriate space below.

The Solicitation Coordinator will review all responses to determine if the Mandatory Requirement Items are addressed as required and mark each with pass or fail. For each item that is not addressed as required, the Evaluation Team must review the responses and attach a written determination. In addition to the Mandatory Requirement Items, the Solicitation Coordinator will review each response for compliance with all RFQ requirements.

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		The Technical Response must be delivered to the State no later than the Technical Response Deadline specified in the RFQ § 2, Schedule of Events.	
		The Technical Response must not contain cost or pricing information of any type.	
		The Technical Response must not contain any restrictions of the rights of the State or other qualification of the response.	
		A Respondent must not submit alternate responses.	
		A Respondent must not submit multiple responses in different forms (as a prime and a subcontractor).	
	A.1.	Provide the Statement of Certifications and Assurances (RFQ Attachment E) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFQ and any resulting contract. The document must be signed without exception or qualification.	
	A.2.	Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall perform work under the contract has a possible conflict of interest (e.g., employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	A.3.	Provide a current bank reference indicating that the	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		Respondent's business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.	
	A.4.	Provide two current positive credit references from vendors with which the Respondent has done business written in the form of standard business letters, signed, and dated within the past three (3) months.	
	A.6.3	Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a positive credit rating for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will not be considered responsive) <u>INSERT APPROPRIATE MANDATORY REQUIREMENT OPTIONS AS NEEDED. (FOLLOWING A 2. YOU MUST INCLUDE AT LEAST ONE OPTION TO DETERMINE FINANCIAL RESPONSIBILITY).</u>	
	A. #.	<u>REPEAT IF NEEDED, INSERT ADDITIONAL MANDATORY REQUIREMENT ITEMS & ASSOCIATED ITEM REFERENCES AS NECESSARY. OPTIONS IF MORE THAN ONE ADDITIONAL OPTION IS NEEDED, CREATE A NEW, ADDITIONAL ROW BELOW AND ADD THE OPTION LANGUAGE.</u>	
State Use – <u>RFQ Solicitation</u> Coordinator Signature, Printed Name & Date:			

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**REQUEST FOR QUALIFICATIONS
TEMPLATE – SECTION A. MANDATORY
REQUIREMENTS**

CLEAN VERSION

REQUEST: Revise the RFQ Template Section A and related instructional text as follows:

ATTACHMENT A: TECHNICAL RESPONSE & EVALUATION GUIDE

Option: Page Limitation.

Add the following row to the RFQ Attachment A table (in the grayed out top area) if a page limitation was included in RFQ § 3.4., Response Prohibitions.

		The Technical Response must not exceed _____ pages in length;	
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Proof of Financial Ability to Perform

One or more of the following optional provisions for a respondent to show its financial ability to perform must be added to RFQ Attachment A table if appropriate. Solicitation coordinators should consider the effect on competition of requiring excessive financial ability to perform documentation in light of the goods or services being procured. In the interests of flexibility, one or more of the following optional provisions must be utilized.

Option: Bank Reference

Add the following row to the RFQ Attachment A table (after the template items) if appropriate to require the submission of a bank reference as evidence of Respondent’s financial stability/responsibility.

	A.#	Provide a current bank reference indicating that the Respondent’s business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.	
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Option: Credit References

Add the following row to the RFQ Attachment A table (after the model items) if appropriate to require the submission of vendor credit references as evidence of Respondent’s financial stability/responsibility.

	A.#	Provide two current positive credit references from vendors with which the Respondent has done business written in the form of standard business letters, signed, and dated within the past three (3) months.	
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Option: Credit Bureau Report

Add the following row to the RFQ Attachment A table (after the model items) if appropriate to require the submission of a credit bureau report as evidence of Respondent’s financial stability/responsibility.

	A.#	Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit score for the Respondent (NOTE: A credit bureau report number without the full report is insufficient	
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		and will <u>not</u> be considered responsive.)
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Option: Credit Rating

Add the following row to the RFQ Attachment A table (after the model items) if appropriate to require the submission of a credit rating as evidence of Respondent’s financial stability/responsibility.

