



## **TENNESSEE HOUSING DEVELOPMENT AGENCY**

### **REQUEST FOR PROPOSALS FOR HOUSING LOCATOR SOFTWARE**

**RFP # 31620-00537**

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## 1. INTRODUCTION

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Tennessee Housing Development Agency, an instrumentality and political subdivision of the State of Tennessee hereinafter referred to as “the Agency,” issues this Request for Proposals (RFP) to define minimum contract requirements; solicit responses; detail response requirements; and, outline The Agency’s process for evaluating responses and selecting a contractor to provide the needed goods or services.

Through this RFP, The Agency seeks to procure necessary goods or services at the most favorable, competitive prices and to give ALL qualified respondents, including those that are owned by minorities, women, service-disabled veterans, persons with disabilities and small business enterprises, an opportunity to do business with The Agency as contractors, subcontractors or suppliers.

### 1.1. Statement of Procurement Purpose

THDA seeks contractors who can provide an existing software as a service (SaaS) housing locator, including ongoing service and maintenance. The housing locator service should use the most current web interfaces and technology and be fully operational with both desktop operating systems (including Windows and Macintosh) and mobile operating systems (including Android OS (and iPhone OS / iOS).

### 1.2. Scope of Service, Contract Period, & Required Terms and Conditions

The RFP Attachment 6.6., *Pro Forma* Contract details The Agency’s requirements:

- Scope of Services and Deliverables (Section A);
- Contract Period (Section B);
- Payment Terms (Section C);
- Standard Terms and Conditions (Section D); and,
- Special Terms and Conditions (Section E).

The *pro forma* contract substantially represents the contract document that the successful Respondent must sign.

### 1.3. Nondiscrimination

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

### 1.4. RFP Communications

1.4.1. The Agency has assigned the following RFP identification number that must be referenced in all communications regarding this RFP:

**RFP # 31620-00537**

1.4.2. **Unauthorized contact about this RFP with employees or officials of The Agency except as detailed below may result in disqualification from consideration under this procurement process.**

1.4.2.1. Prospective Respondents must direct communications concerning this RFP to the following person designated as the Solicitation Coordinator:

Debra Murray

Tennessee Housing Development Agency  
502 Deaderick Street, 3<sup>rd</sup> Floor  
dmurray@thda.org

1.4.2.2. Notwithstanding the foregoing, Prospective Respondents may alternatively contact:

- a. staff of the Governor's Office of Diversity Business Enterprise for assistance available to minority-owned, woman-owned, service-disabled veteran-owned, businesses owned by persons with disabilities, and small businesses as well as general, public information relating to this RFP (visit <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/governor-s-office-of-diversity-business-enterprise--godbe--/godbe-general-contacts.html> for contact information); and
- b. the following individual designated by The Agency to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and associated federal regulations:

Laura Swanson  
Tennessee Housing Development Agency  
502 Deaderick Street, 3<sup>rd</sup> Floor  
615-815-2127  
lswanson@thda.org

- 1.4.3. Only The Agency's official, written responses and communications with Respondents are binding with regard to this RFP. Oral communications between a State official and one or more Respondents are unofficial and non-binding.
- 1.4.4. Potential Respondents must ensure that The Agency receives all written questions and comments, including questions and requests for clarification, no later than the Written Questions & Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.4.5. Respondents must assume the risk of the method of dispatching any communication or response to The Agency. The Agency assumes no responsibility for delays or delivery failures resulting from the Respondent's method of dispatch. Actual or digital "postmarking" of a communication or response to The Agency by a specified deadline is not a substitute for The Agency's actual receipt of a communication or response.
- 1.4.6. The Agency will convey all official responses and communications related to this RFP to the prospective Respondents from whom The Agency has received a Notice of Intent to Respond (refer to RFP Section A).
- 1.4.7. The Agency reserves the right to determine, at its sole discretion, the method of conveying official, written responses and communications related to this RFP. Such written communications may be transmitted by mail, hand-delivery, facsimile, electronic mail, Internet posting, or any other means deemed reasonable by The Agency. For internet posting, please refer to the following website: <https://thda.org/about-thda/procurement>
- 1.4.8. The Agency reserves the right to determine, at its sole discretion, the appropriateness and adequacy of responses to written comments, questions, and requests related to this RFP. The Agency's official, written responses will constitute an amendment of this RFP.
- 1.4.9. Any data or factual information provided by The Agency (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. The Agency will make reasonable efforts to ensure the accuracy of such data or information, however it is the

Respondent's obligation to independently verify any data or information provided by The Agency. The Agency expressly disclaims the accuracy or adequacy of any information or data that it provides to prospective Respondents.

**1.5. Assistance to Respondents With a Handicap or Disability**

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

**1.6. Respondent Required Review & Waiver of Objections**

- 1.6.1. Each prospective Respondent must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.6., *Pro Forma* Contract, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called "questions and comments").
- 1.6.2. Any prospective Respondent having questions and comments concerning this RFP must provide them in writing to The Agency no later than the Written Questions & Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.6.3. Protests based on any objection to the RFP shall be considered waived and invalid if the objection has not been brought to the attention of The Agency, in writing, by the Written Questions & Comments Deadline.

**1.7. Pre-Response Conference**

A Pre-response Conference will be held at the time and date detailed in the RFP Section 2, Schedule of Events. Pre-response Conference attendance is not mandatory, and prospective Respondents may be limited to a maximum number of attendees depending upon overall attendance and space limitations.

The conference will be held at:

Tennessee Housing Development Agency  
502 Deaderick Street, 3<sup>rd</sup> Floor  
Nashville, TN 37243

The purpose of the conference is to discuss the RFP scope of goods or services. The Agency will entertain questions, however prospective Respondents must understand that The Agency's oral response to any question at the Pre-response Conference shall be unofficial and non-binding. Prospective Respondents must submit all questions, comments, or other concerns regarding the RFP in writing prior to the Written Questions & Comments Deadline date detailed in the RFP Section 2, Schedule of Events. The Agency will send the official response to these questions and comments to prospective Respondents from whom The Agency has received a Notice of Intent to respond as indicated in RFP Section 1.8 and on the date detailed in the RFP Section 2, Schedule of Events.

**1.8. Notice of Intent to Respond**

Before the Notice of Intent to Respond Deadline detailed in the RFP Section 2, Schedule of Events, prospective Respondents should submit to the Solicitation Coordinator a Notice of Intent to Respond (in the form of a simple e-mail or other written communication). Such notice should include the following information:

- the business or individual's name (as appropriate);
- a contact person's name and title; and

- the contact person's mailing address, telephone number, facsimile number, and e-mail address.

**A Notice of Intent to Respond creates no obligation and is not a prerequisite for submitting a response, however, it is necessary to ensure receipt of any RFP amendments or other notices and communications relating to this RFP.**

#### 1.9. **Response Deadline**

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

## 2. RFP SCHEDULE OF EVENTS

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

EVENT	TIME (central time zone)	DATE
1. RFP Issued		November 4 , 2019
2. Notice of Intent to Respond Deadline	2:00 p.m.	November 12, 2019
3. Written "Questions & Comments" Deadline	2:00 p.m.	November 19, 2019
4. State Response to Written "Questions & Comments"		November 25, 2019
5. Response Deadline	2:00 p.m.	January 6, 2020
6. State Completion of Technical Response Evaluations		January 10, 2020
7. State Opening & Scoring of Cost Proposals	2:00 p.m.	January 13,, 2020
8. State Notice of Intent to Award Released	2:00 p.m.	January 15,, 2020
9. State sends contract to Contractor for signature		January 17, 2020
10. Contractor Signature Deadline	2:00 p.m.	January 29, 2020

2.2. **The Agency reserves the right, at its sole discretion, to adjust the RFP Schedule of Events as it deems necessary.** Any adjustment of the Schedule of Events shall constitute an RFP amendment, and The Agency will communicate such to prospective Respondents from whom The Agency has received a Notice of Intent to Respond (refer to section A).

### 3. RESPONSE REQUIREMENTS

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#### 3.1. Response Form

A response to this RFP must consist of two parts, a Technical Response and a Cost Proposal.

- 3.1.1. **Technical Response.** RFP Attachment 6.2., Technical Response & Evaluation Guide provides the specific requirements for submitting a response. This guide includes mandatory requirement items, general qualifications and experience items, and technical qualifications, experience, and approach items all of which must be addressed with a written response and, in some instances, additional documentation.

