



AGENDA
ADVISORY COUNCIL ON STATE PROCUREMENT MEETING #035
TUESDAY, OCTOBER 3, 2017 - 2:30 P.M.
TN TOWER - 3rd FLOOR, NASHVILLE ROOM

AGENDA ITEM	PAGE #
I. Call to Order	--
II. Approve Minutes from July 26, 2017 Meeting..... (see attached documentation)	3
III. New Business Proposed revisions to the following Central Procurement Office documents (see attached documentation):	
(1) Click-Wrap Agreement Approval Request	9
(2) Limitation of Contractor’s Liability Request	15
(3) Rule Exception Request (“RER”) Template	21
(4) Central Procurement Office Policy Number 2013-004, <i>Contract Management Policy and Procedures</i> , Section 5.3.2, Limitations of Liability	25
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(11) Procurement Procedures Manual of the Central Procurement Office, Section 11.2, General Information.....	55
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IV. Other Business	--
V. Adjournment	--

**MINUTES OF JULY 26, 2017
MEETING**



MINUTES
ADVISORY COUNCIL ON STATE PROCUREMENT MEETING #034
WEDNESDAY, JULY 26, 2017 - 1:30 P.M.
TN TOWER - 3rd FLOOR - NASHVILLE ROOM

Members in Attendance:

Mike Perry, Buddy Lea, Trent Andrews (designated by Comptroller Wilson to attend in Jason Mumpower's absence), Summer Carr, Ted Hayden

Members Participating by Phone:

Christopher Todd

Others in Attendance:

Paul Krivacka, Jenny Young, Alex Komisar, Andy Kidd, Charlotte McKinney

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

II. Minutes from the May 30, 2017 Meeting: Mr. Perry asked if there were any corrections or additions to the minutes from the May 30, 2017 meeting. Seeing none, a motion was made by Buddy Lea, Assistant Commissioner, Department of Finance and Administration, to accept the minutes as presented. The motion was seconded by Ms. Summer Carr, Assistant General Counsel, Department of Economic and Community Development. All members voted in favor - none opposed.

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

(1) Rule Exception Request

Mr. Krivacka summarized the following points with regard to Rule Exception Request ("RER") proposal:

- The RER is one of the most commonly used authorization forms in the Central Procurement Office ("CPO") to request changes to rules, policies, and templates. This proposal adds a reminder in the instructional text that the limitation of liability request should be used instead of the RER when an agency or procurement professional is requesting modification to the standard Limitation of Liability language in templates or other contracts.

- This proposal will also add additional instructions to require an agency or procurement professional to submit redlines or track changes to highlight any deviations from template language.

Seeing no discussion, Mr. Lea made a motion to recommend the Rule Exception Request proposal, as presented to the Procurement Commission for approval. The motion was seconded by Mr. Ted Hayden, Executive Director of Compliance, State of Tennessee Real Estate Asset Management. All members voted in favor – none opposed.

(2) Central Procurement Office Policy Number 2013-009, *Business Conduct and Ethics Policy and Procedures*, Attachment C Annual Attestations

Mr. Krivacka summarized the following points with regard to Central Procurement Office Policy Number 2013-009, *Business Conduct and Ethics Policy and Procedures*, Attachment C Annual Attestations:

- This proposal is to make some stylistic and grammatical changes to the *Business Conduct and Ethics Policy* to further clarify it.

Seeing no discussion, Mr. Hayden made a motion to recommend the Central Procurement Office Policy Number 2013-009, *Business Conduct and Ethics Policy and Procedures*, Attachment C Annual Attestations proposal as presented to the Procurement Commission for approval. The motion was seconded by Mr. Trent Andrews, Office of the Comptroller of the Treasury. All members voted in favor – none opposed.

(3) Request for Proposals (“RFP”) Template – Option – Audited Financial Statements

Mr. Krivacka summarized the following points with regard to the Request for Proposals (“RFP”) Template – Option – Audited Financial Statements proposal:

- Mr. Krivacka stated that the standard language that the CPO has been using for many years had requirements that made the financial ability to perform evaluation burdensome. One requirement was that financial statements be reviewed by a Certified Professional Accountant (“CPA”) that was employed by the State. In practice, this never occurred. The CPO has made the financial ability to perform language more flexible. This proposal removes the requirement that the Respondent’s financial statements must be reviewed by a CPA employed by the State.

Mr. Lea commented that he feels this is a really good proposal and that agency feedback indicated that the requirement for financial statements to be reviewed by a CPA was viewed to be excessive. Mr. Lea added that the requirement was considered not to be a good use of a CPA’s time, and in some cases no CPA was available to review the financial statements, which lead to some unnecessary delays in the processing of contracts. Mr. Lea said he feels this proposal protects the interests of the State and still maintains efficiency so it is a good compromise.

Mr. Andrews made a motion to recommend the Request for Proposals (“RFP”) Template – Option – Audited Financial Statements proposal as presented to the Procurement Commission

for approval. The motion was seconded by Mr. Lea. All members voted in favor – none opposed.

(4) *Procurement Procedures Manual of the Central Procurement Office, Section 5.15.3.3., Click-Wrap Agreements*

Mr. Krivacka presented the following points with regard to the *Procurement Procedures Manual of the Central Procurement Office* ("Manual"), Section 5.15.3.3., Click-Wrap Agreements:

- This proposal adds language to the Manual to further clarify that any click-wrap agreement entered into that is contrary to the rules, policies, and procedures of the CPO shall be considered non-binding upon the State. For agency law reasons, this proposal would give the State a colorable defense in court in the event there is an erroneous click-wrap agreement entered into by a State employee that the vendor claims is binding upon the State.

Seeing no discussion, Mr. Lea made a motion to recommend the *Procurement Procedures Manual of the Central Procurement Office, Section 5.15.3.3., Click-Wrap Agreements* proposal as presented to the Procurement Commission for approval. The motion was seconded by Ms. Carr. All members voted in favor – none opposed.

(5) *Procurement Procedures Manual of the Central Procurement Office, Section 10.11, State Security Confidential Information*

Mr. Krivacka presented the following points with regard to *Procurement Procedures Manual of the Central Procurement Office, Section 10.11, State Security Confidential Information*:

- This proposal will add language to the Manual that will conform it to recent legislation that amended Tenn. Code Ann. § 10-7-504(i). The language being added will now provide that the identity of a vendor that provides goods and services used to protect electronic information processing systems, telecommunication and other communication systems, data storage systems, government employee information, or citizen information to the State shall be confidential.

Mr. Krivacka indicated that this change is largely the result of a change in the language of the statute that existed prior to this past legislative session. Mr. Perry asked if that statute was the one that allows the State to redact certain information prior to posting contracts. Mr. Krivacka responded that Mr. Perry was correct and added that there were two more changes as follows:

- The proposed change to the Contract Entry section of the Manual also adds more specific guidance about how a procurement professional should mark the data field on the Additional Contract Information page so that it can be flagged that it contains confidential information.
- This proposal will give instructions to procurement professionals indicating that if they are unsure of what data is protected under the Tennessee Open Records Act they should consult with a member of the legal team prior to release of any records subject to the exception described in this section, meaning Tenn. Code Ann. § 10-7-504(i).

Mr. Perry asked if there was any discussion regarding agenda item (5). Mr. Lea asked if this proposed language was derived through consultation with legal and Strategic Technology Solutions ("STS") staff. Mr. Krivacka confirmed that legal and STS staff were consulted in development of the proposed language.

Seeing no additional discussion, Mr. Lea made a motion to recommend the *Procurement Procedures Manual of the Central Procurement Office*, Section 10.11, State Security Confidential Information, as presented to the Procurement Commission for approval. The motion was seconded by Mr. Andrews. All members voted in favor – none opposed.

(6) FA Template - D.17 and D.18

Mr. Krivacka summarized the following points with regard to the FA Template - D.17 and D.18:

- This proposal is largely a housekeeping change to delete the word "money" immediately prior to the word "goodwill" in section D.17, Limitation of State's Liability, and section D.18, Limitation of Contractor's Liability.
- There are a number of other indirect damages that are dealt with in these sections and the use of the word "money" was confusing so it is being deleted.

Seeing no discussion, Mr. Hayden made a motion to recommend the FA Template - D.17 and D.18 as presented to the Procurement Commission for approval. Mr. Lea seconded the motion. All members voted in favor – none opposed.

(7) Special Contract Request

Mr. Krivacka summarized the following points with regard to the Special Contract Request:

- This proposal is a minor change to delete Question #25 "Explanation of Need for or requirement placed on the State to acquire the goods or services."
- This question is largely covered by question #18 and is seen as duplicative and unnecessary.

Mr. Perry asked if there was any discussion on agenda item (7). Seeing none, Mr. Lea made a motion to recommend the Special Contract Request, as presented to the Procurement Commission for approval. Ms. Carr seconded the motion. All members voted in favor – none opposed.

(8) Governor's Office of Diversity Business Enterprise ("Go-DBE") policy and template changes – Public Chapter 485

Mr. Krivacka summarized the following points with regard to the Governor's Office of Diversity Business Enterprise ("Go-DBE") policy and template changes – Public Chapter 485:

- Public Chapter 485 added an additional category of diversity business enterprise, "businesses owned by persons with disabilities," to the Go-DBE program.