	A.#	Provide a current credit rating from Moody’s, Standard & Poor’s, A.M. Best or Fitch Ratings, verified and dated within the last three (3) months and indicating a positive credit rating for the Respondent.
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Option: Credit Rating – Credit Bureau Report Option.

Some companies may not have an official credit rating from one of the four major credit rating services. Therefore, requiring credit ratings (as detailed above) without an alternative to the requirement could conceptually prevent certain companies from responding to the RFQ.

The contracting agency should consider the possible impact of the requirement on competition versus the state’s need to reasonably determine the financial stability/responsibility of respondents and decide whether it is appropriate to include an alternative to the requirement.

Insert the following paragraph in the optional credit rating requirement text (above) if appropriate.

OR, in lieu of the aforementioned credit rating, provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit score for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will not be considered responsive.)

Option: Cash Flow Information.

Add the following row to the RFQ Attachment A table (after the model items) if the contracting agency chooses to review the evidence of Respondent’s financial stability/responsibility.

	A.#	<p>Provide documentation disclosing the amount of cash flows from operating activities for the Respondent’s most current operating period. Said documentation must indicate whether the cash flows are positive or negative, and, if the cash flows are negative for the most recent operating period, the documentation must include a detailed explanation of the factors contributing to the negative cash flows.</p> <p>NOTICE: All persons, agencies, firms, or other entities that provide opinions regarding the Respondent’s financial status <u>must</u> be properly licensed to render such opinions. The State may require the Respondent to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders the opinions.</p>	
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Option: Certificate of Insurance.

Add the following row to the RFQ Attachment A table (after the model items) ONLY IF a Certificate of Insurance is considered necessary evidence of Respondent’s financial stability/responsibility. (Specifying insurance requirements in the *pro forma* contract does not necessitate adding this optional response requirement.)

Add, delete, or revise subsections detailing insurance coverage requirements as appropriate. (If this response requirement item is added to the RFQ, the appropriate Insurance provision must be detailed in

the *pro forma* contract, and the insurance coverage requirements specified in both the RFQ and the *pro forma* contract must agree.)

	<p>A.# Provide a valid, Certificate of Insurance that is verified and dated within the last six (6) months and which details <u>all</u> of the following:</p> <ul style="list-style-type: none"> (a) Insurance Company (b) Respondent's Name and Address as the Insured (c) Policy Number (d) The following minimum insurance coverage: <ul style="list-style-type: none"> (i) Workers' Compensation/ Employers' Liability (with a limit not less than the relevant statutory amount or WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per occurrence for employers' liability; (ii) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per occurrence and WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) aggregate; (iii) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per occurrence; and (iv) Professional Malpractice Liability with a limit of not less than WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per claim. (e) The following information applicable to each type of insurance coverage: <ul style="list-style-type: none"> (i) Coverage Description, (ii) Exceptions and Exclusions, (iii) Policy Effective Date, (iv) Policy Expiration Date, and (v) Limit(s) of Liability. 	
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Option: Audited Financial Statements.

Add the following row to the RFQ Attachment A table (after the model items) **ONLY** IF the anticipated contract amount is \geq \$1,000,000.00 AND extraordinary effort to assure Respondent financial stability/responsibility is appropriate.

	<p>A.# Provide the Respondent's most recent independent audited financial statements. Said independent audited financial statements <u>must</u>:</p> <ul style="list-style-type: none"> (1) reflect an audit period for a fiscal year ended within the last 36 months (2) be prepared with all monetary amounts detailed in United States currency; (3) be prepared under United States Generally Accepted 	
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	<p>Accounting Principles (US GAAP);</p> <p>(4) include: the auditor's opinion letter; financial statements; and the notes to the financial statements; and</p> <p>(5) be deemed, in the sole discretion of the State to reflect sufficient financial stability to undertake the subject agreement with the State.</p> <p>NOTES:</p> <ul style="list-style-type: none"> ▪ Reviewed or Compiled Financial Statements will not be deemed responsive to this requirement and will <u>not</u> be accepted. ▪ All persons, agencies, firms, or other entities that provide opinions regarding the Respondent's financial status <u>must</u> be properly licensed to render such opinions. The State may require the Respondent to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders the opinions. 	
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Option: Audited Financial Statements – Line of Credit Option.

