



**STATE OF TENNESSEE  
DEPARTMENT OF CHILDREN'S SERVICES**

**REQUEST FOR QUALIFICATIONS  
FOR**

**MENTAL HEALTH AND PSYCHIATRIC SERVICES  
AT  
JOHN S. WILDER DEVELOPMENT CENTER (WYDC)**

**RFQ # 35910-05479**

**TABLE OF CONTENTS**

**SECTIONS:**

- 1. Introduction**
- 2. RFQ Schedule of Events**
- 3. Response Requirements**
- 4. General Information & Requirements**
- 5. Procurement Process & Contract Award**

**ATTACHMENTS:**

- A. Technical Response & Evaluation Guide – Mandatory Requirement Items**
- B. Technical Response & Evaluation Guide – General Qualifications & Experience Items**
- C. Technical Response & Evaluation Guide – Technical Qualifications, Experience & Approach Items**
- D. Cost Proposal & Evaluation Guide**
- E. Statement of Certifications & Assurances**
- F. Reference Questionnaire**
- G. *Pro Forma* Contract**

## 1. INTRODUCTION

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The State of Tennessee, Department of Children's Services hereinafter referred to as "the State," issues this Request for Qualifications ("RFQ") to define mandatory goods or services requirements; solicit responses; detail response requirements; and, outline the State's process for evaluating responses.

Through this RFQ or any subsequent solicitation, the State seeks to buy the requested 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, the opportunity to do business with the state as contractors or subcontractors.

### 1.1. Statement of Procurement Purpose

The Department of Children's Services will procure a contract for Mental Health Services at John S. Wilder Youth Development Center (WYDC) in Somerville, Fayette County, TN. This facility is hardware secured.

### 1.2. Pre-Response Conference

A Pre-Response Conference will be held at the time and date detailed in the RFQ Schedule of Events, RFQ § 2. Pre-Response Conference attendance is not mandatory, and potential Respondents may be limited to a maximum number of attendees depending upon overall attendance and space limitations. Please contact the Solicitation Coordinator to confirm attendance for the Pre-Response Conference. The Conference will be held via Microsoft Teams via the following hyperlink:

[RFQ 35910-05479 Pre-Response Conference](#)

#### Or call in (audio only)

[+1 629-209-4396](tel:+16292094396), [205284641#](tel:+16292094396) United States, Nashville  
Phone Conference ID: 205 284 641#

### 1.3. Notice of Intent to Respond

Before the Notice of Intent to Respond Deadline detailed in RFQ § 2, Schedule of Events, potential 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, the contact person's mailing address, telephone number, facsimile, number, and e-mail address. Filing a Notice of Intent to Respond is not a prerequisite for submitting a response; however, it is necessary to ensure receipt of notices and communications relating to this RFQ.

## 2. RFQ SCHEDULE OF EVENTS

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The following schedule represents the State's best estimates for this RFQ; however, the State reserves the right, at its sole discretion, to adjust the schedule at any time, or cancel and reissue a similar solicitation. Nothing in this RFQ is intended by the State to create any property rights or expectations of a property right in any Respondent.

EVENT		TIME (Central Time Zone)	DATE (all dates are State business days)
1.	RFQ Issued		July 19, 2021
2.	Disability Accommodation Request Deadline	2:00 p.m.	July 22, 2021
3.	Pre-Response Conference	11:00 a.m.	July 23, 2021
4.	Notice of Intent to Respond Deadline	2:00 p.m.	July 27, 2021
5.	Written "Questions & Comments" Deadline	2:00 p.m.	July 30, 2021
6.	State response to written "Questions & Comments"		August 4, 2021
7.	RFQ Technical Response Deadline	2:00 p.m.	August 11, 2021
8.	State Notice of Intent to Award Released and RFQ Files Opened for Public Inspection		August 13, 2021
9.	End of Open File Period		August 20, 2021
10.	State sends contract to Contractor for signature		August 24, 2021
11.	Contractor Signature Deadline	2:00 p.m.	August 27, 2021

- 2.2. **The State reserves the right, at its sole discretion, to adjust the RFQ Schedule of Events as it deems necessary.** Any adjustment of the Schedule of Events shall constitute an RFQ 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 RFQ Section 1.3).

### 3. RESPONSE REQUIREMENTS

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#### 3.1. **Response Contents:** A response to this RFQ should address the following:

- 3.1.1. Mandatory Requirements: This section details the mandatory technical, functional, and experience requirements that must be demonstrated in the response to this RFQ in order to be passed on to Phase II of the Technical Response evaluation. A Respondent must duplicate and use RFQ Attachment A as a guide to organize responses for the Mandatory Requirements of the RFQ response. The Respondent should reference the page location of the information within the response in the indicated column of the table. This section is included in the State's evaluation as to whether or not a Respondent meets mandatory qualifications (Phase I).
- 3.1.2. General Qualifications & Experience: This section is included in the State's evaluation of Phase II of the Technical Response Evaluation and details general information and qualifications that must be demonstrated in the response to this RFQ. A Respondent must duplicate and use RFQ Attachment B as a guide to organize responses for this portion of the RFQ response. The Respondent should reference the page location of the information within the response in the indicated column of the table.
- 3.1.3. Technical Qualifications, Experience & Approach: This section is also included in the State's evaluation of Phase II of the Technical Response Evaluation and details technical qualifications, experience, and approach items that must be demonstrated in the response to this RFQ. A Respondent must duplicate and use RFQ Attachment C as a guide to organize responses for this portion of the RFQ response. The Respondent should reference the page location of the information within the response in the indicated column of the table.

#### 3.2. **Response Delivery Location**

A Respondent must ensure that the State receives a Response to this RFQ no later than the Response Deadline time and dates detailed in the RFQ § 2, Schedule of Events. All responses must be delivered to:

Will Harmon  
Department of General Services, CPO  
312 Rosa L Parks Avenue, 3rd Floor Tennessee Tower  
Nashville TN 37243-1102  
will.harmon@tn.gov

#### 3.3. **Response Format**

- 3.3.1. A Respondent must ensure that the original response meets all form and content requirements detailed within this RFQ.
- 3.3.2. A Respondent must submit their response as specified in one of the two formats below.
  - 3.3.2.1. Digital Media Submission
    - 3.3.2.1.1. 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:

**"RFQ #35910-05479 TECHNICAL RESPONSE ORIGINAL"**

and five (5) digital copies of the Technical Response each in the form of one (1) digital document in "PDF" format properly recorded on its own otherwise blank, standard CD-R recordable disc or USB flash drive labeled:

## **“RFQ #35910-05479 TECHNICAL RESPONSE COPY”**

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

### **3.4. Response Prohibitions:** A response to this RFQ shall not:

- 3.4.1. Restrict the rights of the State or otherwise qualify the response to this RFQ;
- 3.4.2. Include, for consideration in this procurement process or subsequent contract negotiations, incorrect information that the Respondent knew or should have known was materially incorrect;
- 3.4.3. Include more than one response, per Respondent, to this RFQ;
- 3.4.4. Include any information concerning costs (in specific dollars or numbers) associated with the Technical Response;
- 3.4.5. Include the respondent's own contract terms and conditions (unless specifically requested by the RFQ); or
- 3.4.6. Include the respondent as a prime contractor while also permitting one or more other respondents to offer the respondent as a subcontractor in their own responses.

### **3.5. Response Errors & Revisions**

A Respondent is responsible for any and all errors or omissions in its response to this RFQ. A Respondent will not be allowed to alter or revise its response after the Response Deadline time and dates as detailed in RFQ § 2, Schedule of Events, unless such is formally requested in writing by the State (e.g., through a request for clarification, etc.).

### **3.6. Response Withdrawal**

A Respondent may withdraw a response at any time before the Response Deadline time and date as detailed in RFQ § 2, Schedule of Events, by submitting a written signed request by an authorized representative of the Respondent. After withdrawing a response, a Respondent may submit another Response at any time before the Response Deadline time and date as detailed in RFQ § 2, Schedule of Events.

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

The State will not pay any costs associated with the preparation, submittal, or presentation of any response. Each Respondent is solely responsible for the costs it incurs in responding to this RFQ.

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

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### **4.1. Communications**

- 4.1.1. Respondents shall reference RFQ 35910-05479 in all communications relating to this solicitation, and direct any such communications to the following person designated as the Solicitation Coordinator:

Will Harmon  
Department of General Services, CPO  
312 Rosa L Parks Avenue, 3rd Floor Tennessee Tower  
Nashville TN 37243-1102  
will.harmon@tn.gov

The State will convey all official responses and communications related to this RFQ to the potential respondents from whom the State has received a Notice of Intent to Respond (refer to RFQ Section 1.3.).

