



**STATE OF TENNESSEE
DEPARTMENT OF TOURIST DEVELOPMENT**

**REQUEST FOR PROPOSALS
FOR
MARKETING AND ADVERTISING SERVICES**

RFP # 32601-2100

RELEASE #2

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1. INTRODUCTION

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

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

1.1. Statement of Procurement Purpose

The State will procure marketing and advertising services that will include brand development, creative, production related to traditional and digital advertising and reporting on analytics of generating visitation to Tennessee and to the State’s websites in its efforts to increase in-state and out-of-state tourism growth. Specific categories of services are further set out in the Scope of the *pro forma* contract in RFP Attachment 6.6, below.

Estimated spend for the new contract is \$10-15 M annually for the Contract term.

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

The State will use a tiered process to select the successful Respondent for the Department of Tourist Development RFP:

- Tier 1. The State will evaluate the Mandatory Requirement set forth in this RFP, Section A of the Attachment 6.2 on a pass/fail basis.
- Tier 2. Following the Tier 2 evaluation, the State will score the Respondent’s Technical Proposal (sections B & C of Attachment 6.2) in accordance with the criteria set forth in the RFP. **The Solicitation Coordinator will invite the top eight (8) ranked Respondents to make an Oral Presentation.** Evaluators will use the Respondent’s oral presentation (Section D of Attachment 6.2) as a tool to help score the Technical Proposal in accordance with the criteria set forth in the RFP.
- Tier 3. Following the Tier 2 evaluation, the State shall invite the three (3) best evaluated Respondents for an Interview. The evaluators will then score the Respondent’s Interview in accordance with the criteria set forth in the RFP. Evaluators will use Section E of Attachment 6.2 to record their scores.
- Tier 4. Following the Tier 3 evaluation, the State may engage the Respondents to negotiate cost. The State reserves the right to negotiate with one or more Respondents (see Section 5.2.4 Cost Proposal Evaluation and RFP pro forma contract in RFP Attachment 6.6). The State will then calculate the sum of the scores for the subject Proposal scores per Section 5.2.6. Total Response Score.

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

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

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

1.3. **Nondiscrimination**

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

1.4. **RFP Communications**

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

RFP # 32601-2100

1.4.2. **Unauthorized contact about this RFP with employees or officials of the State 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:

Kelly Johns, Solicitation Coordinator
 Division of General Services
 Central Procurement Office
 WRS Tennessee Tower, 3rd Floor
 312 Rosa L. Parks Avenue
 Nashville, TN 37243-1102
 (615) 741-8852
Kelly.X.Johns@tn.gov

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

- a. staff of the Governor's Office of Diversity Business Enterprise for assistance available to minority-owned, woman-owned, service-disabled veteran-owned, businesses owned by persons with disabilities, and small businesses as well as general, public information relating to this RFP (visit <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/governor-s-office-of-diversity-business-enterprise--godbe--/godbe-general-contacts.html> for contact information); and
- b. the following individual designated by the State 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:

Helen Crowley
 Department of General Services
 312 Rosa L. Parks Ave 3rd Floor
 615-741-3836
Helen.Crowley@tn.gov

- 1.4.3. Only the State's official, written responses and communications with Respondents are binding with regard to this RFP. Oral communications between a State official and one or more Respondents are unofficial and non-binding.
- 1.4.4. Potential Respondents must ensure that the State receives all written questions and comments, including questions and requests for clarification, no later than the Written Questions & Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.4.5. Respondents must assume the risk of the method of dispatching any communication or response to the State. The State assumes no responsibility for delays or delivery failures resulting from the Respondent's method of dispatch.
- 1.4.6. The State will convey all official responses and communications related to this RFP to the prospective Respondents from whom the State has received a Notice of Intent to Respond (refer to RFP Section 1.8.).
- 1.4.7. The State reserves the right to determine, at its sole discretion, the method of conveying official, written responses and communications related to this RFP. Such written communications may be transmitted by mail, hand-delivery, facsimile, electronic mail, Internet posting, or any other means deemed reasonable by the State. 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. The State reserves the right to determine, at its sole discretion, the appropriateness and adequacy of responses to written comments, questions, and requests related to this RFP. The State's official, written responses will constitute an amendment of this RFP.
- 1.4.9. Any data or factual information provided by the State (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. The State will make reasonable efforts to ensure the accuracy of such data or information, however it is the Respondent's obligation to independently verify any data or information provided by the State. The State expressly disclaims the accuracy or adequacy of any information or data that it provides to prospective Respondents.

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

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

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

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

1.7. Pre-Response Conference

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

The conference will be held at:

Meeting number (access code): 185 732 4213

Meeting password: eYmDfPFp228

Join from the meeting link

<https://tngov.webex.com/tngov/j.php?MTID=md2195bb7d490226449e766c796c983ef>

Join by phone

+1-415-655-0003 US TOLL

Global call-in numbers

The purpose of the conference is to discuss the RFP scope of goods or services. The State will entertain questions, however prospective Respondents must understand that the State's oral response to any question at the Pre-response Conference shall be unofficial and non-binding. Prospective Respondents must submit all questions, comments, or other concerns regarding the RFP in writing prior to the Written Questions & Comments Deadline date detailed in the RFP Section 2, Schedule of Events. The State will send the official response to these questions and comments to prospective Respondents from whom the State has received a Notice of Intent to respond as indicated in RFP Section 32601-2100 and on the date detailed in the RFP Section 2, Schedule of Events.

1.8. Notice of Intent to Respond

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

- the business or individual's name (as appropriate);
- a contact person's name and title; and
- the contact person's mailing address, telephone number, facsimile number, and e-mail address.

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

1.9. Response Deadline

A Respondent must ensure that the State receives a response no later than the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events. The State will not accept late responses, and a Respondent's failure to submit a response before the deadline will result in disqualification of the response. It is the responsibility of the Respondent to ascertain any additional security requirements with respect to packaging and delivery to the State of Tennessee. 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

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

EVENT	TIME (central time zone)	DATE
1. RFP Issued		April 26, 2021
2. Disability Accommodation Request Deadline	2:00 p.m.	April 29, 2021
3. Pre-response Conference	1:00 p.m.	April 30, 2021
4. Notice of Intent to Respond Deadline	2:00 p.m.	May 3, 2021
5. Written "Questions & Comments" Deadline	2:00 p.m.	May 6, 2021
6. State Response to Written "Questions & Comments"		May 21, 2021
7. Response Deadline	2:00 p.m.	June 4, 2021
8. State Schedules Respondent Oral Presentation		July 2, 2021
9. Respondent Oral Presentation	8 a.m. - 4:30 p.m.	July 7-9, 2021
10. State Completion of Technical Response Evaluations		July 28, 2021
11. State Schedules Respondent Interviews		August 6, 2021
12. Respondent Interviews	8 a.m. - 4:30 p.m.	August 10-11, 2021
13. State Completion of Interview Evaluations		August 25, 2021
14. State Opening & Scoring of Cost Proposals	8:00 a.m.	August 26, 2021
15. Cost Negotiations		August 26-Sept 14, 2021
16. State Notice of Intent to Award Released and RFP Files Opened for Public Inspection	2:00 p.m.	September 17, 2021
17. End of Open File Period		September 24, 2021

18. State sends contract to Contractor for signature		September 27, 2021
19. Contractor Signature Deadline	2:00 p.m.	September 30, 2021

- 2.2. **The State reserves the right, at its sole discretion, to adjust the RFP Schedule of Events as it deems necessary.** Any adjustment of the Schedule of Events shall constitute an RFP amendment, and the State will communicate such to prospective Respondents from whom the State has received a Notice of Intent to Respond (refer to section 1.8).

3. RESPONSE REQUIREMENTS

3.1. Response Form

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

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

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

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

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

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

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

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

3.2. Response Delivery

- 3.2.1. A Respondent must ensure that both the original Technical Response and Cost Proposal documents meet all form and content requirements, including all required signatures, as detailed within this RFP, as may be amended.
- 3.2.2. A Respondent must submit their response as specified in one of the two formats below.

3.2.2.1. Digital Media Submission

3.2.2.1.1. Technical Response

The Technical Response document should be in the form of one (1) digital document in "PDF" format properly recorded on its own otherwise blank, standard CD-R recordable disc or USB flash drive and should be clearly identified as the:

"RFP #32601-2100 TECHNICAL RESPONSE ORIGINAL"

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

"RFP #32601-2100 TECHNICAL RESPONSE COPY"

The customer references should be delivered by each reference in accordance with RFP Attachment 6.2, Section B.17

3.2.2.1.2. Cost Proposal:

The Cost Proposal should be in the form of one (1) digital document in "PDF" or "XLS" format properly recorded on a separate, otherwise blank, standard CD-R recordable disc or USB flash drive clearly labeled:

"RFP #32601-2100 COST PROPOSAL"

An electronic or facsimile signature, as applicable, on the Cost Proposal is acceptable.

3.2.2.2. E-Mail Submission

3.2.2.2.1. Technical Response

The Technical Response document should be in the form of one (1) digital document in "PDF" format or other easily accessible digital format attached to an e-mail to the Solicitation Coordinator. Both the subject and file name should both be clearly identified as follows:

"RFP #32601-2100 TECHNICAL RESPONSE"

The customer references should be delivered by each reference in accordance with RFP Attachment 6.2, Section B.17.

3.2.2.2. Cost Proposal:

The Cost Proposal should be in the form of one (1) digital document in “PDF” or “XLS” format or other easily accessible digital format attached to an e-mail to the Solicitation Coordinator. Both the subject and file name should both be clearly identified as follows:

“RFP #32601-2100 COST PROPOSAL”

An electronic or facsimile signature, as applicable, on the Cost Proposal is acceptable.