Privately held companies may not have or be willing to release audited financial statements for public review. Therefore, requiring audited financial statements (as detailed above) without an alternative to the requirement could conceptually prevent privately held companies from responding to the RFQ.

The contracting agency should consider the possible impact of the requirement on competition versus the state's need to reasonably determine the financial stability/responsibility of respondents and decide whether it is appropriate to include an alternative to the requirement.

Insert the following paragraph before the "NOTES" in the optional audited financial statements requirement text (above) if appropriate.

OR, in lieu of the aforementioned independent audited financial statements, provide a financial institution's letter of commitment for a general Line of Credit in the amount of **WRITTEN AMOUNT ≥ ONE MILLION DOLLARS (\$NUMBER AMOUNT)**, U.S. currency, available to the Respondent. Said letter must specify the Respondent's name, be signed and dated within the past three (3) months by an authorized agent of the financial institution, and indicate that the Line of Credit shall be available for at least **PERIOD ≥ 6 MONTHS**.

Option: Audited Financial Statements – Additional Requirement.

Add the following sentence at the end of the second bulleted note in the optional audited financial statements requirement text **ONLY IF** the contracting agency legal counsel recommends it in writing.

Any attest or review of the financial status of a Tennessee corporation must be rendered by an accountant or accounting firm licensed or otherwise specifically permitted to provide an attest or review by the Tennessee Board of Accountancy.

Option: Proposal Bond Confirmation.

Add the following row to the RFQ Attachment A table **ONLY IF** a Proposal Bond is required by the Chief Procurement Officer. All proposal bond amounts shall be stated as a set amount or as a percentage of the contract value. In no event shall the proposal bond amount exceed five percent (5%) of the estimated value of the contract.

	A.#	Provide a proposal bond issued by a surety company licensed to do business in the State of Tennessee in the amount of \$____.	
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Contingent Requirement: Performance Bond Confirmation.

Add the following row to the RFQ Attachment A table ONLY IF a Performance Bond is proposed.

	A.#	Provide a statement confirming that, if awarded a contract pursuant to this RFQ, the Respondent shall deliver a Performance Bond to the State in accordance with the requirements of this RFQ. The statement must be signed by an individual with legal authority to bind the proposing entity to the provisions of this RFQ and any contract awarded pursuant to it.	
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Option: Additional Mandatory Requirements.

Typically, each mandatory requirement item must be drafted such that an objective “yes/no” determination of whether the requirement was met is reasonable and adequate (clearly not necessitating a qualitative evaluation of the response).

Contracting agency staff may be asked to provide evidence that a proposed mandatory requirement is not inappropriately arbitrary or capricious (e.g., (1) information from an independent, authoritative source indicating that the proposed criteria is a reasonable standard; and (2) a recommendation signed by the contracting agency legal counsel explaining why the proposed requirement is not arbitrary or capricious).

Add mandatory requirement items to the RFQ Attachment A table (after the model items) as appropriate. Do not include a mandatory requirement that entails a response that should or must be more subjectively evaluated. Do not include an arbitrary mandatory requirement.

REQUEST FOR PROPOSALS TEMPLATE
SECTION A. MANDATORY
REQUIREMENTS

REDLINE VERSION

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION A: MANDATORY REQUIREMENTS. The Respondent must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below.

The Solicitation Coordinator will review the response to determine if the Mandatory Requirement Items are addressed as required and mark each with pass or fail. For each item that is not addressed as required, the Proposal Evaluation Team must review the response and attach a written determination. In addition to the Mandatory Requirement Items, the Solicitation Coordinator will review each response for compliance with all RFP requirements.