- This proposal will change all the Go-DBE policies, procedures, and templates to include “businesses owned by persons with disabilities” wherever those categories of diversity business enterprises are mentioned.

Ms. Carr asked Mr. Krivacka to speak to why the word “Tennessee” was deleted throughout as shown in the redline version of the proposal. Mr. Krivacka indicated that there are five categories of diversity business enterprises:

- Small businesses and businesses owned by minorities, women, service-disabled veterans, and persons with disabilities.

Mr. Krivacka asked Jenny Young, Central Procurement Office staff attorney if the word “Tennessee” had been deleted from the statute. Ms. Young confirmed that the word “Tennessee” had been deleted from the statute; consequently this proposal was in accordance with that change.

Seeing no additional discussion, Mr. Lea made a motion to recommend the Governor’s Office of Diversity Business Enterprise (“Go-DBE”) policy and template changes – Public Chapter 485 to the Procurement Commission for approval. Mr. Hayden seconded the motion. All members voted in favor – none opposed.

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

V. Adjournment: Seeing no other business, a motion for adjournment was made by Mr. Hayden and seconded by Mr. Lea. All members voted in favor – none opposed; whereupon the July 26, 2017 Advisory Council meeting was adjourned.

CLICK-WRAP AGREEMENT APPROVAL REQUEST

REDLINE VERSION

Click-wrap Agreement Approval Request

Procurement professionals should use this document to seek approval to enter into or renew a click-wrap agreement associated with a proposed purchase made under an Agency's ~~small~~ purchase authority. This Request will typically be utilized for licenses of software, internet-based services or computer services. See sections 4.1. and 5.15.3.3. of the Procurement Procedures Manual of the Central Procurement Office for more information about click-wrap agreements. THIS DOCUMENT CANNOT BE USED TO MODIFY AN EXISTING CONTRACT, EVEN A CONTRACT EXECUTED UNDER AN AGENCY'S ~~LEGAL~~ **SMALL** PURCHASE AUTHORITY. A Special Contract Request ~~will~~ **may** not be required for any agreement with a total dollar value under the small purchase authority threshold. For new click-wrap agreements, send a copy of the proposed click-wrap agreement, ~~the quote you were provided (if applicable), and along with a~~ completed Click-wrap Agreement Approval Request in PDF format to Agsprs.agsprs@tn.gov. If this is a renewal, please also include a copy of the previously approved click-wrap agreement. Approved Click-Wrap Agreement Requests and supporting documents must be maintained with the procurement file.

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APPROVED*	APPROVED
CENTRAL PROCUREMENT OFFICE	DATE
STRATEGIC TECHNOLOGY SOLUTIONS	DATE

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*If CPO provides you with a State negotiated Contract, CPO's approval is contingent upon their receipt of an Agency countersigned copy. The Agency signatory must have signing authority. Please sign and: (1) send directly to the Contractor at the email address CPO provides to you; (2) send to Agsprs.agsprs@tn.gov so that CPO may retain a copy for their records; (3) retain a copy for your records; and (4) upload a copy of the signed Contract and this Click Wrap Approval Request document into Edison.

If a letter of adhesion is sent and the contract is not negotiated then upload a copy of the letter of adhesion (this will contain "Letter of Adhesion" in the filename), the original terms and conditions, and this Click Wrap Approval Request document into Edison. In the event that the proposed Click Wrap Agreement Request is stamped DENIED an accompanying explanation will be provided in the box labelled "Denial Explanation" located at the bottom of this form, which may contain additional instructions.

Agency Tracking #	
1. Procuring Agency and Agency Contact (Include name, and email address and phone number)	
2. Agency Contact (Include name, email address and phone number)	
2-3. Supplier-Contractor Name and ID # (Also include both the developer and the reseller if obtaining via a third party)	
3-4. Contractor/Supplier Contact (Include name and email address to where proposed changes can be sent. <u>If buying from a reseller, please provide the reseller contact information.</u>)	
4-5. Click-wrap agreement's proposed Effective Date (This is the anticipated date for entering into the click-wrap agreement.)	
5-6. Click-wrap agreement's proposed End Date	
6-7. Name and description of goods or services (Please be specific, i.e. what the product will be used	

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for, whether anything will be downloaded onto State servers or whether data will be transmitted to third parties).	
8. Are these goods or services currently available on a statewide or agency term contract? If YES, please explain why the current contract is not being used for this procurement.	<input type="checkbox"/> NO <input type="checkbox"/> YES.
9. Maximum Contract Cost – with ALL options to extend exercised. Note: the Click-Wrap Approval process shall not be used if the Maximum Contract Cost is over \$10,000.	\$ _____
10. Sensitive Data Involvement. If none, select N/A. If yes, please provide the type of data involved (e.g., HIPAA, Payment Card Industry (PCI), Federal Tax Information (FTI), Family Educational Rights and Privacy Act (FERPA), Federal Information Security Management Act (FISMA), Criminal Justice Information Services (CJIS), Center for Medicare and Medicaid (CMS), Social Security Administration (SSA), or Personally Identifiable Information (PII)).	<input type="checkbox"/> N/A <input type="checkbox"/> YES.
11. Additional STS Approvals. Please identify any STS Endorsements or Exception Requests that have been submitted for this product/service. If this does not apply to your request, please leave blank.	<p>(1) Endorsement or Exception Request #</p> <p>(2) Date submitted</p> <p>(3) Current Status (circle one)</p> <p>[Planned] [In Progress] [Completed]</p>
For Renewals Only	
<p>Confirm that there is a valid renewal option remaining in the contract and confirm that there has been no other change to the agreement's terms and conditions. If there is not a valid renewal or extension option remaining in the agreement, submit as a new click-wrap agreement or contract instead. (Note: the term cannot exceed sixty (60) months without an approved Rule Exception Request and Contract Amendment.)</p>	<p>Confirm that all necessary due diligence has been performed and it is in the State's best interest to renew or extend the contract. Considering such items as contractor performance, pricing, etc.</p>
<p>Confirm this renewal or extension does not increase the total dollar value above amounts approved for local purchase authority.</p>	
YES <input type="checkbox"/>	YES <input type="checkbox"/>
Denial Explanation (for CPO/STS use only)	

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CLICK-WRAP AGREEMENT APPROVAL REQUEST

CLEAN VERSION

Click-wrap Agreement Approval Request

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APPROVED*	APPROVED
CENTRAL PROCUREMENT OFFICE	STRATEGIC TECHNOLOGY SOLUTIONS
DATE	DATE

*If CPO provides you with a State negotiated Contract, CPO’s approval is contingent upon their receipt of an Agency countersigned copy. The Agency signatory must have signing authority. Please sign and: (1) send directly to the Contractor at the email address CPO provides to you; (2) send to Agsprs.agsprs@tn.gov so that CPO may retain a copy for their records; (3) retain a copy for your records; and (4) upload a copy of the signed Contract and this Click Wrap Approval Request document into Edison.

If a letter of adhesion is sent and the contract is not negotiated then upload a copy of the letter of adhesion (this will contain “Letter of Adhesion” in the filename), the original terms and conditions, and this Click Wrap Approval Request document into Edison. In the event that the proposed Click Wrap Agreement Request is stamped DENIED an accompanying explanation will be provided in the box labelled “Denial Explanation” located at the bottom of this form, which may contain additional instructions.

Agency Tracking #	
1. Procuring Agency	
2. Agency Contact (Include name, email address and phone number)	
3. Contractor Name and ID # (Also include both the developer and the reseller if obtaining via a third party)	
4. Contractor Contact (Include name and email address to where proposed changes can be sent. If buying from a reseller, please provide the reseller contact information.)	
5. Click-wrap agreement’s proposed Effective Date (This is the anticipated date for entering into the click-wrap agreement.)	
6. Click-wrap agreement’s proposed End Date	
7. Name and description of goods or services (Please be specific, i.e. what the product will be used for, whether anything will be downloaded onto State servers or whether data will be transmitted to third parties).	