**NOTICE: A technical response must not include any pricing or cost information. If any pricing or cost information amounts of any type (even pricing relating to other projects) is included in any part of the technical response, The Agency may deem the response to be non-responsive and reject it.**

- 3.1.1.1. A Respondent must use the RFP Attachment 6.2., Technical Response & Evaluation Guide to organize, reference, and draft the Technical Response by duplicating the attachment, adding appropriate page numbers as required, and using the guide as a table of contents covering the Technical Response.
- 3.1.1.2. A response should be economically prepared, with emphasis on completeness and clarity. A response, as well as any reference material presented, must be written in English and must be written on standard 8 ½" x 11" pages (although oversized exhibits are permissible) and use a 12 point font for text. All response pages must be numbered.
- 3.1.1.3. All information and documentation included in a Technical Response should correspond to or address a specific requirement detailed in the RFP Attachment 6.2., Technical Response & Evaluation Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed extraneous and will not contribute to evaluations.
- 3.1.1.4. The Agency may determine a response to be non-responsive and reject it if:
- a. the Respondent fails to organize and properly reference the Technical Response as required by this RFP and the RFP Attachment 6.2., Technical Response & Evaluation Guide; or
  - b. the Technical Response document does not appropriately respond to, address, or meet all of the requirements and response items detailed in the RFP Attachment 6.2., Technical Response & Evaluation Guide.

- 3.1.2. **Cost Proposal.** A Cost Proposal must be recorded on an exact duplicate of the RFP Attachment 6.3., Cost Proposal & Scoring Guide.

**NOTICE: If a Respondent fails to submit a cost proposal exactly as required, The Agency may deem the response to be non-responsive and reject it.**

- 3.1.2.1. A Respondent must only record the proposed cost exactly as required by the RFP Attachment 6.3., Cost Proposal & Scoring Guide and must NOT record any other rates, amounts, or information.

- 3.1.2.2. The proposed cost shall incorporate ALL costs for services under the contract for the total contract period, including any renewals or extensions.
- 3.1.2.3. A Respondent must sign and date the Cost Proposal.
- 3.1.2.4. A Respondent must submit the Cost Proposal to The Agency in a sealed package separate from the Technical Response (as detailed in RFP Sections 3.2.3., *et seq.*).

### 3.2. Response Delivery

3.2.1. A Respondent must ensure that both the original Technical Response and Cost Proposal documents meet all form and content requirements, including all required signatures, as detailed within this RFP, as may be amended.

3.2.2. A Respondent must submit original Technical Response and Cost Proposal documents and copies as specified below.

3.2.2.1. One (1) original Technical Response paper document labeled:

**“RFP # 31620-00537 TECHNICAL RESPONSE ORIGINAL”**

and Six (6) digital copies of the Technical Response each in the form of one (1) digital document in “PDF” format properly recorded on its own otherwise blank, standard CD-R recordable disc or USB flash drive labeled:

**“RFP # 31620-00537 TECHNICAL RESPONSE COPY”**

The digital copies should not include copies of sealed customer references, however any other discrepancy between the paper Technical Response document and any digital copies may result in The Agency rejecting the proposal as non-responsive.

3.2.2.2. One (1) original Cost Proposal paper document labeled:

**“RFP # 31620-00537 COST PROPOSAL ORIGINAL”**

and one (1) copy in the form of a digital document in “PDF/XLS” format properly recorded on separate, blank, standard CD-R recordable disc or USB flash drive labeled:

**“RFP # 31620-00537 COST PROPOSAL COPY”**

In the event of a discrepancy between the original Cost Proposal document and the digital copy, the original, signed document will take precedence.

3.2.3. A Respondent must separate, seal, package, and label the documents and copies for delivery as follows:

3.2.3.1. The Technical Response original document and digital copies must be placed in a sealed package that is clearly labeled:

**“DO NOT OPEN... RFP # 31620-00537 TECHNICAL RESPONSE FROM [RESPONDENT LEGAL ENTITY NAME]”**

3.2.3.2. The Cost Proposal original document and digital copy must be placed in a separate, sealed package that is clearly labeled:



**“DO NOT OPEN... RFP # 31620-00537 COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”**

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

**“RFP # 31620-00537 SEALED TECHNICAL RESPONSE & SEALED COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”**

- 3.2.4. A Respondent must ensure that The Agency receives a response no later than the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events at the following address:

Debra Murray  
Tennessee Housing Development Agency  
502 Deaderick Street, 3<sup>rd</sup> Floor  
Nashville, TN 37243

**3.3. Response & Respondent Prohibitions**

- 3.3.1. A response must not include alternate contract terms and conditions. If a response contains such terms and conditions, The Agency, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.
- 3.3.2. A response must not restrict the rights of The Agency or otherwise qualify either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal. If a response restricts the rights of The Agency or otherwise qualifies either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal, The Agency, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.
- 3.3.3. A response must not propose alternative goods or services (*i.e.*, offer services different from those requested and required by this RFP) unless expressly requested in this RFP. The Agency may consider a response of alternative goods or services to be non-responsive and reject it.
- 3.3.4. A Cost Proposal must be prepared and arrived at independently and must not involve any collusion between Respondents. The Agency will reject any Cost Proposal that involves collusion, consultation, communication, or agreement between Respondents. Regardless of the time of detection, The Agency will consider any such actions to be grounds for response rejection or contract termination.
- 3.3.5. A Respondent must not provide, for consideration in this RFP process or subsequent contract negotiations, any information that the Respondent knew or should have known was materially incorrect. If The Agency determines that a Respondent has provided such incorrect information, The Agency will deem the Response non-responsive and reject it.
- 3.3.6. A Respondent must not submit more than one Technical Response and one Cost Proposal in response to this RFP, except as expressly requested by The Agency in this RFP. If a Respondent submits more than one Technical Response or more than one Cost Proposal, The Agency will deem all of the responses non-responsive and reject them.
- 3.3.7. A Respondent must not submit a response as a prime contractor while also permitting one or more other Respondents to offer the Respondent as a subcontractor in their own responses. Such may result in the disqualification of all Respondents knowingly involved. This restriction does not, however, prohibit different Respondents from offering the same subcontractor as a part

of their responses (provided that the subcontractor does not also submit a response as a prime contractor).

3.3.8. The Agency shall not consider a response from an individual who is, or within the past six (6) months has been, a State employee. For purposes of this RFP:

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

3.3.8.2. A contract with or a response from a company, corporation, or any other contracting entity in which a controlling interest is held by any State employee shall be considered to be a contract with or proposal from the employee; and

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

#### 3.4. **Response Errors & Revisions**

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

#### 3.5. **Response Withdrawal**

A Respondent may withdraw a submitted response at any time before the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events by submitting a written request signed by an authorized Respondent representative. After withdrawing a response, a Respondent may submit another response at any time before the Response Deadline. After the Response Deadline, a Respondent may only withdraw all or a portion of a response where the enforcement of the response would impose an unconscionable hardship on the Respondent.

#### 3.6. **Additional Services**

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

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

#### 3.7. **Response Preparation Costs**

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

## **4. GENERAL CONTRACTING INFORMATION & REQUIREMENTS**

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### **4.1. RFP Amendment**

The Agency at its sole discretion may amend this RFP, in writing, at any time prior to contract award. However, prior to any such amendment, The Agency will consider whether it would negatively impact the ability of potential Respondents to meet the response deadline and revise the RFP Schedule of Events if deemed appropriate. If an RFP amendment is issued, The Agency will convey it to potential Respondents who submitted a Notice of Intent to Respond (refer to RFP Section A). A response must address the final RFP (including its attachments) as amended.

### **4.2. RFP Cancellation**

The Agency reserves the right, at its sole discretion, to cancel the RFP or to cancel and reissue this RFP in accordance with applicable laws and regulations.

### **4.3. State Right of Rejection**

4.3.1. Subject to applicable laws and regulations, The Agency reserves the right to reject, at its sole discretion, any and all responses.

4.3.2. The Agency may deem as non-responsive and reject any response that does not comply with all terms, conditions, and performance requirements of this RFP. Notwithstanding the foregoing, The Agency reserves the right to waive, at its sole discretion, minor variances from full compliance with this RFP. If The Agency waives variances in a response, such waiver shall not modify the RFP requirements or excuse the Respondent from full compliance, and The Agency may hold any resulting Contractor to strict compliance with this RFP.

### **4.4. Assignment & Subcontracting**

4.4.1. The Contractor may not subcontract, transfer, or assign any portion of the Contract awarded as a result of this RFP without prior approval of The Agency. The Agency reserves the right to refuse approval, at its sole discretion, of any subcontract, transfer, or assignment.

4.4.2. If a Respondent intends to use subcontractors, the response to this RFP must specifically identify the scope and portions of the work each subcontractor will perform (refer to RFP Attachment 6.2., Section B, General Qualifications & Experience Item B.13.).

4.4.3. Subcontractors identified within a response to this RFP will be deemed as approved by The Agency unless The Agency expressly disapproves one or more of the proposed subcontractors prior to signing the Contract.

4.4.4. After contract award, a Contractor may only substitute an approved subcontractor at the discretion of The Agency and with The Agency's prior, written approval.

4.4.5. Notwithstanding any State approval relating to subcontracts, the Respondent who is awarded a contract pursuant to this RFP will be the prime contractor and will be responsible for all work under the Contract.

### **4.5. Right to Refuse Personnel or Subcontractors**

The Agency reserves the right to refuse, at its sole discretion and notwithstanding any prior approval, any personnel of the prime contractor or a subcontractor providing goods or services in the performance of a contract resulting from this RFP. The Agency will document in writing the reason(s) for any rejection of personnel.