3.2.3. For e-mail submissions, the Technical Response and Cost Proposal documents must be dispatched to the Solicitation Coordinator in separate e-mail messages. For digital media submissions, a Respondent must separate, seal, package, and label the documents and copies for delivery as follows:

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

“DO NOT OPEN... RFP # 32601-2100 TECHNICAL RESPONSE FROM [RESPONDENT LEGAL ENTITY NAME]”

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

“DO NOT OPEN... RFP # 32601-2100 COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”

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

“RFP # 32601-2100 SEALED TECHNICAL RESPONSE & SEALED COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”

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

Kelly Johns, Solicitation Coordinator
Division of General Services
Central Procurement Office
WRS Tennessee Tower, 3rd Floor
312 Rosa L. Parks Avenue
Nashville, TN 37243-1102
Kelly.X.Johns@tn.gov

3.3. **Response & Respondent Prohibitions**

3.3.1. A response must not include alternate contract terms and conditions. If a response contains such terms and conditions, the State, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.

3.3.2. A response must not restrict the rights of the State or otherwise qualify either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal. If a response restricts

the rights of the State or otherwise qualifies either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal, the State, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.

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

3.5. **Response Withdrawal**

A Respondent may withdraw a submitted response at any time before the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events by submitting a written request signed by an

authorized Respondent representative. After withdrawing a response, a Respondent may submit another response at any time before the Response Deadline. After the Response Deadline, a Respondent may only withdraw all or a portion of a response where the enforcement of the response would impose an unconscionable hardship on the Respondent.

3.6. **Additional Services**

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

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

3.7. **Response Preparation Costs**

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

4. GENERAL CONTRACTING INFORMATION & REQUIREMENTS

4.1. RFP Amendment

The State at its sole discretion may amend this RFP, in writing, at any time prior to contract award. However, prior to any such amendment, the State will consider whether it would negatively impact the ability of potential Respondents to meet the response deadline and revise the RFP Schedule of Events if deemed appropriate. If an RFP amendment is issued, the State will convey it to potential Respondents who submitted a Notice of Intent to Respond (refer to RFP Section 1.8.). A response must address the final RFP (including its attachments) as amended.

4.2. RFP Cancellation

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

4.3. State Right of Rejection

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

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

4.4. Assignment & Subcontracting

4.4.1. The Contractor may not subcontract, transfer, or assign any portion of the Contract awarded as a result of this RFP without prior approval of the State. The State 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 the State unless the State expressly disapproves one or more of the proposed subcontractors prior to signing the Contract.

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

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

4.5. Right to Refuse Personnel or Subcontractors

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

4.6. Insurance

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

4.7. Professional Licensure and Department of Revenue Registration

- 4.7.1. All persons, agencies, firms, or other entities that provide legal or financial opinions, which a Respondent provides for consideration and evaluation by the State as a part of a response to this RFP, shall be properly licensed to render such opinions.
- 4.7.2. Before the Contract resulting from this RFP is signed, the apparent successful Respondent (and Respondent employees and subcontractors, as applicable) must hold all necessary or appropriate business or professional licenses to provide the goods or services as required by the contract. The State may require any Respondent to submit evidence of proper licensure.
- 4.7.3. Before the Contract resulting from this RFP is signed, the apparent successful Respondent must be registered with the Tennessee Department of Revenue for the collection of Tennessee sales and use tax. The State 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 the State in response to this RFP shall become the property of the State of Tennessee. Selection or rejection of a response does not affect this right. By submitting a response, a Respondent acknowledges and accepts that the full response contents and associated documents will become open to public inspection in accordance with the laws of the State of Tennessee.
- 4.8.2. The State will hold all response information, including both technical and cost information, in confidence during the evaluation process.
- 4.8.3. Upon completion of response evaluations, indicated by public release of a Notice of Intent to Award, the responses and associated materials will be open for review by the public in accordance with Tenn. Code Ann. § 10-7-504(a)(7).

4.9. Contract Approval and Contract Payments

- 4.9.1. After contract award, the Contractor who is awarded the contract must submit appropriate documentation with the Department of Finance and Administration, Division of Accounts.
- 4.9.2. This RFP and its contractor selection processes do not obligate the State 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 State agency head and the Contractor and after the Contract is approved by all other state officials as required by applicable laws and regulations.

4.9.3. No payment will be obligated or made until the relevant Contract is approved as required by applicable statutes and rules of the State of Tennessee.

4.9.3.1. The State shall not be liable for payment of any type associated with the Contract resulting from this RFP (or any amendment thereof) or responsible for any goods delivered or services rendered by the Contractor, even goods delivered or services rendered in good faith and even if the Contractor is orally directed to proceed with the delivery of goods or the rendering of services, if it occurs before the Contract Effective Date or after the Contract Term.

4.9.3.2. All payments relating to this procurement will be made in accordance with the Payment Terms and Conditions of the Contract resulting from this RFP (refer to RFP Attachment 6.6., *Pro Forma Contract*, Section C).

4.9.3.3. If any provision of the Contract provides direct funding or reimbursement for the competitive purchase of goods or services as a component of contract performance or otherwise provides for the reimbursement of specified, actual costs, the State will employ all reasonable means and will require all such documentation that it deems necessary to ensure that such purchases were competitive and costs were reasonable, necessary, and actual. The Contractor shall provide reasonable assistance and access related to such review. Further, the State shall not remit, as funding or reimbursement pursuant to such provisions, any amounts that it determines do not represent reasonable, necessary, and actual costs.

4.10. **Contractor Performance**

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

4.11. **Contract Amendment**

After Contract award, the State may request the Contractor to deliver additional goods or perform additional services within the general scope of the Contract and this RFP, but beyond the specified Scope, and for which the Contractor may be compensated. In such instances, the State will provide the Contractor a written description of the additional goods or services. The Contractor must respond to the State with a time schedule for delivering the additional goods or accomplishing the additional services based on the compensable units included in the Contractor's response to this RFP. If the State 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 State agency head and the Contractor and must be approved by other state officials as required by applicable statutes, rules, policies and procedures of the State of Tennessee. The Contractor must not provide additional goods or render additional services until the State has issued a written contract amendment with all required approvals.

4.12. **Severability**

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

4.13. **Next Ranked Respondent**

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

5. EVALUATION & CONTRACT AWARD

5.1. Evaluation Categories & Maximum Points

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

EVALUATION CATEGORY	MAXIMUM POINTS POSSIBLE
General Qualifications & Experience (refer to RFP Attachment 6.2., Section B)	10
Technical Qualifications, Experience & Approach. (refer to RFP Attachment 6.2., Section C)	45
Oral Presentations (refer to RFP Attachment 6.2., Section D)	N/A
Interviews (refer to RFP Attachment 6.2., Section E)	25
Cost Proposal (refer to RFP Attachment 6.3.)	20

5.2. Evaluation Process

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

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

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

5.2.1.2. Tier 1: The Solicitation Coordinator will review each Technical Response to determine compliance with RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A—Mandatory Requirements. If the Solicitation Coordinator determines that a response failed to meet one or more of the mandatory requirements, the Proposal Evaluation Team will review the response and document the team’s determination of whether:

- a. the response adequately meets RFP requirements for further evaluation;
- b. the State will request clarifications or corrections for consideration prior to further evaluation; or,

c. the State will determine the response to be non-responsive to the RFP and reject it.

- 5.2.1.3. Tier 2: 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. **The Solicitation Coordinator will invite the top eight (8) ranked Respondents to make an Oral Presentation. The ranking will be determined after the Technical Response score is totaled and ranked (e.g., 1 – the best evaluated ranking, etc.)**
- 5.2.1.5.1. The Oral Presentations are mandatory. 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.
- 5.2.1.5.2. Respondent Presentations are only open to the invited Respondent, Proposal Evaluation Team members, the Solicitation Coordinator, and any technical consultants who are selected by the State to provide assistance to the Proposal Evaluation Team.
- 5.2.1.5.3. Oral Presentations provide an opportunity for Respondents to explain and clarify their responses and for the State 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.
- 5.2.1.5.4. The State 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 the State opens the procurement files for public inspection.
- 5.2.2. Tier 3: **Interview Evaluations.** The RFP Coordinator will calculate the sum of the Technical Proposal scores to determine the three best evaluated Respondents. The three best evaluated Respondents will be invited to participate in the Interview Process. All other Respondents will be removed from consideration for award. The purpose of conducting interviews is to allow the State a more in-depth understanding of the Respondent's knowledge and understanding of what the State is requesting and the Respondent's ability to provide such services.
- 5.2.2.1 Respondents should expect to be asked specific questions related, but not limited to, the Respondent's ability to provide requested services and create additional value for the State.
- 5.2.2.2 All Respondents will be asked identical questions by the Evaluators and the Subject Matter Experts. These questions will be predetermined, but unavailable to the Respondents prior to the open-file period.

