



**TENNESSEE HOUSING DEVELOPMENT AGENCY**

**REQUEST FOR PROPOSALS  
FOR  
SECTION 8 CONTRACT ADMINISTRATION SERVICES  
RFP # 31620-00656**

**RFP CONTENTS**

**SECTIONS:**

- 1. INTRODUCTION**
- 2. RFP SCHEDULE OF EVENTS**
- 3. RESPONSE REQUIREMENTS**
- 4. GENERAL CONTRACTING INFORMATION & REQUIREMENTS**
- 5. EVALUATION & CONTRACT AWARD**

**ATTACHMENTS:**

- 6.1. Response Statement of Certifications & Assurances**
- 6.2. Technical Response & Evaluation Guide**
- 6.3. Cost Proposal & Scoring Guide**
- 6.4. Reference Questionnaire**
- 6.5. Score Summary Matrix**
- 6.6. *Pro Forma* Contract**

## 1. INTRODUCTION

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

Through this RFP, THDA 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 THDA as contractors, subcontractors or suppliers.

### 1.1 Statement of Procurement Purpose and Scope of Contract

#### 1.1.1 Statement of Procurement Purpose

The purpose of this RFP is to solicit bids to provide Performance-Based Contract Administration (PBCA) services under THDA’s Annual Contributions Contract (ACC) between the U. S. Department of Housing and Urban Development (HUD) and THDA. The ACC includes Incentive Based Performance Standards (IBPS) and other contract requirements that include various forms of processing, monitoring, performing, and/or reporting.

THDA is the state’s housing finance agency. A major responsibility of THDA is the provision of PBCA services to HUD. In May 1999, HUD issued a RFP for Administration of Project-Based Section 8 Housing Assistance Payments Contracts. Eligible respondents to the HUD RFP were Public Housing Agencies (PHA) that had a minimum geographic jurisdiction of one entire state area. HUD awarded the ACC to THDA in August 2000, with effective date of December 1, 2000. Currently, HUD has assigned to THDA 376 Section 8 Housing Assistance Payments (HAP) contracts on properties located throughout the State of Tennessee. The number of assigned properties fluctuates at HUD’s discretion. The ACC is currently operating in the Ninth Amendment of the term. This program is 100% federally funded.

The ACC is a performance-based contract and the first of its kind ever issued by HUD. Under the ACC, THDA provides contract administration services for dwelling units in the service area receiving project-based assistance under Section 8. The primary objectives of THDA’s responsibilities under the ACC are to: 1) Calculate and pay Section 8 rental subsidies correctly; 2) Administer project-based Section 8 HAP contracts consistently; and, 3) Enforce owner obligations to provide decent housing for eligible families. Section 8 HAP contracts are between HUD and property owners and contain requirements that owners must meet in order to receive rental subsidy for low-income residents of the properties. To address the three primary objectives and to earn administrative fees, THDA must perform eight (8) core tasks for HUD, which include: 1) conducting management and occupancy reviews; 2) processing rental adjustments; 3) reviewing, verifying, and authorizing monthly section 8 vouchers; 4.) responding to life-threatening health and safety issues; 5) responding to non-life threatening health and safety issues; 6) submitting audits of the PHA’s financial condition; 7) renewing expiring HAP contracts; and 8) fulfilling the general reporting requirements. To carry out these eight (8) core tasks HUD established the Incentive Based Performance Standards (IBPS) that have minimum Acceptable Quality Levels (AQL) that must be met in order to earn the administrative fees.

There are two additional performance requirements that are not associated with the earning of administrative fees, but must be performed, tracked, and reported to HUD. These requirements are processing of special claims and addressing general resident issues.

The ACC may only be amended by HUD and is amended for the purpose of adding or withdrawing Section 8 HAP contracts and/or increasing or decreasing the level of federal budget authority for each Section 8 HAP contract.

THDA notified HUD on July 29, 2021, of its intent not to continue to provide Section 8 Contract Administration services beyond the expiration of the current contract with HUD on January 31, 2022. Following THDA’s notification of this intent to HUD, THDA has agreed to continue to provide these contract administration services using a third-party subcontractor until such time as HUD is able to secure

a new vendor to provide these services in Tennessee directly with HUD. This Request for Proposals will secure a subcontractor to fulfill identified duties under THDA's ACC with HUD.

The successful bidder will work directly with THDA staff to establish milestones to transition these contract administration services to the successful Respondent by January 31, 2022.

#### 1.1.2 **Scope of Services and Deliverables** (to be included in the official *Pro Forma* Contract)

By responding to this RFP, the Respondent agrees to the below Management Requirements and acknowledges that the Management Requirements will be included in the final contract between THDA and Respondent.

##### **A. Management Requirements**

1. The Successful Respondent shall perform Section 8 Performance-Based Contract Administration (PBCA) Services in compliance with all HUD regulations and other requirements in effect during the term of the current ACC between HUD and THDA, as amended by HUD, to include without limitation:

##### **a) Incentive-Based Performance Standards (IBPS) Task #3 – Processing Rental Adjustments**

Contract rent under each Section 8 HAP contract must be adjusted during the HAP contract term in accordance with the HAP contract and HUD requirements. If applicable, the Successful Respondent must analyze adjustments of the owner utility allowance schedule.

The Successful Respondent shall complete processing of owner's request for rent adjustment, and all approved rent adjustments are executed and finalized within 30 days of receipt of owner's request for a budget-based rent adjustment or on the anniversary date of the HAP contract for an Annual Adjustment Factor ("AAF")-based adjustment to include:

##### 1) Budget-based Adjustments

Budget-based rent adjustment method requires a Section 8 owner to submit an operating budget and supporting documentation for PHA review. The rent adjustment is subject to HUD approval.

The Successful Respondent shall determine budget-based adjustments of contract rent by performing the following tasks:

- i. Analyze the project's operating budget and supporting documentation for a rent adjustment to determine reasonableness according to guidance in HUD Handbook 4350.1;
- ii. Document contract rent increases on a rent schedule (Form HUD-92458);
- iii. Analyze adjustments of the owner utility allowance schedule, if applicable;
- iv. If the HAP contract requires the owner to maintain a reserve for replacement, analyze adjustment to the monthly reserve for replacement deposit as required and recommend action to HUD;
- v. Approve or disapprove the amount of rent adjustment and provide written notification to the owner;
- vi. Submit proposed rent increases greater than ten-percent (10%) to HUD for approval or disapproval. Copy should be sent to THDA;
- vii. Verify accurate, timely completion and submission of the adjusted rent schedule by the owner; and,
- viii. Enter data into the appropriate HUD data system within five (5) business days from completion of action.

##### 2) The Annual Adjustment Factor (AAF)

The Successful Respondent shall perform the following tasks:

- i. Determine the amount of annual adjustments in accordance with HUD requirements;
- ii. Analyze adjustment of the owner utility allowance schedule, if applicable;
- iii. If the HAP Contract requires the owner to maintain a reserve for replacement, analyze adjustment to the reserve for replacement;
- iv. Approve or disapprove the amount of the rental adjustment and provide written

notification to the owner, with copy to THDA;

- v. Validated comparability study if submitted by the owner to support a rent adjustment request;
- vi. Verify accurate, timely completion and submission of adjusted rent schedule by the owner; and,
- vii. Enter data into the appropriate HUD system within five (5) business days from completion of action.

3) Operating Cost Adjustment Factors (OCAF) rent adjustment method

Operating Cost Adjustment Factor (OCAF) rent increases are based on the Operating Cost Adjustment Factors released by HUD annually in the Federal Register.

The Successful Respondent shall perform the following tasks:

- i. Determine the amount of OCAF in accordance with HUD requirements;
- ii. Analyze adjustments of the owner utility allowance schedule, if applicable;
- iii. Calculate the amount of the rent adjustment and provide written notification to the owner;
- iv. Validate comparability study if submitted by the owner to support a contract renewal request;
- v. Verify accurate, timely completion and submission of adjusted rent schedule by the owner; and,
- vi. Enter date in the appropriate HUD system within five (5) business days of completion of action.

