

CONTRACT #10
RFS # 309.01-092-06
FA # 06-16742-01

Treasury
Risk Management Division

VENDOR:
Willis of Tennessee, Inc.

Supplemental Documentation Required for
Fiscal Review Committee

Source/Amount:			
Interdepartmental:	\$135,000	Other:	
If "other" please define:			
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>	
Method of Original Award: <i>(if applicable)</i>		RFP	
<p>Include a detailed breakdown of the actual expenditures anticipated in each year of the contract. Include specific line items, source of funding, and disposition of any excess fund. <i>(if applicable)</i></p>			
<p>Include a detailed breakdown, in dollars, of any savings that the department anticipates will result from this contract. Include, at a minimum, reduction in positions, reduction in equipment costs, reduction in travel. <i>(if applicable)</i></p>			
<p>Include a detailed analysis, in dollars, of the cost of obtaining this service through the proposed contract as compared to other options. <i>(if applicable)</i></p>			

Vendor Payments

Willis of Tennessee

STARS Description	Fiscal Year 2006 Expenditures	Fiscal Year 2007 Expenditures	Fiscal Year 2008 Expenditures	Fiscal Year 2009 Expenditures
1st INSTALLMENT			15,000.00	
1st INSTALLMENT		15,000.00		
1st INSTALLMENT				15,000.00
2nd INSTALLMENT				15,000.00
2nd INSTALLMENT		15,000.00		
2nd INSTALLMENT			15,000.00	
3rd INSTALLMENT				15,000.00
3rd INSTALLMENT		15,000.00		
Edison Payments				
3rd INSTALLMENT				15,000.00
	\$ -	\$ 45,000.00	\$ 45,000.00	\$ 45,000.00

FDAS Report Filter:

Fund In List (12:INTERNAL SERVICE FUND) and
Fund Detail In List (4:02:CLAIMS AWARD RESERVE
FUND) and Effective Year In List (2007, 2006, 2008,
2009) and Cost Center In List (32:RISK PROGRAM
INSURANCE PREMIUM PAYMENTS:2007, 32:RISK
PROGRAM INSURANCE PREMIUM PAYMENTS:2008,
32:RISK PROGRAM INSURANCE PREMIUM
PAYMENTS:2006, 32:RISK PROGRAM INSURANCE
PREMIUM PAYMENTS:)

NON-COMPETITIVE AMENDMENT REQUEST:

APPROVED

Commissioner of Finance & Administration

1) RFS #	309.01-092-06	
2) Procuring Agency :	Tennessee Treasury Department	
EXISTING CONTRACT INFORMATION		
3) Service Caption :	The Contractor will continue to provide insurance broker services in connection with the acquisition of property/casualty insurance and honesty blanket position and faithful performance blanket bond on behalf of the State.	
4) Contractor :	Willis of Tennessee, Inc.	
5) Contract #	FA-06-16742-01	
6) Contract Start Date :	April 12, 2006	
7) CURRENT Contract End Date : (if ALL options to extend the contract are exercised)	June 30, 2011	
8) CURRENT Maximum Cost : (if ALL options to extend the contract are exercised)	\$281,805	
PROPOSED AMENDMENT INFORMATION		
9) Amendment #	01	
10) Amendment Effective Date : (attached explanation required if < 60 days after F&A receipt)	July 1, 2009	
11) PROPOSED Contract End Date : (if ALL options to extend the contract are exercised)	June 30, 2011	
12) PROPOSED Maximum Cost : (if ALL options to extend the contract are exercised)	\$281,805	
13) Approval Criteria : (select one)	<input checked="" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service	
14) Description of the Proposed Amendment Effects & Any Additional Service :		
<p>The proposed amendment would not add any additional services to the base/original contract. Instead, the amendment would extend the term of the Contract through June 30, 2011 as provided in Section B.2 of the current base contract. Section B. 2 provides: "2. Term Extension. The Department reserves the right to extend this Contract for two (2) additional one (1) year periods with a total contract term of no more than five (5) years, two (2) months and nineteen (19) days provided that the Department notifies the Contractor in writing of its intention to do so at least thirty (30) days prior to the contract expiration date. An extension of the term of this Contract will be effected through an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the increase in the Department's maximum liability will also be effected through an amendment to the Contract and shall be based upon rates provided for in the original contract."</p> <p>The rates provided for in the original/base contract for the permitted contract extension periods are contained in Section C.3 of the base contract. Section C.3 provides:</p>		
SERVICE DESCRIPTION	SERVICE RATES (for service delivered)	