<p>8. Are these goods or services currently available on a statewide or agency term contract? If YES, please explain why the current contract is not being used for this procurement.</p>	<p><input type="checkbox"/> NO <input type="checkbox"/> YES,</p>	
<p>9. Maximum Contract Cost – with ALL options to extend exercised. Note: the Click-Wrap Approval process shall not be used if the Maximum Contract Cost is over \$10,000.</p>	<p>\$</p>	
<p>10. Sensitive Data Involvement - If none, select N/A. If yes, please provide the type of data involved (e.g., HIPAA, Payment Card Industry (PCI), Federal Tax Information (FTI), Family Educational Rights and Privacy Act (FERPA), Federal Information Security Management Act (FISMA), Criminal Justice Information Services (CJIS), Center for Medicare and Medicaid (CMS), Social Security Administration (SSA), or Personally Identifiable Information (PII)).</p>	<p><input type="checkbox"/> N/A <input type="checkbox"/> YES,</p>	
<p>11. Additional STS Approvals – Please identify any STS Endorsements or Exception Requests that have been submitted for this product/service. If this does not apply to your request, please leave blank.</p>	<p>(1) Endorsement or Exception Request #</p> <p>(2) Date submitted</p> <p>(3) Current Status (circle one) [Planned] [In Progress] [Completed]</p>	
<p>For Renewals Only</p>		
<p>Confirm that there is a valid renewal option remaining in the contract and confirm that there has been no other change to the agreement's terms and conditions. – If there is not a valid renewal or extension option remaining in the agreement, submit as a new click-wrap agreement or contract instead. (Note: the term cannot exceed sixty (60) months without an approved Rule Exception Request and Contract Amendment.)</p>	<p>Confirm that all necessary due diligence has been performed and it is in the State's best interest to renew or extend the contract. – Considering such items as contractor performance, pricing, etc.</p>	<p>Confirm this renewal or extension does not increase the total dollar value above amounts approved for local purchase authority.</p>
<p>YES <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>
<p>Denial Explanation (for CPO/STS use only)</p>		
<p> </p>		

**LIMITATION OF CONTRACTOR'S
LIABILITY REQUEST**

REDLINE VERSION

Limitation of Contractor's Liability Request

~~In accordance with T.C.A. Any change to the template language regarding the Limitation of Contractor's Liability shall be submitted using this Limitation of Contractor's Liability Request and must be in accordance with Tenn. Code Ann. §12-3-701, approval~~ 701. Approval of the Chief Procurement Officer and the Comptroller of the Treasury is required if the proposed limitation of contractor liability is an amount less than ~~two (2) times the value of the contract; and, approval of the Chief Procurement Officer, Comptroller of the Treasury, and the Commissioner of Finance and Administration is required if the proposed limitation of contractor liability is in excess of two (2) times the value of the contract; or greater than two (2) times the maximum liability, estimated liability, or maximum revenue of a contract.~~

Route a completed request, as one file in PDF format, via e-mail attachment sent to: AgSprs.Agspr@sprn.gov

NOTE: Any request to replace or alter the Limitation of State's Liability language in a State contract shall be made with a Rule Exception Request (RER) and not with this Limitation of Contractor's Liability Request.

APPROVED	APPROVED	APPROVED
CHIEF PROCUREMENT OFFICER DATE	COMPTROLLER OF THE TREASURY DATE	COMMISSIONER OF FINANCE & ADMINISTRATION (only for >2 times)

Request Tracking #	
1. Contracting Agency	
2. Solicitation or Contract #	
3. Requestor Contact Information – name, e-mail address & telephone #	
4. Proposed Contract Period –with ALL options to extend exercised	months
5. Anticipated Contract Maximum Liability, Estimated Liability or Maximum Revenue –with ALL options to extend exercised	\$
6. Approval of this request will permit a limitation of contractor liability by means of the following contract provision.	
<p>7. D.#. <u>Limitation of Contractor's Liability.</u> 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 () times the [Maximum Liability, Estimated Liability, or Maximum Revenue] 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.</p>	

Request Tracking #	
9. Goods or Services Description – <i>brief summary only– do NOT restate the proposed scope of service</i>	
10.	
11. Potential Risks of Liability to the State Resulting from the Procurement	
12.	
13. Anticipated Impact of Proposed Limitation of Liability on the State	
14.	
15. Justification	
16.	
Signature of Agency head or authorized designee, title of signatory, and date (the authorized designee may sign his or her own name if indicated on the Signature Certification and Authorization document)	

**LIMITATION OF CONTRACTOR'S
LIABILITY REQUEST**

CLEAN VERSION

Limitation of Contractor's Liability Request

Any change to the template language regarding the Limitation of Contractor's Liability shall be submitted using this Limitation of Contractor's Liability Request and must be in accordance with Tenn. Code Ann. §12-3-701. Approval of the Chief Procurement Officer and the Comptroller of the Treasury is required if the proposed limitation of contractor liability is an amount less than or greater than two (2) times the maximum liability, estimated liability, or maximum revenue of a contract.

Route a completed request, as one file in PDF format, via e-mail attachment sent to: Agsprrs.Agsprsr@tn.gov

NOTE: Any request to replace or alter the Limitation of State's Liability language in a State contract shall be made with a Rule Exception Request (RER) and not with this Limitation of Contractor's Liability Request.

APPROVED	APPROVED
CHIEF PROCUREMENT OFFICER	COMPTROLLER OF THE TREASURY
DATE	DATE

Request Tracking #	
1. Contracting Agency	
2. Solicitation or Contract #	
3. Requestor Contact Information – name, e-mail address & telephone #	
4. Proposed Contract Period –with ALL options to extend exercised	months
5. Anticipated Contract Maximum Liability, Estimated Liability or Maximum Revenue – with ALL options to extend exercised	\$
<p>6. Approval of this request will permit a limitation of contractor liability by means of the following contract provision.</p> <p>D.#. <u>Limitation of Contractor's Liability</u>. 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 () times the [Maximum Liability, Estimated Liability, or Maximum Revenue] 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.</p>	
<p>7. Goods or Services Description – brief summary only– do NOT restate the proposed scope of service</p>	

Request Tracking #	
8. Potential Risks of Liability to the State Resulting from the Procurement	
9. Anticipated Impact of Proposed Limitation of Liability on the State	
10. Justification	
Signature of Agency head or authorized designee, title of signatory, and date (the authorized designee may sign his or her own name if indicated on the Signature Certification and Authorization document)	

RULE EXCEPTION REQUEST (RER)

REDLINE VERSION

Rule Exception Request

Use this document to request changes to Central Procurement Office templates, policies, or other procurement documents or to modify the "necessary contract clauses" identified in Tenn. Comp. R. & Reg. 0690-03-01-.17 ("CPO Rule 17"). Complete this document in conformity with CPO Rule 17, which is available [here](#). Send the completed document in PDF format to: Agsprrs.Agsprsr@tn.gov All Rule Exception Requests are subject to review and approval by the Chief Procurement Officer. Rule Exception Requests that propose to modify any of CPO Rule 17's necessary contract clauses shall be subject to review and approval by the Comptroller of the Treasury. Note: ~~Any change to the template language regarding the Limitation of Contractor's Liability shall be submitted using the Limitation of Contractor's Liability Request.~~ ~~the Limitation of Liability Request should be utilized for any proposed changes to the limitation of liability.~~

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<p>APPROVED</p> <hr/> <p>CHIEF PROCUREMENT OFFICER</p>
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<p>APPROVED</p> <hr/> <p>COMPTROLLER OF THE TREASURY</p>
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Agency request tracking #	
1. Procuring Agency	
2. Edison contract ID #	
3. Contractor or Grantee	
4. Contract's Effective Date	
5. Contract or grant contract's Term (with ALL options to extend exercised)	months
6. Contract's Maximum Liability (with ALL options to extend exercised)	\$
7. Citation and explanation of the rule(s) for which the exception is requested	
8. Description of requested changes If adding new provisions or modifying existing provisions, insert the new or modified provisions in their entirety. Please provide red-lines or track changes to highlight any deviations from template language.	
9. Justification	
Signature of Agency head or designee and date	

RULE EXCEPTION REQUEST (RER)

CLEAN VERSION

Rule Exception Request

Use this document to request changes to Central Procurement Office templates, policies, or other procurement documents or to modify the "necessary contract clauses" identified in Tenn. Comp. R. & Reg. 0690-03-01-.17 ("CPO Rule 17"). Complete this document in conformity with CPO Rule 17, which is available [here](#). Send the completed document in PDF format to: Agsprs.Agsprs@tn.gov All Rule Exception Requests are subject to review and approval by the Chief Procurement Officer. Rule Exception Requests that propose to modify any of CPO Rule 17's necessary contract clauses shall be subject to review and approval by the Comptroller of the Treasury. Note: Any change to the template language regarding the Limitation of Contractor's Liability shall be submitted using the Limitation of Contractor's Liability Request.

<p>APPROVED</p> <hr/> <p>CHIEF PROCUREMENT OFFICER</p>	<p>APPROVED</p> <hr/> <p>COMPTROLLER OF THE TREASURY</p>
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Agency request tracking #	
1. Procuring Agency	
2. Edison contract ID #	
3. Contractor or Grantee	
4. Contract's Effective Date	
5. Contract or grant contract's Term (with ALL options to extend exercised)	months
6. Contract's Maximum Liability (with ALL options to extend exercised)	\$
7. Citation and explanation of the rule(s) for which the exception is requested	
8. Description of requested changes If adding new provisions or modifying existing provisions, insert the new or modified provisions in their entirety. Please provide red-lines or track changes to highlight any deviations from template language.	
9. Justification	
Signature of Agency head or designee and date	

**CENTRAL PROCUREMENT OFFICE
POLICY NUMBER 2013-004, *CONTRACT
MANAGEMENT POLICY AND
PROCEDURES*
SECTION 5.3.2, LIMITATIONS OF
LIABILITY**

REDLINE VERSION

REQUEST: Revise Central Procurement Office Policy Number 2013-004 "Contract Management Policy and Procedures as follows:

Track Changes:

5.3.2. *Limitations of Contractor's Liability.*

All limitations of Contractor's liability must comply with Tenn. Code Ann. §§ ~~12-3-314-701 and 12-4-119~~ and Central Procurement Office Policy. Limitations of liability that do not comply with Tenn. Code Ann. §§ 12-3-314-701 and 12-4-119 or and Central Procurement Office Policy are prohibited. Contractual provisions limiting a Contracting Party's liability for the following are prohibited:

- Liability for intellectual property or to any other liability, including, without limitation, indemnification obligations for infringement of third-party intellectual property rights;
- Claims covered by any specific provision in a contract with the state providing for liquidated damages; or
- Claims for intentional torts, criminal acts, ~~or~~ fraudulent conduct, ~~or acts or omissions that result in personal injuries or deaths are prohibited.~~

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Contractual provisions that limit a Contracting Party's liability to an amount less than two (2) times the value of the contract (i.e., maximum liability, estimated liability, or maximum revenue) are subject to approval by the Chief Procurement Officer and are otherwise prohibited without the Chief Procurement Officer's and the Comptroller of the Treasury's approval. The Chief Procurement Officer must make a finding that limiting a Contracting Party's liability to less than two (2) times the value of the contract is in the best interests of the State. The Chief Procurement Officer is also authorized to approve a limitation of liability amount greater than two (2) times the maximum liability, estimated liability, or maximum revenue of a contract if the chief procurement officer determines that an increase in the liability amount is necessary to protect the state's best interests.