4) Special Adjustments

For HAP contracts which provide for AAF-adjusted rents, the Section 8 owner may request a special adjustment for cost increases generally applicable to housing in the locality, such as increases in cost items such as insurance, taxes, or utility rates.

The Successful Respondent shall process the owner's request for a special rent adjustment to determine if the special adjustment should be approved by HUD. To accomplish this, the Successful Respondent must perform the following tasks:

- i. Analyze a special adjustment request from the owner;
- ii. Make action determination and notify owner of rent adjustment approval or disapproval;
- iii. Verify accurate, timely completion and submission of an adjusted rent schedule by the owner; and,
- iv. Enter data into the appropriate HUD data system within five (5) business days from completion of an action.

5) Rent Appeals, if applicable

A Section 8 owner may appeal the Successful Respondent's rent adjustment decision. The first level of appeal is to the Successful Respondent; the second level of appeal is to THDA. THDA will consult with the appropriate jurisdictional HUD office as necessary.

The Successful Respondent shall perform the following tasks:

- i. First level appeal.
  - a. Analyze the owner's rent appeal request;
  - b. Provide the owner with written notice of the Successful Respondent's decision and justification within thirty (30) business days of receipt of the owner's written request;
  - c. If the appeal is approved, verify accurate, timely completion and submission by the owner of the adjusted rent schedule and enter data into the appropriate HUD data system within five (5) business days after completion of action; and,
  - d. If the appeal is denied, notify the owner of opportunity for second level appeal to THDA with notice of Successful Respondent's decision and justification.

- ii. For second level appeal.
  - (a) If the appeal is approved by THDA following consultation with HUD, verify accurate, timely completion and submission of adjusted rent schedule by the owner; and,
  - (b) Enter data into the appropriate HUD data system.
- iii. If the appeal is denied by THDA through consultation with HUD, any decision rendered by THDA will be final and will not be subject to further appeal above that level.

**b) IBPS Task #6 – Review, Verify and Authorize Monthly Section 8 Vouchers.**

The “Automation Rule” (24 CFR Section 108, Part 208 – Electronic Transmission of Required Data for Certification and Recertification and Subsidy Billing Procedures for Multifamily Subsidized projects) requires Section 8 project owners to request housing assistance payments by vouchers submitted monthly through the Tenant Rental Assistance Certification System (TRACS). Vouchers are due the 10<sup>th</sup> day of the month preceding the month for which the owner is requesting payment.

The Successful Respondent shall promptly review and verify each month payment voucher submitted by an owner, and either approve or modify the voucher, so the monthly payment to the owner is sent no earlier than the first of the calendar month for which payment is due to owner, and no later than the first business day of the calendar month.

The Successful Respondent shall perform the following tasks:

- 1) Verify and certify accuracy of monthly Section 8 vouchers (Form HUD-52670 and HUD-52670-A) to include:
  - a. Monitor owner follow-up efforts on discrepancies identified as a result of any income matching initiatives such as the Enterprise Income Verification (EIV) System;
  - b. Monitor compliance by owners with requirements for entry of all resident certification and recertification data in TRACS;
  - c. Verify voucher submissions by owner through TRACS by the tenth (10<sup>th</sup>) day of the month preceding the month for which the owner is requesting payment;
  - d. Verify through TRACS that the amount of the housing assistance payment paid on behalf of each resident family is accurate;
  - e. Verify that all re-certifications are completed by the owner in a timely manner and entered into TRACS;
  - f. Verify that the owner's payment request does not include any covered units for Section 8 assistance has been abated;
  - g. Analyze required adjustments from prior month's vouchers to determine accuracy and validity;
  - h. Determine if authorized rent or utility allowance adjustments have been implemented timely and accurately;
  - i. Verify pre-approval of Section 8 Special Claims (see paragraph 2 of this section);
  - j. Notify the owner, in writing, of any corrections required and track corrections; and,
  - k. Verify that owners are complying with current HUD rules and other requirements.
- 2) Verify and authorize payment only on valid Section 8 Special Claims for unpaid rent, resident damages, or vacancy loss to include:
  - a. Analyze, verify, and approve or disapprove owner claims in accordance with HUD regulations and requirements (including program requirements in HUD directives such as handbooks, notices or forms); and using TRACS and information provided by the owner;
  - b. Enter data into an electronic tracking tool (i.e. a spreadsheet or database program) for monitoring payments. The tool/program must comply with HUD standards and requirements; and,
  - c. Return the approved claim to the owner for owner submission with the next owner voucher.

- 3) Disburse Section 8 payments to owners to include:

After the Successful Respondent has approved the owner's Section 8 voucher, the Successful Respondent shall create and submit a payment file to the Edison system operated by the State's Department of Finance and Administration. Edison shall disburse housing assistance payments to the owner by an electronic fund transfer after receipt of HAP funds from HUD. A payment file from Edison will be transmitted back to the Successful Respondent.

**c) IBPS Task #9 – Life Threatening Tenant Health and Safety Issues**

The Successful Respondent shall respond, document and notify owner of life-threatening health and safety issues within an hour of receipt of complaint or inquiry or other knowledge of the issue, or before close of business day (whichever is sooner).

The Successful Respondent shall perform the following tasks:

- 1) Respond immediately to all life-threatening health and safety issues;
- 2) Maintain tracking system for inquiries, responses, and corrective actions and submit log to THDA with monthly invoice;
- 3) Notify owner of all concerns and determine appropriate corrective actions; and,
- 4) Monitor owner response to concerns and implementation of corrective actions.

**d) IBPS Task #10 – Non-Life Threatening Tenant Health and Safety Issues**

The Successful Respondent shall document initiatives and actions taken to notify the owner of non-life threatening health and safety issues, inquiries or complaints, and respond to residents within two (2) business days after notification to the owner. Until final resolution of issue, the Successful Respondent shall continue to provide follow-up information to residents every two (2) weeks. Documentation of all action shall be recorded.

The Successful Respondent shall perform the following tasks:

- 1) Respond to all non-life threatening health and safety and community/resident concerns;
- 2) Respond to all non-life threatening health and safety issues within two (2) business days of notification during normal business hours.
- 3) Maintain tracking system for community and resident inquiries and complaints, Successful Respondent responses, and corrective actions by owner. Submit log to THDA with monthly invoices.
- 4) Notify owner of all concerns and determine appropriate corrective action; and,
- 5) Monitor owner response to concerns and owner implementation of corrective actions.

**e) IBPS #14 – Renewal of Expiring HAP Contracts**

The Successful Respondent shall perform the following:

As HAP contracts come to an end, owners must apply for HAP contract renewals to have units remain with Section 8 project-based assistance. The Successful Respondent must ensure that owners fulfill their obligations to residents and HUD that are consistent with owner renewal decisions.

The Successful Respondent shall perform the following tasks:

- 1) Ensure that owners fulfill their obligations to residents and HUD that are consistent with owner renewal decisions;
- 2) Verify that owners of projects with expiring Section 8 HAP Contracts provide required notice to the Successful Respondent, with copy to THDA, and project residents;
- 3) If the owner opts not to renew, the Successful Respondent shall take action to notify HUD and must work with the appropriate PHA to obtain tenant-based voucher assistance for eligible residents. The Successful Respondent shall:

- i. Inform the jurisdictional HUD office, with copy to THDA, by close of next business day after notice to the Successful Respondent that the owner has elected to opt-out of the HAP contract.
  - ii. Inform the jurisdictional HUD office, with copy to THDA, of the Successful Respondent's recommendation to terminate a HAP contract because of owner default.
  - iii. Verify that the owner has complied with the HAP contract and current law on opt-outs.
  - iv. Obtain resident payment and family unit size data from the owner.
  - v. Provide resident payment (family income and total tenant payment) and family unit size data (family size and composition, and size of Section 8 unit currently occupied by family) to jurisdictional HUD office within three (3) business days after receipt of such information from the owner, and at least 90 days before HAP contract termination, for purpose of obtaining Section 8 vouchers for residents.
  - vi. Help residents, who must move from the project, arrange to receive tenant-based voucher assistance from the PHA that will administer such assistance.
- 4) Maintain copies of owner's notice to Successful Respondent and project residents;
  - 5) If the owner chooses to renew, determine which available option (form of renewal authorized by HUD) the owner wishes to use and notify the jurisdictional HUD office, with copy to THDA;
  - 6) Prepare renewal HAP contract in the form required by HUD;
  - 7) After receipt of confirmation of funding for renewal from HUD, ensure the HAP contract is executed (signed) by the owner and the Successful Respondent; and,
  - 8) Execute and distribute copies of the HAP contract to the owner, jurisdictional HUD office, and THDA within one (1) business week.