#### 4.6. **Insurance**

The Agency will require the awarded Contractor to provide a Certificate of Insurance issued by an insurance company licensed or authorized to provide insurance in the State of Tennessee. Each Certificate of Insurance shall indicate current insurance coverages meeting minimum requirements as may be specified by this RFP. A failure to provide a current, Certificate of Insurance will be considered a material breach and grounds for contract termination.

#### 4.7. **Professional Licensure and Department of Revenue Registration**

- 4.7.1. All persons, agencies, firms, or other entities that provide legal or financial opinions, which a Respondent provides for consideration and evaluation by The Agency as a part of a response to this RFP, shall be properly licensed to render such opinions.
- 4.7.2. Before the Contract resulting from this RFP is signed, the apparent successful Respondent (and Respondent employees and subcontractors, as applicable) must hold all necessary or appropriate business or professional licenses to provide the goods or services as required by the contract. The Agency may require any Respondent to submit evidence of proper licensure.
- 4.7.3. Before the Contract resulting from this RFP is signed, the apparent successful Respondent must be registered with the Tennessee Department of Revenue for the collection of Tennessee sales and use tax. The Agency shall not award a contract unless the Respondent provides proof of such registration or provides documentation from the Department of Revenue that the Contractor is exempt from this registration requirement. The foregoing is a mandatory requirement of an award of a contract pursuant to this solicitation. For purposes of this registration requirement, the Department of Revenue may be contacted at: TN.Revenue@tn.gov.

#### 4.8. **Disclosure of Response Contents**

- 4.8.1. All materials submitted to The Agency in response to this RFP shall become the property of The Agency of Tennessee. Selection or rejection of a response does not affect this right. By submitting a response, a Respondent acknowledges and accepts that the full response contents and associated documents will become open to public inspection in accordance with the laws of The Agency of Tennessee.
- 4.8.2. The Agency will hold all response information, including both technical and cost information, in confidence during the evaluation process.
- 4.8.3. Upon completion of response evaluations, indicated by public release of a Notice of Intent to Award, the responses and associated materials will be open for review by the public in accordance with Tenn. Code Ann. § 10-7-504(a)(7).

#### 4.9. **Contract Approval and Contract Payments**

- 4.9.1. After contract award, the Contractor who is awarded the contract must submit appropriate documentation with the Department of Finance and Administration, Division of Accounts.
- 4.9.2. This RFP and its contractor selection processes do not obligate The Agency and do not create rights, interests, or claims of entitlement in either the Respondent with the apparent best-evaluated response or any other Respondent. State obligations pursuant to a contract award shall commence only after the Contract is signed by The Agency head and the Contractor and after the Contract is approved by all other state officials as required by applicable laws and regulations.
- 4.9.3. No payment will be obligated or made until the relevant Contract is approved as required by applicable statutes and rules of The Agency.

- 4.9.3.1. The Agency shall not be liable for payment of any type associated with the Contract resulting from this RFP (or any amendment thereof) or responsible for any goods delivered or services rendered by the Contractor, even goods delivered or services rendered in good faith and even if the Contractor is orally directed to proceed with the delivery of goods or the rendering of services, if it occurs before the Contract Effective Date or after the Contract Term.
- 4.9.3.2. All payments relating to this procurement will be made in accordance with the Payment Terms and Conditions of the Contract resulting from this RFP (refer to RFP Attachment 6.6., *Pro Forma* Contract, Section C).
- 4.9.3.3. If any provision of the Contract provides direct funding or reimbursement for the competitive purchase of goods or services as a component of contract performance or otherwise provides for the reimbursement of specified, actual costs, The Agency will employ all reasonable means and will require all such documentation that it deems necessary to ensure that such purchases were competitive and costs were reasonable, necessary, and actual. The Contractor shall provide reasonable assistance and access related to such review. Further, The Agency shall not remit, as funding or reimbursement pursuant to such provisions, any amounts that it determines do not represent reasonable, necessary, and actual costs.

#### 4.10. **Contractor Performance**

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

#### 4.11. **Contract Amendment**

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

#### 4.12. **Severability**

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

#### 4.13. **Next Ranked Respondent**

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

## 5. EVALUATION & CONTRACT AWARD

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### 5.1. Evaluation Categories & Maximum Points

The Agency will consider qualifications, experience, technical approach, and cost in the evaluation of responses and award points in each of the categories detailed below (up to the maximum evaluation points indicated) to each response deemed by The Agency to be responsive.

EVALUATION CATEGORY	MAXIMUM POINTS POSSIBLE
<b>General Qualifications &amp; Experience</b> (refer to RFP Attachment 6.2., Section B)	<b>30</b>
<b>Technical Qualifications, Experience &amp; Approach</b> (refer to RFP Attachment 6.2., Section C)	<b>40</b>
<b>Cost Proposal</b> (refer to RFP Attachment 6.3.)	<b>30</b>

### 5.2. Evaluation Process

The evaluation process is designed to award the contract resulting from this RFP not necessarily to the Respondent offering the lowest cost, but rather to the Respondent deemed by The Agency to be responsive and responsible who offers the best combination of attributes based upon the evaluation criteria. (“Responsive Respondent” is defined as a Respondent that has submitted a response that conforms in all material respects to the RFP. “Responsible Respondent” is defined as a Respondent that has the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.)

5.2.1. **Technical Response Evaluation.** The Solicitation Coordinator and the Proposal Evaluation Team (consisting of three (3) or more State employees) will use the RFP Attachment 6.2., Technical Response & Evaluation Guide to manage the Technical Response Evaluation and maintain evaluation records.

5.2.1.1. The Agency reserves the right, at its sole discretion, to request Respondent clarification of a Technical Response or to conduct clarification discussions with any or all Respondents. Any such clarification or discussion will be limited to specific sections of the response identified by The Agency. The subject Respondent must put any resulting clarification in writing as may be required and in accordance with any deadline imposed by The Agency.

5.2.1.2. The Solicitation Coordinator will review each Technical Response to determine compliance with RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A— Mandatory Requirements. If the Solicitation Coordinator determines that a response failed to meet one or more of the mandatory requirements, the Proposal Evaluation Team will review the response and document the team’s determination of whether:

- a. the response adequately meets RFP requirements for further evaluation;
- b. The Agency will request clarifications or corrections for consideration prior to further evaluation; or,
- c. The Agency will determine the response to be non-responsive to the RFP and reject it.

- 5.2.1.3. Proposal Evaluation Team members will independently evaluate each Technical Response (that is responsive to the RFP) against the evaluation criteria in this RFP, and will score each in accordance with the RFP Attachment 6.2., Technical Response & Evaluation Guide.
- 5.2.1.4. For each response evaluated, the Solicitation Coordinator will calculate the average of the Proposal Evaluation Team member scores for RFP Attachment 6.2., Technical Response & Evaluation Guide, and record each average as the response score for the respective Technical Response section.
- 5.2.1.5. Before Cost Proposals are opened, the Proposal Evaluation Team will review the Technical Response Evaluation record and any other available information pertinent to whether or not each Respondent is responsive and responsible. If the Proposal Evaluation Team identifies any Respondent that does not meet the responsive and responsible thresholds such that the team would not recommend the Respondent for Cost Proposal Evaluation and potential contract award, the team members will fully document the determination.
- 5.2.2. **Cost Proposal Evaluation.** The Solicitation Coordinator will open for evaluation the Cost Proposal of each Respondent deemed by The Agency to be responsive and responsible and calculate and record each Cost Proposal score in accordance with the RFP Attachment 6.3., Cost Proposal & Scoring Guide.
- 5.2.3. **Total Response Score.** The Solicitation Coordinator will calculate the sum of the Technical Response section scores and the Cost Proposal score and record the resulting number as the total score for the subject Response (refer to RFP Attachment 6.5., Score Summary Matrix).

### 5.3. Contract Award Process

- 5.3.1 The Solicitation Coordinator will submit the Proposal Evaluation Team determinations and scores to the head of the procuring Agency for consideration along with any other relevant information that might be available and pertinent to contract award.
- 5.3.2. The procuring Agency head will determine the apparent best-evaluated Response. To effect a contract award to a Respondent other than the one receiving the highest evaluation process score, the head of the procuring Agency must provide written justification and obtain the written approval of the Chief Procurement Officer and the Comptroller of the Treasury.
- 5.3.3. The Agency will issue a Notice of Intent to Award identifying the apparent best-evaluated response and make the RFP files available for public inspection at the time and date specified in the RFP Section 2, Schedule of Events.

**NOTICE: The Notice of Intent to Award shall not create rights, interests, or claims of entitlement in either the apparent best-evaluated Respondent or any other Respondent.**

- 5.3.4. The Respondent identified as offering the apparent best-evaluated response must sign a contract drawn by The Agency pursuant to this RFP. The Contract shall be substantially the same as the RFP Attachment 6.6., *Pro Forma* Contract. The Respondent must sign the contract by the Contractor Signature Deadline detailed in the RFP Section 2, Schedule of Events. If the Respondent fails to provide the signed Contract by this deadline, The Agency may determine that the Respondent is non-responsive to this RFP and reject the response.
- 5.3.5. Notwithstanding the foregoing, The Agency may, at its sole discretion, entertain limited negotiation prior to Contract signing and, as a result, revise the *pro forma* contract terms and conditions or performance requirements in The Agency's best interests, PROVIDED THAT such revision of terms and conditions or performance requirements shall NOT materially affect the

basis of response evaluations or negatively impact the competitive nature of the RFP and contractor selection process.