DESCRIPTION	April 12, 2006 – June 30, 2007	July 1, 2007 – June 30, 2008	July 1, 2008 – June 30, 2009	July 1, 2009 – June 30, 2010	July 1, 2010 – June 30, 2011
				(If the State exercises its right to extend this Contract under Section B.2 above)	(If the State exercises its right to extend this Contract under Section B.2 above)
Basic Services Detailed in Sections A.1 – A.8 (Payable in three equal installments as provided below)	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000
Optional Services Detailed in Section A.9	\$200 per hour (or the flat maximum fee amount proposed by the Contractor in the applicable MOU for the optional service, whichever is less)	\$200 per hour (or the flat maximum fee amount proposed by the Contractor in the applicable MOU for the optional service, whichever is less)	\$200 per hour (or the flat maximum fee amount proposed by the Contractor in the applicable MOU for the optional service, whichever is less)	\$200 per hour (or the flat maximum fee amount proposed by the Contractor in the applicable MOU for the optional service, whichever is less)	\$200 per hour (or the flat maximum fee amount proposed by the Contractor in the applicable MOU for the optional service, whichever is less)

Although the current contract calls for a rate of \$45,000 for performance of the basic services for the extension period from July 1, 2009 through June 30, 2010, the Department successfully negotiated a lower rate for that period, i.e., from \$45,000 to \$41,805.

As a consequence of the proposed contract extension amendment, the contract maximum liability would be increased to reflect the above \$41,805 rate for the period from July 1, 2009 through June 30, 2010, and to reflect the above \$45,000 rate for the period from July 1, 2010 through June 30, 2011. The total increase in the maximum liability would be \$86,805 (\$41,805 + \$45,000).

15) Explanation of Need for the Proposed Amendment :

The Treasury Department administers the State of Tennessee's Property/Casualty Insurance Program. This Program provides all-risk, replacement cost coverage, including flood and earthquake, for all buildings and building contents owned by the State of Tennessee. This is accomplished through the procurement of insurance policies from private carriers. The state's current Property Insurance Policy provides a \$5 million annual aggregate deductible retention for the combined perils of earthquake and flood, and a separate \$5 million annual aggregate deductible for all other perils. The Department also procures a Builders' Risk Insurance Policy, with a \$1 million annual aggregate deductible, to provide coverage for construction projects; boiler and machinery coverage to provide inspection services and boiler coverage; fine arts insurance to protect valuable works of art; and fidelity coverage to protect the State of Tennessee from financial loss due to employee dishonesty.

Due to the ever-changing environment within the insurance industry, the Department determined that the services provided by an insurance broker would allow for a better competitive procurement process for obtaining the necessary policies. The Department further determined that an independent review of its current insurance program ensures that the State of Tennessee has access to all acceptable insurance markets and has the most comprehensive cost effective coverage available.

To accomplish the above, the Department issued a request for proposals ("RFP") for the provision of insurance broker services on February 13, 2006. As a part of that competitive procurement, the RFP and the *pro forma* contract (which was included as an attachment to the RFP) provided for a base contract term commencing on April 12, 2006 and ending on June 30, 2009 with the option to extend the contract through June 30, 2011. The Contractor at issue was the successful proposer to perform said services.

The Department has been pleased with the services provided by the Contractor and, therefore, desires to exercise its contractual right to extend the contract for the additional period through June 30, 2011.

16) Name & Address of Contractor's Current Principal Owner(s) : (not required for a TN state education institution)

Willis Group Holdings. Willis Group Holdings is a publicly traded company on the New York Stock Exchange. As a consequence, Willis Group Holdings is owned by the numerous individuals who have purchased its stock.

17) Office for Information Resources Endorsement : (required for information technology service; n/a to THDA)

Documentation is ... Not Applicable to this Request Attached to this Request

18) eHealth Initiative Endorsement : (required for health-related professional, pharmaceutical, laboratory, or imaging service)

Documentation is ... **Not Applicable to this Request** **Attached to this Request**

19) Department of Human Resources Endorsement : (required for state employees training service)

Documentation is ... **Not Applicable to this Request** **Attached to this Request**

20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :

As explained in Item 15 above, the Department issued an RFP for the provision of the insurance broker services on February 13, 2006. After evaluation of the technical and cost proposals, Willis of Tennessee, Inc. was the apparent best-evaluated proposer. As a consequence, the Department entered into a contract with Willis, which provided for a base contract term commencing on April 12, 2006 and ending on June 30, 2009 with the option to extend the contract term through June 30, 2011. The RFP and the *pro forma* contract (which was included as an attachment to the RFP) put the vendor community on notice that the base contract term would be from April 12, 2006 through June 30, 2009 with the option to extend the contract through June 30, 2011.