**f) IBPS Task #15 – General Reporting Requirements**

The Successful Respondent shall perform the following tasks:

- 1) Submit monthly reports and an invoice to THDA by the 7<sup>th</sup> business day after the end of the each month, or as agreed upon by THDA, for the previous month's activities to include Work Plan Status Report detailing the following:
  - i. Areas reviewed and services performed, including date of review and services; names of the Successful Respondent's staff performing the review and performing the services;
  - ii. Any significant administrative actions that could affect administration of the contract;
  - iii. Quality control activities and results;
  - iv. Major accomplishments, success stories, etc.;
  - v. Noteworthy meetings; and,
  - vi. Pending issues.
- 2) Submit annual reports by the 10<sup>th</sup> business day after the end of THDA's fiscal year (June 30<sup>th</sup>), or as agreed upon by THDA, to include a report detailing all of the actions and services (includes dates, locations, and employee names) for that fiscal year; and,
- 3) Submit an annual Work Plan by the 10<sup>th</sup> business day after the end of THDA's fiscal year (June 30<sup>th</sup>) that details the Successful Respondent's plan to satisfy the ACC contract administration requirements for the coming fiscal year.

**g) IBPS Task #1 - Management and Occupancy Reviews**

The Successful Respondent shall conduct an on-site Management and Occupancy Review (MOR) of each Section 8 project in accordance with the ACC. Some projects may have multiple HAP contracts. The review must be comprehensive assessment of the owner's procedures for directing and overseeing project operations, and the adequacy of the procedures for carrying out daily front line activities. Some examples of the areas that the Successful Respondent shall audit are: maintenance, security, leasing, occupancy, certification and re-certification of family income, and determination of the family payments, financial management, Management Improvement and Operating Plans, and general maintenance practices. The results of the on-site review must provide adequate documentation to support any enforcement actions proposed against the owner by the Successful Respondent.

The Successful Respondent shall:

- 1) Prepare quarterly work plan for submission to THDA. THDA will submit final quarterly work plan to HUD for approval;
- 2) Schedule and conduct annual reviews of each project using Form HUD 9834. Evaluate the owner's operating policies and procedures following guidance in the appropriate HUD directives;
- 3) Verify compliance with HUD regulations and requirements, as amended or revised from time to time, regarding occupancy issues (e.g., resident eligibility and selection, examination and reexamination of family income and assets, household characteristics), and verify that correct documentation is contained in each resident file to support claims for payment under the HAP Contract. Use the following resident file random sampling:

Number of Units	Minimum File Sample
100 or fewer	5 files plus 1 file for each 10 units over 50
101 - 600	10 files plus 1 file for each 50 units or part of 50 over 100
601 – 2,000	20 files plus 1 file for each 100 units or part of 100 over 600
Over 2,000	34 files plus 1 for each 200 units or part of 200 over 2200

If the Successful Respondent's review of the sample indicates a problem, the Successful Respondent must inform the owner to conduct a 100% review of the files and report the results of the review to the Successful Respondent. The Successful Respondent must test the review done by the owner to determine its reliability and accuracy;

- 4) Verify owner compliance with civil rights regulations, including Title VI, Title VIII, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act of 1973;
- 5) Notify the jurisdictional HUD office, with copy to THDA, by close of next business day of any potential fraud or potential violations of law identified during the Successful Respondent's review;
- 6) Prepare and submit to the owner, THDA, and jurisdictional HUD office a written report on Form HUD-9834 within thirty (30) days of the Successful Respondent's review, outlining any findings and recommendations or corrective actions;
- 7) Monitor implementation of corrective action. Notify jurisdictional HUD office and THDA within one (1) business day when enforcement action is required; and,
- 8) Enter required information into the appropriate HUD data system.

**h) COVID-19 Supplemental Payments**

Congress has authorized the provision of COVID-19 Supplemental Payments (CSP)

To offset additional operational costs owners incurred to maintain their properties in decent, safe, and sanitary condition when owners have reason to believe that COVID-19 is or may be present in the community.

If additional funds are authorized by HUD to implement future CSP, the Successful Respondent shall undertake the following tasks:

- 1) Collect, analyze, and verify CSP requests from owners of Section 8 projects in accordance with the ACC with THDA, HUD regulations and other requirements, including requirements as stated in HUD directives, handbooks, notices, forms, memoranda, or postings on HUD's website, as such requirements may be revised from time to time;
- 2) Require the owner to provide all information that HUD determines to be necessary on one or more forms that HUD may prescribe or approve for the purpose allowing owners to request a CSP;
- 3) Review and either approve or deny CSP requests for amounts within standard payment thresholds, as defined by HUD guidance, CSP requests for amounts exceeding the standard threshold will be reviewed by the Successful Respondent before submission to HUD for approval or denial;
- 4) Enter data for all CSP requests into a spreadsheet prescribed or approved by HUD for the purpose of monitoring CSPs and facilitating funding actions by HUD as needed to obligate and disburse approved CSP amounts. All CSP approvals are contingent on the availability



of sufficient appropriations as determined solely by HUD upon receipt of CSP request data from the Successful Respondent.

- 5) Submit the spreadsheet and owner request forms to HUD, with copy to THDA, for evaluation by HUD. All CSPs shall be separate and distinct from the process by which HUD transmits housing assistance payments to THDA through the monthly vouchering system under HUD's TRACS.
  - a. HUD shall provide all CSP amounts to THDA via electronic funds transfer (EFT). Before authorizing any EFT, however, HUD shall notify the Successful Respondent of any modifications that it makes to the CSP amounts submitted by the PHA.
  - b. THDA shall disburse CSPs by EFT to the owner in accordance with the ACC.

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

The RFP Attachment 6.6., *Pro Forma* Contract details THDA'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. THDA has assigned the following RFP identification number that must be referenced in all communications regarding this RFP:

**RFP #31620-00656**

- 1.4.2. **Unauthorized contact about this RFP with employees or officials of THDA of Tennessee 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:

**Emily Kelley**  
**Professional Contracts Coordinator III**  
Tennessee Housing Development Agency  
Andrew Jackson Building  
502 Deaderick Street, Third Floor  
Nashville, TN 37243-0900  
Phone: 615-815-2063  
[EKelley@thda.org](mailto:EKelley@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 THDA 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, Third Floor  
615-815-2127  
lswanson@thda.org

- 1.4.3. Only THDA'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 THDA 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 THDA. THDA 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 THDA by a specified deadline is not a substitute for THDA's actual receipt of a communication or response.
- 1.4.6. THDA will convey all official responses and communications related to this RFP to the prospective Respondents from whom THDA has received a Notice of Intent to Respond (refer to RFP Section 1.7).
- 1.4.7. THDA 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 THDA. For internet posting, please refer to the following website: <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/supplier-information/request-for-proposals--rfp--opportunities1.html>.
- 1.4.8. THDA 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. THDA's official, written responses will constitute an amendment of this RFP.
- 1.4.9. Any data or factual information provided by THDA (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. THDA 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 THDA. THDA 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 THDA 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 THDA, in writing, by the Written Questions & Comments Deadline.

1.7. **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.**

1.8. **Response Deadline**

A Respondent must ensure that THDA receives a response no later than the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events. THDA 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 THDA. 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 THDA's best estimate for this RFP.