- 5.3.6. If The Agency determines that a response is non-responsive and rejects it after opening Cost Proposals, the Solicitation Coordinator will re-calculate scores for each remaining responsive Cost Proposal to determine (or re-determine) the apparent best-evaluated response.



**RFP # 31620-00537 STATEMENT OF CERTIFICATIONS AND ASSURANCES**

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

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

1. The Respondent will comply with all of the provisions and requirements of the RFP.
2. The Respondent will provide all services as defined in the Scope of the RFP Attachment 6.6., *Pro Forma* Contract for the total Contract Term.
3. The Respondent, except as otherwise provided in this RFP, accepts and agrees to all terms and conditions set out in the RFP Attachment 6.6., *Pro Forma* Contract.
4. The Respondent acknowledges and agrees that a contract resulting from the RFP shall incorporate, by reference, all proposal responses as a part of the Contract.
5. The Respondent will comply with:
  - (a) the laws of the State of Tennessee;
  - (b) Title VI of the federal Civil Rights Act of 1964;
  - (c) Title IX of the federal Education Amendments Act of 1972;
  - (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
  - (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
6. To the knowledge of the undersigned, the information detailed within the response submitted to this RFP is accurate.
7. The response submitted to this RFP was independently prepared, without collusion, under penalty of perjury.
8. No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Respondent in connection with this RFP or any resulting contract.
9. Both the Technical Response and the Cost Proposal submitted in response to this RFP shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the RFP.
10. 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 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 §12-12-106." For reference purposes, the list is currently available online at: <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/library-/public-information-library.html>.

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

**DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO BIND THE RESPONDENT**

**SIGNATURE:**

\_\_\_\_\_

**PRINTED NAME & TITLE:**

\_\_\_\_\_

**DATE:**

\_\_\_\_\_

**RESPONDENT LEGAL ENTITY  
NAME:**

\_\_\_\_\_

**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 Agency 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 Agency 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 subcontractor) (refer to RFP Section 3.3.).	
	<b>A.1.</b>	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.	
	<b>A.2.</b>	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 Agency, and The Agency reserves the right to cancel any award.	
	<b>A.3.</b>	INSERT APPROPRIATE MANDATORY REQUIREMENT OPTIONS AS NEEDED. (FOLLOWING A.2., YOU MUST INCLUDE AT LEAST ONE OPTION TO DETERMINE FINANCIAL RESPONSIBILITY).	
	<b>A.#.</b>	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.	

<b>RESPONDENT LEGAL ENTITY NAME:</b>			
<b>Response Page # (Respondent completes)</b>	<b>Item Ref.</b>	<b>Section A— Mandatory Requirement Items</b>	<b>Pass/Fail</b>
<i>THDA Use – Solicitation Coordinator Signature, Printed Name &amp; Date:</i>			

**TECHNICAL RESPONSE & EVALUATION GUIDE**

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

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

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.11.	Provide a narrative description of the proposed project team, its members, and organizational structure along with an organizational chart identifying the key people who will be assigned to deliver the goods or services required by this RFP.
	B.12.	Provide a personnel roster listing the names of key people who the Respondent will assign to meet the Respondent’s requirements under this RFP along with the estimated number of hours that each individual will devote to that performance. Follow the personnel roster with a resume for each of the people listed. The resumes must detail the individual’s title, education, current position with the Respondent, and employment history.
	B.13.	Provide a statement of whether the Respondent intends to use subcontractors to meet the Respondent’s requirements of any contract awarded pursuant to this RFP, and if so, detail: <ul style="list-style-type: none"> <li>(a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each;</li> <li>(b) a description of the scope and portions of the goods each subcontractor involved in the delivery of goods or performance of the services each subcontractor will perform; <u>and</u></li> <li>(c) a statement specifying that each proposed subcontractor has expressly assented to being proposed as a subcontractor in the Respondent’s response to this RFP.</li> </ul>
	B.14.	<p>Provide documentation of the Respondent’s commitment to diversity as represented by the following:</p> <ul style="list-style-type: none"> <li>(a) <u>Business Strategy</u>. Provide a description of the Respondent’s existing programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises. Please also include a list of the Respondent’s certifications as a diversity business, if applicable.</li> <li>(b) <u>Business Relationships</u>. Provide a listing of the Respondent’s current contracts with business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises. Please include the following information:                             <ul style="list-style-type: none"> <li>(i) contract description;</li> <li>(ii) contractor name and ownership characteristics (<i>i.e.</i>, ethnicity, gender, service-disabled veteran-owned or persons with disabilities);</li> <li>(iii) contractor contact name and telephone number.</li> </ul> </li> <li>(c) <u>Estimated Participation</u>. Provide an estimated level of participation by business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities and small business enterprises if a contract is awarded to the Respondent pursuant to this RFP. Please include the following information:                             <ul style="list-style-type: none"> <li>(i) a percentage (%) indicating the participation estimate. (Express the estimated participation number as a percentage of the total estimated contract value that will be dedicated to business with subcontractors and supply contractors having such ownership characteristics only and <b>DO NOT INCLUDE DOLLAR AMOUNTS</b>);</li> <li>(ii) anticipated goods or services contract descriptions;</li> <li>(iii) names and ownership characteristics (<i>i.e.</i>, ethnicity, gender, service-disabled veterans, or disability) of anticipated subcontractors and supply contractors.</li> </ul> </li> </ul> <p>NOTE: In order to claim status as a Diversity Business Enterprise under this contract, businesses must be certified by the Governor’s Office of Diversity Business Enterprise (Go-DBE). Please visit the Go-DBE website at <a href="https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&amp;XID=9810">https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&amp;XID=9810</a> for more information.</p>

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		<p>(d) <u>Workforce</u>. Provide the percentage of the Respondent’s total current employees by ethnicity and gender.</p> <p>NOTE: Respondents that demonstrate a commitment to diversity will advance State efforts to expand opportunity to do business with The Agency as contractors and subcontractors. Response evaluations will recognize the positive qualifications and experience of a Respondent that does business with enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises and who offer a diverse workforce.</p>
	<b>B.15.</b>	<p>Provide a statement of whether or not the Respondent has any current contracts with the State of Tennessee or has completed any contracts with the State of Tennessee within the previous five (5) year period. If so, provide the following information for all of the current and completed contracts:</p> <p>(a) the name, title, telephone number and e-mail address of the State contact knowledgeable about the contract;</p> <p>(b) the procuring State Agency name;</p> <p>(c) a brief description of the contract’s scope of services;</p> <p>(d) the contract period; and</p> <p>(e) the contract number.</p> <p>NOTES:</p> <ul style="list-style-type: none"> <li>▪ Current or prior contracts with the State are <u>not</u> a prerequisite and are <u>not</u> required for the maximum evaluation score, and the existence of such contracts with the State will <u>not</u> automatically result in the addition or deduction of evaluation points.</li> <li>▪ Each evaluator will generally consider the results of inquiries by the State regarding all contracts noted.</li> </ul>
	<b>B.16.</b>	<p>Provide customer references from individuals who are <u>not</u> current or former State employees for projects similar to the goods or services sought under this RFP and which represent:</p> <ul style="list-style-type: none"> <li>▪ two (2) accounts Respondent currently services that are similar in size to The Agency; <u>and</u></li> <li>▪ three (3) completed projects.</li> </ul> <p>References from at least three (3) different individuals are required to satisfy the requirements above, e.g., an individual may provide a reference about a completed project and another reference about a currently serviced account. The standard reference questionnaire, which <u>must</u> be used and completed, is provided at RFP Attachment 6.4. References that are not completed as required may be deemed non-responsive and may not be considered.</p> <p>The Respondent will be <u>solely</u> responsible for obtaining fully completed reference questionnaires and including them in the sealed Technical Response. In order to obtain and submit the completed reference questionnaires follow the process below.</p> <p>(a) Add the Respondent’s name to the standard reference questionnaire at RFP Attachment 6.4. and make a copy for each reference.</p> <p>(b) Send a reference questionnaire and new, standard #10 envelope to each reference.</p> <p>(c) Instruct the reference to:</p> <ol style="list-style-type: none"> <li>(i) complete the reference questionnaire;</li> <li>(ii) sign and date the completed reference questionnaire;</li> <li>(iii) seal the completed, signed, and dated reference questionnaire within the envelope provided;</li> <li>(iv) sign his or her name in ink across the sealed portion of the envelope; and</li> <li>(v) return the sealed envelope directly to the Respondent (the Respondent may wish to give each reference a deadline, such that the Respondent will be able to collect all required references in time to include them within the sealed Technical Response).</li> </ol> <p>(d) <u>Do NOT open the sealed references upon receipt.</u></p>