The Department has been pleased with the services provided by Willis and, therefore, desires to exercise the contractual right to extend the contract for the additional period through June 30, 2011.

21) Justification for the Proposed Non-Competitive Amendment :

See Items 15 and 20 above.

AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)

DAVID H. LILLARD, JR., STATE TREASURER

DATE

C O N T R A C T S U M M A R Y S H E E T

021908

RFS #	Contract #
309.01-092-06	FA-06-16742-01
State Agency	State Agency Division
Tennessee Treasury Department	Risk Management Division
Contractor Name	Contractor ID # (FEIN or SSN)
Willis of Tennessee, Inc.	<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 62-1404453

Service Description
 The Contractor will continue to provide insurance broker services in connection with the acquisition of property/casualty insurance and honesty blanket position and faithful performance blanket bond on behalf of the State.

Contract Begin Date	Contract End Date	SUBRECIPIENT or VENDOR?	CFDA #
April 12, 2006	June 30, 2011	Vendor	

Mark Each TRUE Statement

Contractor is on STARS Contractor's Form W-9 is on file in Accounts

Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
313.10	32	105	12		
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2006	\$13,000				\$13,000
2007	\$52,000				\$52,000
2008	\$65,000				\$65,000
2009	\$65,000				\$65,000
2010	\$41,805				\$41,805
2011	\$45,000				\$45,000
TOTAL:	\$281,805				\$281,805

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone #
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Mary Roberts-Krause, General Counsel 10 th Floor, Andrew Jackson Building 253-3855
2006	\$13,000		State Agency Budget Officer Approval
2007	\$52,000		
2008	\$65,000		Funding Certification (certification required by T.C.A. § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
2009	\$65,000		
2010		\$41,805	
2011		\$45,000	
TOTAL:	\$195,000	\$86,805	
End Date:	June 30, 2009	June 30, 2011	

Contractor Ownership (complete for ALL base contracts— N/A to amendments or delegated authorities)

African American Person w/ Disability Hispanic Small Business Government
 Asian Female Native American NOT Minority/Disadvantaged Other

Contractor Selection Method (complete for ALL base contracts— N/A to amendments or delegated authorities)

RFP Competitive Negotiation * Alternative Competitive Method *
 Non-Competitive Negotiation * Negotiation w/ Government (ID, GG, GU) Other *

* Procurement Process Summary (complete for selection by Non-Competitive Negotiation, Competitive Negotiation, OR Alternative Method)

**AMENDMENT ONE
TO CONTRACT FA-06-16742-00
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF TREASURY
AND
WILLIS OF TENNESSEE, INC.**

This Contract Amendment is made and entered by and between the State of Tennessee, Treasury Department, hereinafter referred to as the "State" and Willis of Tennessee, Inc., hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Contract is hereby amended as follows:

1. The text of Contract Section B is deleted in its entirety and replaced with the following:

"B. CONTRACT TERM:

This Contract shall be effective for the period commencing on April 12, 2006 and ending on June 30, 2011. The Department shall have no obligation for services rendered by the Contractor which are not performed within the specified period."

2. The text of Contract Section C.1 is deleted in its entirety and replaced with the following:

"1. Maximum Liability. In no event shall the maximum liability of the Department under this Contract exceed two hundred eighty-one thousand eight hundred five dollars (\$281,805). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, profit, and all other direct and indirect costs incurred or to be incurred by the Contractor. The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the Department. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the Department requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The Department is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract."