- 4.1.2. Potential respondents with a handicap or disability may receive accommodation relating to the communication of this RFQ and participating in the RFQ process. Potential respondents may contact the RFQ Coordinator to request such reasonable accommodation no later than the Disability Accommodation Request Deadline detailed in RFQ § 2, Schedule of Events.
- 4.1.3. **Unauthorized contact about this RFQ with other employees or officials of the State of Tennessee may result in disqualification from contract award consideration.**
- 4.1.4. Notwithstanding the foregoing, potential Respondents may also contact the following as appropriate:
  - 4.1.4.1. Staff of the Governor's Office of Diversity Business Enterprise may be contacted for assistance with respect to available minority-owned, woman-owned, service-disabled veteran-owned, businesses owned by persons with disabilities and small business enterprises as well as general public information relating to this request; or
  - 4.1.4.2. 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:

Donovan Haynes, Affirmative Action Director  
Division for Diversity Initiatives  
UBS Building 7th Floor  
315 Deaderick Street  
Nashville, TN 37243  
615-741-8422  
Donovan.Haynes@tn.gov

#### 4.2. **Nondiscrimination**

No person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of a contract pursuant to this solicitation or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion (subject to Tenn. Code Ann. §§ 4-21-401 and 405), sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Contractor pursuant to this solicitation shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

#### 4.3. **Conflict of Interest**

- 4.3.1. The State may not consider a proposal from an individual who is, or within the past six (6) months has been, a State employee. For these purposes,
  - 4.3.1.1. An individual shall be deemed a State employee until such time as all compensation for salary, termination pay, and annual leave has been paid;
  - 4.3.1.2. A contract with or a proposal 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
  - 4.3.1.3. A contract with or a proposal from a company, corporation, or any other contracting entity that employs an individual who is, or within the past six 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.

4.3.2. This RFQ is also subject to Tenn. Code Ann. § 12-4-101—105.

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

- 4.4.1. Each potential respondent must carefully review this RFQ, including but not limited to, attachments, the RFQ Attachment G, *pro forma* Contract, and any amendments for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called “questions and comments”).
- 4.4.2. Any potential respondent having questions and comments concerning this RFQ must provide such in writing to the State no later than the written “Questions & Comments Deadline” detailed in RFQ § 2, Schedule of Events.
- 4.4.3. Protests based on any objection 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.”

**4.5. Disclosure of Response Contents**

- 4.5.1. All materials submitted to the State in response to this solicitation become property of the State of Tennessee. Selection for award does not affect this right. By submitting a response, a Respondent acknowledges and accepts that the full contents and associated documents submitted in response to this request will become open to public inspection in accordance with the laws of the State of Tennessee. Refer to RFQ § 2, Schedule of Events.
- 4.5.2. The RFQ responses will be available for public inspection only after the completion of evaluation of the RFQ or any resulting solicitation which this RFQ becomes a part of, whichever is later.

**4.6. Notice of Professional Licensure, Insurance, and Department of Revenue Registration Requirements**

- 4.6.1. 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 part of a response to this RFQ, shall be properly licensed to render such opinions.
- 4.6.2. Before the Contract resulting from this RFQ is signed, the apparent successful Respondent (and Respondent employees and subcontractors, as applicable) must hold all necessary, appropriate business and professional licenses to provide service as required. The State may require any Respondent to submit evidence of proper licensure.
- 4.6.3. Before the Contract resulting from this RFQ is signed, the apparent successful Respondent must provide a valid, Certificate of Insurance indicating current insurance coverage meeting minimum requirements as may be specified by the RFQ.
- 4.6.4. Before the Contract resulting from this RFQ is signed, the apparent successful Respondent must be registered with the Department of Revenue for the collection of Tennessee sales and use tax. The State shall not approve 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>

**4.7. RFQ Amendments & Cancellation**

- 4.7.1. The State reserves the right to amend this RFQ at any time, provided that it is amended in writing. However, prior to any such amendment, the State will consider whether it would negatively impact the ability of potential respondents to meet the deadlines and revise the RFQ Schedule of Events if deemed appropriate. If a RFQ amendment is issued, the State will convey it to potential respondents who submitted a Notice of Intent to Respond (refer to RFQ § 1.3). A response must address the final RFQ (including its attachments) as may be amended.
- 4.7.2. The State reserves the right, at its sole discretion, to cancel or to cancel and reissue this RFQ in accordance with applicable laws and regulations.

4.8. **State Right of Rejection**

- 4.8.1. Subject to applicable laws and regulations, the State reserves the right to reject, at its sole discretion, any and all proposals.
- 4.8.2. The State may deem as nonresponsive and reject any proposal that does not comply with all terms, conditions, and performance requirements of this RFQ. Notwithstanding the foregoing, the State reserves the right to seek clarifications or to waive, at its sole discretion, a response's minor variances from full compliance with this RFQ. If the State waives variances in a response, such waiver shall not modify the RFQ requirements or excuse the Respondent from full compliance with such, and the State may hold any resulting vendor to strict compliance with this RFQ.
- 4.8.3. The State will review the response evaluation record and any other available information pertinent to whether or not each respondent is responsive and responsible. If the evaluation team identifies any respondent that appears not to meet the responsive and responsible thresholds such that the team would not recommend the respondent for potential contract award, this determination will be fully documented for the record. ("Responsive" is defined as submitting a response that conforms in all material respects to the RFQ. "Responsible" is defined as having the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.)

4.9. **Assignment & Subcontracting**

- 4.9.1. The vendor may not subcontract, transfer, or assign any portion of the Contract awarded as a result of this RFQ without prior approval of the State. The State reserves the right to refuse approval, at its sole discretion, of any subcontract, transfer, or assignment.
- 4.9.2. If a Respondent intends to use subcontractors, the response to this RFQ must specifically identify the scope and portions of the work each subcontractor will perform (refer to RFQ Attachment B, Item B.14.).
- 4.9.3. Subcontractors identified within a response to this RFQ 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.
- 4.9.4. The Contractor resulting from this RFQ may only substitute another subcontractor for a proposed subcontractor at the discretion of the State and with the State's prior, written approval.
- 4.9.5. Notwithstanding any State approval relating to subcontracts, the Contractor resulting from this RFQ will be the prime contractor and will be responsible for all work under the Contract.

4.10. **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 RFQ process.



## **5. PROCUREMENT PROCESS & CONTRACT AWARD**

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- 5.1. The complete vendor selection will be determined by evaluation of Technical Responses. Any contract award is subject to successful contract negotiation, including post award recommendation cost negotiations.

Qualification of Technical Responses: Technical Responses will be short-listed for further evaluation, analysis or negotiation if they are apparently responsive and responsible

Phase I: The State will evaluate the Mandatory Requirements set forth in RFQ Attachment A on a pass/fail basis.

Phase II: Following the Phase I evaluation, the State will apply a standard equitable evaluation model, which will represent a qualitative assessment of each response. Each response will be scored by Evaluation Team members

according to the Technical Response & Evaluation Guides (See RFQ Attachments B & C).

The Solicitation Coordinator will total the average score from the evaluation team for each responsive and responsible Respondent's Technical Response Points for RFQ Attachments B & C to determine which of the Respondents are considered Qualified.

5.2. Clarifications and Negotiations: The State reserves the right to award a contract on the basis of initial responses received; therefore, each response should contain the respondent's best terms from a technical standpoint. However, the State reserves the right to conduct clarifications or negotiations with respondents. All communications, clarifications, and negotiations shall be conducted in a manner that supports fairness in response improvement.

5.2.1. 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 round(s). Each clarification sought by the State may be unique to an individual respondent.

5.2.2. Negotiations: The State may elect to negotiate with Qualified Respondents by requesting revised responses, negotiating costs, or finalizing contract terms and conditions. The State reserves the right to conduct multiple negotiation rounds.

5.3. Evaluation Guide

The State will consider qualifications, experience, technical approach, and cost (if applicable) in the evaluation of responses and award points in each of the categories detailed below. The maximum evaluation points possible for each category are detailed below.

Evaluation Category	Maximum Points Possible
Mandatory Requirements (refer to RFQ Attachment A)	Pass/Fail
General Qualifications, Experience, Technical Qualifications, Experience & Approach (refer to RFQ Attachment B)	25
Technical Qualifications, Experience & Approach (refer to RFQ Attachment C)	75

5.4. Contract Award

5.4.1. The Solicitation Coordinator will submit the Evaluation Team determinations and response scores to the head of the contracting agency, or the agency head's designee, for consideration along with any other relevant information that might be available and pertinent to contract award.

5.4.2. The contracting agency head, or the agency head's designee, will determine the apparent best-evaluated response. (To effect a contract award to a Respondent other than the one receiving the highest evaluation score, the head of the contracting agency must provide written justification and obtain written approval of the Chief Procurement Officer and the Comptroller of the Treasury.)