EVENT	TIME (central time zone)	DATE
1. RFP Issued		October 4, 2021
2. Notice of Intent to Respond Deadline	2:00 p.m.	October 6, 2021
3. Disability Accommodation Request Deadline	2:00 p.m.	October 7, 2021
4. Written "Questions & Comments" Deadline	2:00 p.m.	October 15, 2021
5. State Response to Written "Questions & Comments"		October 22, 2021
6. Response Deadline	2:00 p.m.	October 29, 2021
7. Scheduling of Respondent Oral Presentation (if applicable)		November 1, 2021
8. Respondent Oral Presentation (if applicable)		November 4 & 5, 2021
9. State Completion of Technical Response Evaluations		November 9, 2021
10. State Opening & Scoring of Cost Proposals		November 9, 2021
11. State Notice of Intent to Award Released <u>and</u> RFP Files Opened for Public Inspection	2:00 p.m.	November 10, 2021
12. Contractor Signature Deadline	2:00 p.m.	November 19, 2021

2.2. **THDA 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 THDA will communicate such to prospective Respondents from whom THDA has received a Notice of Intent to Respond (refer to section 1.7).

### 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, THDA 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. THDA 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, THDA 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. An electronic signature is acceptable.
- 3.1.2.4. A Respondent must submit the Cost Proposal to THDA on a separate USB flash drive separate from the Technical Response (as detailed in RFP Sections 3.2.3., *et seq.*).

### 3.2. **Response Delivery**

A Respondent must ensure that both the Technical Response and Cost Proposal files meet all form and content requirements, including all required signatures, as detailed within this RFP. An electronic signature is acceptable.

- 3.2.1. A Respondent must submit their response as specified below.

- 3.2.1.1. Technical Response

The Technical Response document should be in the form of one (1) digital document in "PDF" format and should be clearly identified as the:

**"RFP #31620-00656 TECHNICAL RESPONSE"**

A Respondent must label and email the Technical Response directly to the Solicitation Coordinator. Adding or copying any other THDA contacts on the email will result in immediate disqualification of the Respondent

- 3.2.1.2. Cost Proposal

The Cost Proposal should be in the form of one (1) digital document in "PDF" or "XLS" format and clearly labeled:

**"RFP #31620-00656 COST PROPOSAL"**

A Respondent must label and email the Cost Proposal directly to the Solicitation Coordinator. Adding or copying any other THDA contacts on the email will result in immediate disqualification of the Respondent

- 3.2.1.3. Customer Reference Questionnaire

Customer Reference Questionnaires should be mailed or emailed DIRECTLY from the Reference themselves to the Solicitation Coordinator. If emailed, the Reference should not add or copy any Respondents on the email transmission. Any Customer Reference Questionnaire received directly from the Respondent will be disqualified.

An electronic signature on the Customer Reference Questionnaire is acceptable.

- 3.2.3. Any Respondent wishing to submit a Response in a format other than digital and/or email may do so by contacting the RFP Solicitation Coordinator.
- 3.2.4. A Respondent must ensure that THDA receives a response no later than the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events. THDA is not responsible for any potential mail delays.

### 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, THDA, 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 THDA 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 THDA or otherwise qualifies either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal, THDA, 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. THDA 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. THDA will reject any Cost Proposal that involves collusion, consultation, communication, or agreement between Respondents. Regardless of the time of detection, THDA 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 THDA determines that a Respondent has provided such incorrect information, THDA 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 THDA in this RFP. If a Respondent submits more than one Technical Response or more than one Cost Proposal, THDA 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. THDA 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.
- 3.3.9. This RFP is also subject to Tenn. Code Ann. § 12-4-101—105.

#### 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 THDA.

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, THDA, 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, THDA may deem the response non-responsive and reject it.**

3.7. **Response Preparation Costs**

THDA 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**

THDA at its sole discretion may amend this RFP, in writing, at any time prior to contract award. However, prior to any such amendment, THDA 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, THDA will convey it to potential Respondents who submitted a Notice of Intent to Respond (refer to RFP Section 1.7). A response must address the final RFP (including its attachments) as amended.

### **4.2. RFP Cancellation**

THDA 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, THDA reserves the right to reject, at its sole discretion, any and all responses.

4.3.2. THDA 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, THDA reserves the right to waive, at its sole discretion, minor variances from full compliance with this RFP. If THDA waives variances in a response, such waiver shall not modify the RFP requirements or excuse the Respondent from full compliance, and THDA 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 THDA. THDA 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.14.).

4.4.3. Subcontractors identified within a response to this RFP will be deemed as approved by THDA unless THDA 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 THDA and with THDA'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**

THDA 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. THDA will document in writing the reason(s) for any rejection of personnel.

#### 4.6. **Insurance**

THDA 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 THDA 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. THDA 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. THDA 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. To register, please visit the Department of Revenue's Tennessee Taxpayer Access Point (TNTAP) website for Online Registration and the Vendor Contract Questionnaire. These resources are available at the following:  
<https://tntap.tn.gov/eservices/#1>

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

- 4.8.1. All materials submitted to THDA in response to this RFP shall become the property of THDA. 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 State of Tennessee.
- 4.8.2. THDA 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, Contract Payments, and Transition Period**

- 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 THDA 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 THDA 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 THDA.
- 4.9.3.1. THDA 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, THDA 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, THDA shall not remit, as funding or reimbursement pursuant to such provisions, any amounts that it determines do not represent reasonable, necessary, and actual costs.
- 4.9.4. The Respondent acknowledges that compensation for costs incurred during the transition period will begin on December 1, 2021, through the later of January 31, 2022, or when the subcontractor takes over responsibility for 100% of the scope of work identified through this RFP as determined by THDA ("End of Transition Period"). During this transition period, THDA will compensate the Selected Respondent as follows:
- Transition Period Month 1 – 30% of the Administrative Base Fee less any disincentives incurred.
  - Transition Period Month 2 through End of Transition Period – 50% of the Administrative Base Fee less any disincentives incurred

If during the transition period, the Selected Respondent assumes responsibility for completion of MOR Reviews, the MOR Fee will be earned by the Selected Respondent in accordance with the fee proposal of the Selected Respondent.

#### 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 THDA. THDA 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, THDA 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, THDA will provide the Contractor a written description of the additional goods or services. The Contractor must respond to THDA 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 THDA 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 both the THDA agency head and the Contractor and must be approved by other state officials as required by applicable statutes, rules, policies and procedures of THDA. The

Contractor must not provide additional goods or render additional services until THDA 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 THDA 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**

THDA reserves the right to initiate negotiations with the next ranked Respondent should THDA 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

THDA 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 THDA to be responsive.

EVALUATION CATEGORY	PERCENTAGE WEIGHT
<b>Mandatory Requirement Items</b> (refer to RFP Attachment 6.2, Section A)	<b>Pass/Fail Only</b>
<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>60%</b>
<b>Cost Proposal</b> (refer to RFP Attachment 6.3.)	<b>10%</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 THDA 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. THDA 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 THDA. The subject Respondent must put any resulting clarification in writing as may be required and in accordance with any deadline imposed by THDA.

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. THDA will request clarifications or corrections for consideration prior to further evaluation; or,
- c. THDA 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. **Oral Presentation.** The Solicitation Coordinator will invite each Respondent, who passes the Pass/Fail portion in RFP Attachment 6.2 Section A, to make an Oral Presentation.
- 5.2.2.1. The Oral Presentations are mandatory for the Respondent(s) that is invited. The Solicitation Coordinator will schedule Respondent Presentation during the period indicated by the RFP Section 2, Schedule of Events. The Solicitation Coordinator will make every effort to accommodate each Respondent's schedules. When the Respondent Presentations schedule has been determined, the Solicitation Coordinator will contact Respondents with the relevant information as indicated by RFP Section 2, Schedule of Events.
  - 5.2.2.2. Respondent Presentations are only open to the invited Respondent, Proposal Evaluation Team members, the Solicitation Coordinator, and any technical consultants who are selected by THDA to provide assistance to the Proposal Evaluation Team.
  - 5.2.2.3. Oral Presentations provide an opportunity for Respondents to explain and clarify their responses and for THDA to test to better understand the practical application of the good or service as applicable. Respondents must not materially alter their responses and Presentations will be limited to addressing the items detailed in RFP Attachment 6.2., Technical Response & Evaluation Guide. Respondent pricing shall not be discussed during Oral Presentations. Evaluators may adjust Respondents' Technical Response scores based on Oral Presentations.
  - 5.2.2.4. THDA will maintain an accurate record of each Respondent's Oral Presentations session. The record of the Respondent's Oral Presentations shall be available for review when THDA opens the procurement files for public inspection.
- 5.2.3. **Cost Proposal Evaluation.** The Solicitation Coordinator will open for evaluation the Cost Proposal of each Respondent deemed by THDA 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.
- 5.2.4. **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. THDA 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 THDA 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, THDA may determine that the Respondent is non-responsive to this RFP and reject the response.
- 5.3.5. Notwithstanding the foregoing, THDA may, at its sole discretion, entertain limited terms and conditions or pricing negotiations prior to Contract signing and, as a result, revise the *pro forma* contract terms and conditions or performance requirements in THDA'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 THDA 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.