<b>RESPONDENT LEGAL ENTITY NAME:</b>		
<b>Response Page #</b> (Respondent completes)	<b>Item Ref.</b>	<b>Section B— General Qualifications &amp; Experience Items</b>
		<p>(e) Enclose all <u>sealed</u> reference envelopes within a larger, labeled envelope for inclusion in the Technical Response as required.</p> <p>NOTES:</p> <ul style="list-style-type: none"> <li>▪ The Agency will not accept late references or references submitted by any means other than that which is described above, and each reference questionnaire submitted must be completed as required.</li> <li>▪ The Agency will not review more than the number of required references indicated above.</li> <li>▪ While The Agency will base its reference check on the contents of the sealed reference envelopes included in the Technical Response package, The Agency reserves the right to confirm and clarify information detailed in the completed reference questionnaires, and may consider clarification responses in the evaluation of references.</li> <li>▪ The Agency is under <u>no</u> obligation to clarify any reference information.</li> </ul>
	<b>B.17.</b>	<p>Provide a statement and any relevant details addressing whether the Respondent is any of the following:</p> <ul style="list-style-type: none"> <li>(a) is presently debarred, suspended, proposed for debarment, or voluntarily excluded from covered transactions by any federal or state department or Agency;</li> <li>(b) has within the past three (3) years, been convicted of, or had a civil judgment rendered against the contracting party from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;</li> <li>(c) is presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed above; and</li> <li>(d) has within a three (3) year period preceding the contract had one or more public transactions (federal, state, or local) terminated for cause or default.</li> </ul>
		<p><b>SCORE (for <u>all</u> Section B—Qualifications &amp; Experience Items above):</b> (maximum possible score = 30)</p>
<p><i>THDA Use – Evaluator Identification:</i></p>		

**TECHNICAL RESPONSE & EVALUATION GUIDE**

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

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

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

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

<b>RESPONDENT LEGAL ENTITY NAME:</b>					
<b>Response Page # (Respondent completes)</b>	<b>Item Ref.</b>	<b>Section C— Technical Qualifications, Experience &amp; Approach Items</b>	<b>Item Score</b>	<b>Evaluation Factor</b>	<b>Raw Weighted Score</b>
	<b>C.1.</b>	Provide a narrative that illustrates the Respondent's understanding of The Agency's requirements and project schedule.		<b>NUMBER</b>	
	<b>C.2.</b>	Provide a narrative that illustrates how the Respondent will complete the scope of services, accomplish required objectives, and meet The Agency's project schedule.		<b>NUMBER</b>	
	<b>C.3.</b>	Provide a narrative that illustrates how the Respondent will manage the project, ensure completion of the scope of services, and accomplish required objectives within The Agency's project schedule.		<b>NUMBER</b>	
	<b>C.4.</b>	Contractor provides the entire infrastructure for a software as a service (SaaS) housing locator system hosted by the Contractor with required hardware and software to run the site through a Tier-1 service provider.		<b>NUMBER</b>	
	<b>C.5.</b>	Contractor provides support to both Agency and public users (users listing and searching) through a call center with live technicians and/or an online ("chat") feature available during normal business days/hours.		<b>NUMBER</b>	
	<b>C.6.</b>	Contractor is able to provide Disaster Housing Intervention Services within seven days of Agency notification to include intensive research and outreach to owners/agents of rental property in the affected area to increase the supply of available units on the housing locator site that are available or targeted to displaced residents.		<b>NUMBER</b>	
<i>The Solicitation Coordinator will use this sum and the formula below to calculate the section score. All calculations will use and result in numbers rounded to two (2) places to the right of the decimal point.</i>					<b>Total Raw Weighted Score:</b> <i>(sum of Raw Weighted Scores above)</i>
<b>Total Raw Weighted Score</b> <hr/> <b>Maximum Possible Raw Weighted Score</b> <i>(i.e., 5 x the sum of item weights above)</i>			<b>X 40</b> <i>(maximum possible score)</i>	<b>= SCORE:</b>	
<i>THDA Use – Evaluator Identification:</i>					
<i>THDA Use – Solicitation Coordinator Signature, Printed Name &amp; Date:</i>					



**COST PROPOSAL & SCORING GUIDE**

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

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

ADDITIONAL REQUIREMENTS FOR COMPLETING PROPOSED COST (*I.E.*, MINIMUM AMOUNT, “BLANK” CELLS, *ETC.*)

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

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

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

<b>RESPONDENT SIGNATURE:</b>			
<b>PRINTED NAME &amp; TITLE:</b>			
<b>DATE:</b>			
<b>RESPONDENT LEGAL ENTITY NAME:</b>			
Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
Technical infrastructure (specifications/features):	\$	NUMBER	
Site Support (call center and/or online support):	\$	NUMBER	
Disaster Intervention Services:	\$	NUMBER	
Training, Marketing and Outreach Support:	\$	NUMBER	
Ongoing maintenance, reporting and technical updates:	\$	NUMBER	
Rent Reasonableness:	\$	NUMBER	
<b>EVALUATION COST AMOUNT</b> (sum of evaluation costs above):			
The Solicitation Coordinator will use this sum and the formula below to calculate the Cost Proposal Score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.			
<b>lowest evaluation cost amount from <u>all</u> proposals</b>	<b>x 30</b>	<b>= SCORE:</b>	
_____	<b>(maximum section score)</b>		
<b>evaluation cost amount being evaluated</b>			
<i>THDA Use – Solicitation Coordinator Signature, Printed Name &amp; Date:</i>			

**RFP # 31620-00537 PRO FORMA CONTRACT**

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

**CONTRACT**

**TENNESSEE HOUSING DEVELOPMENT AGENCY  
AND  
CONTRACTOR NAME**

This Contract, by and between Tennessee Housing Development Agency, an instrumentality and political subdivision of the State of Tennessee hereinafter referred to as (“The Agency”) and Contractor Legal Entity Name (“Contractor”), is for the provision of Scope of Goods or Services Caption, as further defined in the "SCOPE." State and Contractor may be referred to individually as a “Party” or collectively as the “Parties” to this Contract.

The Contractor is a/an Individual, For-Profit Corporation, Non-Profit Corporation, Special Purpose Corporation Or Association, Partnership, Joint Venture, Or Limited Liability Company.  
Contractor Place of Incorporation or Organization: Location  
Contractor Edison Registration ID # Number

**A. SCOPE:**

A.1. The Contractor shall provide all goods or services and deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract.

A.2.a. Overview of Requirements. THDA seeks contractors who can provide an existing software as a service (SaaS) housing locator, including ongoing service and maintenance. The housing locator service should use the most current web interfaces and technology and be fully operational with both desktop operating systems (including Windows and Macintosh) and mobile operating systems (including Android OS (and iPhone OS / iOS).

The system must be user friendly for both property owners/agents listing properties and system users searching for housing. Owners/agents should be able to list a property or unit quickly and efficiently on the site, including the ability to “clone” units to make listing multiple units more efficient, and hide a listing once rented. The listing feature must allow for listing and classifying market rate and all types of affordable (including income-based and subsidized) rental units, rental properties with waiting lists, and allow owners/agents to list a wide range of amenities and accessibility features.

The search feature must allow the user to search for rental units by a variety of characteristics, including location (using modernized mapping functionality), cost (to include the ability to search for subsidized or income-based units), amenities, accessibility features, services, and the acceptance of tenant based rental assistance.

THDA seeks a housing locator system supported by a bi-lingual call center with live technicians (English and Spanish speakers) who can assist owners/agents in posting units and prospective tenants in locating an appropriate unit as needed. The call center also shall be equipped to support disaster response activities as needed (to assist with quickly locating and posting vacant rental units in the affected area).

The system shall be accessible to persons with disabilities and meet the standards under Title II, Section 508 of the Americans with Disabilities Act, including compatibility with assistive technology devices commonly used by people with disabilities for information and communication.

The selected contractor must be experienced in providing housing locator services at a statewide level and preferably be able to provide a reference of at least one state housing finance Agency that has an existing contract for a hosted web-based housing locator system with the contractor.

THDA prefers a housing locator system that includes technology to support the Agency's HCV program activities in the area of rent reasonableness testing.

A.2. b. Project Milestones

A.2. b.1. Contractor Initial & Maintenance Services Year 1 – Initial and maintenance services are to be provided by the Contractor during the first year of the contract.

A.2.b.1.a Contractor provides Project Schedule for the Website Launch.