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		The Response must be delivered to the State no later than the Response Deadline specified in the RFP Section 2, Schedule of Events.	
		The Technical Response and the Cost Proposal documentation must be packaged separately as required (refer to RFP Section 3.2., <i>et. seq.</i>).	
		The Technical Response must NOT contain cost or pricing information of any type.	
		The Technical Response must NOT contain any restrictions of the rights of the State or other qualification of the response.	
		A Respondent must NOT submit alternate responses (refer to RFP Section 3.3.).	
		A Respondent must NOT submit multiple responses in different forms (as a prime and a sub-contractor) (refer to RFP Section 3.3.).	
	A.1.	Provide the Statement of Certifications and Assurances (RFP Attachment 6.1.) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification.	
	A.2.	Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall cause to deliver goods or perform services under the contract has a possible conflict of interest (<i>e.g.</i> , employment by the State of Tennessee) and, if so, the nature of that conflict.	

		NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	A.3.	Provide a current bank reference indicating that the Respondent's business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.	
	A.4.	Provide two current positive credit references from vendors with which the Respondent has done business written in the form of standard business letters, signed, and dated within the past three (3) months.	
	A.5.	Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit rating for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will <u>not</u> be considered responsive.)	
	A.#.3	REPEAT <u>INSERT APPROPRIATE MANDATORY REQUIREMENT ITEMS & ASSOCIATED ITEM REFERENCES</u> OPTIONS AS NECESSARY <u>NEEDED. (FOLLOWING A.2. YOU MUST INCLUDE AT LEAST ONE OPTION TO DETERMINE FINANCIAL RESPONSIBILITY).</u>	
	A.#.	REPEAT <u>IF NEEDED, INSERT ADDITIONAL MANDATORY REQUIREMENT ITEMS & ASSOCIATED ITEM REFERENCES AS NECESSARY</u> OPTIONS. IF MORE THAN ONE ADDITIONAL OPTION IS NEEDED, CREATE A NEW, ADDITIONAL ROW BELOW AND ADD THE OPTION LANGUAGE.	

State Use – Solicitation Coordinator Signature, Printed Name & Date:

6.2. TECHNICAL RESPONSE & EVALUATION GUIDE ATTACHMENT – SECTION A

Proof of Financial Ability to Perform

~~Option: A.4. Delete or revise this requirement as appropriate.~~

One or more of the following optional provisions for a respondent to show its financial ability to perform must be added to RFP Attachment 6.2, Section A table if appropriate. Solicitation coordinators should consider the effect on competition of requiring excessive financial ability to perform documentation in light of the goods or services being procured. In the interests of flexibility, one or more of the following optional provisions must be utilized.

Option: Bank Reference

Add the following row to the RFP Attachment 6.2, Section A table (after the template items) if appropriate to require the submission of a bank reference as evidence of Respondent's financial responsibility.

	A.#	<u>Provide a current bank reference indicating that the Respondent's business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.</u>	
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Option: Credit References

Add the following row to the RFP Attachment 6.2, Section A table (after the template items) if appropriate to require the submission of vendor credit references as evidence of Respondent's financial responsibility.

	A.#	<u>Provide two current positive credit references from vendors with which the Respondent has done business written in the form of standard business letters, signed, and dated within the past three (3) months.</u>	
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Option: Credit Bureau Report

Add the following row to the RFP Attachment 6.2, Section A table (after the template items) if appropriate to require the submission of a credit bureau report as evidence of Respondent's financial responsibility.

	A.#	<u>Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit score for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will not be considered responsive.)</u>	
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Option: Credit Rating

Add the following row to the RFP Attachment 6.2, Section A table (after the template items) if appropriate to require the submission of a credit rating as evidence of Respondent's financial responsibility.

	A.#	<u>Provide a current credit rating from Moody's, Standard & Poor's, A.M. Best or Fitch Ratings, verified and dated within the last three (3) months and indicating a positive credit rating for the Respondent.</u>
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Option: ~~A.5. Delete or revise this requirement as appropriate.~~ Credit Rating – Credit Bureau Report Option.

Some companies may not have an official credit rating from one of the four major credit rating services. Therefore, requiring credit ratings (as detailed above) without an alternative to the requirement could conceptually prevent certain companies from responding to the RFP.

The procuring agency should consider the possible impact of the requirement on competition versus the State's need to reasonably determine the financial responsibility of respondents and decide whether it is appropriate to include an alternative to the requirement.