5.4.3. The State reserves the right to make an award without further discussion of any response.

- 5.4.4. The State will issue an Evaluation Notice and make the RFQ files available for public inspection at the time and date specified in the RFQ §2, Schedule of Events.

**NOTICE:** The Evaluation Notice shall not create rights, interests, or claims of entitlement in either the Respondent identified as the apparent best evaluated or any other Respondent.

- 5.4.5. The Respondent identified as offering the apparent best-evaluated must sign a contract drawn by the State pursuant to this RFQ. The contract shall be substantially the same as the RFQ Attachment G, pro forma contract. The Respondent must sign said contract no later than the Respondent Contract Signature Deadline detailed in RFQ § 2, Schedule of Events. If the Respondent fails to provide the signed contract by the deadline, the State may determine the Respondent is non-responsive to this RFQ and reject the response.
- 5.4.6. Notwithstanding the foregoing, the State may, at its sole discretion, entertain limited negotiation prior to contract signing and, as a result, revise the pro forma contract terms and conditions or performance requirements in the State's best interests, PROVIDED THAT such revision of terms and conditions or performance requirements shall NOT materially affect the basis of response evaluation or negatively impact the competitive nature of the RFQ and contractor selection process.
- 5.4.7. If the State determines that a response is nonresponsive and rejects it, the Solicitation Coordinator will re-calculate scores to determine (or re-determine) the apparent best-evaluated response.

**TECHNICAL RESPONSE & EVALUATION GUIDE**

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

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

<b>RESPONDENT LEGAL ENTITY NAME:</b>			
<b>Response Page #</b> (Respondent completes)	<b>Item Ref.</b>	<b>Section A— Mandatory Requirement Items</b>	<b>Pass/Fail</b>
		The Technical Response must be delivered to the State no later than the Technical Response Deadline specified in the RFQ § 2, Schedule of Events.	
		The Technical Response must not contain cost or pricing information of any type.	
		The Technical Response must not contain any restrictions of the rights of the State or other qualification of the response.	
		A Respondent must not submit alternate responses.	
		A Respondent must not submit multiple responses in different forms (as a prime and a subcontractor).	
	<b>A.1.</b>	Provide the Statement of Certifications and Assurances (RFQ Attachment E) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFQ and any resulting contract. The document must be signed without exception or qualification.	
	<b>A.2.</b>	Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall cause to deliver goods or perform services under the contract has a possible conflict of interest (e.g., employment by the State of Tennessee) and, if so, the nature of that conflict.  NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	<b>A.3.</b>	Provide a current bank reference indicating that the Respondent's business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed and dated within the past three (3) months.	
	<b>A.4.</b>	Provide two current positive credit references from vendors with which the Respondent has done business written in the form of standard business letters, signed, and dated within the past three (3) months.	
	<b>A.5.</b>	Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and	

<b>RESPONDENT LEGAL ENTITY NAME:</b>			
<b>Response Page #</b> (Respondent completes)	<b>Item Ref.</b>	<b>Section A— Mandatory Requirement Items</b>	<b>Pass/Fail</b>
		indicating a satisfactory credit rating for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will not be considered responsive.)	
	<b>A.6.</b>	Provide a copy of a current license, which qualifies the individual (s) to perform the duties of this contract issued by the State of Tennessee, Health Related Board, of their specified discipline.	
<i>State Use – RFQ Coordinator Signature, Printed Name &amp; Date:</i>			

**TECHNICAL RESPONSE & EVALUATION GUIDE**

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

<b>RESPONDENT LEGAL ENTITY NAME:</b>		
<b>Response Page #</b> (Respondent completes)	<b>Item Ref.</b>	<b>Section B— General Qualifications &amp; Experience Items</b>
	<b>B.1.</b>	Detail the name, e-mail address, mailing address, telephone number, and facsimile number of the person the State should contact regarding the response.
	<b>B.2.</b>	Describe the Respondent’s form of business ( <i>i.e.</i> , individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company) and business location (physical location or domicile).
	<b>B.3.</b>	Detail the number of years the Respondent has been in business.
	<b>B.4.</b>	Briefly describe how long the Respondent has been providing the goods or services required by this RFQ.
	<b>B.5.</b>	Describe the Respondent’s number of employees, client base, and location of offices.
	<b>B.6.</b>	Provide a statement of whether there have been any mergers, acquisitions, or change of control of the Respondent within the last ten (10) years. If so, include an explanation providing relevant details.
	<b>B.7.</b>	Provide a statement of whether the Respondent or, to the Respondent’s knowledge, any of the Respondent’s employees, agents, independent contractors, or subcontractors, involved in the delivery of goods or performance of services on a contract pursuant to this RFQ, have been convicted of, pled guilty to, or pled <i>nolo contendere</i> to any felony. If so, include an explanation providing relevant details.
	<b>B.8.</b>	Provide a statement of whether, in the last ten (10) years, the Respondent has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors. If so, include an explanation providing relevant details.
	<b>B.9.</b>	Provide a statement of whether there is any material, pending litigation against the Respondent that the Respondent should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this RFQ 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 RFQ.  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.
		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,

<b>RESPONDENT LEGAL ENTITY NAME:</b>		
<b>Response Page #</b> (Respondent completes)	<b>Item Ref.</b>	<b>Section B— General Qualifications &amp; Experience Items</b>
	<b>B.10.</b>	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 RFQ.  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>B.11.</b>	Provide a brief, descriptive statement detailing evidence of the Respondent's ability to deliver the goods or services sought under this RFQ (e.g., prior experience, training, certifications, resources, program and quality management systems, etc.).
	<b>B.12.</b>	Provide a narrative description of the proposed project team, its members, and organizational structure along with an organizational chart identifying the key people who will be assigned to deliver the goods or services required by this RFQ.
	<b>B.13.</b>	Provide a personnel roster listing the names of key people who the Respondent will assign to meet the Respondent's requirements under this RFQ 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>B.14.</b>	Provide a statement of whether the Respondent intends to use subcontractors to meet the Respondent's requirements of any contract awarded pursuant to this RFQ, and if so, detail:  (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 RFQ.
	<b>B.15.</b>	Provide documentation of the Respondent's commitment to diversity as represented by the following:  (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:  (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 RFQ. Please include the following information:

<b>RESPONDENT LEGAL ENTITY NAME:</b>		
<b>Response Page #</b> (Respondent completes)	<b>Item Ref.</b>	<b>Section B— General Qualifications &amp; Experience Items</b>
		<p>(i) a percentage (%) indicating the participation estimate. (Express the estimated participation number as a percentage of the total estimated contract value that will be dedicated to business with subcontractors and supply contractors having such ownership characteristics only and <b>DO NOT INCLUDE DOLLAR AMOUNTS</b>);</p> <p>(ii) anticipated goods or services contract descriptions;</p> <p>(iii) names and ownership characteristics (i.e., ethnicity, gender, service-disabled veterans, or disability) of anticipated subcontractors and supply contractors.</p> <p>NOTE: In order to claim status as a Diversity Business Enterprise under this contract, businesses must be certified by the Governor's Office of Diversity Business Enterprise (Go-DBE). Please visit the Go-DBE website at <a href="https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&amp;XID=9810">https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&amp;XID=9810</a> for more information.</p> <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>B.16.</b>	<p>Provide a statement of whether or not the Respondent has any current contracts with the State of Tennessee or has completed any contracts with the State of Tennessee within the previous five (5) year period. If so, provide the following information for all of the current and completed contracts:</p> <p>(a) the name, title, telephone number and e-mail address of the State contact knowledgeable about the contract;</p> <p>(b) the procuring State agency name;</p> <p>(c) a brief description of the contract's scope of services;</p> <p>(d) the contract period; and</p> <p>(e) the contract number.</p>
	<b>B.17.</b>	<p>Provide customer references from individuals who are <u>not</u> current or former State employees for projects similar to the goods or services sought under this RFQ and which represent:</p> <ul style="list-style-type: none"> <li>▪ two (2) accounts Respondent currently services that are similar in size to the State; <u>and</u></li> <li>▪ three (3) completed projects.</li> </ul> <p>References from at least three (3) different individuals are required to satisfy the requirements above, e.g., an individual may provide a reference about a completed project and another reference about a currently serviced account. The standard reference questionnaire, which <u>must</u> be used and completed, is provided at RFQ Attachment 6.4. References that are <u>not</u> 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>