**Required Completion: 30 Days after Establishing Contract**

A.2.b.1.b. Contractor provides the entire infrastructure for a software as a service (SaaS) housing locator system with the following specifications/features:

1. Website is hosted by Contractor, who maintains all required hardware and software to run the site through a Tier-1 service provider, including:
  - a. Maintenance of servers and software with all required security patches and software updates.
  - b. System functions optimally in both desktop (including Windows and Macintosh) and mobile environments (including Android OS (and iPhone OS / iOS).
  - c. System has both English and Spanish navigation paths and has Google Translate imbedded into every Website page.
  - d. System coding meets the standards under Title II, Section 508 of the Americans with Disabilities Act, including compatibility with assistive technology devices commonly used by people with disabilities for information and communication.
2. Contractor responds timely to issues concerning access to, or functionality of, the website.
3. System allows for a customizable home page with customer specific banners and information, a listing tool for owners/agents, a search tool for users and a customer controlled content management system for press releases and other important information.
4. System allows property owners/agents to access system via the Web and register for a listing account (at no cost) to include the following information about the owner/property management company (at a minimum):
  - a. Contact information (name, address, phone number, email address)
  - b. Languages spoken
  - c. Website address for property website.
  - d. Includes a User Agreement for appropriate use of the site.
5. System allows each registered property owner/agent to input/upload the following information for each rental property or unit(s) the owner/agent has under their control (at a minimum):
  - a. Property location (street address, city, state and zip code)
  - b. Property Name (optional for single family units)

- c. Property Description (reasonable character limit)
  - d. Property/unit type (apartment, duplex, triplex, condo/townhome, single family, etc.)
  - e. Year built
  - f. Unit size (number of bedrooms & bathrooms (full and half))
  - g. Utility type (gas, electric, etc.) & utilities included in rent
  - h. Appliance type & appliances included in rent
  - i. Specify if unit is special housing type, such as shared housing or assisted living or restricted to persons who are senior or disabled.
  - j. Application fee amount & requirement for credit and criminal background check
  - k. Affordability restrictions. Options should include the following: (1) All units are market/fixed rent; (2) Some units are income restricted with rent limits; (3) All units are income restricted with rent limits; (4) Some units are income restricted with rent subsidy; (5) All units are income restricted with rent subsidy. For owners/agents who select options (1), (2) and (3), the additional option to select that tenant based rental assistance is accepted or not accepted should be available. Essentially, the owner/agent should be able to designate the property clearly in terms of the type of affordability restrictions, if any (income based or not); program funding, if any (LIHTC, HUD, state) and whether the rent is subsidized or tenant based subsidies are accepted.
  - l. Rent amount/range (to include the ability to optionally include with the rent range the following affordability notice: "based upon income- household pays up to 30 percent of monthly adjusted income toward rent")
  - m. Parking and transportation access
  - n. Amenities/Nearby services
  - o. School information
  - p. Pet policy
  - q. Lease terms
  - r. Multiple photographs of the property/unit listing
6. System allows the option for the owner/manager to select to show the property website address or URL in the housing locator listing, and allow the user to select the hyperlink from within the housing locator listing (to open and view the property website in a new window).
  7. System allows the owner/agent the option to include a unique short message in the property listing that displays near the property website URL.
  8. System must provide the option for the owner/agent to target a property or unit to special needs populations (based upon an Agency-defined list of special programs). The system shall include a message to the owner that the listing may not be viewable by the general public if the option is selected.
  9. System shall allow for the owner/agent to "hide" the property/unit listing with one or a few simple keystrokes, and for the Contractor or Agency to remove or hide a property/unit listing(s) from public view based upon rental status, age of listing (date of last update to record), complaints or the inability to reach owner/agent to provide update status.
  10. System shall allow users to access via the Web and to search for listed properties/units by the following filters (at a minimum):
    - a. County name, city name or zip code.
    - b. Distance from a particular address.
    - c. Advanced search capability that further filters returns by the following factors (include as many or as few as user selects): unit type, unit size (number of bedrooms and bathrooms), cost (rent range), type of utilities/appliances, utilities included in rent, affordability (subsidized and/or income based units or properties where rental assistance is accepted), accessibility features, credit/criminal background checks.
    - d. Select to filter (display or not display) properties/units with a waiting list.
  11. System must display an initial return screen to include property/unit listings based upon user-selected filters. The initial return screen display must include a map beside the list view using

the most current version of a mapping software program embedded into the housing locator, such as Google.

- a. The list view included on the initial return screen shall have abbreviated information on each listing to include: one photo, property name (if applicable), rent range (including affordability information), phone number, property website (where applicable), accessibility, a link to a detailed property/unit description page.
- b. The map on the initial return screen shall appear beside the property/unit listings and shall identify all units (unless wait list units filtered out, then only available units should appear on map) within the specified search criteria (county, city or zip code) with pins.
- c. Map should color code pins on map to classify available and wait list units.
- d. Map allows user to hover over a pin and see limited information on a property, including, at a minimum, address, unit size, and cost.
- e. Wait listed properties/units (when not filtered out) shall appear at the end of all returns on the initial return screen (after available units/properties in the list).

12. System must, at a minimum, maintain data for the following criteria and display the information in a full screen/view when the user selects to view the full details about a property/unit from the initial return screen:

- a. Property location (street address, city, state and zip code)
- b. Property Name (optional for single family units)
- c. Property Description (reasonable character limit)
- d. Property/unit type (apartment, duplex, triplex, condo/townhome, single family, etc.)
- e. Year built
- f. Unit size (number of bedrooms & bathrooms (full and half))
- g. Utility type (gas, electric, etc.) & utilities included in rent
- h. Appliance type & appliances included in rent
- i. Any special housing designations (shared housing, assisted living or senior/disabled), where applicable.
- j. Application fee amount & requirement for credit and criminal background check
- k. Affordability restrictions/criteria (including income restrictions and subsidies and when tenant based rental assistance is accepted)
- l. Rent amount/range
- m. Parking and transportation access
- n. Amenities/Nearby services
- o. School information
- p. Pet policy
- q. Lease terms
- r. Photographs of the property/unit listing
- s. Contact information for property owner/manager (name, email and phone number)
- t. Web address or URL for property website

13. System allows the user to save listings as favorites.

14. System must provide special needs housing searches with further ability to assign caseworkers that can login to the system and view information on listings restricted from other users.

15. System must include a mechanism for users to directly report concerns with a listing, and Contractor must have a process in place to remove listed properties/units when a reported violation occurs with a notice to the Agency.

**Required Completion: 60 Days after Establishing Contract**

A.2.b.1.c. Contractor provides Initial Training, Marketing and Outreach Support as follows:

1. Shares marketing plans successfully used by other Contractor's clients, helping to modify this Plan as required for The Agency.
2. Makes up to two (2) on-site visits per year at the Agency's request for training and/or outreach support.
3. Sends at least two email blasts with information on how to list properties on the site and the benefits of listing to include at a minimum all THDA funded property owners/managers; all Section 8 and USDA subsidized apartment owners/managers, all Public Housing Authorities (PHAs), all apartment association members in Tennessee and all registered users of THDA's current housing locator service. The agency will help compile the outreach email list.
4. Contractor should help support activities with Tennessee PHAs to encourage integration of the housing locator into their programs.

**Required Completion: 90-180 Days After Establishing Contract**

A.2.b.1.d. Contractor provides a Call Center with live technicians to support the online housing locator.

1. Call center maintains a bi-lingual staff who speak both English and Spanish with fluency.
2. Call center contacts each registered listing owner/agent with listings in the Agency's current housing locator service within the first 90 days to assist with re-listing or updating the properties/units on the housing locator site.
3. Call center provides site support, at a minimum from 8am to 5pm, Central Standard Time, Monday thru Friday excluding holidays to assist owners/agents with registering, listing and updating properties.
4. Call center provides site support, at a minimum from 8am to 5pm, Central Standard Time, Monday thru Friday excluding holidays, to assist users with guided housing search support (service usage training and/or perform searches for user).
5. Call center provides general support to Agency users by phone and email, at a minimum from 8am to 5pm, Central Standard Time, Monday thru Friday excluding holidays.
6. Call center provides site support for registered case workers (special needs housing) by assisting with guided housing search support and with setting up user id and password for restricted areas at a minimum from 8am to 5pm, Central Standard Time, Monday thru Friday excluding holidays.
7. Call center staff will screen properties for listing accuracy on a routine basis; remove listings that do not meet Agency criteria for remaining active; and monitor and report potential Fair Housing violations to the agency.
8. In each case of a Major Disaster Event, Call Center creates emergency housing alert emails and sends to all registered owners/agents in an affected area or multiple areas up to the entire state and non-Tennessee counties supported by THDA's partners.

**Required Completion: 90 – 120 Days After Establishing Contract**

A.2.b.1.e. Reports. Contractor shall maintain on-demand access for THDA to retrieve statistical information from the website and will provide system wide data extracts.

1. Contractor will provide and maintain the following standard on-demand reports.
  - a. Available listings by date range (week, month, etc.), location (city, county, zip code) and affordability
  - b. New listings by date range (week, month, etc.), location (city, county, zip code) and affordability

- c. Listings hidden or removed by date range (week, month, etc.) and affordability
  - d. On a bi-annual basis, THDA will provide a list of THDA funded or contracted property listings (by unique identifier/contract id.; address (city, state, zip), and Contractor will compare the data to the housing locator data for active and inactive listings and return a report to the Agency
2. Custom data queries/reports may be requested and will be billed at agreed upon rates as determined between THDA and the Contractor.
  3. Contractor will provide a full data extract to the Agency as requested (within 30 days of the date of request).
  4. Contractor will provide Google Analytics on the website's audience by date range (daily, weekly, monthly, etc.).