- 5.2.2.3 All Evaluators will have a copy of the predetermined questions and submit the scores on Section E. Interview Evaluation Guide of RFP Attachment 6.2. for this section after reviewing the Subject Matter Experts' reports.
- 5.2.3. 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.
- 5.2.4. Tier 4: **Cost Proposal Evaluation.** The RFP Coordinator will open for evaluation the Cost Proposal of each apparently responsive and responsible Respondent that the Proposal Evaluation Team has effectively recommended for potential contract award and will calculate and record each Cost Proposal score in accordance with the RFP Attachment 6.3., Cost Proposal & Scoring Guide. The State will not open Cost Proposals for any Respondent not invited to the interview round.
- 5.2.4.1 The State reserves the right, at its sole discretion, to request Respondent clarification of the Cost Proposal or to conduct clarification discussions with any or all Respondents. Any such clarification or discussion will be limited to specific sections of the proposal identified by the State. The subject Respondent must put any resulting clarification in writing as may be required and in accordance with any deadline imposed by the State.
- 5.2.5. **Clarifications and Negotiations:** The State reserves the right to award a contract on the basis of initial responses received, therefore, each response shall contain the Respondent's best terms and conditions from a technical and cost standpoint. The State reserves the right to conduct clarifications or negotiations with one or more Respondents. All communications, clarifications, and negotiations shall be conducted in a manner that supports fairness in response improvement.
- 5.2.5.1. **Clarifications:** The State may identify areas of a response that may require further clarification or areas in which it is apparent that there may have been miscommunications or misunderstandings as to the State's specifications or requirements. The State may seek to clarify those issues identified during one or multiple clarification rounds. Each clarification sought by the State may be unique to an individual Respondent, provided that the process is conducted in a manner that supports fairness in response improvement.
- 5.2.5.2. **Negotiations:** The State may elect to negotiate with one or more Respondents by requesting revised responses, negotiating costs, or finalizing contract terms and conditions. The State reserves the right to conduct multiple negotiation rounds or no negotiations at all.
- 5.2.5.3. **Cost Negotiations:** All Respondents, selected for negotiation by the State, will be given equivalent information with respect to cost negotiations. All cost negotiations will be documented for the procurement file. Additionally, the State may conduct target pricing and other goods or services level negotiations. Target pricing may be based on considerations such as current pricing, market considerations, benchmarks, budget availability, or other methods that do not reveal individual Respondent pricing. During target price negotiations, Respondents are not obligated to reduce their pricing to target prices, but no Respondent is allowed to increase prices.
- 5.2.5.4. If the State determines that it is unable to successfully negotiate terms and conditions of a contract with the apparent best evaluated Respondent, the State reserves the right to bypass the apparent best evaluated Respondent and enter into terms and conditions contract negotiations with the next apparent best evaluated Respondent.
- 5.2.6. **Total Response Score.** The RFP Coordinator will calculate the sum of the Technical Proposal section scores, the Interview scores and the Cost Proposal score and record

the resulting number as the total score for the subject Proposal (refer to RFP Attachment 6.4., Proposal Score Summary Matrix). Only the Respondents invited to the Interview will be considered for award.

5.3. Contract Award Process

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

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

- 5.3.4. The Respondent identified as offering the apparent best-evaluated response must sign a contract drawn by the State pursuant to this RFP. The Contract shall be substantially the same as the RFP Attachment 6.6., *Pro Forma* Contract. The Respondent must sign the contract by the Contractor Signature Deadline detailed in the RFP Section 2, Schedule of Events. If the Respondent fails to provide the signed Contract by this deadline, the State may determine that the Respondent is non-responsive to this RFP and reject the response.
- 5.3.5. Notwithstanding the foregoing, the State 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 the State's best interests, **PROVIDED THAT** such revision of terms and conditions or performance requirements shall **NOT** materially affect the basis of response evaluations or negatively impact the competitive nature of the RFP and contractor selection process.
- 5.3.6. If the State determines that a response is non-responsive and rejects it after opening Cost Proposals, the Solicitation Coordinator will re-calculate scores for each remaining responsive Cost Proposal to determine (or re-determine) the apparent best-evaluated response.

RFP ATTACHMENT 6.1.**RFP # 32601-2100 STATEMENT OF CERTIFICATIONS AND ASSURANCES**

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

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

1. The Respondent will comply with all of the provisions and requirements of the RFP.
2. The Respondent will provide all services as defined in the Scope of the RFP Attachment 6.6., *Pro Forma* Contract for the total Contract Term.
3. The Respondent, except as otherwise provided in this RFP, accepts and agrees to all terms and conditions set out in the RFP Attachment 6.6., *Pro Forma* Contract.
4. The Respondent acknowledges and agrees that a contract resulting from the RFP shall incorporate, by reference, all proposal responses as a part of the Contract.
5. The Respondent will comply with:
 - (a) the laws of the State of Tennessee;
 - (b) Title VI of the federal Civil Rights Act of 1964;
 - (c) Title IX of the federal Education Amendments Act of 1972;
 - (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
 - (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
6. To the knowledge of the undersigned, the information detailed within the response submitted to this RFP is accurate.
7. The response submitted to this RFP was independently prepared, without collusion, under penalty of perjury.
8. No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Respondent in connection with this RFP or any resulting contract.
9. Both the Technical Response and the Cost Proposal submitted in response to this RFP shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the RFP.
10. The Respondent affirms the following statement, as required by the Iran Divestment Act Tenn. Code Ann. § 12-12-111: "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to §12-12-106." For reference purposes, the list is currently available online at: <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/library-public-information-library.html>.

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

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

SIGNATURE:

PRINTED NAME & TITLE:

DATE:

**RESPONDENT LEGAL ENTITY
NAME:**

RFP ATTACHMENT 6.2. — Section A

TECHNICAL RESPONSE & EVALUATION GUIDE

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

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

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		The Response must be delivered to the State no later than the Response Deadline specified in the RFP Section 2, Schedule of Events.	
		The Technical Response and the Cost Proposal documentation must be packaged separately as required (refer to RFP Section 3.2., <i>et. seq.</i>).	
		The Technical Response must NOT contain cost or pricing information of any type.	
		The Technical Response must NOT contain any restrictions of the rights of the State or other qualification of the response.	
		A Respondent must NOT submit alternate responses (refer to RFP Section 3.3.).	
		A Respondent must NOT submit multiple responses in different forms (as a prime and a subcontractor) (refer to RFP Section 3.3.).	
	A.1.	Provide the Statement of Certifications and Assurances (RFP Attachment 6.1.) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification.	
	A.2.	Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall cause to deliver goods or perform services under the contract has a possible conflict of interest (<i>e.g.</i> , employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	A.3.	Provide a current bank reference that reflects the Respondent's relationship with its financial institution in is positive standing. The reference must be written in the form of a standard business letter, utilizing business letterhead, signed and dated within the past three (3) months.	
	A.4.	Provide two current, positive credit references from vendors with which the Respondent has done business written in the form of a standard business letter, utilizing business letterhead, signed and dated within the past three (3) months.	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
	A.5.	Provide an official document or letter on business letterhead from an accredited credit bureau, verified and dated within the last three (3) months and indicating a positive credit rating for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will <u>not</u> be considered as responsive.)	
	A.6.	Provide a letter of commitment from a financial institution (signed by an authorized agent of the financial institution, detailing the Respondent's name and on the financial institution's letterhead) for a general line of credit in the amount of Five Hundred Thousand Dollars (\$500,000.00).	
	A.7.	Provide a statement that accurately indicates the current annual billing for the agency and whether it meets or exceeds Twenty Million Dollars (\$20,000,000.00).	
	A.8.	Provide a statement indicating whether the Respondent has experience in domestic and international media placement.	
<i>State Use – Solicitation Coordinator Signature, Printed Name & Date:</i>			

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.

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.1.	Detail the name, e-mail address, mailing address, telephone number, and facsimile number of the person the State should contact regarding the response.
	B.2.	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.3.	Detail the number of years the Respondent has been in business.
	B.4.	Briefly describe how long the Respondent has been providing the goods or services required by this RFP.
	B.5.	Describe the Respondent's number of employees, client base, and location of offices.
	B.6.	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.7.	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.8.	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.9.	Provide a statement of whether there is any material, pending litigation against the Respondent that the Respondent should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this RFP or is likely to have a material adverse effect on the Respondent's financial condition. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it would impair the Respondent's performance in a contract pursuant to this RFP. NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the Respondent to submit proof of license for each person or entity that renders such opinions.
	B.10.	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.

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the Respondent to submit proof of license for each person or entity that renders such opinions.
	B.11.	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.12.	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.13.	Provide a personnel roster listing the names of key people who the Respondent will assign to meet the Respondent's requirements under this RFP along with the estimated number of hours that each individual will devote to that performance. Follow the personnel roster with a resume for each of the people listed. The resumes must detail the individual's title, education, current position with the Respondent, and employment history.
	B.14.	Provide a statement of whether the Respondent intends to use subcontractors to meet the Respondent's requirements of any contract awarded pursuant to this RFP, and if so, detail: <ul style="list-style-type: none"> (a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each; (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> (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.
	B.15.	Provide documentation of the Respondent's commitment to diversity as represented by the following: <ul style="list-style-type: none"> (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. (b) <u>Business Relationships</u>. Provide a listing of the Respondent's current contracts with business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises. Please include the following information: <ul style="list-style-type: none"> (i) contract description; (ii) contractor name and ownership characteristics (i.e., ethnicity, gender, service-disabled veteran-owned or persons with disabilities); (iii) contractor contact name and telephone number. (c) <u>Estimated Participation</u>. Provide an estimated level of participation by business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities and small business enterprises if a contract is awarded to the Respondent pursuant to this RFP. Please include the following information: <ul style="list-style-type: none"> (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 DO NOT INCLUDE DOLLAR AMOUNTS); (ii) anticipated goods or services contract descriptions; (iii) names and ownership characteristics (i.e., ethnicity, gender, service-disabled veterans, or disability) of anticipated subcontractors and supply contractors.