<b>RESPONDENT LEGAL ENTITY NAME:</b>		
<b>Response Page #</b> (Respondent completes)	<b>Item Ref.</b>	<b>Section B— General Qualifications &amp; Experience Items</b>
		<p>(a) Add the Respondent's name to the standard reference questionnaire at RFQ 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> <ul style="list-style-type: none"> <li>(i) complete the reference questionnaire;</li> <li>(ii) sign and date the completed reference questionnaire;</li> <li>(iii) seal the completed, signed, and dated reference questionnaire within the envelope provided;</li> <li>(iv) sign his or her name in ink across the sealed portion of the envelope; and</li> <li>(v) return the sealed envelope directly to the Respondent (the Respondent may wish to give each reference a deadline, such that the Respondent will be able to collect all required references in time to include them within the sealed Technical Response).</li> </ul> <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>Email:</p> <ul style="list-style-type: none"> <li>(a) Add the Respondent's name to the standard reference questionnaire at RFQ Attachment 6.4 and make a copy for each reference.</li> <li>(b) E-mail the reference with a copy of the standard reference questionnaire.</li> <li>(c) Instruct the reference to: <ul style="list-style-type: none"> <li>( i ) complete the reference questionnaire;</li> <li>(ii) sign and date the completed reference questionnaire.</li> <li>(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 RFQ 35910-05479.</li> </ul> </li> </ul> <p>NOTES:</p> <ul style="list-style-type: none"> <li>▪ 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.</li> <li>▪ The State will not review more than the number of required references indicated above.</li> <li>▪ While the State will base its reference check on the contents of the reference e-mails or sealed 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.</li> <li>▪ The State is under <u>no</u> obligation to clarify any reference information.</li> </ul>
	<b>B.18.</b>	<p>Provide a statement and any relevant details addressing whether the Respondent is any of the following:</p> <ul style="list-style-type: none"> <li>(a) is presently debarred, suspended, proposed for debarment, or voluntarily excluded from covered transactions by any federal or state department or agency;</li> <li>(b) has within the past three (3) years, been convicted of, or had a civil judgment rendered against the contracting party from commission of fraud, or a criminal</li> </ul>

<b>RESPONDENT LEGAL ENTITY NAME:</b>		
<b>Response Page #</b> (Respondent completes)	<b>Item Ref.</b>	<b>Section B— General Qualifications &amp; Experience Items</b>
		<p>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> <ul style="list-style-type: none"> <li>▪ has within a three (3) year period preceding the contract had one or more public transactions (federal, state, or local) terminated for cause or default.</li> </ul>

<b>SCORE (for <u>all</u> Section B—Qualifications &amp; Experience Items above):</b> <i>(maximum possible score = 25)</i>	
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*State Use – Evaluator Identification:*

**TECHNICAL RESPONSE & EVALUATION GUIDE**

**SECTION C: TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH.** The Respondent should explain its approach to providing goods or services to the State. The items listed below represent specific questions the State would request you answer in your response. For ease of review, please annotate your explanation so that it contains references to the items listed below where they are addressed. Respondent should not feel constrained to answer only the specific questions listed below in its explanation and should feel free to provide attachments, if necessary, in an effort to provide a more thorough response.

The Evaluation Team, made up of three (3) 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 scores as indicated.

<b>RESPONDENT LEGAL ENTITY NAME:</b>					
<b>Response Page #</b> (Respondent completes)	<b>Item Ref.</b>	<b>Section C— Technical Qualifications, Experience &amp; Approach Items</b>	<b>Item Score</b>	<b>Evaluation Factor</b>	<b>Raw Weighted Score</b>
	<b>C.1.</b>	Provide a narrative that illustrates the Respondent's understanding of the State's requirements and project schedule.		5	
	<b>C.2.</b>	Wilder Youth Development Center is a hardware secure facility. Describe all trainings the respondent has completed.		3	
<i>The Solicitation Coordinator will use this sum and the formula below to calculate the section score. All calculations will use and result in numbers rounded to two (2) places to the right of the decimal point.</i>					<b>Total Raw Weighted Score:</b> <i>(sum of Raw Weighted Scores above)</i>
$\frac{\text{Total Raw Weighted Score}}{\text{Maximum Possible Raw Weighted Score}}$ <i>(i.e., 5 x the sum of item weights above)</i>			<b>X 75</b> <i>(maximum possible score)</i>	<b>= SCORE:</b>	
<i>State Use – Evaluator Identification:</i>					
<i>State Use – Solicitation Coordinator Signature, Printed Name &amp; Date:</i>					

RESERVED

STATEMENT OF CERTIFICATIONS AND ASSURANCES

An individual responding in his or her individual capacity or legally empowered to contractually bind the Respondent must complete and sign the Statement of Certifications and Assurances below as required, and this signed statement must be included with the response as required by the Request for Qualifications.

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 RFQ.
2. The Respondent will provide all specified goods or services as required by the contract awarded pursuant to this RFQ.
3. The Respondent accepts and agrees to all terms and conditions set out in the contract awarded pursuant to this RFQ.
4. The Respondent acknowledges and agrees that a contract resulting from the RFQ shall incorporate, by reference, all Response responses as a part of the contract.
5. The Respondent will comply, as applicable, 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 best of the undersigned's knowledge, information or belief, the information detailed within the Response to the RFQ is accurate.
7. The Response submitted to the RFQ was independently prepared, without collusion, and 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 the request or any potential resulting contract.
9. The Response submitted in response to the RFQ shall remain valid for at least 120 days subsequent to the date of the Response opening and thereafter in accordance with any contract pursuant to the RFQ.
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 signature below, the signatory certifies legal authority to bind the responding entity to the provisions of this request and any contract awarded pursuant to it. The State may, at its sole discretion and at any time, require evidence documenting the signatory's authority to be personally bound or to legally bind the responding entity.

DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO DO SO BY THE ENTITY RESPONDING TO THIS RFQ.

SIGNATURE & DATE:

\_\_\_\_\_

PRINTED NAME & TITLE:

\_\_\_\_\_

LEGAL ENTITY NAME:

\_\_\_\_\_

**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 responsible for obtaining completed reference questionnaires as required (refer to RFQ Attachment B, General Qualifications & Experience Items, Item B.17.), and for enclosing the sealed reference envelopes within the Respondent's Technical Proposal.

**RFQ # 35910-05479 REFERENCE QUESTIONNAIRE**

**RESPONDENT NAME:** **RESPONDENT NAME** (completed by respondent before reference is requested)

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The "respondent name" specified above, intends to submit a response to the State of Tennessee in response to the Request for Qualifications (RFQ) indicated. As a part of such response, the respondent 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 respondent.

E-Mail:

- email the completed Questionnaire to Will Harmon, [will.harmon@tn.gov](mailto:will.harmon@tn.gov)

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

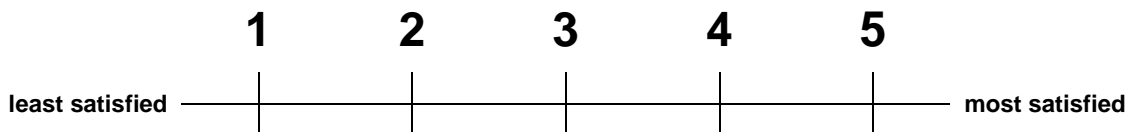
(2) **Please provide the following information about the individual completing this reference questionnaire on behalf of the above-named individual, company, organization, or entity.**

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

(3) **What goods or services do/did the vendor provide to your company or organization?**

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

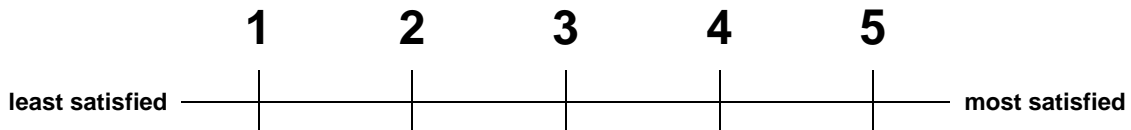
*Please respond by circling the appropriate number on the scale below.*



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

- (5) If the goods or services that the vendor provided to your company or organization are completed, were the goods or services completed in compliance with the terms of the contract, on time, and within budget? If not, please explain.
  
- (6) If the vendor 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 vendor's ability to perform based on your expectations and according to the contractual arrangements?
  
- (8) In what areas of goods or service delivery do/did the vendor excel?
  
- (9) In what areas of goods or service delivery do/did the vendor fall short?
  
- (10) What is the level of your satisfaction with the vendor's project management structures, processes, and personnel?

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

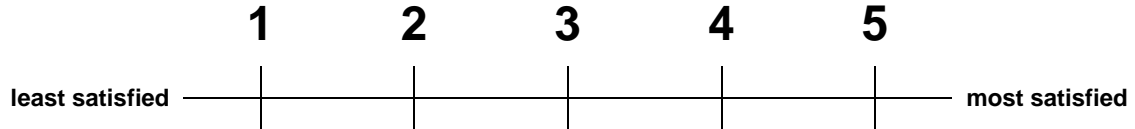


What, if any, comments do you have regarding the score selected above?