**CENTRAL PROCUREMENT OFFICE
POLICY NUMBER 2013-004, *CONTRACT
MANAGEMENT POLICY AND
PROCEDURES*
SECTION 5.3.2, LIMITATIONS OF
LIABILITY**

CLEAN VERSION

Clean:

5.3.2. *Limitations of Contractor's Liability.*

All limitations of Contractor's liability must comply with Tenn. Code Ann. § 12-3-701 and Central Procurement Office Policy. Limitations of liability that do not comply with Tenn. Code Ann. § 12-3-701 and Central Procurement Office Policy are prohibited. Contractual provisions limiting a Contractor's liability for the following are prohibited:

- Liability for intellectual property or to any other liability, including, without limitation, indemnification obligations for infringement of third-party intellectual property rights;
- Claims covered by any specific provision in a contract with the state providing for liquidated damages; or
- Claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or deaths.

Contractual provisions that limit a Contractor's liability to an amount less than two (2) times the value of the contract (i.e., maximum liability, estimated liability, or maximum revenue) are subject to approval by the Chief Procurement Officer and are otherwise prohibited without the Chief Procurement Officer's and the Comptroller of the Treasury's approval. The Chief Procurement Officer must make a finding that limiting a Contracting Party's liability to less than two (2) times the value of the contract is in the best interests of the State. The Chief Procurement Officer is also authorized to approve a limitation of liability amount greater than two (2) times the maximum liability, estimated liability, or maximum revenue of a contract if the chief procurement officer determines that an increase in the liability amount is necessary to protect the state's best interests.

**INTERAGENCY AGREEMENT – GRANT
MODEL (IG), E.#. FERPA**

REDLINE VERSION

REQUEST: Revise the Interagency Agreement – Grant (IG) Model, optional language as follows:

Federal-Family Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency and Accountability Act

Add the following section only if the Grantee will have access to personally identifiable student information or student information that is confidential pursuant to federal or state law.

E. #. Federal-Family Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency and Accountability Act. The Grantee shall comply with the Federal-Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232(g)) and its accompanying regulations (34 C.F.R. § 99) (“FERPA”). The Grantee warrants that the Grantee is familiar with FERPA requirements and that it will comply with these requirements in the performance of its duties under this Grant Contract. The Grantee agrees to cooperate with the State, as required by FERPA, in the performance of its duties under this Grant Contract. The Grantee agrees to maintain the confidentiality of all education records and student information. The Grantee shall only use such records and information for the exclusive purpose of performing its duties under this Grant Contract.

The Grantee shall also comply with Tenn. Code Ann. § 49-1-701, *et seq.*, known as the “Data Accessibility, Transparency and Accountability Act,” and any accompanying administrative rules or regulations (collectively “DATAA”). The Grantee agrees to maintain the confidentiality of all records containing student and de-identified data, as this term is defined in DATAA, in any databases, to which the State has granted the Grantee access, and to only use such data for the exclusive purpose of performing its duties under this Grant Contract.

Any instances of unauthorized disclosure of data containing personally identifiable information in violation of FERPA or DATAA that come to the attention of the Grantee shall be reported to the State within twenty-four (24) hours. ~~Grantee shall indemnify and hold harmless State, its employees, agents and representatives, from and against any and all claims, liabilities, losses, or causes of action that may arise, accrue, or result to any person or entity that is injured or damaged as a result of Grantee's failure to comply with this section.~~

**INTERAGENCY AGREEMENT – GRANT
MODEL (IG), E.#. FERPA**

CLEAN VERSION

REQUEST: Revise the Interagency Agreement – Grant (IG) Model, optional language as follows:

Family Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency and Accountability Act

Add the following section only if the Grantee will have access to personally identifiable student information or student information that is confidential pursuant to federal or state law.

E. #. Family Educational Rights and Privacy Act & Tennessee Data Accessibility, Transparency and Accountability Act. The Grantee shall comply with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232(g)) and its accompanying regulations (34 C.F.R. § 99) ("FERPA"). The Grantee warrants that the Grantee is familiar with FERPA requirements and that it will comply with these requirements in the performance of its duties under this Grant Contract. The Grantee agrees to cooperate with the State, as required by FERPA, in the performance of its duties under this Grant Contract. The Grantee agrees to maintain the confidentiality of all education records and student information. The Grantee shall only use such records and information for the exclusive purpose of performing its duties under this Grant Contract.

The Grantee shall also comply with Tenn. Code Ann. § 49-1-701, *et seq.*, known as the "Data Accessibility, Transparency and Accountability Act," and any accompanying administrative rules or regulations (collectively "DATAA"). The Grantee agrees to maintain the confidentiality of all records containing student and de-identified data, as this term is defined in DATAA, in any databases, to which the State has granted the Grantee access, and to only use such data for the exclusive purpose of performing its duties under this Grant Contract.

Any instances of unauthorized disclosure of data containing personally identifiable information in violation of FERPA or DATAA that come to the attention of the Grantee shall be reported to the State within twenty-four (24) hours.

**TENNESSEE LOCAL OR FEDERAL
GOVERNMENT (GU) MODEL**

REDLINE VERSION

REQUEST: Revise the Records clause and add the Iran Divestment Act contract clause for the Tennessee Local or Federal Government (GU) Model as follows:

D.8. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of ~~three~~ 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.21. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101 et. seq., addressing contracting with persons as defined at T.C.A. §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.

**TENNESSEE LOCAL OR FEDERAL
GOVERNMENT (GU) MODEL**

CLEAN VERSION

REQUEST: Revise the Records clause and add the Iran Divestment Act contract clause for the Tennessee Local or Federal Government (GU) Model as follows:

- D.8. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to 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.21. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101 et. seq., addressing contracting with persons as defined at T.C.A. §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.

CONTRACT TERMINATION REQUEST

REDLINE VERSION

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Contract Termination Request

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If the procuring State Agency determines that early termination of a contract is in the State's best interest, either for cause or convenience, then the State Agency head, or his or her designee, shall obtain the Chief Procurement Officer's approval to terminate the contract. The procuring State Agency shall notify the Contractor of the contract's termination only after it has obtained the Chief Procurement Officer's approval. Route the completed request, as one file in PDF format, via e-mail attachment sent to: Agsprs.Agsprs@tn.gov

<p>APPROVED</p>	
<p>CHIEF PROCUREMENT OFFICER</p>	<p>DATE</p>

Agency request tracking #	
1. Procuring Agency	
2. Contractor	
3. Edison contract ID #	
4. Agency contact information – name, e-mail address, and telephone #	
5. Contract's Effective Date	
6. Contract's end date	
7. Requested termination date	
8. Contractual Basis for Early Termination – select termination option that will be exercised and confirm notice will be sent in accordance with any notice requirements included in the Contract terms.	<input type="checkbox"/> Termination for Cause <input type="checkbox"/> Termination for Convenience <input type="checkbox"/> Subject to Funds Availability <input type="checkbox"/> YES – Confirm that the written notice of termination will be sent to the Contractor in accordance with any notice requirements included in the Contract terms.
8-9. Justification	
<p>Signature of Agency head or authorized designee, title of signatory, and date (the authorized designee may sign his or her own name if indicated on the Signature Certification and Authorization document)</p>	

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CONTRACT TERMINATION REQUEST

CLEAN VERSION

Contract Termination Request

If the procuring State Agency determines that early termination of a contract is in the State's best interest, either for cause or convenience, then the State Agency head, or his or her designee, shall obtain the Chief Procurement Officer's approval to terminate the contract. The procuring State Agency shall notify the Contractor of the contract's termination only after it has obtained the Chief Procurement Officer's approval. Route the completed request, as one file in PDF format, via e-mail attachment sent to: Agsprs.Agsprs@tn.gov

APPROVED	
CHIEF PROCUREMENT OFFICER	DATE

Agency request tracking #	
1. Procuring Agency	
2. Contractor	
3. Edison contract ID #	
4. Agency contact information – name, e-mail address, and telephone #	
5. Contract's Effective Date	
6. Contract's end date	
7. Requested termination date	
8. Contractual Basis for Early Termination – <i>select termination option that will be exercised and confirm notice will be sent in accordance with any notice requirements included in the Contract terms.</i>	<input type="checkbox"/> Termination for Cause <input type="checkbox"/> Termination for Convenience <input type="checkbox"/> Subject to Funds Availability <input type="checkbox"/> YES - Confirm that the written notice of termination will be sent to the Contractor in accordance with any notice requirements included in the Contract terms.
9. Justification	
Signature of Agency head or authorized designee, title of signatory, and date (the authorized designee may sign his or her own name if indicated on the Signature Certification and Authorization document)	

**CENTRAL PROCUREMENT OFFICE
POLICY NUMBER 2015-010, *STATEWIDE
PURCHASING CARD POLICY AND
PROCEDURES***

REDLINE VERSION

REQUEST: Revise Policy Number 2015-010, Central Procurement Office Statewide Purchasing Card Policy and Procedures as follows:

5.3. State Agency P-Card Program Coordinator.

The State Agency P-Card Program Coordinator serves as the main point-of-contact between the State Agency and the Statewide P-Card Program Administration Team.