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		<p>NOTE: In order to claim status as a Diversity Business Enterprise under this contract, businesses must be certified by the Governor's Office of Diversity Business Enterprise (Go-DBE). Please visit the Go-DBE website at https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810 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>NOTE: Respondents that demonstrate a commitment to diversity will advance State efforts to expand opportunity to do business with the State 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.16.	<p>Provide a statement of whether or not the Respondent has any current contracts with the State of Tennessee or has completed any contracts with the State of Tennessee within the previous five (5) year period. If so, provide the following information for all of the current and completed contracts:</p> <p>(a) the name, title, telephone number and e-mail address of the State contact knowledgeable about the contract;</p> <p>(b) the procuring State agency name;</p> <p>(c) a brief description of the contract's scope of services;</p> <p>(d) the contract period; and</p> <p>(e) the contract number.</p>
	B.17.	<p>Provide customer references from individuals who are <u>not</u> current or former State employees for projects similar to the goods or services sought under this RFP and which represent:</p> <ul style="list-style-type: none"> ▪ two (2) accounts Respondent currently services that are similar in size to the State; <u>and</u> ▪ three (3) completed projects. <p>References from at least three (3) different individuals are required to satisfy the requirements above, e.g., an individual may provide a reference about a completed project and another reference about a currently serviced account. The standard reference questionnaire, which <u>must</u> be used and completed, is provided at RFP Attachment 6.4. References that are not completed as required may be deemed non-responsive and may not be considered.</p> <p>The Respondent will be <u>solely</u> responsible for obtaining fully completed reference questionnaires and ensuring they are e-mailed to the solicitation coordinator or including them in the sealed Technical Response. In order to obtain and submit the completed reference questionnaires following one of the two processes below.</p> <p>Written:</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"> (i) complete the reference questionnaire; (ii) sign and date the completed reference questionnaire; (iii) seal the completed, signed, and dated reference questionnaire within the envelope provided; (iv) sign his or her name in ink across the sealed portion of the envelope; and

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		<p>(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).</p> <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>E-mail:</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) E-mail the reference with a copy of the standard reference questionnaire.</p> <p>(c) Instruct the reference to:</p> <p>(i) complete the reference questionnaire;</p> <p>(ii) sign and date the completed reference questionnaire;</p> <p>(iii) E-mail the reference directly to the Solicitation Coordinator by the RFQ Technical Response Deadline with the Subject line of the e-mail as "[Respondent Name] Reference for RFP 32601-2100.</p> <p>NOTES:</p> <ul style="list-style-type: none"> ▪ The State will not accept late references or references submitted by any means other than the two which are described above, and each reference questionnaire submitted must be completed as required. ▪ The State will not review more than the number of required references indicated above. ▪ While the State will base its reference check on the contents of the reference e-mails or sealed reference envelopes included in the Technical Response package, the State reserves the right to confirm and clarify information detailed in the completed reference questionnaires, and may consider clarification responses in the evaluation of references. ▪ The State is under <u>no</u> obligation to clarify any reference information.
	B.18.	<p>Provide a statement and any relevant details addressing whether the Respondent is any of the following:</p> <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 offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;</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>
	B.19.	<p>This contract will likely necessitate significant interactive domestic and international media buying and creative expertise. Please provide a narrative description of the proposed in-house project team, its members, organizational structure and responsibility for completion of each service component and deliverable of the RFP (include media planners, programmers, project managers, data analysts, digital and traditional media buyers, social media specialists, creative and production staff, public relations personnel, and all other applicable roles relative to the Scope of Services Section A).</p>

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.20.	Provide a narrative of the experience with media buys in the past five (5) years, including the total amount (in dollars) of media placed.
	B.21.	Provide a narrative of the experience with large media campaigns (\$1 million and above per buy) on a national and global level.
	B.22.	Provide examples of the experience in domestic and international tourist development campaigns.
	B.23.	If the business location as identified in B.2. is not in Tennessee, provide a narrative to describe the Respondent's business presence in Tennessee or outline the steps the Respondent plans in order to gain a business presence in Tennessee.
		SCORE (for <u>all</u> Section B—Qualifications & Experience Items above): (maximum possible score = 10)
<i>State Use – Evaluator Identification:</i>		

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.

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
	C.1.	Provide a narrative that illustrates the Respondent's understanding of the State's requirements and project schedule.		5	
	C.2.	Provide a narrative that illustrates how the Respondent will complete the scope of services, accomplish required objectives, and meet the State's project schedule.		5	
	C.3.	Provide a narrative that illustrates how the Respondent will manage projects to meet State's objectives that may include research, strategy, planning, execution and reporting to ensure completion of the scope of services, and accomplish required objectives.		10	
	C.4.	Demonstrate the level of creativity and execution produced by the Respondent. Select and develop one travel and tourism campaign including paid, earned, and owned media from inception to completed product. Include creative process, theme development, media placement, public relations, and what metrics might be in place to measure the campaign's effectiveness.		10	
	C.5.	Provide examples of how the Respondent would approach brand development on behalf of the State of Tennessee.		10	
	C.6.	Provide a narrative that clearly illustrates the Respondent's ability to create a flexible and evolving strategic plan based on the State's needs.		8	
	C.7.	Provide a narrative that indicates the Respondent's current knowledge and experience of both domestic and international marketing.		8	
	C.8.	Provide a narrative that illustrates the Respondent's experience level and strategy for successfully completing the objectives in both the traditional and digital advertising sections of the RFP, Attachment 6.6. A.5.a and A.5.b.		12	
	C.9.	Provide a narrative that illustrates the Respondent's experience in domestic and international marketing related to travel and tourism.		10	

RFP ATTACHMENT 6.2. — (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
	C.10.	Provide a narrative to illustrate how the Respondent would provide added value in media placement opportunities to the State.		5	
	C.11.	Provide a narrative to illustrate how the Respondent would develop and execute a co-op media program for the State.		8	
	C.12.	Provide a narrative that illustrates the Respondent's experience with database management and lead generation as outlined in Attachment 6.6., Section A.5.d.		7	
	C.13.	Provide a narrative that illustrates the Respondent's experience and capabilities within all areas of public relations as stated in Attachment 6.6, Section A.5.e.		10	
	C.14.	Provide a detailed narrative of the Respondent's standard methods of reporting, as described in Attachment 6.6, Section A.7. and illustrate the Respondent's flexibility in reporting based on the needs of the State.		7	
	C.15.	Provide a narrative that details the Respondent's experience and capabilities to effectively and successfully provide all of the services outline within Attachment 6.6, Section A.6.		11	
	C.16.	Provide a narrative that details the Respondent's experience in placing media on a domestic and international scale.		8	
	C.17.	Provide a statement, including examples, elaborating on the Respondent's experience in placing media on a domestic and international scale.		10	
<i>The Solicitation Coordinator will use this sum and the formula below to calculate the section score. All calculations will use and result in numbers rounded to two (2) places to the right of the decimal point.</i>					Total Raw Weighted Score: <i>(sum of Raw Weighted Scores above)</i>
Total Raw Weighted Score					X 45
Maximum Possible Raw Weighted Score <i>(i.e., 5 x the sum of item weights above)</i>					= SCORE:
<i>State Use – Evaluator Identification:</i>					
<i>State Use – Solicitation Coordinator Signature, Printed Name & Date:</i>					

RFP ATTACHMENT 6.2.— SECTION D

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION D: ORAL PRESENTATION. The Respondent must address ALL Oral Presentation Items (below).

A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate the presentation response to each item. Each evaluator will use the following item listed in the chart below to assist in the evaluation of the Technical Proposal.

SECTION D: ORAL PRESENTATIONS. Respondent must address ALL Oral Presentation Items (below) and identify the presenters that would be directly working on the account.

RESPONDENT LEGAL ENTITY NAME:	
Item Ref.	Oral Presentation Items
	D.1. Provide an example with exhibits to demonstrate marketing and advertising campaigns the Respondent has developed and implemented within the last two (3) years that reflect the Respondent's level of creativity.
	D.2. Use the information in RFP Attachment 6.2, Section C.4. to develop a mock presentation for travel and tourism. Respondent may also use any additional material relevant to the Scope of Services contained in Attachment 6.6.
	D.3. Provide a description of Respondent's ability to develop a brand.
	D.4. Demonstrate the Respondent's ability to evolve and strategically align with the State's needs.
	D.5. Demonstrate Respondent's knowledge of domestic and international marketing, including the travel and tourism industry.
	D.6. Provide examples and discuss the Respondent's experience and strategy for completing objectives in both traditional and digital advertising.
	D.7. Demonstrate Respondent's ability and experience in marketing internationally.
	D.8. How would Respondent directly manage the State's account and communications, both internally and with the State.
	D.9. Demonstrate to the State how Respondent quantifies and reports the success of specific campaigns. Identify the planning and reporting tools and resources that are used.

INTERVIEW EVALUATION GUIDE

SECTION E: INTERVIEWS. The Respondent must address All interview questions (below).
 A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate the interview response to each item. Each evaluator will use the following chart to record their interview evaluation score.

SECTION E: INTERVIEWS. The top three Respondents will receive the primary interview questions at the time of scheduling the interviews. Respondent must address ALL Interview Items asked of them during the interview process. The State reserves the right to ask follow-up questions in addition to the primary questions.

RESPONDENT LEGAL ENTITY NAME:		
Item Ref.	Interview Items	
	[Questions to be created, reviewed and approved by the Central Procurement Office before the interviews occur.]	
SCORE (for <u>all</u> Section E—Interviews <i>(maximum possible score = 25)</i>		
<i>State Use – Evaluator Identification:</i>		

RFP ATTACHMENT 6.3.

COST PROPOSAL & SCORING GUIDE

NOTICE: THIS COST PROPOSAL MUST BE COMPLETED EXACTLY AS REQUIRED

SEE ATTACHED COST EVALUATION MODEL NAMED "32601-2100 Attachment 6.3.XLS"

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.).

RFP # 32601-2100 REFERENCE QUESTIONNAIRE

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

The “reference subject” specified above, intends to submit a response to the State of Tennessee 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; and follow either process outlined below:

Physical

- 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.

E-Mail

- email the completed Questionnaire to SOLICITATION COORDINATOR NAME AND E-MAIL ADDRESS

(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.

NAME:	
TITLE:	
TELEPHONE #	
E-MAIL ADDRESS:	

(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.

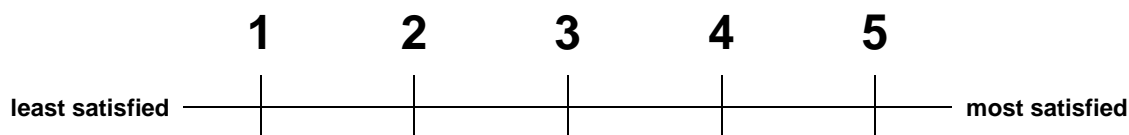
	1	2	3	4	5	
least satisfied						most satisfied

RFP # 32601-2100 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 # 32601-2100 REFERENCE QUESTIONNAIRE — PAGE 3

- (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.

	1		2		3		4		5	
least satisfied										most satisfied

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.