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

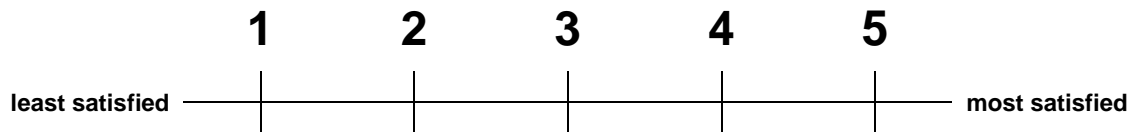
*Please respond by circling the appropriate number on the scale below.*



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

- (12) Would you contract again with the vendor for the same or similar goods or services?

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



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

**REFERENCE SIGNATURE:**

(by the individual completing this request for reference information)

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

**DATE:**

\_\_\_\_\_

**RFQ # 35910-05479 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 RFQ.

**CONTRACT**  
**BETWEEN THE STATE OF TENNESSEE,**  
**DEPARTMENT OF CHILDREN'S SERVICES**  
**AND**  
**CONTRACTOR NAME**

This Contract, by and between the State of Tennessee, Department of Children's Services ("State" or "DCS") and **Contractor Legal Entity Name** ("Contractor"), is for the provision of Mental Health and Psychiatric Services at John S. Wilder Youth Development Center (WYDC), 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.
- A2. The Qualified Licensed Prescriber staff shall furnish YDC with a copy of their Drug Enforcement Agency (DEA) registration.
- A.3. Definitions. For purposes of this Contract, definitions shall be as follows and as set forth in the Contract:
- a. "Clinical Supervisor" Licensed masters level clinician who oversees the delivery of all therapy services.
  - b. "Contract Provider Manual" is a document that outlines the responsibilities and requirements of service provision for the contract provider network.
  - c. "Direct service time" is defined as the time the contractor or his/her professional staff spends on-site, providing face to face services to facility Youth;
  - d. "Health Information Service Provider (HISP)" is an accredited network service operator that enables nationwide clinical data exchange using Direct Secure Messaging (aka Direct, Direct Messaging and the Direct Project).
  - e. "HIPAA Privacy Rule" The HIPAA Privacy Rule provides federal protections for personal health information held by covered entities and gives patients an array of rights with respect to that information.
  - f. "Individual Program Plan" means a written plan for the provision of services to the resident that is developed and implemented using an interdisciplinary process that is based on the resident's functional status, strengths, and needs and that identifies service activities designed to enable a person to maintain or move toward independent functioning.
  - g. "Individual Education Plan (IEP)" his is a plan or program developed to ensure that a child with an identified disability who is attending an elementary or secondary educational institution receives specialized instruction and related services.
  - h. "Indirect service time" is defined as the time spent at the facility working on matters pertaining to this contract but which is not direct, face-to-face service to Youth. Indirect service includes,

but is not limited to written documentation related to direct services, consultations with staff about Youth, orientation to campus, staff training.

- i. "Licensed Clinical Social Worker (LCSW)" is a sub-sector within the field of Social Work. LCSW's work with clients in order to help deal with issues involving mental and emotional health.
- j. "Licensed Marital and Family Therapist Marriage and Family Therapists (MFTs)" are mental health professionals trained in psychotherapy and family systems and licensed to diagnose and treat mental and emotional disorders within the context of marriage, couples and family systems.
- k. "Licensed Professional Counselors (LPCs)" are master's-degreed mental health service providers, trained to work with individuals, families, and groups in treating mental, behavioral, and emotional problems and disorders.
- l. "**Positive Behavior Support Model**" offers a holistic approach that considers all factors that have an impact on a child and the child's **behavior**. It can be used to address problem **behaviors** that range from aggression, tantrums, and property destruction to social withdrawal.
- m. "Prison Rape Elimination Act (PREA)" The purpose of the act is to "provide for the analysis of the incidence and effects of prison rape in federal, state, and local institutions and to provide information, resources, recommendations and funding to protect individuals from prison rape." (Prison Rape Elimination Act, 2003.)
- n. "Protected Health Information (PHI)" Protected health information includes all individually identifiable health information, including demographic data, medical histories, test results, insurance information, and other information used to identify a patient or provide healthcare services or healthcare coverage.
- o. "Psychiatric Nurse Practitioner Qualifications" means an appropriately licensed Psychiatric Nurse Practitioner working under the supervision of a licensed board-certified Psychiatrist.
- p. "Psychiatrist Qualifications" means a licensed physician board-certified in psychiatry and/or child and adolescent psychiatry.
- q. "Psychiatric Residential Treatment Facilities" or "PRTFs" means a non-hospital facility offering intensive inpatient services to people under twenty-one (21) with mental health issues, to stabilize or improve the person's condition.
- r. "Psychologist" is a doctor who specializes in the study of behaviors and mental processes. This includes emotional and cognitive processes, how people interact with their environments, and how they interact with other people.
- s. "Qualified Licensed Prescriber" means a physician or other health care practitioner, such as a physician's assistant or nurse practitioner, with the statutory authority to prescribe medication and with the training and expertise appropriate for this population.
- t. "Senior Psychological Examiner" is able to render health-related clinical activities or services who have been duly licensed and who make written request to the board.
- u. "Social Worker" is a person who is trained to perform psychotherapy, with a particular emphasis on connecting people with the community and support services available there.

- v. "Tele-Health" means using digital information and communication technologies, such as computers, to provide health care services remotely
- w. "Treatment planning"; Development of a plan of intervention that incorporates individualized diagnosis, strengths, problem behaviors, long-range and short-term goals of the youth. Based on this plan, it is determined what available treatment resources should be provided to each youth's individual goals.
- x. "Youth" means children between the ages of 10 to 19 years of age

A.4. Services to be performed by a Qualified Licensed Prescriber. The Contractor shall provide the following services:

- i. Psychiatric. Perform a comprehensive psychiatric evaluation on Youths that are referred to WYDC for psychiatric services and/or a medication evaluation.
  - ii. Treatment. The Contractor shall provide the following services:
    - a) Provide psychiatric face-to-face and/or Tele-Health medication management at least monthly for Youth currently prescribed psychotropic medications;
    - b) Participate in obtaining informed consent, as defined in DCS Informed Consent policy 20.24, from Youth age sixteen (16) and older, or parents, or guardians;
    - c) Review all psychotropic medication orders every thirty (30) days;
    - d) Monitor the record keeping process of all drugs prescribed for psychotropic purposes;
    - e) The emergency use of psychotropic medication is not allowed in WYDC.;
    - f) Serve as consultant to the pharmacy to develop/maintain a drug formulary that adequately serves the pharmacological needs of the student population; and,
    - g) Supervise any follow-up treatment prescribed when the Youth returns from an off-campus mental health hospitalization or emergency visit.
3. Consultation & Referral. The Contractor shall:
- a) Provide psychiatric case consultation to WYDC staff regarding Youth receiving psychotropic or pharmacological intervention within the clinical staffing;
  - b) Provide psychiatric case consultation for Youth currently not under psychiatric care as requested by WYDC program staff, clinical staff, education staff, legal guardian, or Youth;
  - c) Determine need for mental health transfer to include certification of need for emergency and/or standard transfer.
  - d) Function as the clinical liaison with the receiving mental health institutional staff; and,
  - e) Assist in coordinating patient care services local community mental health services during discharge transition.

A.5. Availability Requirements:

- a. The Contractor shall ensure that all of its employees and subcontractors:
  1. Provide advance notification to the facility superintendent when the contractor's employees are not available to provide either normally scheduled services or emergency services, or face to face or telephone consultations; and
  2. Arrange for other qualified personnel to provide service coverage when the regularly scheduled contract staff are absent or unavailable. The contractor shall be responsible for any compensation owed to the Qualified Licensed Prescriber when services are required due to the absence of Contractor personnel. The contractor shall be responsible for providing the name and complete contact information of each Qualified Licensed Prescriber WYDC, and the use of any Qualified Licensed Prescriber. After receiving prior DCS approval, the contractor shall use only a Qualified Licensed Prescriber.
- b. Qualified Licensed Prescriber. The contractor shall ensure that Qualified Licensed Prescribers provide the following services
  1. Crisis intervention on-call services twenty-four (24) hours per day, seven (7) days a week either through phone consultation or via tele-medicine. The Contractor shall ensure that Qualified Licensed Prescribers are available through consultation with one (1) of the contract therapists to allow WYDC to have immediate contact with Contractor (through a Therapist). The Contractor shall ensure that Qualified Licensed Prescribers, as the crisis responder, are able to provide phone consultation or tele-video consultation, as requested by DCS.
  2. The Qualified Licensed Prescriber will be available on-site at least one (1) day a week for the evaluation and treatment of youth via tele-medicine. If the Qualified Licensed Prescriber is not available, the contractor shall provide a substitute who will be available to make up services within fourteen (14) days of the original scheduled date.