3. The text of Contract Section C.3 is deleted in its entirety and replaced with the following:

"3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the Department in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service or project milestones defined in Section A. The Contractor shall be compensated based upon the following Service Rates:

<u>SERVICE DESCRIPTION</u>	<u>SERVICE RATES (for service delivered)</u>				
	April 12, 2006 – June 30, 2007	July 1, 2007 – June 30, 2008	July 1, 2008 – June 30, 2009	July 1, 2009 – June 30, 2010	July 1, 2010 – June 30, 2011
Basic Services Detailed in Sections A.1 – A.8	\$45,000	\$45,000	\$45,000	\$41,805	\$45,000

(Payable in three equal installments as provided below)					
Optional Services Detailed in Section A.9	\$200 per hour (or the flat maximum fee amount proposed by the Contractor in the applicable MOU for the optional service, whichever is less)	\$200 per hour (or the flat maximum fee amount proposed by the Contractor in the applicable MOU for the optional service, whichever is less)	\$200 per hour (or the flat maximum fee amount proposed by the Contractor in the applicable MOU for the optional service, whichever is less)	\$200 per hour (or the flat maximum fee amount proposed by the Contractor in the applicable MOU for the optional service, whichever is less)	\$200 per hour (or the flat maximum fee amount proposed by the Contractor in the applicable MOU for the optional service, whichever is less)

The Contractor shall submit invoices for completed work, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Invoices for the Basic Services (item one above) shall be submitted three times a year requesting one-third of the applicable yearly amount. Specifically, such invoices shall be submitted on July 1, September 1, and February 1 of each year, commencing on July 1, 2006. Invoices for Optional Services (item two above) shall, at a minimum, include the name of each individual, the individual's job title, the number of hours worked during the project, the applicable hourly rate, the total compensation requested for each individual, and the total amount requested by the Contractor for the project, not to exceed the maximum project cost detailed in the associated MOU. The Contractor shall not be compensated for travel time to the primary location of service provision."

4. The following provision is added as Contract Section D.20:

"20. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, 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 hereby attests, certifies, warrants, and assures 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 Department a completed and signed copy of the document at Attachment 2, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state of Tennessee officials upon request.
- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, 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 relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state of Tennessee officials upon request.
- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the Department.

- d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
- e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract."

5. Contract Attachment 2 attached hereto is added as a new Contract Attachment.

The revisions set forth herein shall be effective July 1, 2009. All other terms and conditions not expressly amended herein shall remain in full force and effect.

**IN WITNESS WHEREOF,
WILLIS OF TENNESSEE, INC.:**

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

TREASURY DEPARTMENT:

DAVID H. LILLARD, JR., STATE TREASURER

DATE

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	FA-06-16742-00
CONTRACTOR LEGAL ENTITY NAME:	Willis of Tennessee, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	62-1404453

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

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION

CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF TREASURY
AND
WILLIS OF TENNESSEE, INC.

THIS CONTRACT, by and between the State of Tennessee, Treasury Department, hereinafter referred to as "the Department", and Willis of Tennessee, Inc., hereinafter referred to as "the Contractor", is for the provision of insurance broker services in connection with the acquisition of insurance for property, business interruption, fine arts, boiler and machinery, builders' risk, and fidelity and crime, as further defined in the "SCOPE OF SERVICES", below.

The Contractor is a for-profit corporation. The Contractor's address is 26 Century Boulevard; Plaza Level; Nashville, Tennessee 37214. The Contractor's place of incorporation or organization is in the State of Tennessee.

WITNESSETH:

WHEREAS, the Department administers the State of Tennessee's Property/Casualty Insurance Program. This Program provides all-risk, replacement cost coverage, including flood and earthquake, for all buildings and building contents owned by the State of Tennessee. This is accomplished through the procurement of insurance policies from private carriers. The state's current Property Insurance Policy provides a \$5 million annual aggregate deductible retention for the combined perils of earthquake and flood, and a separate \$5 million annual aggregate deductible for all other perils.

WHEREAS, the Department also procures a Builders' Risk Insurance Policy, with a \$1 million annual aggregate deductible, to provide coverage for construction projects; boiler and machinery coverage to provide inspection services and boiler coverage; fine arts insurance to protect valuable works of art; and fidelity coverage to protect the State of Tennessee from financial loss due to employee dishonesty; and

WHEREAS, due to the ever-changing environment within the insurance industry, the Department has determined that the services provided by an insurance broker allow a competitive procurement process for obtaining the necessary policies. The Department has further determined that an

independent review of its current insurance program ensures that the State of Tennessee has access to all acceptable insurance markets and has the most comprehensive cost effective coverage available; and

WHEREAS, to accomplish the above, the Department issued a request for proposal for the provision of insurance broker services, and the Contractor was the successful proposer to perform said services.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein contained, the parties have agreed and do hereby enter into this Contract according to the provisions set out herein:

DEFINITIONS:

“State” means the State of Tennessee and all of its agencies, departments and institutions, including the University of Tennessee as well as other Tennessee public colleges and universities.