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## RFP # 31620-00656 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.).

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**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 agrees to the following responsibilities:
  - (1) Be solely responsible for adequate communication with its staff regarding contract terms and conditions.
  - (2) Identify and dedicate a Principle Contract Coordinator (PCC) for the resulting contract. The PCC will:
    - (a) Be responsible for oversight of the services to be provided under the resulting contract and ensure contract performance.
    - (b) Be the principal point of contact for and respond to THDA inquiries, complaints and concerns within twenty four (24) hours, unless otherwise instructed by THDA.
    - (c) Oversee the performance of all personnel providing services under this Contract.
    - (d) Provide training to the Respondent's personnel should personnel turnovers occur during the term of the Contract.
    - (e) Implement corrections to discrepancies or Contract violations identified to the Respondent's PCC through THDA's regular monitoring of the Respondent's performance.
  - (3) Ensure that all personnel assigned to perform work on this contract are appropriately trained in accordance with HUD requirements.
  - (4) Ensure that all personnel meet the minimum qualifications including required certifications and experience requirements as appropriate.
  - (5) Maintain and implement a plan to ensure a minimal disruption of services due to staff turnovers, vacancies, leave, or other personnel changes.
  - (6) Be solely responsible for the behavior and conduct of their employees or agents while interacting with THDA or interacting with or on the property of owners with Section 8 HAP contracts and shall instruct employees or agents to fully cooperate with THDA in carrying out responsibilities under this contract.
  - (7) Ensure the confidentiality of all information, documents or materials viewed, discussed, or provided to personnel concerning the housing tenants of each of the properties. The personnel or agents of the Respondent shall not provide confidential information to the tenants and the general public without express written consent of THDA.
  - (8) Agree not to discriminate against any employee or applicant for employment. The Respondent will take affirmative action to ensure equal treatment of its employees. Such action shall include, without limitation, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Respondent shall insert similar provisions in all subcontracts associated with the performance of this contract. Furthermore, the Respondent employing fifteen (15) or more persons agrees and shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees that it does not discriminate on the basis of handicap pursuant to 24 CFR Part 8, section 8.54(a) - Notice.
  - (9) Agree to remove any of its employees or agents from servicing or providing services to THDA upon request in writing by THDA. At the request of THDA and in its discretion: the Respondent shall remove forthwith and shall not employ in any portion of the work, any person who does not perform his/her duties and responsibilities in a proper and skillful manner or is intoxicated or disorderly or is abusive or unable to demonstrate tact and diplomacy in dealing with the public.
  - (10) Agree to relieve any employee or employee of an agent if arrested for any major crime or felony, pending final resolution of the investigation. THDA has final authority to allow the individual to perform the duties under this Contract pending investigation, resolution or conviction. The resulting conviction will disqualify the individual from performing work in any capacity under this Contract.
  - (11) Shall comply with all Equal Opportunity requirements imposed by Federal law, including applicable requirements under:
    - (a) The Fair Housing Act, 42 U.S.C. 3601-3619 (implementing regulations at 24 CFR parts 100 et seq.).
    - (b) Title VI of the Civil Rights Act of 1964, 42 U.S. C. 2000d (implementing regulations at 24 CFR part 1).
    - (c) The Age Discrimination Act of 1974, 42 U.S.C. 6101-6107 Implementing regulations at 24 CFR part 146).



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- (d) Executive Order 11063, Equal Opportunity in Housing (1962), as amended, Executive Order 12259, 46 FR 1253 (1980), as amended, Executive Order 12829, 59 FR 2939 (1994) (implementing regulations at 24 CFR part 107).
  - (e) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 (implementing regulations at 24 CFR part 8).
  - (f) Title II of the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.
- (12) Shall carry out applicable responsibilities of THDA under the ACC in accordance with the Fair Housing Act, Title VI of the Civil Rights Act of 19964, the Age Discrimination Act of 1975, Executive Order 11063, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act.
  - (13) Shall cooperate with THDA and HUD in the conducting of compliance reviews and complaint investigations pursuant to applicable civil rights statutes, Executive Orders and related rules and regulations.
  - (14) Shall maintain written policies in compliance with the ACC or THDA that address the following requirements:
    - (a) Conflict of Interest
    - (b) Equal Opportunity
    - (c) Drug Free Workplace
    - (d) Sexual Harassment Awareness in the Workplace
    - (e) Non-Violence in the Workplace
    - (f) Standards of Conduct
    - (g) Language Access
    - (h) Fair Housing
    - (i) Data Protection
  - (15) The Respondent acknowledges that any data transfer concerning supporting files shall be transmitted via THDA's secure SFTP application. The successful Respondent also agrees that it will provide evidence, satisfactory to THDA, of the ability to store documents securely after transfer, utilizing industry-standard best practices for storing sensitive data at rest, i.e. encryption. Additionally, any transfer of system-level data to be incorporated into the successful Respondent's software will be done in a format that is mutually agreeable to both parties and will be worked out during contract negotiations. The Respondent also acknowledges that THDA's preferable delivery method would be a SQL database export, again delivered via secure SFTP.
- 5. 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.
  - 6. 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.
  - 7. To the knowledge of the undersigned, the information detailed within the response submitted to this RFP is accurate.
  - 8. The response submitted to this RFP was independently prepared, without collusion, under penalty of perjury.
  - 9. 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.
  - 10. 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.
  - 11. 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>.

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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:**

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**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 THDA 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 THDA 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 THDA, and THDA reserves the right to cancel any award.	
	<b>A.3.</b>	Provide a valid, Certificate of Insurance that is verified and dated within the last six (6) months and which details <u>all</u> of the following: (a) Name of the Insurance Company (b) Respondent's Name and Address as the Insured (c) Policy Number (d) The following minimum insurance coverages:	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		<ul style="list-style-type: none"> <li>(i) Workers' Compensation/ Employers' Liability with a limit not less than the relevant statutory amount or One Million Dollars (\$1,000,000) per occurrence for employers' liability;</li> <li>(ii) Comprehensive Commercial General Liability (including personal injury and property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate;</li> <li>(iii) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than One Million Dollars (\$1,000,000) per occurrence; and</li> <li>(iv) Professional Malpractice Liability with a limit of not less than One Million Dollars (\$1,000,000) per claim.</li> <li>(e) The following information applicable to each type of insurance coverage: <ul style="list-style-type: none"> <li>(i) Coverage Description,</li> <li>(ii) Exceptions and Exclusions,</li> <li>(iii) Policy Effective Date,</li> <li>(iv) Policy Expiration Date, and</li> <li>(v) Limit(s) of Liability.</li> </ul> </li> </ul>	
	A.4.	<p>Provide the Respondent's most recent independent audited financial statements. Said independent audited financial statements <u>must</u>:</p> <ul style="list-style-type: none"> <li>(1) reflect an audit period for a fiscal year ended within the last 36 months;</li> <li>(2) be prepared with all monetary amounts detailed in United States currency;</li> <li>(3) be prepared under United States Generally Accepted Accounting Principles (US GAAP);</li> <li>(4) include the auditor's opinion letter; financial statements; and the notes to the financial statements; and</li> <li>(5) be deemed, in the sole discretion of THDA to reflect sufficient financial stability to undertake the subject contract with THDA if awarded pursuant to this RFP.</li> </ul> <p>NOTES:</p> <ul style="list-style-type: none"> <li>▪ Reviewed or Compiled Financial Statements will not be deemed responsive to this requirement and will <u>not</u> be accepted.</li> </ul> <p>All persons, agencies, firms, or other entities that provide opinions regarding the Respondent's financial status <u>must</u> be properly licensed to render such opinions. THDA may require the Respondent to submit proof that the person or entity who renders an opinion regarding the Respondent's financial status is licensed, including the license number and state in which the person or entity is licensed.</p>	