#### A.6 Quality Improvement

- a. The Contractor shall ensure that Qualified Licensed Prescribers:
  1. Cooperate with any peer group designated by DCS to review and evaluate services provided under this contract and make every effort to follow recommendations made by such group;
  2. Collaborate with DCS staff to evaluate the quality of mental health care delivered to Youth and to report regularly to the WYDC Superintendent on the effectiveness of the mental health care delivery system at WYDC;
  3. Assist WYCD personnel in pre-service and in-service educational programs on-site at WYDC or via a web-based meeting platform;
  4. Practice evidenced-based treatment interventions based on the characteristics, situations, and preferences;
  5. Provide input to unit staff regarding Youths needs for inclusion in planning, disciplinary and classification meetings;

6. Immediately report to the Superintendent, mental health condition or practice that imposes a danger to the health and safety of staff or student; and,
7. Review clinical protocols and nursing protocols annually with the WYDC Health Administrator.

A.7. Documentation.

- a. The Contractor shall ensure that Qualified Licensed Prescribers:
  1. Maintain a medical record on each Youth that is kept up to date at all times and which adheres to the State's record format and standards;
  2. Develop and update individual treatment plans for students requiring close mental health supervision. The Contractor shall ensure that the individual treatment plans should include directions to medical staff and other personnel regarding their roles in the care and supervision of youths;
  3. For each Youth examined, make the proper notation in the medical record including:
    - a) Diagnosis;
    - b) Data supporting the diagnosis;
    - c) Identification and justification for treatment or medication; and
    - d) Result of such medication or treatment when applicable;
  4. Medical records shall be maintained in the WYDC medical clinic and be available at all on-site health encounters; and,
  5. The physician will provide the following review activities during on-campus visits:
    - a) Review and initial all diagnostic reports,(including laboratory and pathology reports; and,
    - b) Review and co-sign all Psychiatric Associate's orders including referrals and medication orders.

A.8. Compliance

- a. The Contractor shall ensure that Qualified Licensed Prescribers review and comply with all applicable policies and procedures found in the Department of Children's Services Policy and Procedures and Contract Provider Manual (CPM). The CPM may be accessed by utilizing the link below:
 

<https://www.tn.gov/dcs/for-providers/contract-provider-manual.html>
- b. The Qualified Licensed Prescriber will sign in and out at the reception area during each visit.

A.9. Reporting. The Contractor shall provide the following services:

- a. Finding results, reports, evaluations, assessments, spreadsheets and all other documents, prepared by the Contractor, that include Protected Health Information

(PHI), the Contractor is required to use Direct Secure Messaging using a Direct accredited Health Information Service Provider (HISP) to transport those documents to the Procuring State Agency Staff; and,

- b. If the Contractor subcontracts services to external licensed Mental Health professionals and PHI is transported from these external licensed Mental Health professionals to the Contractor or PHI is transported from external licensed Mental Health professionals to the State, the PHI shall be transported via Direct Secure e-mail using a Direct accredited Health Information Service Provider (HISP). <http://www.directtrust.org/>

#### A.10. Qualifications for Contract Personnel.

- a. General Qualifications – All Contract Personnel. The Contractor shall ensure that Qualified Licensed Prescribers:
  - 1. Provide services in accordance with Standards of Practice comparable to those of the community and in compliance with State and Federal laws;
  - 2. Provide proof of licensure or certification to the DCS before any services are performed under this contract;
  - 3. Maintain licensure or certification and professional malpractice liability insurance in the State of Tennessee;
  - 4. Immediately provide the WYDC Superintendent with a copy of each renewal upon receipt.
- b. Group and Individual Therapists. The Contractor shall ensure that:
  - 1. Group and individual therapy services provided under the terms of this Contract shall be performed by qualified personnel approved in the State of Tennessee to provide such services by virtue of their certification, licensure or registration. These professionals include Qualified Mental Health Professionals, with at least a Master's degree, possessing a license issued by the State as required for the following professionals:
    - a. Psychiatrist, (a physician with expertise in psychiatry)
    - b. Psychologist, (HSP) designation;
    - c. Senior Psychological Examiner (SPE);
    - d. Social Worker who is certified or licensed (LCSW);
    - e. Licensed Professional Counselor (LPC) with Mental Health Service Provider Designation;
    - f. Licensed Marital and Family Therapist (LMFT),
  - 2. or: by trained and qualified Master's level Mental Health Professionals who receive ongoing clinical supervision from a Licensed or Certified Qualified Mental Health Professional,
  - 3. or: by students who are matriculated in at least a Masters level mental health training program and are registered for practicum or internship placement and have appropriate and ongoing clinical supervision from a Licensed or Certified Qualified Mental Health Professional.
- c. Alcohol and Drug Therapists. The Contractor shall ensure that:
  - 1. Alcohol and Drug treatment services are provided by Qualified Mental Health Professionals, with at least a Master's degree, possessing a license issued by the State as required for the following professionals
  - 2. Psychiatrist, (a physician with expertise in psychiatry) as determined by training, education, or experience;
  - 3. Psychologist with health service provider (HSP) designation;



4. Senior Psychological Examiner;
5. Social Worker who is certified or licensed;
6. Licensed Professional Counselor with Mental Health Service Provider Designation;
7. individuals who are a Tennessee Licensed Alcohol and Drug Abuse Counselor:
8. or, by one who is preparing for such licensure and is supervised by a Licensed Alcohol and Drug Counselor pursuant to applicable state licensure rules and is participating as an alcohol and drug counseling trainee, intern or other designation that clearly indicates their role as a trainee;
9. or: by a trained and qualified Master's level Mental Health Professional receiving ongoing clinical supervision from a Licensed or Certified Qualified Mental Health Professional, or: by students who are matriculated in at least a Masters level mental health training program and are registered for practicum or internship placement and have appropriate and ongoing clinical supervision from a Licensed or Certified Qualified Mental Health Professional. Professionals in a supervisory role should have experience in the area in which counseling is being provided.

A.11. Group & Individual Therapy Services:

- a. The following individual and group therapy services shall be provided for resident Youth at the request of DCS:
  1. Individual therapy coordinated and/or provided for all resident Youth at least once a week;
  2. Group therapy coordinated and/or provided for all resident Youth at least four (4) times a week;
  3. Family therapy at least once a month and/or as recommended by treatment team;
  4. Specify a plan of treatment identifying and setting goals and objectives for individual youths;
  5. Attend staff meetings at the request of the WYDC;
  6. Take part in planning, disciplinary and classification meetings as requested, to provide input to unit staff regarding individual Youth needs.
- b. Case Consultation by a licensed therapist. The Contractor shall ensure that a licensed therapist provides the following services:
  1. Case consultation to WYDC staff regarding Youth receiving individual and group therapy, with written reports and recommendations.
  2. Emergency consultation and individual assessment to students with suspected mental health needs in a written report. The Contractor shall also obtain an additional certification of need for mental health transfers; and
  3. Emergency consultation, individual assessment and follow up to at-risk students with suicidal/self-harm issues.
- c. Therapy/Treatment. The Contractor shall:
  1. Specify a written plan of treatment identifying and setting goals and objectives for individual youths.
  2. Attend staff meetings at the request of the WYDC superintendent.
  3. Take part in planning, disciplinary and classification meetings as requested, to provide input to unit staff regarding individual Youth needs.

A.12. Alcohol & Drug Therapy Services. The Contractor shall:

- a. Provide group and individual counseling sessions to youth with substance abuse or alcohol and drug counseling needs and who have been referred by facility staff.
- b. Conduct group therapy according to a manualized program that meets the standards of Tenn. Code Ann. § 37-5-121.
- c. Offer thirty (30) hours of group therapy for students with a history of possession for resale or extended environmental alcohol and drug issues.
- d. Offer fifty (50) hours of group therapy for students with a DSM-IV substance abuse or dependency diagnosis for whom alcohol and drug use has caused significant life problems, approximately (50) hours of group therapy shall be offered by the Contractor.
- e. For students with a DSM-IV substance abuse or dependency diagnosis for whom alcohol and drug use has caused significant life problems, approximately (50) hours of group therapy shall be offered by the Contractor.
- f. Ensure that the length of group participation is determined by the treatment team with input from the treatment provider and ceases when treatment goals are met or when the maximum therapeutic benefit is reached. The Contractor may offer group therapy in “closed ended” groups that start and end with a cohort of clients.
- g. Ensure that individual sessions occur at a minimum of one (1) time per month for students with a diagnosis of drug and or alcohol abuse;
- h. Ensure that individual sessions occur two (2) times per month for students with a diagnosis of substance dependence from the first full month after that student leaves classification until program release.
- i. Provide Individual prevention, relapse prevention, crisis intervention, and planning and case consultation services for students with alcohol and drug prevention needs.
- j. Develop culturally sensitive treatment objectives related to alcohol and drug use.
- k. Identify prerelease and transition service needs and assisting facility treatment teams in developing and/or recommending prerelease and transition plans.