“Employee” means any person who is a State official, including members of the Tennessee General Assembly and legislative officials elected by the General Assembly, or any person who is employed in the service of and whose compensation is payable by the State, or any person who is employed by the State whose compensation is paid in whole or in part from federal funds, but does not include any person employed on a contractual or percentage basis.

“Real Property” means all State-owned buildings and other State-owned structures, and all non-State-owned buildings or structures for which the State is contractually obligated to insure. “Business Personal Property” means all State-owned contents wherever located, contents of others under the State’s care, custody, and control as required by contract, and mobile equipment not licensed for highway use while garaged at State locations.

A. SCOPE OF SERVICES:

1. Assessment of State’s Insurance Needs. During the term of this Contract and in accordance with the terms hereof, the Contractor shall assist the Department in ensuring that the State maintains all-risk, replacement cost coverage for all Real Property and Business Personal Property. Lines of coverage include, but are not limited to, fire and extended coverage, earthquake, flood, property in transit, builders’ risk, fine arts, electronic data processing equipment and media, valuable papers, Employee honesty and faithful performance, and business interruption. The Contractor shall perform an in-depth analysis of the State’s current insurance programs, and make written recommendations to the

Department regarding areas of concern, if any, and present alternative solutions to address such concerns. The analysis shall include, but not be limited to, specific limits of liability, per occurrence deductibles, annual aggregate deductibles, stop loss provisions, additional coverages, the elimination of any gaps and/or overlaps in coverage, and other related issues as may be agreed to by the parties. The written recommendations resulting from this analysis shall be provided to the Department on or before May 1, 2006. The Contractor shall, at such times as the Department requests, meet with appropriate Department personnel at the Department's facilities in Nashville to discuss the results of the analysis.

2. Development of Conceptual Policy. The Contractor and the Department shall develop a conceptual policy which outlines coverages, specific limits of liability, per occurrence deductibles, annual aggregate deductibles, stop loss provisions, additional coverages necessary to meet the State's insurance needs, and such other provisions as may be appropriate. The conceptual policy shall be completed on or before May 30, 2006. After approval of the conceptual policy, the Contractor shall develop for the Department's approval a conceptual model of the proposed structure of the State's insurance program. The conceptual model shall include, but not be limited to, recommendations regarding insurance carriers qualified to participate, individual layers of coverage and carriers associated with those layers; limits of liability assumed by each carrier; the name of the primary or lead carrier and description of the carrier's role (standardization of forms, claims process, safety engineering, etc.); proposed increases in limits by line of coverage; projected costs for such increased limits; a plan to address potential gaps/overlaps in coverage; deductible and aggregate retention level options; and projected total premium costs anticipated for the July 1, 2006 through June 30, 2007 policy period. Non-admitted carriers may be considered eligible proposers only if quotes cannot be obtained through qualified admitted carriers. The Department reserves the right to accept or reject any proposed carrier. The conceptual model shall be provided to the Department on or before June 2, 2006.

3. Placement of Required Insurance Coverages. The Contractor shall take all steps necessary to place insurance coverages in accordance with the conceptual model approved pursuant to Section A.2 above. Such steps shall include, but not be limited to, the development of a submission document and related materials designed to communicate the State's insurance needs to the insurance marketplace, and communication and negotiation with insurance carriers. Required insurance coverages shall be procured

and insurance binders delivered to the Department's Division of Risk Management at the address specified in Section E.2 below, on or before June 30, 2006, with policies to follow within thirty (30) calendar days after said policies have been received by the Contractor.

4. Declaration of Earned Revenues. The Contractor shall provide the Department with a report that provides a full accounting of all revenues earned from carriers, including fees, retail commissions, wholesale commissions, premium finance compensation, contingency fees, and any other compensation earned in the placement of the State's insurance hereunder. Said report shall be delivered to the Department upon the initial placement of the State's insurance policies, and annually thereafter at the time of policy renewal, during the term of this Contract as defined in Sections B.1 and B.2 below. The Contractor shall use its best efforts to cause each carrier to show the commission rate on all policies issued to the State hereunder.

5. Policy Maintenance Services. The Contractor shall take such steps as are necessary to ensure that insurance policies purchased meet the State's specifications, including the review of applicable insurance binders, policies, certificates, and other documents to ensure accuracy. The Contractor shall also assist the Department, at the Department's request, in resolving claim disputes between the Department and any company providing insurance or bond coverage procured pursuant to this Contract and such other services as are necessary to ensure that coverages procured are maintained.