Insert the following paragraph in the optional credit rating requirement text (above) if appropriate.

OR, in lieu of the aforementioned credit rating, provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit score for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will not be considered responsive.)

Option: Certificate of Insurance.

Add the following row to the RFP Attachment 6.2., Section A table (after the template items) ONLY IF a Certificate of Insurance is considered necessary evidence of contractor financial responsibility. (Specifying insurance requirements in the *pro forma* contract does not necessitate adding this optional response requirement.)

Add, delete, or revise subsections detailing insurance coverage requirements as appropriate. (If this response requirement item is added to the RFP, the appropriate Insurance provision must be detailed in the *pro forma* contract. The insurance coverage requirements specified in both the RFP and the *pro forma* contract must be the same.)

	A.#	Provide a valid, Certificate of Insurance that is verified and dated within the last six (6) months and which details <u>all</u> of the following: <ul style="list-style-type: none">(a) Name of the Insurance Company(b) Respondent's Name and Address as the Insured(c) Policy Number(d) The following minimum insurance coverages:<ul style="list-style-type: none">(i) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per occurrence for employers' liability;(ii) Comprehensive Commercial General Liability (including personal injury and property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single	
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		<p>limit not less than WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per occurrence and WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) aggregate;</p> <p>(iii) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per occurrence; and</p> <p>(iv) Professional Malpractice Liability with a limit of not less than WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per claim.</p> <p>(e) The following information applicable to each type of insurance coverage:</p> <p>(i) Coverage Description,</p> <p>(ii) Exceptions and Exclusions,</p> <p>(iii) Policy Effective Date,</p> <p>(iv) Policy Expiration Date, and</p> <p>(v) Limit(s) of Liability.</p>	
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Option: Audited Financial Statements.

Add the following row to the RFP Attachment 6.2., Section A table (after the template items) **ONLY IF** the anticipated contract amount is \geq \$1,000,000.00 AND extraordinary effort to assure contractor financial responsibility is appropriate. Note: Audited Financial Statements may also be included as appropriate.

	A.#	<p>Provide the Respondent's most recent independent audited financial statements. Said independent audited financial statements <u>must</u>:</p> <p>(1) reflect an audit period for the most recent available fiscal year;</p> <p>(2) be prepared with all monetary amounts detailed in United States currency;</p> <p>(3) be prepared under United States Generally Accepted Accounting Principles (US GAAP);</p> <p>(4) include the auditor's opinion letter; financial statements; and the notes to the financial statements; and</p> <p>(5) be deemed, in the sole discretion of a C.P.A. employed by the State and charged with the financial document review of the Respondent, to reflect sufficient financial stability to undertake the subject contract with the State if awarded pursuant to this RFP.</p> <p>(6) NOTES:</p> <ul style="list-style-type: none"> ▪ Reviewed or Compiled Financial Statements will not be deemed responsive to this requirement and will <u>not</u> be accepted. ▪ All persons, agencies, firms, or other entities that provide opinions regarding the Respondent's financial status <u>must</u> be properly licensed to render such opinions. The State may require the Respondent to submit proof that the person or entity who renders an opinion regarding the Respondent's financial status is licensed, including the license number and 	
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	state in which the person or entity is licensed.	
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Option: Audited Financial Statements – Line of Credit Option.

Privately held entities may not respond to a RFP if there is a risk that their audited financial statements will be available for public review. Therefore, requiring audited financial statements (as detailed above) without an alternative to this requirement could limit competition or involvement by privately held entities.

The procuring agency should weigh the impact of the financial statement requirement on competition versus the state's need to reasonably determine the financial stability/responsibility of Respondents and whether a suitable alternative to a financial statement is available.

Insert the following paragraph before the "NOTES" in the optional audited financial statements requirement text (above) if appropriate.