<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>
	<b>A.5.</b>	Provide the Respondent's Business License	
	<b>A.6.</b>	Provide a statement confirming that Respondent has been in business a minimum of five (5) years with a minimum combined personnel experience of ten (10) years in Section 8 performance-based contract administration under contract with HUD or a PHA under contract with HUD. In both cases, THDA will base the minimum period from the due date of the response to this RFP.	
	<b>A.7.</b>	The Respondent shall provide a statement that it will not subcontract or assign any work to be performed under this contract without the prior written approval of THDA. No subcontract shall relieve the Respondent of his/her obligations and liability under its contract with THDA.	
<i>State Use – Solicitation Coordinator Signature, Printed Name &amp; Date:</i>			

**RFP ATTACHMENT 6.2. — SECTION B (continued)**  
**RFP ATTACHMENT 6.2. — SECTION B**

**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 as follows:

**Questions B.1. through B.19. (EXCLUDING B.11.) = Max 5 PTS each**

**Question B.11. = Max 10 PTS**

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items	Item Score
	<b>B.1.</b>	Detail the name, e-mail address, mailing address, telephone number, and facsimile number of the person THDA 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 the Respondent or, to the Respondent's knowledge, any of the Respondent's employees, agents, independent contractors, or subcontractors, involved in the delivery of goods or performance of services on a contract pursuant to this RFP, have been convicted of, pled guilty to, or pled <i>nolo contendere</i> to any felony. If so, include an explanation providing relevant details.	
	<b>B.8.</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.9.</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. THDA	

## RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items	Item Score
		may require the Respondent to submit proof of license for each person or entity that renders such opinions.	
	<b>B.10.</b>	<p>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.</p> <p>NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. THDA may require the Respondent to submit proof of license for each person or entity that renders such opinions.</p>	
	<b>B.11.</b>	Provide a brief, descriptive statement detailing evidence of the Respondent's ability to deliver the goods or services sought under this RFP (e.g., prior experience, training, certifications, resources, program and quality management systems, etc.).	
	<b>B.12.</b>	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>B.13.</b>	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, relevant certifications, current position with the Respondent, and employment history.	
	<b>B.14.</b>	<p>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:</p> <p>(a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each;</p> <p>(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></p> <p>(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.</p>	
	<b>B.15.</b>	<p>Provide documentation of the Respondent's commitment to diversity as represented by the following:</p> <p>(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.</p> <p>(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:</p> <p>(i) contract description;</p>	

## RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items	Item Score
		<p>(ii) contractor name and ownership characteristics (<i>i.e.</i>, ethnicity, gender, service-disabled veteran-owned or persons with disabilities);</p> <p>(iii) contractor contact name and telephone number.</p> <p>(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:</p> <p>(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>);</p> <p>(ii) anticipated goods or services contract descriptions;</p> <p>(iii) names and ownership characteristics (<i>i.e.</i>, ethnicity, gender, service-disabled veterans, or disability) of anticipated subcontractors and supply contractors.</p> <p><b>NOTE:</b> 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> <p>(d) <u>Workforce</u>. Provide the percentage of the Respondent's total current employees by ethnicity and gender.</p> <p><b>NOTE:</b> Respondents that demonstrate a commitment to diversity will advance State efforts to expand opportunity to do business with THDA 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.16.</b>	<p>Provide a statement of whether or not the Respondent has any current contracts with the State of Tennessee, including THDA, or has completed any contracts with the State of Tennessee, including THDA, 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><b>NOTES:</b></p> <ul style="list-style-type: none"> <li>• Current or prior contracts are not a prerequisite and are not required for the maximum evaluation score, and the existence of such contracts will not automatically result in the addition or deduction of evaluation points.</li> <li>• Each evaluator will generally consider all contracts noted.</li> </ul>	
	<b>B.17.</b>	<p>Provide a statement of whether or not the Respondent has any current contracts with any local public housing authority in Tennessee or has completed any contracts with any local public housing authorities 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 contact knowledgeable about the contract;</p>	



## RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items	Item Score
		(b) the procuring public housing authority name; (c) a brief description of the contract's scope of services; (d) the contract period; and (e) the contract number.  <b>NOTES:</b> <ul style="list-style-type: none"> <li>• Current or prior contracts with a local public housing authority are not a prerequisite and are not required for the maximum evaluation score, and the existence of such contracts with THDA will not automatically result in the addition or deduction of evaluation points.</li> <li>• Each evaluator will generally consider all contracts noted.</li> </ul>	
	<b>B.18.</b>	<p>Provide at least two and up to three customer references from individuals working for existing PHAs performing Section 8 project based Administration Services to HUD. References are required to satisfy the requirements above. 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> <p>(e) Enclose all <u>sealed</u> reference envelopes within a larger, labeled envelope for inclusion in the Technical Response as required.</p> <p><b>NOTES:</b></p> <ul style="list-style-type: none"> <li>▪ THDA 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>▪ THDA will not review more than the maximum number of references indicated above.</li> <li>▪ While THDA will base its reference check on the contents of the sealed reference envelopes included in the Technical Response package, THDA 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>▪ THDA is under <u>no</u> obligation to clarify any reference information.</li> </ul>	
	<b>B.19.</b>	Provide a statement and any relevant details addressing whether the Respondent is any of the following:	

**RFP ATTACHMENT 6.2. — SECTION B (continued)**

<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>Item Score</b>
		<p>(a) is presently debarred, suspended, proposed for debarment, or voluntarily excluded from covered transactions by any federal or state department or agency;</p> <p>(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 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;</p> <p>(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</p> <p>(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.</p>	
<p><b>SCORE (for <u>all</u> Section B—Qualifications &amp; Experience Items above):</b>  <i>(maximum possible score) = 100 x 30% =</i></p>			
<i>State Use – Evaluator Identification:</i>			

**RFP ATTACHMENT 6.2. — SECTION C (continued)**  
**RFP ATTACHMENT 6.2. — SECTION C**

**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.

**Background and Summary:**

This section shall clearly and concisely summarize and highlight the contents of the proposal in such a way as to provide THDA with a broad understanding of the entire proposal. Include a brief description of the Respondent's management philosophy and overall approach to management of the services to be provided. Include a brief description of the Respondent's organization, the goals and objectives related to the service activity, and how the proposed service is designed to meet the need identified in this RFP.

<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>	<b>Experience and Capability:</b>		<b>30 Max Pts</b>	
	<b>a.</b>	Respondents must demonstrate that the Respondent has been in business for minimum of five (5) years from date of issuance of this RFP with a minimum ten (10) years of combined personnel experience in Section 8 performance-based contract administration under contract with HUD or a PHA under contract with HUD.		10 Max Pts	
	<b>b.</b>	The Respondent must demonstrate that it has the necessary skills, abilities, knowledge and experience related to the delivery of each task under the scope of services requested under this RFP.		10 Max Pts	
	<b>c.</b>	The Respondent must also provide a list of verifiable experience with projects/contracts for the most recent five (5) years that are pertinent to the proposed services. List shall include Client Name/Public Housing Authority, type of services rendered, and service dates.		10 Max Pts	
	<b>C.2.</b>	<b>Quality Assurance Evaluation:</b> The Respondent must describe its quality assurance plan for the delivery of the proposed services, including its methodology for evaluation of its service delivery.		<b>8 Max Pts</b>	
	<b>C.3</b>	<b>Proposed Staffing:</b> The Respondent shall describe the proposed staffing plan for each IBPS task and define their roles and responsibilities. The plan should describe the Respondent's plan to supervise, train, and provide administrative direction for the delivery of the proposed services. Additionally, the Respondent should include any plans to maintain staff physically in Tennessee to deliver all or part of the services		<b>7 Max Pts</b>	