	1		2		3		4		5	
least satisfied										most satisfied

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:

SCORE SUMMARY MATRIX

	<i>RESPONDENT NAME</i>		<i>RESPONDENT NAME</i>		<i>RESPONDENT NAME</i>	
GENERAL QUALIFICATIONS & EXPERIENCE (maximum: § 10)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>REPEAT AS NECESSARY</i>						
	AVERAGE:		AVERAGE:		AVERAGE:	
TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH, including Oral Presentations (maximum: § 45)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>REPEAT AS NECESSARY</i>						
	AVERAGE:		AVERAGE:		AVERAGE:	
INTERVIEWS (maximum: § 25)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>REPEAT AS NECESSARY</i>						
	AVERAGE:		AVERAGE:		AVERAGE:	
COST PROPOSAL (maximum: § 20)	SCORE:		SCORE:		SCORE:	
TOTAL RESPONSE EVALUATION SCORE: (maximum: 100)						

Solicitation Coordinator Signature, Printed Name & Date:

RFP # 32601-2100 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,
DEPARTMENT OF TOURIST DEVELOPMENT
AND
CONTRACTOR NAME

This Contract, by and between the State of Tennessee, Department of Tourist Development (“State”) and **Contractor Legal Entity Name** (“Contractor”), is for the provision of marketing and advertising services, 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. Co-op: Refers to the term Cooperative and can be utilized in the format of advertisement or marketing. Co-ops are a cost-effective way for the State and its partners, e.g. Destination Marketing Organizations, state attractions and/or State and Federal Tourism Organizations to reach their target markets collectively.
 - b. Engagement: Measures the public shares, likes and comments regarding the State’s online marketing efforts.
 - c. Impressions: Impressions is the consumption of any advertisement on any medium by public audience. Including but not limited to: television, terrestrial or internet radio, social media, websites, print publications.
 - d. Website and Content Management System (CMS): is a software content management system (CMS) specifically for web content. It provides website authoring, collaboration, and administration tools that help users with little knowledge of web programming languages or markup languages create and manage website content.
- A.3. Originality of Work. All services provided by the Contractor shall be original in all respects. If any component of prior work is being utilized, that information shall be disclosed to State and project rate decrease as appropriate. The State must approve any use of prior work in writing.
- A.4. Brand Development. Contractor shall utilize an existing brand or at the request of the State, develop a brand or sub-brand that can be used and incorporated into the marketing of Tennessee tourism. It is the State’s goal to increase visitation, have visitors stay longer and spend more in Tennessee. The brand development shall support these goals and include, but not be limited to:
- a. The development of an advertising concept and campaign utilizing the brand with an integrated communications plan for a variety of audiences along with a method to support, track and maintain the brand in promotion of Tennessee tourism; and
 - b. Position or reposition the brand and adjust or change the use of the brand as needed to benefit the State’s marketing objectives.
- A.5. Strategic Planning.

- a. Contractor shall utilize and enhance the existing strategic plan or at the request of the State, create, develop and implement a revised or new comprehensive domestic and international strategic plan for marketing Tennessee tourism for State review and approval. Such plan shall include traditional and digital advertising as well as media placement in support of the brand.
- b. The Contractor shall provide updates to the strategic plan throughout the term of the Contract as requested by the State and propose marketing and media strategies to expand promotional efforts effectively into new markets, maintain successful traditional markets and test markets.
- c. Contractor shall research and be knowledgeable of current domestic and international travel and tourism marketing trends and make recommendations to the State as to how to best promote Tennessee tourism to groups including, but not limited to niche audiences and specific demographics, such as geographic and psychographic tourism consumer targets by means of paid, earned and owned media opportunities.
- d. Maintain an understanding of the overall objectives of the State and it's prior and current marketing strategies, to effectively recommend and implement strong media and creative initiatives.
- e. Contractor shall research and render a marketing analysis, with criteria/assessment points as provided by State, of the effectiveness of the State's advertising campaigns and media purchases implemented at regular intervals during each year of the Contract. Such analysis should include but is not limited to: tracking of all advertising and media placement efforts against agreed upon key performance indicators on an ongoing basis no less than once a month. . Changes to media placement tactics, markets or brand creative to improve campaign performance will be made with the State's prior approval as warranted.
- f. Contractor shall utilize the State's consumer database information generated through the State's website, www.tnvacation.com (the "Website"), e-mails received, lead generation, and reports received by the State from the State's call center contractor to assist with the development of an effective marketing strategy for the State.
- g. Provide professional advice and make recommendations for the development of marketing strategies and promotional activities to benefit the State's marketing programs.

A.6. Marketing Services.

- a. Traditional Advertising. Contractor shall perform traditional advertising services for the State as described below:
 - 1) Provide creative services such as concept development, copywriting, art direction, layout and design, video and image collection, graphic design, asset organization and management, and other creative services needed to support, develop and track the State's brand and marketing campaign(s);
 - 2) Provide production services capable of supporting all aspects of a given campaign, including but not limited to: Print design; television spots; radio spots; direct marketing; outdoor advertising; and other forms of production services necessary to support the State's marketing campaign(s); and,
 - 3) Make adjustments or changes to the campaign(s) as required to meet the State's advertising objectives.
 - 4) Manage projects and track the status of required tasks to complete advertising campaigns as directed.
- b. Digital Advertising. Contractor shall be responsible for understanding the overall objectives of the State's digital tourism advertising program to effectively create and produce digital advertising which generates Impressions for the department's websites

(Retire TN, invacation.com, etc.) social media channels, Pandora station, YouTube and other online platforms resulting in increased visitation and Engagement.

- 1) Implement a digital tourism promotion advertising concept(s) with art direction, copy and design, image collection, graphic design and other production services as requested by the State to support, develop, track, manage and maintain such digital advertising campaign(s);
- 2) Make adjustments or changes to the digital advertising campaign(s) as needed to meet the State's digital marketing objectives;
- 3) Integrate social media and user-generated initiatives to develop and maintain the platforms throughout the term of the Contract.
- 4) Utilize available research to support Contractor's digital advertising recommendations, subject to the State's approval; and,
- 5) Render complete marketing analysis as the effectiveness of the State's digital advertising campaign(s) implemented during each year of the Contract.
- 6) Provide senior-level supervision of the digital advertising services, and document and communicate with the State as to the status and timeline of each on-line advertising campaign weekly or upon request by the State.

c. Media Placement. Contractor shall be responsible for understanding the overall objective of the State's marketing programs to effectively recommend and place traditional and digital media placements that generate visitation to Tennessee and the State's websites resulting in increased Engagement, visitation and travel to and in Tennessee as well as distribution of the Tennessee Vacation Guide.

- 1) Contractor shall render media placement and related services for the State pursuant to the strategic marketing plan which shall include but not be limited to:
 - i. Provide recommendations for media placement that will accomplish outlined campaign goals, including projected Impressions or results, for the State to approve prior to purchase/buy;
 - ii. Coordinate with the State and others, as may be required, to ensure that appropriate production materials are obtained to satisfy media placement requirements in a timely fashion to media vendor(s);
 - iii. Provide the State with reports to document the media was placed as required; provide post-buy analysis and media audits; and change tactics, with the State's prior approval, as necessary for a given media placement campaign; and,
 - v. Conduct and provide research, surveys and studies as requested by the State or as needed to support digital advertising and media placement recommendations and decisions.
- 2) Provide oversight or support of Co-op media placement opportunities with tourism Organizations, attractions, etc. as needed or as requested by the State.
- 3) Provide on-going, senior-level account supervisors who communicate and document the timing and cost status of all media placement projects as well as provide necessary reports, estimates, accounting documentation and other financial information necessary to comply with the Contract's payment terms and conditions.
- 4) The media buy fees shall include, but not be limited to, the Contractor developing and managing (i) Media plans from a strategic level to the tactical details; (ii) Media buying across traditional media and digital/interactive media; (iii) Media benchmarking providing perspective to the State as part of the strategy development; (iv) Media billing and payment to any and all third parties; (v) Media reporting which shall include, but not be limited to, monthly competitive spend reports, content auditing, and post buy analysis; (vi) Ad prospecting; (vii)

Research; (viii) Planning; (ix) Negotiating rates; (x) Negotiating added value; (xi) Buying; (xii) Contract signing (insertion orders or IOs); (xiii) Maintenance/Stewardship buy; (xiv) Fulfillment of the buy; and/or (xv) Recap of the buy.

- d. Email Database Management and Lead Generation. Contractor shall consult on database management; creation and development of messaging content; and lead generation services to support and increase the size of the State-owned database which includes, but is not limited to the following services:
- 1) Contractor shall create and distribute outbound e-mails, newsletters, or other promotional announcements to subscribed customers that are maintained in the database as needed and advise for best practices related to lead generation programs that will increase the number and/or quality of customers maintained the State's database, as follows:
 - i. Distributed e-mails shall be developed in conjunction with the State's strategic marketing plan as it pertains to the State Website;
 - ii. Content of e-mails shall be consistent with areas of activity and/or interest requested by the customers and maintained in the database;
 - iii. Expansion of the database shall include opportunities for Website interaction to generate more subscribed tourism leads;
 - iv. Contractor shall maintain an expert-level knowledge of new technology and lead generation techniques and make recommendations that may benefit the State's database and lead generation activities;
 - v. Provide monthly reports, or as requested, of database and e-mail lead generation activities to the State to measure effectiveness of the activities and assist the State in better understanding the potential visitor and how to best formulate effective marketing strategies; and,
 - vi. If requested by State, Contractor shall provide all software and database files to for operation and administration of the State's database.
 - 2) Any and all rights in and to the programming, source codes, data, information for and regarding the email subscribers, data and related deliverables as a result of the database, lead generations, and e-mails developed and/or provided by Contractor pursuant to the terms of this Contract shall be the sole and exclusive property of the State except as otherwise may be mutually agreed upon in writing and signed by the parties to this Contract in accordance with State contracting requirements.
- e. Public Relations. As requested, and in collaboration with State communications team, contractor shall render public relations services either in-house or through the use of a full-service subcontractor subject to State's prior approval in accordance with D.7. Subcontractors utilized shall demonstrate a high level of expertise in hospitality and tourism and have well-established relationships with top-tier national media. Services may include, but not be limited to, the development and implementation of earned media campaigns that amplify marketing goals and generate broad-reaching media interest for Tennessee's year-round tourism assets.
- f. Other Marketing Services.
- 1) The qualifications of Contractor's personnel are crucial to this Contract; therefore a written notification to the State of changes in key personnel must be provided by the Contractor at least two (2) weeks prior to any personnel change. The written notification shall be provided to the State upon the reassignment, departure, or hiring of key personnel who may be considered critical to the work performed pursuant to this Contract. The State, in its sole discretion, shall approve or disapprove such personnel assignments and/or changes.