OR, in lieu of the aforementioned independent audited financial statements, provide a financial institution's letter of commitment for a general Line of Credit in the amount of **WRITTEN AMOUNT ≥ ONE MILLION DOLLARS (\$NUMBER AMOUNT)**, U.S. currency, available to the Respondent. Said letter must specify the Respondent's name, be signed and dated within the past three (3) months by an authorized agent of the financial institution, and indicate that the Line of Credit shall be available for at least **PERIOD ≥ 6 MONTHS**.

Contingent Requirement: Performance Bond Confirmation.

Add the following row to the RFP Attachment 6.2., Section A table **ONLY IF** a Performance Bond is proposed.

A.#	Provide a statement confirming that, if awarded a contract pursuant to this RFP, the Respondent shall deliver a Performance Bond to the State in accordance with the requirements of this RFP. The statement must be signed by an individual with legal authority to bind the Respondent to the provisions of this RFP and any contract awarded pursuant to it.	
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Option: Additional Mandatory Requirements.

Typically, each mandatory requirement item must be drafted such that it is capable of being objectively determined on a "yes/no" basis. Do not include a mandatory requirement that entails a response that should or must be more subjectively evaluated. Qualitative evaluation should not be required to determine whether the response was reasonable and adequate to satisfy each mandatory requirement.

Procuring agency staff may be asked to provide evidence that a proposed mandatory requirement is rationally related to the procurement goals.

To prevent unnecessary delays, submit evidence that supports the inclusion of a proposed mandatory requirement.

Add mandatory requirement items to the RFP Attachment 6.2., Section A table (after the template items) as appropriate.

Document comparison by Workshare Compare on Tuesday, September 20, 2016 12:42:57 PM

Input:

Document 1 ID	file://P:\Procurement Commission Agendas\Upcoming and Approved for website posting\5. 2016 10.20 PC Meeting\2016 10.04 Advisory Council Meeting\RFP Section A Current Language.docx
Description	RFP Section A Current Language
Document 2 ID	file://P:\Procurement Commission Agendas\Upcoming and Approved for website posting\5. 2016 10.20 PC Meeting\2016 10.04 Advisory Council Meeting\20160916.RFP.docx
Description	20160916.RFP
Rendering set	Standard

Legend:

Insertion

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Style change

Format change

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Inserted cell

Deleted cell

Moved cell

Split/Merged cell

Padding cell

Statistics:

	Count
Insertions	29
Deletions	15
Moved from	0
Moved to	0
Style change	0

Format changed	0
Total changes	44

REQUEST FOR PROPOSALS TEMPLATE
SECTION A. MANDATORY
REQUIREMENTS

CLEAN VERSION

REQUEST: Revise the RFP Template Section A and related instructional text as follows:

RFP ATTACHMENT 6.2. — Section A

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION A: MANDATORY REQUIREMENTS. The Respondent must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below.

The Solicitation Coordinator will review the response to determine if the Mandatory Requirement Items are addressed as required and mark each with pass or fail. For each item that is not addressed as required, the Proposal Evaluation Team must review the response and attach a written determination. In addition to the Mandatory Requirement Items, the Solicitation Coordinator will review each response for compliance with all RFP requirements.

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		The Response must be delivered to the State no later than the Response Deadline specified in the RFP Section 2, Schedule of Events.	
		The Technical Response and the Cost Proposal documentation must be packaged separately as required (refer to RFP Section 3.2., <i>et seq.</i>).	
		The Technical Response must NOT contain cost or pricing information of any type.	
		The Technical Response must NOT contain any restrictions of the rights of the State or other qualification of the response.	
		A Respondent must NOT submit alternate responses (refer to RFP Section 3.3.).	
		A Respondent must NOT submit multiple responses in different forms (as a prime and a sub-contractor) (refer to RFP Section 3.3.).	
	A.1.	Provide the Statement of Certifications and Assurances (RFP Attachment 6.1.) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFP and any resulting contract. The document must be signed without exception or	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		qualification.	
	A.2.	<p>Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall cause to deliver goods or perform services under the contract has a possible conflict of interest (e.g., employment by the State of Tennessee) and, if so, the nature of that conflict.</p> <p>NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.</p>	
	A.3.	INSERT APPROPRIATE MANDATORY REQUIREMENT OPTIONS AS NEEDED. (FOLLOWING A.2., YOU MUST INCLUDE AT LEAST ONE OPTION TO DETERMINE FINANCIAL RESPONSIBILITY).	
	A.#.	IF NEEDED, INSERT ADDITIONAL MANDATORY REQUIREMENT OPTIONS. IF MORE THAN ONE ADDITIONAL OPTION IS NEEDED, CREATE A NEW, ADDITIONAL ROW BELOW AND ADD THE OPTION LANGUAGE.	
<i>State Use – Solicitation Coordinator Signature, Printed Name & Date:</i>			