The State Agency must provide the Statewide P-Card Program Administrator written notice within one-five (5+) business days of any changes in status of the State Agency P-Card Program Coordinator.

The State Agency P-Card Program Coordinator's role, duties, and responsibilities include:

- Completing training through the Statewide P-Card Program Administration Team;
- Signing the State Agency P-Card Program Coordinator designation form;
- Collaborating with the Agency's Fiscal Director to develop and maintain the State Agency's internal P-Card Procedures to address policy areas unique to the State Agency or that are not covered by this Policy, as applicable;
- Working with State Agency management to identify job titles, positions, or Edison roles that require use of a P-Card or Virtual P-Card;
- Working with State Agency management to determine appropriate Cardholder spending limits based on budget restrictions, job requirements, historical spending patterns, and overall procurement practices;
- Evaluating Cardholder spending limits against actual usage at least annually;
- Terminating a Cardholder's status if necessary (e.g., due to separation from employment, transfer to another State Agency, low P-Card usage) and cancelling a P-Card;
- Ensuring Agency-wide reconciliation procedures provide for timely payment and for allocation of Transactions to the chart of accounts at least monthly; and
- Ensuring that Transactions are reconciled and supported by adequate documentation, including use of Edison or the Online Banking Program, as appropriate.

5.7.1. Cardholder Responsibilities.

The State is responsible for payment to the Bank. Therefore, P-Cards are issued to the State and assigned on its behalf to specific Cardholders. No credit checks will be performed on individual employees nor will account activity be reported to credit rating agencies. Cardholders have the following duties and responsibilities as a condition for being issued a P-Card:

- Being a full-time State employee;
- Reading and becoming familiar with this Policy;
- Attending and passing Cardholder / Approver training course;

- Signing Cardholder / Approver agreement;
- Being responsible for all purchases made on the P-Card; and
- Adhering to this Policy and other applicable rules, policies, and procedures.

9. INTERNAL CONTROLS.

A strong system of internal controls is essential for detection and deterrence of fraud, misuse, or abuse of the P-Card. Internal controls include policies, procedures, training, spending limits, Merchant Category Code restrictions, prompt reconciliation, and prompt account distribution.

9.1. Duty of State Agencies.

Each State Agency must establish an internal control structure that ensures compliance with the State's procurement laws, CPO rules, policies and procedures, this Policy, and the terms and conditions of the P-Card established by the Bank. The State Agency Fiscal Director is responsible for developing and reviewing this Policy, the State Agency's internal P-Card Procedures, as applicable, and ensuring that sound accounting practices and internal policies are in place and enforced. All State Agencies should ensure that the following principles are carried out in their programs:

- Separation of duties between ordering cards (State Agency P-Card Program Coordinators), making Transactions (Cardholders and Users), and review or approval of Transactions for payment (Cardholder Supervisors or Cardholder Approvers);
- ~~Independent review of the P-Card Account maintenance activity at least monthly if the State Agency P-Card Program Coordinator is also a Cardholder or User.~~
- Maintain approved, signed documentation for all Cardholders, State Agency Approvers and Cardholder Supervisors;
- Limits on the number of Cardholders assigned to a Cardholder Supervisor or Cardholder State Agency Approver in order to ensure adequate review of business need and documentation for each Transaction;
- Provision for annual independent audit or review of the Agency's P-Card program by the State Agency P-Card Program Coordinator, State Agency Fiscal Director, State Agency Internal Audit unit, or other business unit assigned State Agency audit responsibilities. Reviews must include adequacy of:
 - Internal policies and procedures, as applicable;
 - Cardholder ~~spending limits~~ Single Transaction Limit and Cycle (Credit) Limits;
 - Timeliness of mMonthly reconciliation procedures; and
 - Documentation for Transactions; and
- Protocol for establishing ~~a~~ designated State Agency Central Fiscal Office P-Cardholder and any alternate Central Fiscal Office P-Cardholders, including which Central Fiscal Office P-Card is primary and which alternate Central

Fiscal Office P-Card is secondary and circumstances (e.g., unavailability of the primary Central Fiscal Office P-Card, etc.) under which an alternate Central Fiscal Office P-Card may be used.

**12. PURCHASES RESERVED FOR THE DESIGNATED STATE AGENCY
CENTRAL FISCAL OFFICE CARDHOLDER.**

Only the person designated by the State Agency Fiscal Director may use his or her individual P-Card for the following purchases:

- Tuition, fees, and supplies for training individuals;
- Internet, newspaper, radio, or television advertisements;
- Subscriptions to newspapers, periodicals, newsletters, or pamphlets;
- Organization membership dues;
- Charges for meeting rooms and attendant expenses in excess of two hundred dollars (\$200) per day or for more than five (5) days;
- Convention or registration fees; **and**
- Association entry fees; **and**
- Food, beverage, or catering charges for meetings.

**CENTRAL PROCUREMENT OFFICE
POLICY NUMBER 2015-010, *STATEWIDE
PURCHASING CARD POLICY AND
PROCEDURES***

CLEAN VERSION

REQUEST: Revise Policy Number 2015-010, Central Procurement Office Statewide Purchasing Card Policy and Procedures as follows:

5.3. State Agency P-Card Program Coordinator.

The State Agency P-Card Program Coordinator serves as the main point-of-contact between the State Agency and the Statewide P-Card Program Administration Team.

The State Agency must provide the Statewide P-Card Program Administrator written notice within five (5) business days of any changes in status of the State Agency P-Card Program Coordinator.

The State Agency P-Card Program Coordinator's role, duties, and responsibilities include:

- Completing training through the Statewide P-Card Program Administration Team;
- Signing the State Agency P-Card Program Coordinator designation form;
- Collaborating with the Agency's Fiscal Director to develop and maintain the State Agency's internal P-Card Procedures to address policy areas unique to the State Agency or that are not covered by this Policy, as applicable;
- Working with State Agency management to identify job titles, positions, or Edison roles that require use of a P-Card or Virtual P-Card;
- Working with State Agency management to determine appropriate Cardholder spending limits based on budget restrictions, job requirements, historical spending patterns, and overall procurement practices;
- Evaluating Cardholder spending limits against actual usage at least annually;
- Terminating a Cardholder's status if necessary (e.g., due to separation from employment, transfer to another State Agency, low P-Card usage) and cancelling a P-Card;
- Ensuring Agency-wide reconciliation procedures provide for timely payment and for allocation of Transactions to the chart of accounts at least monthly; and
- Ensuring that Transactions are reconciled and supported by adequate documentation, including use of Edison or the Online Banking Program, as appropriate.

5.7.1. Cardholder Responsibilities.

The State is responsible for payment to the Bank. Therefore, P-Cards are issued to the State and assigned on its behalf to specific Cardholders. No credit checks will be performed on individual employees nor will account activity be reported to credit rating agencies. Cardholders have the following duties and responsibilities as a condition for being issued a P-Card:

- Being a full-time State employee;
- Reading and becoming familiar with this Policy;
- Attending and passing Cardholder / Approver training course;

- Signing Cardholder / Approver agreement;
- Being responsible for all purchases made on the P-Card; and
- Adhering to this Policy and other applicable rules, policies, and procedures.

9. INTERNAL CONTROLS.

A strong system of internal controls is essential for detection and deterrence of fraud, misuse, or abuse of the P-Card. Internal controls include policies, procedures, training, spending limits, Merchant Category Code restrictions, prompt reconciliation, and prompt account distribution.

9.1. Duty of State Agencies.

Each State Agency must establish an internal control structure that ensures compliance with the State's procurement laws, CPO rules, policies and procedures, this Policy, and the terms and conditions of the P-Card established by the Bank. The State Agency Fiscal Director is responsible for developing and reviewing this Policy, the State Agency's internal P-Card Procedures, as applicable, and ensuring that sound accounting practices and internal policies are in place and enforced. All State Agencies should ensure that the following principles are carried out in their programs:

- Separation of duties between ordering cards (State Agency P-Card Program Coordinators), making Transactions (Cardholders and Users), and review or approval of Transactions for payment (Cardholder Supervisors or Cardholder Approvers);
- Maintain approved, signed documentation for all Cardholders, State Agency Approvers and Cardholder Supervisors;
- Limits on the number of Cardholders assigned to a Cardholder Supervisor or State Agency Approver in order to ensure adequate review of business need and documentation for each Transaction;
- Provision for annual independent audit or review of the Agency's P-Card program by the State Agency P-Card Program Coordinator, State Agency Fiscal Director, State Agency Internal Audit unit, or other business unit assigned State Agency audit responsibilities. Reviews must include adequacy of:
 - Internal policies and procedures, as applicable;
 - Cardholder Single Transaction Limit and Cycle (Credit) Limits;
 - Timeliness of monthly reconciliation procedures; and
 - Documentation for Transactions; and
- Protocol for establishing designated State Agency Central Fiscal Office P-Cardholder and any alternate Central Fiscal Office P-Cardholders, including which Central Fiscal Office P-Card is primary and which alternate Central Fiscal Office P-Card is secondary and circumstances (e.g., unavailability of the primary Central Fiscal Office P-Card, etc.) under which an alternate Central Fiscal Office P-Card may be used.