- 2) Contractor shall render additional research services as requested by the State.
- 3) Contractor shall work closely with the State's contractors responsible for selling advertising in the Tennessee Vacation Guide, tnvacation.com and operating the State's call center.
- 4) Contractor shall maintain a business address in Tennessee with personnel available to meet with the State when needed in connection with the services set forth in the Contract.
- 5) Contractor shall not commence work on any services set forth in this Contract before submitting an estimate of the total project cost and receiving prior approval for each proposed project by the appropriate State official. Based on changes to any given project requested by the State, Contractor shall submit revised cost/timing estimates for such a project. Such estimates shall be approved by the State prior to the commencement of any such services by the Contractor.
- 6) Coordinate directly with the travel and tourism industry in Tennessee (i.e., convention and visitor bureaus, tourism authorities, attractions, hotels) in the development and implementation of promotional and cooperative marketing campaigns as authorized by the State.
- 7) Evaluate and assist other marketing entities or sponsorship/partnership programs authorized by the State to leverage and maximize the State's tourism marketing efforts and funding.
- 8) Contractor shall be available to participate and make oral and/or written presentations regarding the services it provides at meetings, conferences, or other events as requested by the State.
- 9) All content, websites, intellectual property and services provided by Contractor pursuant to the terms of this Contract shall be the sole and exclusive property of the State except as otherwise may be mutually agreed upon in writing and signed by the parties to this Contract in accordance with State contracting requirements.
- 10) Provide necessary reports, estimates, accounting documentation and other financial information necessary to comply with contract payment terms and conditions as set forth in the Scope of Services.
- 11) All campaigns/projects shall be subject to the State's approval prior to release. Rejection of any proposed campaign or project shall require the Contractor to continue development of the campaign/project to the State's satisfaction.

A.7. Website Development and Maintenance. As requested, Contractor shall be responsible for the ongoing development and maintenance of an integrated Website and Content Management System (CMS) and providing all hardware, software, and telecommunications required for the development, deployment, hosting, operation and administration of the system. Any programming, coding, data and related deliverables resulting from the execution of the Contract shall be developed and provided by the Contractor in such a manner that the State retains all rights to and ownership of said services, products and deliverables.

- a. Contractor shall utilize the overall objectives of the State's tourism marketing program to effectively develop and implement any website elements including, but not limited to:
 - 1) Content, features and functionality (and the theme, style or navigation if requested by the State) of the existing websites, mobile sites and any other created sites.

- 2) Micro-sites based on particular areas of interest designed to drive users to the State's sites;
 - 3) An enhanced video initiative;
 - 4) Connected social media opportunities with the website(s);
 - 5) Continued development of the site(s) and subsections, including but not limited to group sales, sports and industry; and,
 - 6) Advertising space on the website(s) that is used by the State to generate sales revenue. The Contractor shall develop the space provided utilizing an expert-level knowledge of digital marketing and positioning for potential advertisers.
- b. Contractor shall provide consultation to State and its contracted vendor on placement of advertising on the website and any State controlled/owned sites. Further, Contractor shall provide technical support, as needed, for creation and maintenance of advertising inventory on State's websites.
 - c. Contractor shall perform an initial assessment and evaluation of the current Website and provide a plan to the State detailing a recommended development strategy to facilitate the State's digital initiatives including continued development of the site and any hereafter created sites.
 - d. Contractor shall provide a secure graphical user interface on the Website(s) which shall provide the State with access to the Website(s) and allow the State to: (i) Manage website content; (ii) Oversee and administer digital marketing and advertising efforts; (iii) Manage digital event posting; (iv) Allow information to be furnished by organizations, participants, or partners in the tourism industry by way of a user name/password database to enable them to change, update and/or refresh their respective listing(s), while also providing the State the ability to pre-approve any such change prior to its posting on the Website(s); (v) Manage the image library; (vi) Access comprehensive Website(s) statistical analysis programs capable of reporting site traffic (i.e. sessions, page views, visitors) and information relating to pages, files, navigation, referrals, domains, browsers and other data as may be required by the State; and, (vii) Check and change HTML page content.
 - e. Contractor shall be responsible for maintaining uninterrupted availability of the Website(s) and will submit a disaster recovery plan for written approval by the State within ninety (90) days of the Contractor's commencement of services.
 - f. Contractor shall maintain proficiency in and employ digital industry standard tools, languages, applications, database management and operating systems in the development and support of the Website(s), mobile site and any additional site owned/controlled by the State.
 - g. Contractor shall evaluate and implement as appropriate, emerging technologies and provide current, technical expertise as needed to maintain state-of-the-art, digital marketing and advertising on site(s) owned/controlled by the State.
 - h. Contractor shall, no later than the fifteenth day of each month, provide statistical and site traffic reporting regarding the State's website(s) for the prior month. Such reports shall include, but are not limited to: (i) Total number of unique visits; (ii) Percentage changes over the same month in the prior year; (iii) Percentage changes over the previous month in the same year; (iv) Websites inquiries; (v) Page views; (vi) Average page views per visit; (vii) e-Guide views; (viii) Print guide inquiries; (ix) Average time on the site; (x) Keywords; (xi) Traffic sources; (xii) Ad tracking reports; (xiii) Keyword searches; and (xiv) Any other reports requested by the State.

- i. Contractor shall provide the thorough capability to accommodate increases in visitor, consumer and/or advertising traffic to Website(s).
- A.8. Reporting. The Contractor shall provide to the State all reports set forth in this Contract. The format, content and frequency of such reports shall be as reasonably requested by the State. The Contractor shall also provide ad hoc reports as requested by the State. The Contractor shall provide reports to the State in a manner that is approved by the State which may include, but is not limited to, e-mail or through a file distribution program established by the Contractor and to which the State has access and the ability to retrieve reports.
- a. Monthly Reports.
 - 1) Campaign Summaries. The Contractor shall provide the State monthly reports, or as requested, that provide an overview of all planned, active, and completed campaigns. The overview shall consist of the projected staffing plan, which includes the positions and projected hours per position that was approved by the State and the actual positions utilized and actual hours per position completed. The reports shall be sent to the State within fifteen (15) days after the end of each calendar month.
 - 2) Media Plan & Buy Summaries. The Contractor shall provide the State monthly reports, or as requested, that provide an overview of all planned, active, and completed media buys. The overview shall consist of, but not be limited to confirmation of placed media, media performance summaries, media placement changes and any available make-good reports. The reports shall be sent to the State within fifteen (15) days after the end of each calendar month.
 - b. Quarterly Reports.
 - 1) Campaign Summaries. The Contractor shall provide the State quarterly reports of all planned, active and completed campaigns. The overview shall provide, but not be limited to, the actual investments trends per campaign that have been approved by the State versus the projected investment per campaign. The reports shall be sent to the State within fifteen (15) days after the end of each calendar month.
 - 2) Media Plan & Buy Summaries. The Contractor shall provide the State quarterly reports that provide, but are not limited to, confirmation of placed media, media performance summaries, media placement changes and make-good reports. The reports shall be sent to the State within ten (10) business days after the end of each calendar quarter.
 - c. Business Reviews. Full business reviews shall occur two (2) times per calendar year. Shorter business review (reporting checkpoints) shall typically occur on a quarterly basis.
- A.9. Confidentiality During Project Development. The Contractor shall maintain confidentiality of each project during the development.
- A.10. 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.11. 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 Sixty (60) 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. and the Travel Compensation provided in Section C.4 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. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A on Rates set forth in Attachment B and Job Descriptions set out in Attachment C. Notwithstanding the foregoing, Contractor may receive payment in advance up to one hundred (100) percent of the invoice when production is needed. "Production" shall be defined as, but not limited to, scouting locations, talent research and script writing. Further, Contractor may receive the full payment of an invoiced amount when the amount is needed to fund the retainer or operating expenses for a sub-contractor.

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

- a. Payment for the campaign(s) and/or project(s) shall be based on milestones set forth in a campaign/project plan and the maximum cost as proposed by the Contractor and approved by the State. The Contractor shall invoice the State at rates not to exceed the applicable hourly rates detailed below and the total amount shall not exceed the

maximum campaign/project plan cost submitted by the Contractor in an estimate for a given campaign and/or project which has been approved by the State.

- b. Invoicing of incremental billable hours must include the service description with employee name and title. Contractor may invoice for services rendered in connection with an approved campaign and/or project pursuant to the service description set forth in Attachment B.

- C.4. Travel Compensation. Compensation to the Contractor for travel, meals, or lodging shall be subject to amounts and limitations specified in the current "State Comprehensive Travel Regulations."

The Contractor must include (in addition to other invoice requirements of this Contract) a complete itemization of requested travel compensation and appropriate documentation and receipts as required by the "State Comprehensive Travel Regulations."

- 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:

Via Mail: Department of Tourism Development
Attn: Marketing Division
312 Rosa L. Parks Ave., 13th Fl.
Nashville, TN 37243-1102

Via Email (preferred): Tourism.Payables@tn.gov

- 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: Tourist Development;
 - (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, here Project Name, Type of service performed;
 - (11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced, here Position with hourly rate and hours worked/billed;
 - (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 except as stated in Section C.3.
 - (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:

Alicia C. B. Widrig, General Counsel
 Tourist Development
 312 Rosa L Parks Ave., 13th Fl.
 Nashville, TN 37243
 Email Address: Alicia.Widrig@tn.gov
 Telephone # 615-741-9065

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 A, 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 Attachment A, B, and C;
 - 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., 3rd 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.