6. Policy Evaluation Services. During the period of this Contract, the Contractor shall assist the Department in evaluating whether the State's best interest is served by renewal of existing insurance policies or the procurement of new policies and/or insurance carriers. By no later than one hundred twenty (120) calendar days prior to the renewal date of any policy or bond procured pursuant to this Contract, the Contractor shall evaluate the existing insurance market, including, but not limited to, the condition of the general insurance market, and report its findings to the Department. Within such one hundred twenty (120) day period, the Contractor shall also ascertain and report to the Department on whether the State's existing insurance carriers propose premium rate increases, coverage modifications and/or anticipate other renewal problems.

7. Policy Renewal; New Policy; Reassessment of Insurance Needs.

a. Policy Renewal. If during the term of this Contract the Department elects to renew any policy or bond or to replace any insurance carrier procured pursuant hereto, the Contractor shall take such steps as are necessary to renew any such policy or bond or to replace any such insurance carrier, without compromising policy terms, conditions, and/or coverages. Such steps shall be taken in accordance with this Contract and subject to the Department's approval. Once the policy or bond is renewed or the carrier is replaced, the Contractor shall provide the declaration of earned revenues report, and the policy maintenance and policy evaluation services described in Sections A.4 – A.6 above.

b. New Policy. If during the term of this Contract the Department elects to procure a new insurance policy or bond, the Contractor shall take such steps as are necessary to place the new insurance coverages in accordance with the conceptual model approved pursuant to Section A.2 above. The steps to be taken in the placement of such coverages shall be in accordance with Section A.3 above and subject to the Department's approval. Notwithstanding the preceding two (2) sentences, the Department may elect, at its sole discretion, to develop a new conceptual policy and/or new conceptual model as described in Section A.2 above. In such event, the Contractor shall perform the services described in Section A.2 and shall place the new insurance coverages in accordance with the new conceptual model approved by the Department. Any new insurance coverage requirements shall be procured by a date mutually agreed to by the parties. Once the new coverages are procured, the Contractor shall provide the declaration of earned revenues report, and the policy maintenance and policy evaluation services described in Sections A.4 – A.6 above.

c. Reassessment of Insurance Needs. At the Department's request, the Contractor shall reassess the State's insurance needs pursuant to Section A.1 above in any subsequent year during the term of this Contract. The written recommendations resulting from the reassessment shall be provided to the Department by a date mutually agreeable to the parties. The Contractor shall, at such times as the Department requests, meet with appropriate Department personnel at the Department's facilities in Nashville to discuss the results of the reassessment.

8. Insurance. The Contractor agrees to maintain both general and professional (errors and omissions) liability insurance coverage in amounts that are not less than the amounts stated in

Attachment 1 hereof. At the State's request, the Contractor shall submit to the State a copy of the Contractor's Certificate of Insurance Coverage for each or any policy period.

9. Optional Services. The Department may at any time, with written notice to the Contractor, request the Contractor to perform any or all of the following risk management services on behalf of the Department relative to the State of Tennessee's Property/Casualty Insurance Program: risk assessment, alternative risk financing review, risk control, environmental assessment, claims accounting and preparation services (CAPS) assistance in business interruption/extra expense evaluation, EQ/IRAS modeling, provision of flood zones or conversion of GPS coordinates to flood zone data on a continuous basis.

If the Contractor intends to bill the Department for any service requested by the Department under this Section A.9, the Contractor shall provide the State with a written statement of the cost involved in performing such services. The Contractor shall provide such statement within five (5) business days of the State's request therefore specifying the project services requested by the State, the maximum number of hours required and the maximum cost for completing the project. The Contractor may also provide in such statement a flat maximum fee amount for performing the project irrespective of the number of hours actually required to perform the project *provided that* the maximum cost to the State for the project services shall be determined by the *lesser of*: (i) multiplying the maximum number of hours required as specified in the Contractor's statement by the hourly rate detailed for such projects in Contract Section C.3 below, or (2) the flat maximum fee amount proposed by the Contractor for performing the project services.

If approved by the State, the statement provided by the Contractor shall constitute a Memorandum of Understanding (MOU), which shall be signed by the State's Director of Risk Management. The Contractor shall not perform any service related to a project until the State's Director of Risk Management has signed and returned the MOU to the Contractor. Each signed MOU shall be incorporated as a part of this Contract.