## RFP ATTACHMENT 6.2. — SECTION C (continued)

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
		under this contract, including minimizing or eliminating the use of MOR contingency fees for MOR related travel and associated expenses.			
	<b>C.4</b>	<p><b>Staff Qualifications:</b></p> <p>The Respondent shall provide the qualifications, including experience of staff assigned to each IBPS task. Describe the knowledge and experience of the proposed personnel, including responsibilities. Attach resumes and relevant professional background/experience/certifications of each staff working on each IBPS task.</p>		<b>4 Max Pts</b>	
	<b>C.5</b>	<p><b>Supervision and Training:</b></p> <p>The Respondent shall describe its ability and plan to supervise, train, and provide administrative direction relative to the delivery of the proposed services.</p>		<b>3 Max Pts</b>	
	<b>C.6</b>	<b>Management Plan:</b>		<b>40 Max Pts</b>	
	a.	The Management Plan shall address the tasks required under this RFP and must demonstrate the Respondent's understanding and plan for the delivery of the services required. The Respondent must include a detailed work plan within the Management Plan to accomplish the start-up and on-going delivery of Section 8 Performance Based Contract Administration Services in Tennessee. The work plan should describe how the service component will be managed and achieved, including actions to be undertaken, responsible parties, and timelines for implementation.		<b>37 Max Pts</b>	
	b.	The Management Plan should also describe in detail how vacancies and absences in personnel will be handled to ensure satisfactory delivery of services, and how staff are qualified, capable, and properly trained to provide services under this RFP.		<b>3 Max Pts</b>	
	<b>C.7</b>	<p><b>Software:</b></p> <p>The Respondent shall provide documentation from the Software Provider of the Respondent that identifies that the following requirements will be met:</p> <ol style="list-style-type: none"> <li>(1) To track resident issues and allow for documentation of responses to achieve HUD compliance;</li> <li>(2) To track property monthly and intermittent inspections and audit review as required for HUD Management and Occupancy Review (MOR) compliance;</li> <li>(3) To document the life cycle of a property voucher from creating, drafting, approval, payment, reconciliation and closing in manner compliant with HUD requirements;</li> <li>(4) To process special claims submitted by properties via</li> </ol>		<b>8 points</b>	

**RFP ATTACHMENT 6.2. — SECTION C (continued)**

<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>
		<p>a voucher for the four allowed types;</p> <p>(5) To track the HUD regulated steps to renew a contract and adjust the rent with an Owner for a Section 8 property; and,</p> <p>(6) To perform reportable quality assurance reviews for special claims and IBPS reports</p> <p>(7) To process monthly payments to properties in compliance with HUD regulations based on vouchers entered by the Respondent into the HUD Tenant Rental Assistance Certification System (TRACS) for HUD approval and then interface with the State's Edison system for payment to the property through Edison. The State of Tennessee payment system, Edison, offers two methods of interface technology: Web Services (which leverages Services Oriented Architecture) and Flat File via Secured File Transmission Protocol (SFTP). Edison does require all payment information data to be encrypted both in transit and at rest.</p> <p>(8) To be accessible via a web-based client over port 443 and meet industry-standard best practices for logins, passwords, and Multifactor Authentication.</p> <p>(9) To provide a valid SOC 2 Type 2 certification for the system itself, not just the hosting platform such as Azure or AWS. (10) To allow for all reporting and data exchange with THDA as the contract oversight, including but not limited to extensive reporting and tracking of any necessary management level approvals.</p>			
<p><b>Total Raw Weighted Score</b> (<i>sum of Raw Weighted Scores above</i>):</p> <p>The Solicitation Coordinator will use this sum and the formula below to calculate the score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.</p>					
<p><b>total raw weighted score</b></p> <hr style="width: 20%; margin: auto;"/> <p><b>maximum possible raw weighted score</b> (i.e., 5 x the sum of item weights above)</p>					
<p><b>= Pts</b></p>					
<p><b>Pts x 60% = SCORE:</b></p>					
<p><i>State Use – Evaluator Identification:</i></p>					
<p><i>State Use – Solicitation Coordinator Signature, Printed Name &amp; Date:</i></p>					

**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.

Respondents shall submit a cost proposal for the Section 8 Performance Based Contract Administration work activity as solicited in this RFP for the initial 12-month period, Option Year 1, Option Year 2, Option Year 3, and Option Year 4, to include:

- a) The fee structure shall be as follows:
  - 1) The Successful Respondent will earn a percentage of the Base Administration Fee that the Successful Respondent requires from THDA for the administration and operations of IBPS Tasks Numbers 3, 6, 9, 10, 14, and 15 of the THDA Section 8 PBCA program. The Base Fee earned by THDA currently is one and nine tenths percent (1.9%) of the Final Fair Market Rent (FMR) for a two bedroom unit for the FMR area in which the project is located, as published by HUD for the Federal Fiscal Year that includes the month for which the PHA claims the Fee. ;
  - 2) The Successful Respondent will be compensated a percentage of the Management and Occupancy Review (MOR) Fee for each MOR completed. The base MOR fee is currently set at \$3,400 per MOR completed.
  - 3) The Successful Respondent will be compensated a percentage of the COVID-19 Supplemental Payment (CSP) Fee (currently \$150 and \$75) earned for each CSP processed.
- b) The percentage value of the fee proposed to be earned by the Successful Respondent shall be consistent within the fee structure for items 1-3 noted in Section a. Thus, no variation in the percentage value to be earned between items 1-3 should be proposed.
- c) The Successful Respondent shall absorb any and all disincentives applied to the Base Administration Fee that are caused by the Successful Respondent. THDA shall absorb any and all disincentives applied to the Base Administration Fee that are caused by THDA. THDA will assign application of any disincentives at its sole discretion.

**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.), "THDA 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>	

**RFP ATTACHMENT 6.3. (continued)**

<b>RESPONDENT LEGAL ENTITY NAME:</b>			
<b>Fee Percentage Time Period</b>	<b>Proposed Fee Percentage</b>	<b>State Use Only</b>	
		<b>Evaluation Factor</b>	<b>Evaluation Cost</b> (cost x factor)
Initial 12-month period		NUMBER	
Option Year 1		NUMBER	
Option Year 2		NUMBER	
Option Year 3		NUMBER	
Option Year 4		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> <hr/> <b>evaluation cost amount being evaluated</b>		<b>= Pts x 10%</b> <b>(10 pts maximum section)</b>	<b>= SCORE:</b>
<i>State Use – Solicitation Coordinator Signature, Printed Name &amp; Date:</i>			

**REFERENCE QUESTIONNAIRE**

**The standard reference questionnaire provided on the following pages of this attachment MUST be completed by all individuals offering a reference for the Respondent.**

The Respondent will be solely responsible for obtaining completed reference questionnaires as required (refer to RFP Attachment 6.2., Technical Response & Evaluation Guide, Section B, Item B.17.), and for enclosing the sealed reference envelopes within the Respondent's Technical Response.



**RFP # 31620-00656 REFERENCE QUESTIONNAIRE**

**REFERENCE SUBJECT:** RESPONDENT NAME (completed by Respondent before reference is requested)

The "reference subject" specified above, intends to submit a response to THDA in response to the Request for Proposals (RFP) indicated. As a part of such response, the reference subject must include a number of completed and sealed reference questionnaires (using this form).

Each individual responding to this reference questionnaire is asked to follow these instructions:

- complete this questionnaire (either using the form provided or an exact duplicate of this document);
- sign and date the completed questionnaire;
- seal the completed, signed, and dated questionnaire in a new standard #10 envelope;
- sign in ink across the sealed portion of the envelope; and
- return the sealed envelope containing the completed questionnaire directly to the reference subject.

(1) **What is the name of the individual, company, organization, or entity responding to this reference questionnaire?**

(2) **Please provide the following information about the individual completing this reference questionnaire on behalf of the above-named individual, company, organization, or entity.**

<b>NAME:</b>	
<b>TITLE:</b>	
<b>TELEPHONE #</b>	
<b>E-MAIL ADDRESS:</b>	

(3) **What goods or services does/did the reference subject provide to your company or organization?**

(4) **What is the level of your overall satisfaction with the reference subject as a vendor of the goods or services described above?**

*Please respond by circling the appropriate number on the scale below.*

	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	
least satisfied						most satisfied

## RFP # 31620-00656 REFERENCE QUESTIONNAIRE — PAGE 2

If you circled 3 or less above, what could the reference subject have done to improve that rating?