**12. PURCHASES RESERVED FOR THE DESIGNATED STATE AGENCY
CENTRAL FISCAL OFFICE CARDHOLDER.**

Only the person designated by the State Agency Fiscal Director may use his or her individual P-Card for the following purchases:

- Tuition, fees, and supplies for training individuals;
- Internet, newspaper, radio, or television advertisements;
- Subscriptions to newspapers, periodicals, newsletters, or pamphlets;
- Organization membership dues;
- Charges for meeting rooms and attendant expenses in excess of two hundred dollars (\$200) per day or for more than five (5) days;
- Convention or registration fees;
- Association entry fees; and
- Food, beverage, or catering charges for meetings.

REQUEST FOR QUALIFICATIONS (RFQ)

REDLINE VERSION

REQUEST: Revise the Request for Qualifications (RFQ) Template as follows:

1.5. Collaborative Value Development

Option: Collaborative Value Development.

Add the following as appropriate. Note: CVDs should be reserved for more complex procurements.

Please refer to *Central Procurement Policy 2013-002, Procurement Methods Policy and Procedures for more details.*

Section 5.6

Option: Contract Award

Add the following as RFQ § 5.6., Contract Award, if the State will solicit a Cost Proposal from Qualified Respondents, which will result in a contract award. Note: An approved Rule Exception Request ("RER") will be required if this RFQ will be followed by anything other than a Request for Proposals.

- 5.3 Cost Proposals: If cost is included as an evaluation category part of this solicitation then only Qualified Respondents, that are responsive and responsible and in the competitive range, will continue onto Part Two, Cost Proposal evaluation. The Cost Proposal containing the lowest cost will receive the maximum number of points per each section. See RFQ Attachment D, Cost Proposal & Evaluation Guide.

REQUEST FOR QUALIFICATIONS (RFQ)

CLEAN VERSION

REQUEST: **Revise the Request for Qualifications (RFQ) Template as follows:**

1.5. Collaborative Value Development

Option: Collaborative Value Development.

Add the following as appropriate. Note: CVDs should be reserved for more complex procurements. Please refer to *Central Procurement Policy 2013-002, Procurement Methods Policy and Procedures* for more details.

Section 5.6

Option: Contract Award

Add the following as RFQ § 5.6., Contract Award, if the State will solicit a Cost Proposal from Qualified Respondents, which will result in a contract award. Note: An approved Rule Exception Request ("RER") will be required if this RFQ will be followed by anything other than a Request for Proposals.

5.3 Cost Proposals: If cost is included as an evaluation category in this solicitation then only Qualified Respondents, that are responsive and responsible and in the competitive range, will continue onto Part Two, Cost Proposal evaluation. The Cost Proposal containing the lowest cost will receive the maximum number of points per each section. See RFQ Attachment D, Cost Proposal & Evaluation Guide.

SOLICITATION CONFIGURATOR TERMS

ADDITION

REQUEST: Add the following to the configurator for solicitations generated in Edison:

Inspection of Procurement File: All respondents have the right to inspect the procurement file, prior to award, upon completion of the evaluation by the Central Procurement Office. Interested respondents should contact the Solicitation Coordinator following the response opening date or once the file is open for the seven (7) day inspection period. A "Notice of Intent to Award" letter will be sent to all respondents detailing the respondent(s) recommended for award and the evaluated award amount(s). Upon request, a reasonable opportunity to inspect the procurement file will be provided to the respondent.

Protest by Respondent: Pursuant to Tenn. Code Ann. § 12-3-514, any actual respondent may protest. Please refer to the Central Procurement Office's website to obtain a copy of the protest procedures and protest bond requirements or contact the sourcing analyst or category specialist at 615-741-1035. The website for the Central Procurement Office is as follows: <http://tn.gov/generalservices/topic/vendor-information>. If a written protest and a protest bond are not received by the end of the seven-day period to protest then the Solicitation Coordinator will proceed with the contract award.

Negotiations. The State may elect to negotiate by requesting revised Cost Proposals from apparently responsive and responsible respondents. However, 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 price and technical standpoint. The State reserves the right to conduct multiple negotiation rounds. If the State exercises its right to enter into negotiations, it 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 identified issues during negotiations. All responsive respondents will be given equivalent information with respect to cost negotiations. All cost negotiations will be documented for the procurement file. Additionally, the State may conduct target pricing and other price or service level negotiations. Target pricing may be based on considerations such as current pricing, market considerations, benchmarks, budget availability, or other method that does not reveal individual respondent pricing. During target price negotiations respondents are not obligated to meet or beat target prices, but will not be allowed to increase prices. All communications, clarifications and negotiations shall be conducted in a manner that supports fairness in response improvement. Note that each clarification sought by the State may be unique to an individual respondent.

PROCUREMENT PROCEDURES
MANUAL OF THE CENTRAL
PROCUREMENT OFFICE,
SECTION 11.2, GENERAL
INFORMATION

REDLINE VERSION

REQUEST: Revise section 11.2. of the *Procurement Procedures Manual of the CPO as follows:*

11.2. *General Information.*

Procurement professionals should utilize applicable templates and models when drafting procurement documents generated outside of the *Edison* system. When applicable, the templates must be utilized and deviations from the templates shall require an approved Rule Exception Request by oversight examiners. When a Rule Exception Request is not applicable, a written explanation for the deviation shall be provided by the agency head. The models are intended to be used as helpful guides or minimum standards that may be modified as needed, as long as any modifications are in compliance with any applicable statutory or regulatory requirements. Notwithstanding the foregoing, any modifications or additions to the contract model provisions prescribed by statute or by Tenn. Comp. R. and Regs. 0690-03-01-.17(2) or adding model contract provisions that are prohibited by Tenn. Comp. R. and Regs. 0690-03-01-.17(3) shall require an approved Rule Exception Request. All documents are available on the State Intranet website <https://teamtn.gov/cpo/>. Procurement professionals should refer to the intranet site frequently to ensure that the most up-to-date template is being utilized and submitted for requisite approvals.

The Intranet website, models, and templates cited herein are incorporated by reference into this Procurement Procedures Manual as though set forth verbatim herein, and the below listing of available templates and models are for informational purposes only. Links to these templates and models are set forth below. Each of these templates and models is self-explanatory. All questions regarding use of these templates and models should be directed to Central Procurement Office staff. Any and all changes or modifications thereto are subject to review and recommendation by the Advisory Council and approval by the Procurement Commission.

• **APPROVAL REQUESTS**

- Click-wrap Agreement Approval Request
- Amendment Request
- Contract Termination Request
- eHealth Pre-Approval Endorsement Request (for service involving Medical/Mental Health-Related Professional, Pharmaceutical, Laboratory or Imaging)
- HR Pre-Approval Endorsement Request (for service involving State Employee Training, except that pursuant to an IT system contract, service relating to the employment of current or prospective State employees)

- Limitation of Contractor's Liability Request
 - STS Pre-Approval Endorsement Request (for service involving Information Technology)
 - Rule Exception Request (Deviations from template language that are not specifically permitted by relevant regulations or instructions require an approved written exception. The properly completed request must be signed and dated by the contracting agency head (or authorized signatory) and submitted to the CPO. If approved, the CPO will return the documentation that contracting staff must later submit along with procurement documents for approval)
 - Rule Exception Request for the DA or DG Templates
 - Solicitation Cancellation Request
 - Special Contract Request
 - Liquidated Damages Request
- **SOLICITATION TEMPLATES, MODELS & RELATED DOCUMENTS**
 - Small Purchases Model
 - Informal Purchases Model
 - Request for Information (RFI) Model
 - Request for Qualifications (RFQ) Template
 - RFP & Related Documents:
 - Request for Proposals (RFP) Standard Template
 - RFP Amendment Template
 - RFP Evaluation Notice of Intent to Award -Model
 - RFP Process Protest Procedures and Protest Bond Requirements Model
 - RFP Solicitation Release Notice Model
 - Performance Bond Template
 - Solicitation Development Conflict of Interest Disclosure Model
 - Solicitation Evaluation Confidentiality and Conflict of Interest Disclosure Model
- **CONTRACT TEMPLATES**
 - Contract Amendment Template (requiring State expenditures, no-cost, or revenue)
 - Contract Templates Requiring State Expenditures (by contractor type):
 - All Contractors (except a TN or federal government) (FA)
 - Tennessee Local or Federal Government (GU)
 - U.S. Geological Survey (GU-USGS)
 - No Cost Contract Templates (by contractor type):
 - All Contractors (except a TN or federal government) (NC)
 - Tennessee Local or Federal Government (GU-NC)
 - Revenue Contract Templates (by contractor type):