Subsequent to the Director of Risk Management's approval of the MOU and after completion of the project, the Contractor shall invoice the State in accordance with the payment provisions of this Contract detailed in Section C.3 below. For each project, the State shall be liable to the Contractor only

for the cost of the actual hours required for the project's completion, not to exceed the maximum cost for the project detailed in the MOU. The maximum cost for the project as detailed in the MOU shall be the lesser of the product of the maximum number of hours required to perform the project, as specified in the MOU, by the hourly rate detailed for such projects in Contract Section C.3 below, or (2) the flat maximum fee amount proposed by the Contractor for performing the project services. In no instance shall the State be liable to the Contractor for the cost of any hours worked in excess of the maximum hours or any amount exceeding the maximum cost for the project as detailed in the MOU.

B. CONTRACT TERM:

1. Contract Term. This Contract shall be effective for the period commencing on April 12, 2006 and ending on June 30, 2009. The Department shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

2. Term Extension. The Department reserves the right to extend this Contract for two (2) additional one (1) year periods with a total contract term of no more than five (5) years, two (2) months and nineteen (19) days provided that the Department notifies the Contractor in writing of its intention to do so at least thirty (30) days prior to the contract expiration date. An extension of the term of this Contract will be effected through an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the increase in the Department's maximum liability will also be effected through an amendment to the Contract and shall be based upon rates provided for in the original contract.

C. PAYMENT TERMS AND CONDITIONS:

1. Maximum Liability. In no event shall the maximum liability of the Department under this Contract exceed one hundred ninety-five thousand dollars (\$195,000). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, profit, and all other direct and indirect costs incurred or to be incurred by the Contractor. The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the Department. The maximum liability represents available funds for payment to the

Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the Department requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with Service Rates detailed in Section C.3. The Department is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

2. Compensation Firm. The Service Rates in Section C.3 and the maximum liability of the Department under this Contract are firm for the duration of the Contract and are not subject to increase for any reason unless amended.

3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the Department in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service or project milestones defined in Section A. The Contractor shall be compensated based upon the following Service Rates:

<u>SERVICE DESCRIPTION</u>	<u>SERVICE RATES (for service delivered)</u>				
	April 12, 2006 – June 30, 2007	July 1, 2007 – June 30, 2008	July 1, 2008 – June 30, 2009	July 1, 2009 – June 30, 2010 <small>(If the State exercises its right to extend this Contract under Section B.2 above)</small>	July 1, 2010 – June 30, 2011 <small>(If the State exercises its right to extend this Contract under Section B.2 above)</small>
Basic Services Detailed in Sections A.1 – A.8 (Payable in three equal installments as provided below)	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000
Optional Services Detailed in Section A.9	\$200 per hour (or the flat maximum fee amount proposed by the Contractor in the applicable MOU for the optional service, whichever is less)	\$200 per hour (or the flat maximum fee amount proposed by the Contractor in the applicable MOU for the optional service, whichever is less)	\$200 per hour (or the flat maximum fee amount proposed by the Contractor in the applicable MOU for the optional service, whichever is less)	\$200 per hour (or the flat maximum fee amount proposed by the Contractor in the applicable MOU for the optional service, whichever is less)	\$200 per hour (or the flat maximum fee amount proposed by the Contractor in the applicable MOU for the optional service, whichever is less)

The Contractor shall submit invoices for completed work, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Invoices for the Basic Services (item one above) shall be submitted three times a year requesting one-third of the applicable yearly amount. Specifically, such invoices shall be submitted on July 1, September 1, and February 1 of each year, commencing on July 1, 2006. Invoices for Optional Services (item two above) shall, at a minimum, include the name of each individual, the individual's job title, the number of hours worked during the project, the applicable hourly rate, the total compensation requested for each individual, and the total amount requested by the Contractor for the project, not to exceed the maximum project cost detailed in the associated MOU. The Contractor shall not be compensated for travel time to the primary location of service provision.

4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.

5. Payment of Invoice. The payment of the invoice by the Department shall not prejudice the Department's right to object to or question any invoice or matter in relation thereto. Such payment by the Department shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.

6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Department, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.

7. Deductions. The Department 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 which are or shall become due and payable to the State of Tennessee by the Contractor.

8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the Department. Once this form has been completed and submitted to the Department by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of

Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the Department for services until the Contractor has completed this form and submitted it to the Department.