(5) If the goods or services that the reference subject provided to your company or organization are completed, were the goods or services provided in compliance with the terms of the contract, on time, and within budget? If not, please explain.

(6) If the reference subject is still providing goods or services to your company or organization, are these goods or services being provided in compliance with the terms of the contract, on time, and within budget? If not, please explain.

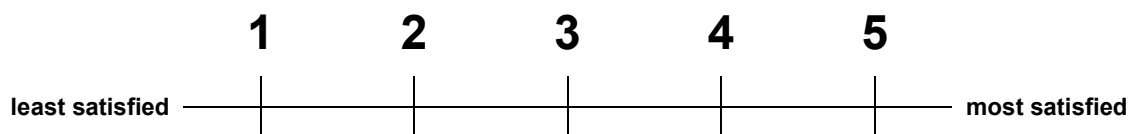
(7) How satisfied are you with the reference subject's ability to perform based on your expectations and according to the contractual arrangements?

(8) In what areas of goods or service delivery does/did the reference subject excel?

(9) In what areas of goods or service delivery does/did the reference subject fall short?

(10) What is the level of your satisfaction with the reference subject's project management structures, processes, and personnel?

*Please respond by circling the appropriate number on the scale below.*



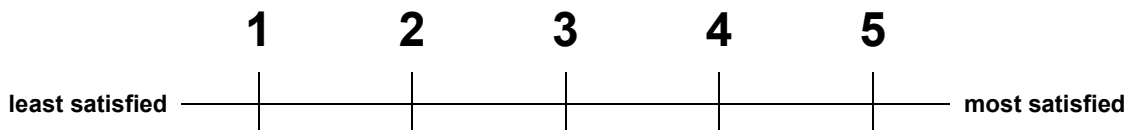
What, if any, comments do you have regarding the score selected above?

**RFP # 31620-00656 REFERENCE QUESTIONNAIRE — PAGE 3**

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(11) **Considering the staff assigned by the reference subject to deliver the goods or services described in response to question 3 above, how satisfied are you with the technical abilities, professionalism, and interpersonal skills of the individuals assigned?**

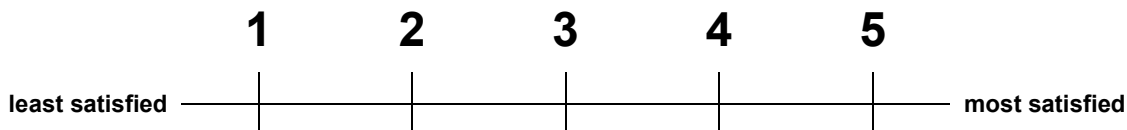
*Please respond by circling the appropriate number on the scale below.*



**What, if any, comments do you have regarding the score selected above?**

(12) **Would you contract again with the reference subject for the same or similar goods or services?**

*Please respond by circling the appropriate number on the scale below.*



**What, if any, comments do you have regarding the score selected above?**

**REFERENCE SIGNATURE:**

(by the individual completing this request for reference information)

\_\_\_\_\_  
(must be the same as the signature across the envelope seal)

**DATE:**

**RFP ATTACHMENT 6.5.**

**SCORE SUMMARY MATRIX**

	<i>RESPONDENT NAME</i>		<i>RESPONDENT NAME</i>		<i>RESPONDENT NAME</i>	
<b>GENERAL QUALIFICATIONS &amp; EXPERIENCE</b> (maximum: 30%)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>REPEAT AS NECESSARY</i>						
	<b>AVERAGE:</b>		<b>AVERAGE:</b>		<b>AVERAGE:</b>	
<b>TECHNICAL QUALIFICATIONS, EXPERIENCE &amp; APPROACH</b> (maximum: 60%)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>REPEAT AS NECESSARY</i>						
	<b>AVERAGE:</b>		<b>AVERAGE:</b>		<b>AVERAGE:</b>	
<b>COST PROPOSAL</b> (maximum: 10%)	<b>SCORE:</b>		<b>SCORE:</b>		<b>SCORE:</b>	
<b>TOTAL RESPONSE EVALUATION SCORE:</b> (maximum: 100)						
<i>Solicitation Coordinator Signature, Printed Name &amp; Date:</i>						

**RFP # 31620-00656 *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.

RFP # **NUMBER** 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  
BETWEEN THE STATE OF TENNESSEE,  
**STATE AGENCY NAME**  
AND  
**CONTRACTOR NAME**

This Contract, by and between the State of Tennessee, **State Agency Name** (“State”) 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. Definitions. For purposes of this Contract, definitions shall be as follows and as set forth in the Contract:

a.

**A.#. Specify the goods, services, deliverables, technical specifications, timelines, and delivery requirements that the Contractor must provide and meet (sufficient detail is required to ensure contractor accountability and definitive results).**

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

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

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

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

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

**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 State 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 State under this Contract exceed **Written Dollar Amount (\$Number)** ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State 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 State 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 State 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	

Add Contingently Required Subsections as Appropriate (refer to instructions for details)

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 State only for goods delivered and accepted by the State 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 State);
    - (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 State 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 State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State 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 State, 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 State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.



- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
- b. The Contractor shall complete, sign, and return to the State 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 State 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 State:

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 State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State 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 State

and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.

- D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State 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 State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State 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 State 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 State for damages sustained by virtue of any Breach Condition and the State 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 State. 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 State 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 State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed 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 state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor 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 State a completed and signed copy of the document at Attachment **Reference**, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. 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 State.
  - 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 State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.12. **Monitoring.** The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.13. **Progress Reports.** The Contractor shall submit brief, periodic, progress reports to the State 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 State and hold it harmless from any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.

- D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State 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 State'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. For clarity, except as otherwise expressly set forth in this Section, Contractor's indemnification obligations and other remedies available under this Contract are subject to the limitations on liability set forth in this Section.
- D.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys' fees, court costs, expert witness fees, and other litigation expenses for the State 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 State 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 State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

- D.20. HIPAA Compliance. The State 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 State 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 State, 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 State 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 State 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 State 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 State 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 State 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 State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded, 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 State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State 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 State may, upon notice to Contractor: (a) cease payment of the fees for the affected obligations 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 State 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 State and federal laws and regulations applicable to Contractor in the Contractor's 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 State of Tennessee 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 **[identify attachments and exhibits]**;
  - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
  - d. the State 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 State 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 State. All insurance companies providing coverage must be: (a) acceptable to the State; (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 State. Contractor agrees to name the State 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 State. Any deductible or self insured retention ("SIR") over fifty thousand dollars (\$50,000) must be approved by the State. 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 State is otherwise named as an additional insured.

Contractor shall provide the State 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 State 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 State evidence that all subcontractors maintain the required insurance or that subcontractors are included under the Contractor's policy. At any time, the State 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 State reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State 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 State in any legal matter, as the right to represent the State 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 State. 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.

c. Automobile Liability Insurance

- 1) The Contractor shall maintain automobile liability insurance which shall cover liability arising out of any automobile (including owned, leased, hired, and non-owned automobiles).
- 2) The Contractor shall maintain bodily injury/property damage with a limit not less than **one million dollars (\$1,000,000)** per occurrence or combined single limit.

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.

D.34. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Contract.

**E. SPECIAL TERMS AND CONDITIONS:**

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

Add Appropriate and Contingently Required Special Terms & Conditions (refer to instructions for details)

**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**

ATTACHMENT REFERENCE

**ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

<b>If the attestation applies to more than one contract, modify this row accordingly.</b>	
<b>SUBJECT CONTRACT NUMBER:</b>	
<b>CONTRACTOR LEGAL ENTITY NAME:</b>	
<b>EDISON VENDOR IDENTIFICATION NUMBER:</b>	

**If the attestation applies to more than one contract, modify the following paragraph accordingly.**

**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**