6.2. TECHNICAL RESPONSE & EVALUATION GUIDE ATTACHMENT – SECTION A

Proof of Financial Ability to Perform

One or more of the following optional provisions for a respondent to show its financial ability to perform must be added to RFP Attachment 6.2., Section A table if appropriate. Solicitation coordinators should consider the effect on competition of requiring excessive financial ability to perform documentation in light of the goods or services being procured. In the interests of flexibility, one or more of the following optional provisions must be utilized.

Option: Bank Reference

Add the following row to the RFP Attachment 6.2, Section A table (after the template items) if appropriate to require the submission of a bank reference as evidence of Respondent’s financial responsibility.

	A.#	Provide a current bank reference indicating that the Respondent’s business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.	
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Option: Credit References

Add the following row to the RFP Attachment 6.2, Section A table (after the template items) if appropriate to require the submission of vendor credit references as evidence of Respondent’s financial responsibility.

	A.#	Provide two current positive credit references from vendors with which the Respondent has done business written in the form of standard business letters, signed, and dated within the past three (3) months.	
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Option: Credit Bureau Report

Add the following row to the RFP Attachment 6.2, Section A table (after the template items) if appropriate to require the submission of a credit bureau report as evidence of Respondent’s financial responsibility.

	A.#	Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit score for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will <u>not</u> be considered responsive.)	
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Option: Credit Rating

Add the following row to the RFP Attachment 6.2, Section A table (after the template items) if appropriate to require the submission of a credit rating as evidence of Respondent’s financial responsibility.

	A.#	Provide a current credit rating from Moody's, Standard & Poor's, A.M. Best or Fitch Ratings, verified and dated within the last three (3) months and indicating a positive credit rating for the Respondent.
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Option: Credit Rating – Credit Bureau Report Option.

Some companies may not have an official credit rating from one of the four major credit rating services. Therefore, requiring credit ratings (as detailed above) without an alternative to the requirement could conceptually prevent certain companies from responding to the RFP.

The procuring agency should consider the possible impact of the requirement on competition versus the State's need to reasonably determine the financial responsibility of respondents and decide whether it is appropriate to include an alternative to the requirement.

Insert the following paragraph in the optional credit rating requirement text (above) if appropriate.

OR, in lieu of the aforementioned credit rating, provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit score for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will not be considered responsive.)

Option: Certificate of Insurance.

Add the following row to the RFP Attachment 6.2., Section A table (after the template items) ONLY IF a Certificate of Insurance is considered necessary evidence of contractor financial responsibility. (Specifying insurance requirements in the *pro forma* contract does not necessitate adding this optional response requirement.)

Add, delete, or revise subsections detailing insurance coverage requirements as appropriate. (If this response requirement item is added to the RFP, the appropriate Insurance provision must be detailed in the *pro forma* contract. The insurance coverage requirements specified in both the RFP and the *pro forma* contract must be the same.)

	A.#	<p>Provide a valid, Certificate of Insurance that is verified and dated within the last six (6) months and which details <u>all</u> of the following:</p> <ul style="list-style-type: none"> (a) Name of the Insurance Company (b) Respondent's Name and Address as the Insured (c) Policy Number (d) The following minimum insurance coverages: <ul style="list-style-type: none"> (i) Workers' Compensation/ Employers' Liability with a limit not less than the relevant statutory amount or WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per occurrence for employers' liability; (ii) Comprehensive Commercial General Liability (including personal injury and property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per occurrence and WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) aggregate; (iii) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per occurrence; <p>and</p>
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		<p>(iv) Professional Malpractice Liability with a limit of not less than WRITTEN AMOUNT Dollars (\$NUMBER AMOUNT) per claim.</p> <p>(e) The following information applicable to each type of insurance coverage:</p> <p>(i) Coverage Description,</p> <p>(ii) Exceptions and Exclusions,</p> <p>(iii) Policy Effective Date,</p> <p>(iv) Policy Expiration Date, and</p> <p>(v) Limit(s) of Liability.</p>	
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Option: Audited Financial Statements.