A.13. Availability Requirements:

- a. All Contract Personnel. The Contractor shall
  1. Provide advance notification to the facility Health Administrator or Treatment Team Manager, as applicable, when contract personnel cannot be available to provide either normally scheduled services or emergency services, face to face, or telephone consultation;
  2. Arrange for other qualified personnel to provide service coverage when the regularly scheduled contract staff will be absent or unavailable. The Contractor shall be responsible for any compensation due to the qualified professional when services are required due to the Contractor being unavailable. The Contractor shall be responsible for providing the name and complete contact information to superintendent. DCS will approve the arrangement of another qualified professional to provide service coverage.
- b. Group and Individual Therapists.
  1. The Contractor shall provide at least one (1) Clinical Supervisor on-site superintendent from 8 a.m. to 5 p.m. Monday through Friday. The Contractor shall:

- a. Provide crisis intervention and all therapy services to include individual, family and group therapy, counseling, treatment for students as needed and/or requested by Treatment Manager,
  - b. Attend WYDC staff meetings at the request of the facility Treatment Manager.
  - c. Take part in planning, disciplinary and classification meetings as requested, to provide input to unit staff regarding individual Youth needs.
2. Staffing Pattern. The contractor shall provide full-time, on-site unit-based therapists consisting of one (1) therapist per twelve (12 youth). The contractor shall ensure that the days and times for on-site on-campus services shall be mutually agreed upon by the contractor and the facility superintendent or Treatment Team Manager, as applicable. The contractor shall ensure that scheduling of on-site services will be subject to modification at the discretion of the State.
- c. A&D Counselors. The contractor shall provide on-call services for emergencies by telephone consultation and/or site visits if indicated or requested. The contractor shall furnish the WYDC superintendent with the telephone numbers of the contractor's employees for emergency telephone or on-site visits

A.14. . Location, Equipment and Supplies. The Contractor shall:

- a. Provide services exclusively on-campus at the WYDC with workspace, supplies and equipment provided by the State;

A.15. Quality Improvement.

The Contractor shall ensure that all therapists cooperate with any peer group designated by DCS to review and evaluate services provided under this contract and make every effort to follow recommendations made by such group.

- a. The Contractor shall ensure that all therapists:
  - 1. Collaborate with DCS to evaluate the quality of mental health care delivered to Youth and to report regularly to the WYDC Superintendent on the effectiveness of the mental health care delivery system at the facility; and
  - 2. Participate as needed in pre-service and in-service educational programs as are deemed necessary to assist WYDC personnel providing mental health and technical information appropriate under the circumstances.

A.16. Documentation.

The contractor shall ensure that Group/,individual Therapists, and Alcohol and Drug Therapist provide Treatment Planning:

- 1. Provide the identified treatment goals and objectives to the State in an Individual Education Plan (IEP) format.
  - 2. Update goals and objectives on the Individual Educational Plan (IEP) as required by professional standards and special education guidelines.
  - 3. Provide documentation to assist with the fulfillment of the students Individual Program Plan and ensure that all documentation of the IPP is provided to DCS, upon request.
- a. Monthly written Progress Notes. The Contractor shall ensure that Group, Individual and Alcohol and Drug Therapists:

1. Provide appropriate and timely documentation in each Youth's medical record of all treatment services provided, including written progress reports, treatment recommendations and the result(s) of such treatment on individual youths. The Contractor shall ensure that progress notes are written at the end of each group session and are written at least once monthly for students receiving individual sessions. The Contractor shall ensure that all such documentation is filed in the student's master file.
- b. Submit a daily log of activities that records all direct and indirect services provided by the Contractor, as follows:
  1. The name of each student served;
  2. Type of contract service rendered to each;
  3. The total number of direct service hours provided by each consultant in the delivery of direct Youth services in each individual service category.
  4. The total number of Indirect Service hours provided. Indirect Services are also provided on-site at the facility but are outside the parameters of Direct Services

#### A.17. Direct Secure Messaging.

If reports, spreadsheets, or other documents, prepared by the Contractor, include Protected Health Information (PHI), the Contractor shall use Direct Secure Messaging using a direct accredited Health Information Service Provider (HISP) to transport those documents to the Procuring State Agency Staff.

If the Contractor subcontracts services to external licensed mental health professionals and PHI is transported from these external licensed Mental Health professionals to the Contractor or PHI is transported from external licensed Mental Health professionals to the Procuring State Agency, the Contractor shall transport PHI via Direct Secure e-mail using a Direct accredited Health Information Service Provider (HISP).

The Contractor shall implement Direct Secure Messaging no later than six (6) months from Contract Begin Date in Section B.1. using a Direct accredited Health Information Service Provider (HISP).

#### A.18. Compliance.

- a. The Contractor shall ensure that Group, Individual, and Alcohol and Drug Therapists review and comply with all applicable policies and procedures found in the DCS Contract Provider Manual (CPM) including those related to health services and security regulations. The Contractor shall ensure that the Group, Individual, and Alcohol and Drug Therapists comply with all security and facility rules, regulations, and procedures, regarding key control, tool control, smoking, contraband and student supervision. The CPM may be accessed by utilizing the link below:

<https://www.tn.gov/dcs/for-providers/contract-provider-manual.html>

- b. The Contractor shall ensure that Group, Individual, and Alcohol and Drug Therapists sign in and out at the WYDC during each visit.

#### A.19. Training.

- a. Training for all Contract Personnel. The Contractor shall ensure that:

1. All Contractor staff complete a facility/institutional orientation training provided by the State during the first year of their employment and in-service training in each subsequent year during their employment.
  2. The Contractor shall ensure that its staff completes training at WYDC on the Prison Rape Elimination Act (PREA) annually and the facilities positive behavior support model.
- b. Training for DCS staff by contract personnel. The contractor shall develop and provide
1. on-site in-service training for DCS staff as requested by DCS. The Contractor shall not provide the on-site in-service training required by this Contractor until the training is approved by the WYDC Superintendent and/or designee;
  2. In-service training related to the service areas contained within this Contract that improves treatment services for Youth and DCS employees. Examples of this training could be verbal de-escalation techniques, identification of behavioral triggers, demonstration of emotional regulation, developing strategies to develop and maintain rapport between youth and DCS employees.
  3. In-service training that is scripted with appropriate learning objectives identified;
  4. Post in-service training reports that are provided to the WYDC superintendent and/or designee. The contractor shall ensure that the post in-service training reports include any identified training needs or problems that may include but not limited to de-escalation, understanding diagnosis and psychotropic medication, suicide prevention, coping with trauma and conflict resolution.

**B. TERM OF CONTRACT:**

This Contract shall be effective on July 1, 2021 (“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. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.
- C.3. Payment Methodology. The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.
- a. The Contractor’s compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.
  - b. The Contractor shall be compensated based upon the following payment methodology:

<b>Goods or Services Description</b>	<b>Amount</b> (per compensable increment)
Psychologist Services (Direct face-to-face contact)	\$ Number / hour
<b>Therapy and Consultation</b>	
Individual Therapy (Direct face-to-face contact)	\$ Number / hour
Group Therapy (Direct face-to-face contact)	\$ Number / hour
Family Therapy (Direct face-to-face contact)	\$ Number / hour
Crisis Intervention (Direct face-to-face contact)	\$ Number / hour
Qualified Alcohol & Drug Specialist Services	\$ Number / Hour
Qualified Alcohol & Drug Treatment Group (Direct face-to-face contact)	\$ Number / Hour
<b>Case or Program Review</b>	
Case or Program Review-Consultation (Psychiatrist Services)	\$ Number / hour
Case or Program Review- Consultation (Psychologist)	\$ Number / hour
Case or Program Review- Consultation (Therapist)	\$ Number / hour
<b>Training</b>	
Training (State Staff-Regardless of Group Size)	\$Per Hour
Training (Contract Staff-Regardless of Group Size)	\$Per Hour

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

Michael Peeler, Superintendent  
 John S. Wilder Youth Development Center  
 13870 Hwy 59  
 P.O. Box 639  
 Somerville, TN 38068

- 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: DCS Juvenile Justice;
  - (5) Customer account number (assigned by the Contractor to the above-referenced Customer);
  - (6) Contractor name;
  - (7) Contractor Tennessee Edison registration ID number;
  - (8) Contractor contact for invoice questions (name, phone, or email);
  - (9) Contractor remittance address;
  - (10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;

- (11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
- (12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
- (13) Amount due for each compensable unit of good or service; and
- (14) Total amount due for the invoice period.

b. Contractor's invoices shall:

- (1) Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;
- (2) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
- (3) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
- (4) Include shipping or delivery charges only as authorized in this Contract.

c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that meets the minimum requirements of this Section C.5.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.

- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
- b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

**D. MANDATORY TERMS AND CONDITIONS:**

D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the

Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.

- D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.

The State:

Michael Peeler, Superintendent  
John S. Wilder Youth Development Center  
13870 Hwy 59  
P.O. Box 639  
Somerville, TN 38068

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**;
  - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
  - d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
  - e. any technical specifications provided to proposers during the procurement process to award this Contract; and
  - f. the Contractor's response seeking this Contract.
- D.31. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Contract. The Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.32. Insurance. Contractor shall maintain insurance coverage as specified in this Section. The State reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor's failure to maintain or submit evidence of insurance coverage, as required, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall immediately notify the State. All insurance companies providing coverage

must be: (a) acceptable to the State; (b) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (c) rated A- / VII or better by A.M. Best. All coverage must be on a primary basis and noncontributory with any other insurance or self-insurance carried by the State. Contractor agrees to name the State as an additional insured on any insurance policy with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) insurance. All policies must contain an endorsement for a waiver of subrogation in favor of the State. Any deductible or self insured retention ("SIR") over fifty thousand dollars (\$50,000) must be approved by the State. The deductible or SIR and any premiums are the Contractor's sole responsibility. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

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

Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer's National Association of Insurance Commissioners (NAIC) number and be signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3<sup>rd</sup> floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) business days prior to the Effective Date and again thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that subcontractors are included under the Contractor's policy. At any time, the State may require Contractor to provide a valid COI. The Parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead Contractor shall provide a certificate of self-insurance or a letter, on Contractor's letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses. The State reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

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

**The insurance obligations under this Contract shall be: (1)—all the insurance coverage and policy limits carried by the Contractor; or (2)—the minimum insurance coverage requirements and policy limits shown in this Contract; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and minimum required policy limits, which are**

**applicable to a given loss, shall be available to the State. No representation is made that the minimum insurance requirements of the Contract are sufficient to cover the obligations of the Contractor arising under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.**

a. Commercial General Liability (“CGL”) Insurance

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

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

b. Workers’ Compensation and Employer Liability Insurance

- 1) For Contractors statutorily required to carry workers’ compensation and employer liability insurance, the Contractor shall maintain:

- i. Workers’ compensation in an amount not less than **one million dollars (\$1,000,000)** including employer liability of one million dollars (**\$1,000,000**) per accident for bodily injury by accident, **one million dollars (\$1,000,000)** policy limit by disease, and **one million dollars (\$1,000,000)** per employee for bodily injury by disease.

- 2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:

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

c. Automobile Liability Insurance

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

d. Professional Liability Insurance

- i. Professional liability insurance shall be written on an occurrence basis or on a claims-made basis. If this coverage is written on a claims-made basis, then:
  - 1) The retroactive date must be shown, and must be on or before the earlier of the Effective Date of the Contract or the beginning of Contract work or provision of goods and services;
  - 2) Insurance must be maintained and evidence of insurance must be provided for at least five (5) full years from the date of the final Contract payment; and
  - 3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date on or prior to the Contract Effective Date, the Contractor must purchase "extended reporting" or "tail coverage" for a minimum of five (5) full years from the date of the final Contract payment.
- ii. Any professional liability insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate; and
- iii. If the Contract involves the provision of services by medical professionals, a policy limit not less than three million (\$3,000,000) per claim and three million dollars (\$3,000,000) in the aggregate for medical malpractice insurance.

e. Technology Professional Liability (Errors & Omissions)/Cyber Liability Insurance

- 1) The Contractor shall maintain technology professional liability (errors & omissions)/cyber liability insurance appropriate to the Contractor's profession in an amount not less than ten million dollars (\$10,000,000 per occurrence or claim and ten million dollars (\$10,000,000) annual aggregate, covering all acts, claims, errors, omissions, negligence, infringement of intellectual property (including copyright, patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, information theft, damage to destruction of or alteration of electronic information, breach of privacy perils, wrongful disclosure and release of private information, collection, or other negligence in the handling of confidential information, and including coverage for related regulatory fines, defenses, and penalties.
- 2) Such coverage shall include data breach response expenses, in an amount not less than ten million dollars (\$10,000,000) and payable whether incurred by the State or Contractor, including but not limited to consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services and expenses in the performance of services for the State or on behalf of the State hereunder.

f. Crime Insurance

- 1) The Contractor shall maintain crime insurance, which shall be written on a "loss sustained form" or "loss discovered form" providing coverage for third party fidelity, including cyber theft and extortion. The policy must allow for reporting of circumstances or incidents that may give rise to future claims, include an extended reporting period of no less than two (2) years with respect to events which occurred but were not reported during the term of the policy, and not contain a condition requiring an arrest or conviction.



Any crime insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and one million dollars (\$1,000,000) in the aggregate. Any crime insurance policy shall contain a Social Engineering Fraud Endorsement with a limit of not less than two hundred fifty thousand (\$250,000). This insurance may be written on a claims-made basis, but in the event that coverage is cancelled or non-renewed, the Contractor shall purchase an extended reporting or "tail coverage" of at least two (2) years after the Term.

g. Sexual Abuse and Molestation Insurance

The Contractor shall maintain sexual abuse and molestation insurance written on either an occurrence or a claims-made basis. This insurance may be written on a claims-made basis, but in the event that coverage is cancelled or non-renewed, the Contractor shall purchase an extended reporting or "tail coverage" of at least two (2) years after the Term.

Any sexual abuse and molestation insurance policy shall have a limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the aggregate.

- D.33. Major Procurement Contract Sales and Use Tax. Pursuant to Tenn. Code Ann. § 4-39-102 and to the extent applicable, the Contractor and the Contractor's subcontractors shall remit sales and use taxes on the sales of goods or services that are made by the Contractor or the Contractor's subcontractors and that are subject to tax.
- D.34. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

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

**E. SPECIAL TERMS AND CONDITIONS:**

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.
- 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 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.4. 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.5. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.
- E.6. Prison Rape Elimination Act (PREA). The Contractor must comply with the Prison Rape Elimination Act (PREA) of 2003 (Federal law 42 U.S.C. 15601 et. seq.), with all applicable Federal PREA standards, and with all State policies and standards related to PREA for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse within facilities/programs/offices owned, operated, or contracted.
- 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. Unencumbered Personnel. The Contractor shall not restrict its employees, agents, subcontractors or principals who perform services for the State under this Contract from performing the same or similar services for the State after the termination of this Contract, either as a State employee, an independent contractor, or an employee, agent, subcontractor or principal of another contractor with the State.
- E.9. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other

applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify or ensure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

The Contractor shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Contractor ("Unauthorized Disclosure") that come to the Contractor's attention. Any such report shall be made by the Contractor within twenty-four (24) hours after the Unauthorized Disclosure has come to the attention of the Contractor. Contractor shall take all necessary measures to halt any further Unauthorized Disclosures. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract or otherwise available at law. The obligations set forth in this Section shall survive the termination of this Contract.

- E.10. Not a DCS Employee. The Contractor shall inform the client in writing that the Contractor is a private provider and not an employee of the State.
- E.11. Criminal Background Check. Prior to the provision of any services for this Contract, all Contractor personnel performing work under this Contract shall provide fingerprint samples to effect a criminal history records check conducted by the Tennessee Bureau of Investigation. Fingerprints may only be submitted at DCS approved sites where they can be processed electronically. Contractor personnel can obtain specific procedural information for the submission of fingerprints by e-mailing the DCS Internal Affairs office at: [dcx.ia.fp@tn.gov](mailto:dcx.ia.fp@tn.gov).
- The Contractor shall be responsible for the payment of all fee(s) for Contractor personnel providing their fingerprint samples and submitting to a criminal history review.
- E.12. The Contractor shall provide a drug-free workplace pursuant to the "Drug-Free Workplace Act," 41 U.S.C. §§ 8101 through 8106, and its accompanying regulations.
- E.13. Employee Background Checks. Prior to the provision of any services for this Contract, all Contractor personnel that have direct contact with children shall comply with DCS Policy 4.1. Employee Background Checks.

IN WITNESS WHEREOF,

**CONTRACTOR LEGAL ENTITY NAME:**

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**CONTRACTOR SIGNATURE**

**DATE**

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

**STATE AGENCY NAME:**

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**NAME & TITLE**

**DATE**

## ATTACHMENT A

**ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

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

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

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

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**CONTRACTOR SIGNATURE**

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

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**PRINTED NAME AND TITLE OF SIGNATORY**


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**DATE OF ATTESTATION**