- All Contractors (except a TN or federal government) (RV)
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- **GRANT TEMPLATES**
 - Grant Amendment Template (Cost-Reimbursement or Endowment Grant)
 - Cost-Reimbursement Grant Templates (by grantee type):
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- **INTERAGENCY MODELS**
 - Interagency Agreement (IA) Model
 - Interagency Grant Agreement (IG) Model
- **DELEGATED AUTHORITY TEMPLATES**
 - Delegated Authority Amendment Template
 - Purchase Order Terms and Conditions Template
 - ~~○ Authorization to Vendor Delegated Purchase Authority (DPAV) Template~~
 - Delegated Grant Authority (DG) Template
 - Delegated Loan Authority (DL) Template
 - ~~○ Delegated No Cost Contract Authority (DN) Template~~
 - Delegated ~~Purchase~~ Authority (DAP) Template
 - ~~○ Delegated Purchase Authority for Court Reporting Service (DPCR) Template~~
 - ~~○ Delegated Revenue Contract Authority (DR) Template~~
 - ~~○ Special Delegated Authority for Funding Award (DA) Template~~
 - Special Delegated Authority for Declared Disaster (TEMA use only)
TemplateModel
- **OTHER GENERAL MODELS & ADMINISTRATIVE DOCUMENTS**
 - Conflict of Interest – Annual Attestations
 - Contract Approval – Agency Legal Certification Model
 - Contract Approval – Small Agency Certification
 - Edison Record Status Reset Request
 - Edison Document Naming Convention Model
 - Employer/Employee Analysis Guidelines
 - HIPAA Business Associate Agreement Example
 - “Notwithstanding” Language
 - Signature Certification & Authorization
 - Iran Divestment Act Certification

PROCUREMENT PROCEDURES
MANUAL OF THE CENTRAL
PROCUREMENT OFFICE,
SECTION 11.2, GENERAL
INFORMATION

CLEAN VERSION

REQUEST: Revise section 11.2. of the *Procurement Procedures Manual of the CPO* as follows:

11.2. *General Information.*

Procurement professionals should utilize applicable templates and models when drafting procurement documents generated outside of the *Edison* system. When applicable, the templates must be utilized and deviations from the templates shall require an approved Rule Exception Request by oversight examiners. When a Rule Exception Request is not applicable, a written explanation for the deviation shall be provided by the agency head. The models are intended to be used as helpful guides or minimum standards that may be modified as needed, as long as any modifications are in compliance with any applicable statutory or regulatory requirements. Notwithstanding the foregoing, any modifications or additions to the contract model provisions prescribed by statute or by Tenn. Comp. R. and Regs. 0690-03-01-.17(2) or adding model contract provisions that are prohibited by Tenn. Comp. R. and Regs. 0690-03-01-.17(3) shall require an approved Rule Exception Request. All documents are available on the State Intranet website <https://teamtn.gov/cpo/>. Procurement professionals should refer to the intranet site frequently to ensure that the most up-to-date template is being utilized and submitted for requisite approvals.

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**GRANT (GR) AND GOVERNMENTAL
GRANT (GG) TEMPLATES**

D.27 AND OPTIONAL E.#. SNAP

REDLINE VERSION

REQUEST: Revise the Grant Contract (GR) Template and Governmental Grant (GG) Template optional section D.27. and add a new section E.#. as follows.

State Interest in Equipment or Motor Vehicles

Attorney General staff have advised that the Grantor State Agency must file a UCC-1 or perfect in accordance with applicable law to the extent that it wishes to secure a security agreement and priority.

Add the following Section if the Grant Contract provides for the reimbursement of expenditures for equipment or motor vehicles (revising the second to last sentence of the first paragraph as necessary to establish a lower dollar threshold for the definition of "equipment or motor vehicles").

D.27. State Interest in Equipment or Motor Vehicles. The Grantee shall take legal title to all equipment or motor vehicles purchased totally or in part with funds provided under this Grant Contract, subject to the State's equitable interest therein, to the extent of its *pro rata* share, based upon the State's contribution to the purchase price. The term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds five thousand dollars (\$5,000.00). The term "motor vehicle" shall include any article of tangible personal property that is required to be registered under the "Tennessee Motor Vehicle Title and Registration Law", Tenn. Code Ann. Title 55, Chapters 1-6.

As authorized by the Tennessee Uniform Commercial Code, Tenn. Code Ann. Title 47, Chapter 9 and the "Tennessee Motor Vehicle Title and Registration Law," Tenn. Code Ann. Title 55, Chapters 1-6, the parties intend this Grant Contract to create a security interest in favor of the State in the equipment or motor vehicles acquired by the Grantee pursuant to the provisions of this Grant Contract. A further intent of this Grant Contract is to acknowledge and continue the security interest in favor of the State in the equipment or motor vehicles acquired by the Grantee pursuant to the provisions of this program's prior year Grant Contracts between the State and the Grantee.

The Grantee grants the State a security interest in all equipment or motor vehicles acquired in whole or in part by the Grantee under this Grant Contract. This Grant Contract is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the equipment or motor vehicles herein specified which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and the Grantee hereby grants the State a security interest in said equipment or motor vehicles. The Grantee agrees that the State may file this Grant Contract or a reproduction thereof, in any appropriate office, as a financing statement for any of the equipment or motor vehicles herein specified. Any reproduction of this or any other security agreement or financing statement shall be sufficient as a financing statement. In addition, the Grantee agrees to execute and deliver to the State, upon the State's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproduction of this Grant Contract in such form as the State may require to perfect a security interest with respect to said equipment or motor vehicles. The Grantee shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements the State may reasonably require. Without the prior written consent of the State, the Grantee shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said equipment or motor vehicles, including replacements and additions thereto. Upon the Grantee's breach of any covenant or agreement contained in this Grant Contract, including the covenants to pay when due all sums secured by this Grant Contract, the State shall have the remedies of a secured party under the Uniform Commercial Code and, at the State's option, may also invoke the remedies herein provided.

The Grantee agrees to be responsible for the accountability, maintenance, management, and inventory of all property purchased totally or in part with funds provided under this Grant Contract.

The Grantee shall maintain a perpetual inventory system for all equipment or motor vehicles purchased with funds provided under this Grant Contract and shall submit an inventory control report which must include, at a minimum, the following:

- a. Description of the equipment or motor vehicles;
- b. Vehicle identification number;
- c. Manufacturer's serial number or other identification number, when applicable;
- d. Consecutive inventory equipment or motor vehicles tag identification;
- e. Acquisition date, cost, and check number;
- f. Fund source, State Grant number, or other applicable fund source identification;
- g. Percentage of state funds applied to the purchase;
- h. Location within the Grantee's operations where the equipment or motor vehicles is used;
- i. Condition of the property or disposition date if Grantee no longer has possession;
- j. Depreciation method, if applicable; and
- k. Monthly depreciation amount, if applicable.

The Grantee shall tag equipment or motor vehicles with an identification number which is cross referenced to the equipment or motor vehicle item on the inventory control report. The Grantee shall inventory equipment or motor vehicles annually. The Grantee must compare the results of the inventory with the inventory control report and investigate any differences. The Grantee must then adjust the inventory control report to reflect the results of the physical inventory and subsequent investigation.

The Grantee shall submit its inventory control report of all equipment or motor vehicles purchased with funding through this Grant Contract within thirty (30) days of its end date and in form and substance acceptable to the State. This inventory control report shall contain, at a minimum, the requirements specified above for inventory control. The Grantee shall notify the State, in writing, of any equipment or motor vehicle loss describing the reasons for the loss. Should the equipment or motor vehicles be destroyed, lost, or stolen, the Grantee shall be responsible to the State for the *pro rata* amount of the residual value at the time of loss based upon the State's original contribution to the purchase price.

Upon termination of the Grant Contract, where a further contractual relationship is not entered into, or at another time during the term of the Grant Contract, the Grantee shall request written approval from the State for any proposed disposition of equipment or motor vehicles purchased with Grant funds. All equipment or motor vehicles shall be disposed of in such a manner as the parties may agree from among alternatives approved by the Tennessee Department of General Services as appropriate and in accordance with any applicable federal laws or regulations.

Supplemental Nutrition Assistance Program ("SNAP")

Add the following Section if required by federal law and the Grant Contract involves SNAP.

E.#. Title VI Civil Rights. The Grantee agrees to comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), section 11(c) of the Food and Nutrition Act of 2008, as amended, the Age Discrimination Act of 1975 (Pub. L. 94-135) and the Rehabilitation Act of 1973 (Pub. L. 93-112, sec. 504) and all requirements imposed by the regulations issued pursuant to these Acts by the Department of Agriculture to the effect that, no person in the United States shall, on the grounds of sex, race, color, age, political belief, religion, handicap, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under SNAP.