**Required Completion: 90-120 Days After Establishing Contract**

A.2.b.1.f. Section 8 Rent Reasonableness

1. System shall include the ability to conduct rent reasonableness tests for the HCV program using recently listed properties and meeting all testing requirements by HUD statute (24 CFR 574.320 (a)(3)), including:
  - a. Allows user to input address and other features of the unit required by HUD for the test (rent amount, number of bedrooms, number of bathrooms, owner paid utilities, utility/energy source (gas/electric), appliances, quality, year built, amenities and services) for subject unit.
  - b. System compares subject unit to recently listed (past 12 months) units of the same housing type in the housing locator database within a user specified distance/range based upon the following factors (and any additional factors HUD may require): rent amount, number of bedrooms, number of bathrooms, owner paid utilities, utility/energy source (gas/electric), appliances, quality, year built, amenities and services.
  - c. System attempts to find three (3) units that match the subject unit based upon the HUD required factors.
  - d. If system is unable to find three (3) comparable units within the user specified distance/range that are similar to subject unit (within reasonable established limits), the system should search for units in similar locations based on geographic similarity.
  - e. System produces a certification form that includes the following for the subject unit and the three (3) comparable units selected from the system: rent amount, number of bedrooms, number of bathrooms, owner paid utilities, utility/energy source (gas/electric), appliances, quality, year built, amenities and services. The form shall be printable.
  - f. System creates an export file that meets the Agency's specifications for import on a nightly basis that consists of recently listed rental units (within past 6 months) that includes the following specifications: Survey date, building/unit type, address, city, state, zip, number of bedrooms and bathrooms, year built, square feet, quality of unit, rent amount, county, utility and appliance type (and any utilities or appliances included in the rent).
2. Contractor provides support for the rent reasonableness activities as follows.
  - a. Track when comparable units expire on a monthly basis to identify areas that require updates/re-population of data.
  - b. Contractor staff contact listings prior to their expiration and update the information in the system.
  - c. Research and add comparable units to the system in areas of identified need.
  - d. Handle on-demand service requests for additional comparable units of a certain type within a certain region within two business days.

## **Required Completion: 90-120 Days After Establishing Contract**

### A.2.c.1. Contractor Annual Activities (Year 2 & 3)

A.2.c.1.a. Contractor hosts and maintains the system as software (SaaS) housing locator system meeting all specifications to list and locate affordable housing units in Tennessee as follows:

1. Provides and maintains all required hardware and software to run the site through a Tier-1 service provider with appropriate power and bandwidth requirements.
2. Maintains servers and software with all required security patches and software updates.
3. Updates coding as needed to maintain full functionality of the website, including compatibility with assistive technology devices (Title II, Section 508, ADA).
4. Provides periodic modernization to website features

A.2.c.1.b. Call Center. Contractor maintains bilingual (English/Spanish) toll free call center access at a minimum from 8am to 5pm, Central Standard Time, Monday thru Friday excluding holidays:

1. To provide assistance to owners/agents with property listings and updates.
2. To assist users with finding vacant rental units.
3. To provide general support to Agency users by phone and email.
4. To provide site support for registered case workers (special needs housing).
5. To screen properties for listing accuracy on a routine basis; remove listings that do not meet Agency criteria for remaining active; and monitor and report potential Fair Housing violations to the Agency.

A.2.c.1.c. Outreach, Marketing and Training support

1. Contractor must notify property owners/managers to update their listings when a listing has remained dormant for more than 90 days.
2. Contractor shall make up to two (2) on-site visits per year, at the Agency's request, for training and/or outreach support.
3. Contractor shall conduct up to ten (10) webinars per year, at the Agency's request, for training and/or outreach support.
4. Contractor shall work with Tennessee PHAs to integrate the housing locator into their programs as requested.

A.3.c.1.d Reports. Contractor shall maintain on-demand access for THDA to retrieve statistical information from the website and will provide system wide data extracts.

1. Contractor will provide and maintain the following standard on-demand reports.
  - a. Available listings by date range (week, month, etc.), location (city, county, zip code) and affordability.
  - b. New listings by date range (week, month, etc.), location (city, county, zip code) and affordability.
  - c. Listings hidden or removed by date range (week, month, etc.) and affordability
  - d. On a bi-annual basis, THDA will provide a list of THDA funded or contracted property listings (by unique identifier/contract id.; address (city, state, zip), and



Contractor will compare the data to the housing locator data for active and inactive listings and return a report to the Agency.

1. Custom data queries/reports may be requested and will be billed at the contract rate for reports.
2. Contractor will provide a full data extract to the Agency as requested (within 30 days of the date of request).
3. Contractor will provide Google Analytics on the website's audience by date range (daily, weekly, monthly, etc.).

**Time Period: 90 Days from Beginning of Agreement through Day 1,095 of the Agreement**

A.2.c.1.d. Rent Reasonableness

1. A rent reasonableness test module for the HCV program should be maintained that meets all testing requirements by HUD (24 CFR 574.320 (a)(3)).
2. Contractor shall provide certain support for the rent reasonableness activities as follows.
  - a. Track when comparable units expire on a monthly basis to identify areas that require updates/re-population of data.
  - b. Contractor staff shall contact listings prior to their expiration and update the information in the system.
  - c. Research and add comparable units to the system in areas of identified need.
  - d. Handle on-demand service requests for additional comparable units of a certain type within a certain region within two business days.

**Time Period: 90 Days from Beginning of Agreement through Day 1,095 of the Agreement**

A.2.d. Contingency Major Disaster Action –Year 1 -3

Upon request of The Agency, be prepared to implement Disaster Housing Intervention Services to include intensive research and outreach to owners/agents of rental property in the affected area to increase the supply of available units on the housing locator site that are available or targeted to displaced residents.

- a. The disaster activities associated with small events where fewer than 100 households are displaced shall be included as routine.
- b. Disaster activities associated with larger events will be subject to billing as provided in the Contract.

**Time Period: 90 Days from Beginning of Agreement through Day 1,095 of the Agreement**

- A.3. Warranty. Contractor represents and warrants that the term of the warranty (“Warranty Period”) shall be the greater of the Term of this Contract or any other warranty generally offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a “Defect” and shall be considered “Defective.” If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect, at no additional charge.

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

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

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

A.4. Inspection and Acceptance. The Agency shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, The Agency determines that the goods or services are Defective, The Agency shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to The Agency. If after a period of thirty (30) days following delivery of goods or performance of services The Agency does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by The Agency.

A.5.

**B. TERM OF CONTRACT:**

This Contract shall be effective on DATE ("Effective Date") and extend for a period of number (#) months after the Effective Date ("Term"). The Agency shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

**C. PAYMENT TERMS AND CONDITIONS:**

C.1. Maximum Liability. In no event shall the maximum liability of The Agency under this Contract exceed Written Dollar Amount (\$Number) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The Agency does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by The Agency or as otherwise specified by this Contract.

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

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

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

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

Goods or Services Description	Amount (per compensable increment)
Milestone	\$ Number

Unit	\$ Number each
Job Title /Activity	\$ Number per Hour /Day /etc.
Use & Repeat Rows Above as Necessary	

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.
- C.5. Invoice Requirements. The Contractor shall invoice The Agency only for goods delivered and accepted by The Agency or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month, and no later than thirty (30) days after goods or services have been provided to the following address:

State Agency Billing Address

- a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):
- (1) Invoice number (assigned by the Contractor);
  - (2) Invoice date;
  - (3) Contract number (assigned by The Agency);
  - (4) Customer account name: State Agency & Division Name;
  - (5) Customer account number (assigned by the Contractor to the above-referenced Customer);
  - (6) Contractor name;
  - (7) Contractor Tennessee Edison registration ID number;
  - (8) Contractor contact for invoice questions (name, phone, or email);
  - (9) Contractor remittance address;
  - (10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
  - (11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
  - (12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
  - (13) Amount due for each compensable unit of good or service; and
  - (14) Total amount due for the invoice period.
- b. Contractor's invoices shall:
- (1) Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;
  - (2) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
  - (3) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
  - (4) Include shipping or delivery charges only as authorized in this Contract.
- c. The timeframe for payment (or any discounts) begins only when The Agency is in receipt of an invoice that meets the minimum requirements of this Section C.5.
- C.6. Payment of Invoice. A payment by The Agency shall not prejudice The Agency's right to object to or question any payment, invoice, or other matter. A payment by The Agency shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.

- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by The Agency, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.
- C.8. Deductions. The Agency reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and The Agency, any amounts that are or shall become due and payable to the Agency by the Contractor.
- C.9. Prerequisite Documentation. The Contractor shall not invoice The Agency under this Contract until The Agency has received the following, properly completed documentation.
  - a. The Contractor shall complete, sign, and present to The Agency the "Authorization Agreement for Automatic Deposit Form" provided by The Agency. By doing so, the Contractor acknowledges and agrees that, once this form is received by The Agency, payments to the Contractor, under this or any other contract the Contractor has with The Agency may be made by ACH; and
  - b. The Contractor shall complete, sign, and return to The Agency the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

**D. MANDATORY TERMS AND CONDITIONS:**

- D.1. Required Approvals. The Agency is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.
- D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.