D. STANDARD TERMS AND CONDITIONS:

1. Required Approvals. The Department is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.

3. Termination for Convenience. The Department may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the Department. The Department shall give the Contractor at least thirty (30) calendar days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the Department be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

4. 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 violates any terms of this Contract, the Department shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Contract by the Contractor.

5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the Department. If such subcontracts are approved by the Department, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest" and "Nondiscrimination" (sections D.6. and D.7.). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.

6. **Conflicts of Interest.** The Contractor warrants that no part of the total Contract 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 Contractor in connection with any work contemplated or performed relative to this Contract.

7. **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 disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

8. **Records.** The Contractor shall maintain documentation for all charges against the Department 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 (3) 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 Department, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

9. **Monitoring.** The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the Department, the Comptroller of the Treasury, or their duly appointed representatives.

10. **Progress Reports.** The Contractor shall submit brief, periodic, progress reports to the Department as requested.

11. **Strict Performance.** Failure by any party to this Contract to insist in any one or more cases upon 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 such 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 hereto.

12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either 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 shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the Department, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

13. Department Liability. The Department shall have no liability except as specifically provided in this Contract.

14. Force Majeure. The obligations of the parties to this contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

15. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.

16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.

17. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, 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 relating hereto, whether written or oral.

18. 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 hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

19. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.

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 facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below *or* to such other party, facsimile number, or address as may be hereafter specified by written notice.

The Department:

Director of Risk Management
State of Tennessee, Treasury Department
9th Floor, Andrew Jackson State Office Building
500 Deaderick Street
Nashville, Tennessee 37243-0248
Telephone Number: (615) 741-1009
Facsimile Number: (615) 532-4979

The Contractor:

Client Advocate
Willis of Tennessee, Inc.
26 Century Boulevard, Plaza Level
Nashville, Tennessee 37214
Telephone Number: (615) 872-3784
Facsimile Number: (615) 872-3899

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the

sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

3. **Subject to Funds Availability.** The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the Department. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

4. **Department Ownership of Work Products.** The Department shall have all ownership right, title, and interest, including ownership of copyright, in all work products created, designed, developed, derived, documented, installed, or delivered to the Department under this Contract. The Department shall have royalty-free and unlimited rights to use, disclose, reproduce, or publish, for any purpose whatsoever, all said work products. The Contractor shall furnish such information and data upon request of the Department, in accordance with the Contract and applicable State law.

5. **Incorporation of Additional Documents.** Included in this Contract by reference are the following documents:

- a. The Contract document and its attachments
- b. All Clarifications and addenda made to the Contractor's Proposal
- c. The Request for Proposal and its associated amendments
- d. Technical Specifications provided to the Contractor
- e. The Contractor's Proposal

In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these documents shall govern in order of precedence detailed above.

6. **Date/Time Hold Harmless.** As required by Tennessee Code Annotated, Section 12-4-118, the Contractor shall hold harmless and indemnify the State of Tennessee; its officers and employees; and

any agency or political subdivision of the State for any breach of contract caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort or otherwise process dates or times.

7. **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 for the Department in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the Department.

In the event of any such suit or claim, the Contractor shall give the Department immediate notice thereof and shall provide all assistance required by the Department in the Department's defense. The Department shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by Tennessee Code Annotated, Section 8-6-106.

8. **Tennessee Consolidated Retirement System.** The Contractor acknowledges and understands that, subject to statutory exceptions contained in Tennessee Code Annotated, Section 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 pursuant to Tennessee Code Annotated, Title 8, Chapter 35, Part 3 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 Department under this Contract is that of "employee/employer" and not that of an independent

contractor, the Contractor may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.

9. Independence of Services. During the term of this Contract, neither the Contractor nor any of its affiliates shall be permitted to provide insurance coverage to the State under any of the State's Risk Management Programs. For purposes of this subsection, "affiliate" means any person, firm or corporation that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Contractor, whether such control is through stock ownership, contract or otherwise.

IN WITNESS THEREOF, the parties have by their duly authorized representatives set their signatures.

WILLIS OF TENNESSEE, INC.

By: _____ Date: _____
(Signature)

(Typed or Printed Name and Title)

DEPARTMENT OF TREASURY
STATE OF TENNESSEE

By: _____ Date: _____
Dale Sims, Treasurer

APPROVED:
STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION

By: _____ Date: _____
M. D. Goetz, Jr., Commissioner

APPROVED:
STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY

By: _____ Date: _____
John G. Morgan, Comptroller