Add the following row to the RFP Attachment 6.2., Section A table (after the template items) **ONLY IF** the anticipated contract amount is \geq \$1,000,000.00 AND extraordinary effort to assure contractor financial responsibility is appropriate. Note: Audited Financial Statements may also be included as appropriate.

	A.#	<p>Provide the Respondent's most recent independent audited financial statements. Said independent audited financial statements <u>must</u>:</p> <ol style="list-style-type: none"> (1) reflect an audit period for the most recent available fiscal year; (2) be prepared with all monetary amounts detailed in United States currency; (3) be prepared under United States Generally Accepted Accounting Principles (US GAAP); (4) include the auditor's opinion letter; financial statements; and the notes to the financial statements; and (5) be deemed, in the sole discretion of a C.P.A. employed by the State and charged with the financial document review of the Respondent, to reflect sufficient financial stability to undertake the subject contract with the State if awarded pursuant to this RFP. <p>NOTES:</p> <ul style="list-style-type: none"> ▪ Reviewed or Compiled Financial Statements will not be deemed responsive to this requirement and will <u>not</u> be accepted. ▪ All persons, agencies, firms, or other entities that provide opinions regarding the Respondent's financial status <u>must</u> be properly licensed to render such opinions. The State may require the Respondent to submit proof that the person or entity who renders an opinion regarding the Respondent's financial status is licensed, including the license number and state in which the person or entity is licensed. 	
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Option: Audited Financial Statements – Line of Credit Option.

Privately held entities may not respond to a RFP if there is a risk that their audited financial statements will be available for public review. Therefore, requiring audited financial statements (as detailed above) without an alternative to this requirement could limit competition or involvement by privately held entities.

The procuring agency should weigh the impact of the financial statement requirement on competition versus the state's need to reasonably determine the financial stability/responsibility of Respondents and whether a suitable alternative to a financial statement is available.

Insert the following paragraph before the "NOTES" in the optional audited financial statements requirement text (above) if appropriate.

OR, in lieu of the aforementioned independent audited financial statements, provide a financial institution's letter of commitment for a general Line of Credit in the amount of **WRITTEN AMOUNT ≥ ONE MILLION DOLLARS (\$NUMBER AMOUNT)**, U.S. currency, available to the Respondent. Said letter must specify the Respondent's name, be signed and dated within the past three (3) months by an authorized agent of the financial institution, and indicate that the Line of Credit shall be available for at least **PERIOD ≥ 6 MONTHS**.

Contingent Requirement: Performance Bond Confirmation.

Add the following row to the RFP Attachment 6.2., Section A table **ONLY IF** a Performance Bond is proposed.

	A.#	Provide a statement confirming that, if awarded a contract pursuant to this RFP, the Respondent shall deliver a Performance Bond to the State in accordance with the requirements of this RFP. The statement must be signed by an individual with legal authority to bind the Respondent to the provisions of this RFP and any contract awarded pursuant to it.	
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Option: Additional Mandatory Requirements.

Typically, each mandatory requirement item must be drafted such that it is capable of being objectively determined on a "yes/no" basis. Do not include a mandatory requirement that entails a response that should or must be more subjectively evaluated. Qualitative evaluation should not be required to determine whether the response was reasonable and adequate to satisfy each mandatory requirement.

Procuring agency staff may be asked to provide evidence that a proposed mandatory requirement is rationally related to the procurement goals.

To prevent unnecessary delays, submit evidence that supports the inclusion of a proposed mandatory requirement.

Add mandatory requirement items to the RFP Attachment 6.2., Section A table (after the template items) as appropriate.