The Agency:

State Contact Name & Title  
 State Agency Name  
 Address  
 Email Address  
 Telephone # Number  
 FAX # Number

The Contractor:

Contractor Contact Name & Title  
 Contractor Name  
 Address  
 Email Address  
 Telephone # Number  
 FAX # Number

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

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials.
- D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, The Agency reserves the right to terminate this Contract upon written notice to the Contractor. The Agency's exercise of its right to terminate this Contract shall not constitute a breach of Contract by The Agency. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If The Agency terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by The Agency and for all satisfactory and authorized services completed as of the termination date. Should The Agency exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from The Agency any actual, general, special, incidental, consequential, or any other damages of any description or amount.
- D.5. Termination for Convenience. The Agency may terminate this Contract for convenience without cause and for any reason. The Agency shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by The Agency or for satisfactory, authorized services completed as of the termination date. In no event shall The Agency be liable to the Contractor for compensation for any goods neither requested nor accepted by The Agency or for any services neither requested by The Agency nor satisfactorily performed by the Contractor. In no event shall The Agency's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to The Agency for any damages or claims arising under this Contract.
- D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"), the Agency shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to The Agency for damages sustained by virtue of any Breach Condition and The Agency may seek other remedies allowed at law or in equity for breach of this Contract.
- D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of The Agency. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The Agency reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.
- D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of The Agency as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.
- The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.
- D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show

proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

- D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to The Agency of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to The Agency a completed and signed copy of the document at Attachment A semi-annually during the Term. If the Contractor is a party to more than one contract with The Agency, the Contractor may submit one attestation that applies to all contracts with The Agency. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.
  - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.
  - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by The Agency.
  - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.
  - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.
- D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by The Agency, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by The Agency, the Comptroller of the Treasury, or their duly appointed representatives.
- D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to The Agency as requested.
- D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or

provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.

- D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.
- D.16. Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify The Agency and hold it harmless from any costs to The Agency arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.
- D.17. Limitation of State's Liability. The Agency shall have no liability except as specifically provided in this Contract. In no event will The Agency be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The Agency's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.
- D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death.
- D.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the Agency as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys' fees, court costs, expert witness fees, and other litigation expenses for The Agency to enforce the terms of this Contract.

In the event of any suit or claim, the Parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of The Agency to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent The Agency in any legal matter, as the right to represent The Agency is governed by Tenn. Code Ann. § 8-6-106.

- D.20. HIPAA Compliance. The Agency and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Contract.

- a. Contractor warrants to The Agency that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
  - b. Contractor warrants that it will cooperate with The Agency, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
  - c. The Agency and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep The Agency and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.
  - d. The Contractor will indemnify The Agency and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by The Agency because of the violation.
- D.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and The Agency under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.
- D.22. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.
- D.23. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
  - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
  - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
  - d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.



The Contractor shall provide immediate written notice to The Agency if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded, disqualified, or presently fall under any of the prohibitions of sections a-d.

- D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify The Agency of any delay caused by a Force Majeure Event (to be confirmed in a written notice to The Agency within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's performance longer than forty-eight (48) hours, The Agency may, upon notice to Contractor: (a) cease payment of the fees until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge The Agency any fees other than those provided for in this Contract as the result of a Force Majeure Event.
- D.25. State and Federal Compliance. The Contractor shall comply with all applicable state and federal laws and regulations in the performance of this Contract.
- D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the Agency or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 408.
- D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:

- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
  - b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes Attachment A
  - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
  - d. The Agency solicitation, as may be amended, requesting responses in competition for this Contract;
  - e. any technical specifications provided to proposers during the procurement process to award this Contract; and
  - f. the Contractor's response seeking this Contract.
- D.31. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Contract. The Contractor certifies, 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.
- D.32. Insurance. Contractor shall maintain insurance coverage as specified in this Section. The Agency reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor's failure to maintain or submit evidence of insurance coverage, as required, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall immediately notify The Agency. All insurance companies providing coverage must be: (a) acceptable to The Agency; (b) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (c) rated A- / VII or better by A.M. Best. All coverage must be on a primary basis and noncontributory with any other insurance or self-insurance carried by The Agency. Contractor agrees to name The Agency as an additional insured on any insurance policy with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) insurance. All policies must contain an endorsement for a waiver of subrogation in favor of The Agency. Any deductible or self-insured retention ("SIR") over fifty thousand dollars (\$50,000) must be approved by The Agency. The deductible or SIR and any premiums are the Contractor's sole responsibility. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

To achieve the required coverage amounts, a combination of an otherwise deficient specific policy and an umbrella policy with an aggregate meeting or exceeding the required coverage amounts is acceptable. For example: If the required policy limit under this Contract is for two million dollars (\$2,000,000) in coverage, acceptable coverage would include a specific policy covering one million dollars (\$1,000,000) combined with an umbrella policy for an additional one million dollars (\$1,000,000). If the deficient underlying policy is for a coverage area without aggregate limits (generally Automobile Liability and Employers' Liability Accident), Contractor shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area. In the event that an umbrella policy is being provided to achieve any required coverage amounts, the umbrella policy shall be accompanied by an endorsement at least as broad as the Insurance Services Office, Inc. (also known as "ISO") "Noncontributory—Other Insurance Condition" endorsement or shall be written on a policy form that addresses both the primary and noncontributory basis of the umbrella policy if The Agency is otherwise named as an additional insured.

Contractor shall provide The Agency a certificate of insurance ("COI") evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer's National Association of Insurance Commissioners (NAIC) number and be signed by an authorized representative of the insurer. The COI must list The Agency of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3<sup>rd</sup> floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) business days prior to the Effective Date and again thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide The Agency evidence that all subcontractors maintain the required insurance or that

subcontractors are included under the Contractor's policy. At any time, The Agency may require Contractor to provide a valid COI. The Parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead Contractor shall provide a certificate of self-insurance or a letter, on Contractor's letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses. The Agency reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

The Agency agrees that it shall give written notice to the Contractor as soon as practicable after The Agency becomes aware of any claim asserted or made against The Agency, but in no event later than thirty (30) calendar days after The Agency becomes aware of such claim. The failure of The Agency to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent The Agency in any legal matter, as the right to represent The Agency is governed by Tenn. Code Ann. § 8-6-106.

**The insurance obligations under this Contract shall be: (1)—all the insurance coverage and policy limits carried by the Contractor; or (2)—the minimum insurance coverage requirements and policy limits shown in this Contract; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and minimum required policy limits, which are applicable to a given loss, shall be available to The Agency. No representation is made that the minimum insurance requirements of the Contract are sufficient to cover the obligations of the Contractor arising under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.**

a. Commercial General Liability ("CGL") Insurance

- 1) The Contractor shall maintain CGL, which shall be written on an ISO Form CG 00 01 occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises and operations products and completed operations, bodily injury, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The Contractor shall maintain single limits not less than **one million dollars (\$1,000,000)** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this policy or location of occurrence or the general aggregate limit shall be twice the required occurrence limit.

b. Workers' Compensation and Employer Liability Insurance

- 1) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:
  - i. Workers' compensation in an amount not less than **one million dollars (\$1,000,000)** including employer liability of one million dollars **(\$1,000,000)** per accident for bodily injury by accident, **one million dollars (\$1,000,000)** policy limit by disease, and **one million dollars (\$1,000,000)** per employee for bodily injury by disease.
- 2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:

- i. The Contractor employs fewer than five (5) employees;
- ii. The Contractor is a sole proprietor;
- iii. The Contractor is in the construction business or trades with no employees;
- iv. The Contractor is in the coal mining industry with no employees;
- v. The Contractor is a state or local government; or
- vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

D.33. Major Procurement Contract Sales and Use Tax. Pursuant to Tenn. Code Ann. § 4-39-102 and to the extent applicable, the Contractor and the Contractor's subcontractors shall remit sales and use taxes on the sales of goods or services that are made by the Contractor or the Contractor's subcontractors and that are subject to tax.

**E. SPECIAL TERMS AND CONDITIONS:**

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.

**IN WITNESS WHEREOF,**

**CONTRACTOR LEGAL ENTITY NAME:**

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**CONTRACTOR SIGNATURE**

**DATE**

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**PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)**

**STATE AGENCY NAME:**

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**NAME & TITLE**

**DATE**

**ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

<b>SUBJECT CONTRACT NUMBER:</b>	
<b>CONTRACTOR LEGAL ENTITY NAME:</b>	
<b>EDISON VENDOR IDENTIFICATION NUMBER:</b>	

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

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**CONTRACTOR SIGNATURE**

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. Attach evidence documenting the individual's authority to contractually bind the Contractor, unless the signatory is the Contractor's chief executive or president.

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**PRINTED NAME AND TITLE OF SIGNATORY**

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**DATE OF ATTESTATION**