**GRANT (GR) AND GOVERNMENTAL
GRANT (GG) TEMPLATES**

D.27 AND OPTIONAL E.#. SNAP

CLEAN VERSION

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- b. Vehicle identification number;
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- d. Consecutive inventory equipment or motor vehicles tag identification;
- e. Acquisition date, cost, and check number;
- f. Fund source, State Grant number, or other applicable fund source identification;
- g. Percentage of state funds applied to the purchase;
- h. Location within the Grantee's operations where the equipment or motor vehicles is used;
- i. Condition of the property or disposition date if Grantee no longer has possession;
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Upon termination of the Grant Contract, where a further contractual relationship is not entered into, or at another time during the term of the Grant Contract, the Grantee shall request written approval from the State for any proposed disposition of equipment or motor vehicles purchased with Grant funds. All equipment or motor vehicles shall be disposed of in such a manner as the parties may agree from among alternatives approved by the Tennessee Department of General Services as appropriate and in accordance with any applicable federal laws or regulations.

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Add the following Section if required by federal law and the Grant Contract involves SNAP.

- E.#.** Title VI Civil Rights. The Grantee agrees to comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), section 11(c) of the Food and Nutrition Act of 2008, as amended, the Age Discrimination Act of 1975 (Pub. L. 94-135) and the Rehabilitation Act of 1973 (Pub. L. 93-112, sec. 504) and all requirements imposed by the regulations issued pursuant to these Acts by the Department of Agriculture to the effect that, no person in the United States shall, on the grounds of sex, race, color, age, political belief, religion, handicap, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under SNAP.

**CONTRACTOR HOSTED SERVICES AND
CONFIDENTIAL DATA - OPTIONAL
LANGUAGE**

NEW

REQUEST: Add the following as optional language to all contract models and templates:

Contractor Hosted Services and Confidential Data Options

Add the following section as a minimum requirement if the Contractor will be hosting services (e.g., cloud-based, Software as a Service ("SaaS")) and data that is deemed confidential by State or Federal statute or regulation, or the payment card industry ("Confidential State Data"). The foregoing also includes data in transit.

If the contract will involve Confidential State Data, then the general requirements outlined in Section E.# below should be included. If the contract will allow a Contractor to host specific types of Confidential State Data (e.g., Criminal Justice Services Information, Federal Tax Information, etc.) then follow the instructions as described in the various options below. Include all applicable sections.

Please direct any questions regarding the types of Confidential State Data involved to Strategic Technology Solutions ("STS"), Security area.

General Requirements

E.#. Contractor Hosted Services and Confidential Data.

- a. "Confidential State Data" is defined as data deemed confidential by State or Federal statute or regulation. The Contractor shall protect Confidential State Data as follows:
- (1) The Contractor shall ensure that all Confidential State Data is housed in the continental United States, inclusive of backup data.
 - (2) The Contractor shall encrypt Confidential State Data at rest and in transit using the current version of Federal Information Processing Standard ("FIPS") 140-2 validated encryption technologies.
 - (3) The Contractor's processing environment containing Confidential State Data shall be in accordance with at least one of the following security standards: (i) International Standards Organization ("ISO") 27001; (ii) Federal Risk and Authorization Management Program ("FedRAMP"); or (iii) American Institute of Certified Public Accountants ("AICPA") Service Organization Controls ("SOC") 2 Type II certified. The Contractor shall provide proof of current certification annually and upon State request.
 - (4) The Contractor must comply with the State's Enterprise Information Security Policies. This document is found at the following URL:
<https://www.tn.gov/assets/entities/finance/oir/attachments/Enterprise-Information-Security-Policies-ISO-27002-Public.pdf>.
 - (5) In the event that the operating system is an integral part of the application, the Contractor agrees to maintain Operating Systems at current, manufacturer supported versions. "Operating System" shall mean the software that supports a computer's basic functions, such as scheduling tasks, executing applications, and controlling peripherals.
 - (6) The Contractor agrees to maintain the Application so that it will run on a current, manufacturer-supported Operating System. "Application" shall mean the computer code that supports and accomplishes the State's requirements as set forth in this Contract. The Contractor shall make sure that the Application is

at all times fully compatible with a manufacturer-supported Operating System; the State shall not be required to run an Operating System that is no longer supported by the manufacturer.

- (7) If the Application requires middleware or database software, Contractor shall maintain middleware and database software versions that are at all times fully compatible with current versions of the Operating System and Application, to ensure that security vulnerabilities are not introduced.
 - (8) With advance notice from the State, and no more than one (1) time per year the Contractor agrees to allow the State to perform logical and physical audits of the Contractor's facility and systems that are hosting Confidential State Data.
 - (9) The Contractor must annually perform Penetration Tests and Vulnerability Assessments against its Processing Environment. "Processing Environment" shall mean the combination of software and hardware on which the Application runs. "Penetration Tests" shall be in the form of software attacks on the Contractor's computer system, with the purpose of discovering security weaknesses, and potentially gaining access to the computer's features and data. The "Vulnerability Assessment" shall have the goal of defining, identifying, and classifying the security holes (vulnerabilities) in the Contractor's computer, network, or communications infrastructure. The Contractor shall allow the State, at its option, to perform Penetration Tests and Vulnerability Assessments on the Contractor's Processing Environment.
- b. Business Continuity Requirements. The Contractor shall maintain set(s) of documents, instructions, and procedures which enable the Contractor to respond to accidents, disasters, emergencies, or threats without any stoppage or hindrance in its key operations ("Business Continuity Requirements"). Business Continuity Requirements shall include:
- (1) "Disaster Recovery Capabilities" refer to the actions the Contractor takes to meet the Recovery Point and Recovery Time Objectives defined below. Disaster Recovery Capabilities shall meet the following objectives:
 - i. Recovery Point Objective ("RPO"). The RPO is defined as the maximum targeted period in which data might be lost from an IT service due to a major incident: **[NUMBER OF HOURS/MINUTES]**
 - ii. Recovery Time Objective ("RTO"). The RTO is defined as the targeted duration of time and a service level within which a business process must be restored after a disaster (or disruption) in order to avoid unacceptable consequences associated with a break in business continuity: **[NUMBER OF HOURS/MINUTES]**
 - (2) The Contractor shall perform at least one Disaster Recovery Test every three hundred sixty-five (365) days. A "Disaster Recovery Test" shall mean the process of verifying the success of the restoration procedures that are executed after a critical IT failure or disruption occurs. The Disaster Recovery Test shall use actual State Data Sets that mirror production data, and success shall be defined as the Contractor verifying that the Contractor can meet the State's RPO and RTO requirements. A "Data Set" is defined as a collection of related sets of information that is composed of separate elements but can be manipulated as a unit by a computer. The Contractor shall provide written confirmation to the State after each Disaster Recover Test that its Disaster Recovery Capabilities meet the RPO and RTO requirements.

- c. Upon State request, the Contractor shall provide a copy of all Confidential State Data it holds. The Contractor shall provide such data on media and in a format determined by the State.
- d. Upon termination of this Contract and in consultation with the State, the Contractor shall destroy all Confidential State Data it holds (including any copies such as backups) in accordance with the current version of National Institute of Standards and Technology ("NIST") Special Publication 800-88. The Contractor shall provide a written confirmation of destruction to the State within ten (10) business days after destruction.

Option: Federal Risk and Authorization Management Program ("FedRAMP")

If the contract will involve CJIS data, FTI data, or CMS data include all of the General Requirements above, except replace section E.#.a.(3) with the following and add each additional requirement as applicable.

(3) The Contractor shall maintain a Security Management Certification from the Federal Risk and Authorization Management Program ("FedRAMP"). A "Security Management Certification" shall mean written confirmation from FedRAMP that FedRAMP has assessed the Contractor's information technology Infrastructure, using a standardized approach to security assessment, authorization, and continuous monitoring for cloud products and services, and has certified that the Contractor meets FedRAMP standards. Information technology "Infrastructure" shall mean the Contractor's entire collection of hardware, software, networks, data centers, facilities and related equipment used to develop, test, operate, monitor, manage and/or support information technology services. The Contractor shall provide proof of current certification annually and upon State request.

Option: Criminal Justice Information Services ("CJIS") Data

The contracting state agency must obtain prior approval from the Tennessee Bureau of Investigation ("TBI") before contracting for external hosting of CJIS data.

Option: Federal Tax Information ("FTI") Data

If the contract will contain FTI data, also add the following sentence to the optional section E.#.a.(3) (FedRAMP) language above. Also include the FTI attachment contained elsewhere in this FA Template.

Contractor shall meet all applicable requirements of the most current version of Internal Revenue Publication 1075.

Option: Centers for Medicare and Medicaid Services ("CMS") Data

If the contract will involve CMS data, also add the following sentence to the optional section E.#.a.(3) (FedRAMP) language above:

Contractor shall meet requirements of current version of Minimum Acceptable

Risk Standards for Exchanges ("MARS-E") controls.

Option: Payment Card Industry ("PCI") Data

If the contract will involve PCI data, include all of the General Requirements above, and add the following as section E.#.a.(10):

- (10) Contractor shall be certified to host Payment Card Industry ("PCI") data in accordance with the current version of PCI DSS ("Data Security Standard"), maintained by the PCI Security Standards Council.

Option: Health Insurance Portability and Accountability Act ("HIPAA") Data

Keep all language in E.#.a above, and do the following:

Contractor must enter into a Business Associate Agreement (BAA) with the State. Therefore, include as a contract attachment a BAA agreement. Please visit the following website link, available on TEAM TN, for the "[HIPAA Business Associate Agreement Example.](#)"

In addition, if there is any type of Confidential State Data, include the standard language covering Disclosure of Personally Identifiable Information (PII) from the Section E options provided in the FA Template.