D.35. Equal Opportunity. The Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
- (1) Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising;
 - (2) Layoff or termination;
 - (3) Rates of pay or other forms of compensation; and
 - (4) Selection for training, including apprenticeship.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

- b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. If the State approves any subcontract, the subcontract shall include paragraphs (a) and (b) above.

In addition, to the extent applicable the Contractor agrees to comply with 41 C.F. R. § 60-1.4, as that section is amended from time to time during the term.

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.
- E.2. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of Tenn. Code Ann. §§ 12-7-101, *et. seq.*, shall be printed pursuant to this Contract unless a printing authorization number has been obtained and affixed as required by Tenn. Code Ann. § 12-7-103 (d).
- E.3. State Ownership of Goods. The State shall have ownership, right, title, and interest in all goods provided by Contractor under this Contract including full rights to use the goods and transfer title in the goods to any third parties.
- E.4. Reimbursement. This Contract provides for reimbursement of the cost of goods, materials, supplies, equipment, or contracted services. Any goods, materials, supplies, equipment or contracted services procured by Contractor under this Contract shall be procured on a competitive basis when practicable. The Contractor shall maintain documentation supporting Contractor's request for reimbursement. In each instance where it is determined that use of a competitive procurement method was not practicable, Contractor shall seek approval of the State's Commissioner or Marketing Assistant Commissioner of Tourist Development to procure by non-competitive procurement as a condition for reimbursement.
- E.5. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible personal property furnished by the State

for the Contractor's use under this Contract. Upon termination of this Contract, all property furnished by the State shall be returned to the State in the same condition as when received, less ordinary wear and tear. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the fair market value of the property at the time of loss.

- E.6. Prohibited Advertising or Marketing. The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.
- E.7. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

- E.8. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response to Solicitation Number (Attachment Reference) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a monthly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, service-disabled veterans, and persons with disabilities. Such reports shall be provided to the State of Tennessee Governor's Office of Diversity Business Enterprise in the TN Diversity Software available online at:

<https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810>.

- E.9. Intellectual Property Indemnity. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State concerning or arising out of any claim of an alleged patent, copyright, trade secret or other intellectual property infringement. In any such claim or action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any settlement or final judgment, and the Contractor shall be responsible for all legal or other fees or expenses incurred by the State arising from any such claim. The State shall give the Contractor notice of any such claim or suit, however, the failure of the State to give such notice shall only relieve Contractor of its obligations under this Section to the extent Contractor can demonstrate actual prejudice arising from the State's failure to give notice. This Section shall

not grant the Contractor, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106.

In addition to the above indemnity, if the State's use of any deliverable, or any portion thereof, provided under this Contract, is or is likely to be enjoined by order of a court of competent jurisdiction as such an infringement or unauthorized use, the Contractor, at its expense, shall: (x) procure for the State the continued use of such deliverable; (y) replace such deliverable with a non-infringing counterpart; or (z) modify such deliverable so it becomes non-infringing; provided that, if (y) or (z) is the option chosen by the Contractor, the replacement or modified deliverable must be capable of performing substantially the same function. Notwithstanding the foregoing, the State retains the right to terminate the Contract in accordance with Section D.6 hereunder in the event of such infringement or unauthorized use, and any such exercise of these allowable options by Contractor shall not relieve Contractor of its indemnity obligations under this Section.

The forgoing indemnity does not apply to the extent that the infringement arises from the State's: (i) use of the deliverable not in accordance with instructions, documentations, or specifications ("Misuse"); (ii) alteration, modification or revision of the Deliverables not expressly authorized by the Contractor ("Alteration"); (iii) failure to use or implement corrections or enhancements to the Deliverables made available by the Contractor to the State at no additional cost to the State, except where such failure to use or implement corrections or enhancements is a result of State's termination in accordance with the preceding paragraph; or (iv) combination of the Deliverables with materials not provided, specified, or approved by the Contractor.

- E.10. Additional lines, items, or options. At its sole discretion, the State may make written requests to the Contractor to add lines, items, or options that are needed and within the Scope but were not included in the original Contract. Such lines, items, or options will be added to the Contract through a Memorandum of Understanding ("MOU"), not an amendment.
- a. After the Contractor receives a written request to add lines, items, or options, the Contractor shall have ten (10) business days to respond with a written proposal. The Contractor's written proposal shall include:
 - (1) The effect, if any, of adding the lines, items, or options on the other goods or services required under the Contract;
 - (2) Any pricing related to the new lines, items, or options;
 - (3) The expected effective date for the availability of the new lines, items, or options; and
 - (4) Any additional information requested by the State.
 - b. The State may negotiate the terms of the Contractor's proposal by requesting revisions to the proposal.
 - c. To indicate acceptance of a proposal, the State will sign it. The signed proposal shall constitute a MOU between the Parties, and the lines, items, or options shall be incorporated into the Contract as if set forth verbatim.
 - d. Only after a MOU has been executed shall the Contractor perform or deliver the new lines, items, or options.
- E.11. Federal Funding Accountability and Transparency Act (FFATA). This Contract requires the Contractor to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Contractor provides information to the State as required.

The Contractor shall comply with the following:

- a. Reporting of Total Compensation of the Contractor's Executives.

- (1) The Contractor shall report the names and total compensation of each of its five most highly compensated executives for the Contractor's preceding completed fiscal year, if in the Contractor's preceding fiscal year it received:
- i. 80 percent or more of the Contractor's annual gross revenues from federal procurement contracts and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - ii. \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and subawards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Securities and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).

As defined in 2 C.F.R. § 170.315, "Executive" means officers, managing partners, or any other employees in management positions.

- (2) Total compensation means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 C.F.R. § 229.402(c)(2)):
- i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax qualified.
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.
- b. The Contractor must report executive total compensation described above to the State by the end of the month during which this Contract is awarded.
 - c. If this Contract is amended to extend the Term, the Contractor must submit an executive total compensation report to the State by the end of the month in which the term extension becomes effective.
 - d. The Contractor will obtain a Data Universal Numbering System (DUNS) number and maintain its DUNS number for the term of this Contract. More information about obtaining a DUNS Number can be found at: <http://fedgov.dnb.com/webform/>

The Contractor's failure to comply with the above requirements is a material breach of this Contract for which the State may terminate this Contract for cause. The State will not be obligated to pay any

outstanding invoice received from the Contractor unless and until the Contractor is in full compliance with the above requirements.

E.12. No Obligation by Federal Government. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the Contract.

E.13. Compliance with The False Claims Act. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF TOURIST DEVELOPMENT:

MARK EZELL, COMMISSIONER

DATE

ATTACHMENT A

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	
EDISON VENDOR IDENTIFICATION NUMBER:	

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

CONTRACTOR SIGNATURE

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

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION

ATTACHMENT B

RATES

Rates set forth for services as determined in RFP 32601-2100 Advertising Contract.

ATTACHMENT C**JOB DESCRIPTIONS**

Job Descriptions as set out below will be utilized by Respondents in conjunction with Cost Proposal submissions.

JOB TITLE	JOB DESCRIPTION
CATEGORY: ACCOUNT MANAGEMENT	
Assistant Account Executive	Provides Client service support to ensure that all assignments are executed timely and accurately. Assists in the daily operations of Client projects internally.
Account Executive	Manages/coordinates Client projects and may take an active role in all disciplines from planning to completion. Effectively executes strategies, problem-solves, and develops solid business relationships, with 3+ years of experience.
Account Supervisor	Provides strategic recommendations and manages all Company/Agency resources to ensure the Client's marketing needs are met. Reports to Account Director, with 7+ years of industry experience.
Account Director	Responsible for leadership and overall management of the Client relationship on one large or multiple accounts. Drives long-term business building, oversees Account team management. 10+ years of industry and advertising experience.
Director of Account Services	Responsible for mgmt. of the department. Responsibilities include budgets, costs, resource allocation. Provides strategic leadership. Top level Client contact with usually 10+ years relevant industry and advertising expertise.
CATEGORY: CREATIVE & DIGITAL SERVICES	
Junior Copywriter	Assists one or more copywriters in editing and proofreading ad copy, writing body copy for established print campaigns, and developing promotion materials.
Junior Art Director	Assists one or more art directors in preparing paste-ups, rough lettering, and layouts for print ads and television storyboards, developing visual concepts and designs, and overseeing photo sessions and the filming of television commercials.
Illustrator	Prepares a variety of illustrations for one or more accounts. May design, select layout materials, prepare interpretive drawings from written plans. 2+ years of experience.
Copywriter	Conceptualizes thematic advertising ideas, then uses them to create copy for print, broadcast and collateral materials. Works directly with a supervisor to refine and produce finished work.
Art Director	Responsible for the visual creation of general advertising campaigns on one or more accounts. Coordinates the design and reproduction of the copy with the art and production staff. 3+ years of expertise.
Senior Art Director	Partners with copywriter to conceptualize thematic advertising ideas, creates representative renderings of the visual aspects of an idea, then supervises production of the visuals involved with print, broadcast and collateral materials. Has 5+ years-experience in art direction. Trusted to create and produce finished work with relative independence.
Associate Creative Director	Supervises and guides the total creative effort of one or more creative groups. Ensures creative compliance with clients' goals. Usually has 10+ years of expertise.
Senior Copywriter	Responsible for generating concepts/ideas and highly targeted copy on one or more accounts. May adapt to changes in format, media and/or Clients' strategies. 5+ years of experience.
Creative Director	Responsible for the quality of all creative work produced by the agency for all clients. Maintains standards of creative excellence. Typically has 15+ years of experience.

Chief Creative Director	Overall responsibility and accountability for the management of the total creative function of the agency. Establishes the 'creative tone' and pace of the agency, based on 15+ years of experience.
Interactive Designer	The role will involve hands-on design of graphic user interfaces and production of actual graphic assets for a range of digital projects. Helps with the establishment of the strategic direction of screen graphics and the digital content visualization. The key elements of the role are to generate graphic design solutions such as screen layouts, fonts, widgets, icons, animations, and visual entities.
Senior Interactive Producer	Responsible for the technical management of agency team and client projects, working alongside project managers, marketing and creative teams to plan, implement and deliver all technical deliverables for one or more clients. Projects range from technical system/application design and consulting, to implementing online applications and building CRM and content management systems.
Digital Creative Director	Responsible for the company's digital creative output; a good communicator, and a strong and dynamic leader. Has a broad skill set including branding, digital and strategy, and an effective team builder, used to managing international projects. Capable of bringing disparate views together at a senior level, creating consensus and consistency around new ideas and initiatives, building confidence in the outcome, to create successful digital concepts across all platforms and devices. Partners with Marketing and Creative teams to develop initial concept for client projects and define project scope, budgets and timelines as well as to ensure quality and timely development and delivery.
Video Editor	Able tell a visual story using provided and created content. This is achieved through the acquisition and creative arrangement of audio/visual elements (video, animations / composites, music, voice over, text, etc.) while adhering to industry-standard quality expectations. The Video Editor's work is used in TV advertising, sales presentations, and web movies, as well as other communications media.
SEO, Senior Analyst	Plans and executes a full spectrum of SEO activities, including keyword research, site audits, page and site level optimization, content strategy.
Social Media Director	The Social Media Director is responsible for overseeing the Social Media Strategy and digital initiatives across all platforms associated with the brand. This role coordinates with account management, strategic planning, creative, digital services, public relations and production to fulfill the State's social media goals. The position involves ensuring that the social broadcasting is fully integrated with all other marketing efforts. This position will: <ul style="list-style-type: none"> • create the social media strategy, coordinating to ensure effectiveness and ensure the adoption of relevant social media techniques. • Ensure a superior quality of communication and project delivery at all times • Coordinate the planning of social media campaigns • Source and manage relationships with social monitoring and platform partners to support and develop opportunities • Act as the advocate of social media integration, influencing overall site and strategies • Provide benchmarks and analyze data • Monitor and comment on trends in social media • Monitor the competition and be aware of market changes and developments • ensure strong visual content, as well as maintenance of on-going content strategies • Provide reporting that shows the performance of the engagement and conversion strategy
Technical Director	Responsible for creating the technical specifications for the websites. Plans and reviews the navigational user interface design, site architecture for new website products and features. Troubleshoots, tests and oversees the launch of new websites, products or infrastructure projects. Has knowledge

	of a variety of concepts, practices and procedures within a particular field (i.e. HTML, JAVA, Mac, UNIX and Windows platforms).
Digital Strategist	Has a deep understanding of the marketplace and an excellent understanding of online audiences and their behavior along with a natural ability to analyze and make sense of huge amounts of data. The role is to assess key dynamics of how audiences engage along with dynamics of the broader online markets and deliver customer insights that enable development of communications strategies that cunningly plan innovative solutions around commercial objectives.
CATEGORY: STRATEGIC PLANNING	
Assistant Strategic Planner	Responsible for assisting the Senior Strategic Planners in applying consumer understanding to creative problems.
Senior Strategic Planner	Manages all research pertaining to strategy and creative development. Provides insight to Clients regarding consumer preference, with 3+ years of experience. Serves as lead on multiple projects and may have direct reports. Displays proven record of innovative ideas, approaches and final work product. Creates inspiring strategies and able to use through the entire creative process.
Strategic Planning Director	Responsible for the management of one or more Client groups. Responsible for developing ad strategy and creative brief and bring a strong consumer focus to all decisions based on 10+ years of expertise.
Executive Planning Director	Responsible for management of the global/national/regional/local account planning department. May be an integral member of new business team, with 15+ years of planning expertise.
Research Director	Conducts market access and customer market research and analysis. Responsible for providing evidence-based, tactical and strategic guidance for brands to the rest of the planners. Leads associate researchers in research tactics.
Associate Research Director	Conducts traditional primary market research exercises to better understand the customer influences and incorporates secondary market research to measure impact and identify trends.
CATEGORY: PRODUCTION	
Assistant Producer	Under direct supervision, assists liaison with other departments and outside vendors as needed, executes on tasks, helps ensure the efficient/timely/cost-effective production of broadcast TV/Radio ads.
Proofreader	The Proofreader is responsible for proofreading all ads and also performing quality-control checks and ensuring that ads conform to legal requirements.
Traffic Coordinator	For print or broadcast or both, routes and tracks creative work from concept to completion and ensures it reaches its destination on deadline. Keeps up-to-date status reports. Daily contact with account, creative, production and legal staff members.
Business Manager	Responsible for control of projected budgets for one or more clients. Supervise media and production billing. Accountability to account director(s).
Producer	Directs and coordinates production activities (television/radio spots, industrial videos, client meetings, trade shows, spot announcements) for Agency/clients.
Print Producer	Responsible for all aspects of client's print advertising, logo development, collateral material and typography. Ensure the finest print quality is achieved within the clients' budgets and timetables.
Print Production Director	Duties include project planning, workflow management, vendor negotiations, print buying, cost control, quality control, logistical co-ordination and press checks. Often supervises traffic coordinators and print buyers; may manage small design studio. Requires familiarity with design applications and should have project management experience.
Senior Producer	Responsible for day-to-day television and radio production activities, dealing with studios, participates in bid submission, pre-production, shooting, recording and editing.
Director, Broadcast Production	Responsible for leadership and administration of the broadcast team, including: casting, audio-visual services, film library, traffic, business affairs,

	etc. Maintains senior level contact with agency creative, account management and client services staff.
Production Coordinator	Oversees all relationships between department and outside vendors, supervises traffic and helps ensure the efficient/timely/cost-effective production of television and radio advertisements. Coordinates production activities for clients.
Art Buyer	Interviews artists or their representatives, makes recommendations to art director, purchases artwork, prints, retouching, etc. Knowledgeable regarding available resources, such as stock art books and online services. Reviewing projects with all necessary parties to ensure correct specifications. Obtaining competitive bidding on print projects. Generating estimates with Cost Control. Purchasing of all phases of print production. Processes invoices for billing.
Photographer	Creates permanent visual images for an exceptionally wide range of creative, technical and documentary purposes.
Videographer	Works as part of the production team. Skilled in the use of multi-camera studio equipment, video switching, sound direction (audio equipment), set direction (props and backdrops) and lighting direction.
Broadcast Editor	Responsible for editing television and long format videos, as well as recording scratch audio tracks.
Production Team	Crew involved in broadcast production. Duties include, but are not limited to: Camera Assistants, Sound, lighting, Prop Masters & Assistants, Stylist, Set Decorator, Special Effects and Wardrobe.
CATEGORY: PUBLIC RELATIONS	
Senior Vice President	Sets strategic direction and is very active in executive-level client contact and PR agency new business efforts. Selects and appoints specialists to account groups and may conceive and execute special PR services for specific clients. Help develop objectives, strategies, and work plans for individual clients' annual campaigns. Review and assess client campaigns by monthly reports prepared for account supervisors. Maintain high standards of quality for all materials released on behalf of client. Maintain up-to-date awareness of program status with each client, with ability to assist account supervisors on projects in the event of illness or vacations. Maintain continuous evaluation of division personnel for effective and profitable utilization of job skills. Maintain communication channels with appropriate client contacts to help assure effective and smooth-running relationships. Availability for oral and written presentation of agency and client public relations plans.
Events Manager	Manages, organizes, and oversees events and/or functions, conferences, and promotional events from end to end. Responsible for the development of event strategy that delivers business objectives. Duties may include creative input, sourcing and managing external service providers, sourcing venues, guest speakers and entertainment, organizing agendas, guest and invitee lists and invitations.
Senior Account Executive	Responsible for supporting the marketing-related communications needs of designated business groups and departments. Advises businesses in developing and executing communications programmers including product advertising, events management, public relations and internal and external corporate communications.
Account Executive	Works with clients to develop public relations strategies and manages day-to-day activities necessary to ensure completion of communications initiatives. Duties include writing press releases and other promotional materials, pitching stories to the media, fielding media calls and monitoring press coverage; also planning special events, such as analyst tours, press conferences and media briefings. Requires excellent written and verbal communication skills.
Account Director	Responsible for public affairs and corporate communications activities within an organization, implementing strategy from a more senior public affairs colleague. Generally, has greater exposure to related administration tasks

	than more senior colleagues in the same department. Develops relationships with media contacts.
Account Coordinator	Provides public relations support for account services team, including writing and proofreading promotional materials, conducting research and assisting with media outreach. Often maintains media database, developing and tracking editorial calendars. Requires strong written and verbal communication skills and attention to detail.
CATEGORY: ADHOC POSITIONS	
Media Director	Leads a team of media professionals in formulating, driving and providing solutions that will encompass all forms of media, in order to best get the communication/brand message across. New business development and top-level client contact is necessary. Must be familiar with media tools and be able to decipher and formulate media communication strategies from existing and acquired data, based on consumer habits/insights.
Media Planner	Combines creative thinking with factual analysis, to develop appropriate strategies that ensures campaigns reach their target audiences as effectively as possible. Will apply knowledge of media and communication platforms in order to identify the most appropriate vehicle for building awareness of a client's brand. Media planners work with media such as radio, press, television and – increasingly – new media such as text messaging and the Internet.
Associate Media Planner	Assists in the planning, implementing and maintaining of media campaigns across multiple channels. This position is essential in the day-to-day tactical management of the media.
Media Buyer	Responsible for purchasing media space or time, as well as developing the campaign and researching how it will be most effective for the client; finding a combination of media that will enable the marketer to communicate the message in the most effective manner possible at the minimum cost.