CONTRACT #1
RFS # 343.20-07709
FA # 09-24395

Health
Office of Policy, Planning & Assessment

VENDOR:
Tennessee Opportunity Programs, Inc. (TOPS)

STATE OF TENNESSEE
DEPARTMENT OF HEALTH
CORDELL HULL BUILDING
425 5th AVENUE NORTH
NASHVILLE, TENNESSEE 37243

June 1, 2010

Mr. James White, Director
Fiscal Review Committee
320 Sixth Avenue, North, 8th Floor
Nashville, TN 37243
and
M.D. Goetz, Jr., Commissioner
Department of Finance & Administration
State Capitol, First Floor
Nashville, TN 37243-0285

RECEIVED
JUN 01 2010
FISCAL REVIEW

Dear Director White and Commissioner Goetz:

Please note that Commissioner Susan Cooper is out of the office due to a medical emergency and is not expected to return for at least another week or perhaps longer. In order to meet the submission deadline for this request, Deputy Commissioner Jim Shulman has signed this letter and the Non-Competitive Amendment Request form that is included in this Submission Package.

Submitted for your review and approval is a request to amend the fee for service contract FA-09-24395-00 with Tennessee Opportunity Programs, Inc. (TOPS). This contract is resultant from RFP 343.20-077 for the provision of personnel to conduct health related telephone surveys. The Department will be receiving American Recovery and Reinvestment Act (ARRA) funds through the Centers for Disease Control (CDC) specific to the ARRA Communities Putting Prevention to Work (CPPW) project in Davidson County. The current contract does not have sufficient funding availability necessary to conduct the survey.

The contract is currently funded 100% by CDC grants for the Behavioral Risk Factor Surveillance System (BRFSS) and the Pregnancy Risk Assessment and Monitoring Survey (PRAMS). This amendment adds $130,000 additional funding to conduct the ARRA CPPW survey. An amendment specific to ARRA funding is a logical means to facilitate meeting the stringent ARRA funding transparency reporting requirements in addition to utilization of unique Edison accounting codes.

The ARRA CPPW survey is a prepared, State approved, special risk factor survey to determine the baseline rates of adverse lifestyles of adults in Davidson County and a follow-up survey to measure the impact of prevention policies and programs, initiated by the Metropolitan-Nashville/ Davidson County Health Department, the ARRA CPPW project participant of Tennessee.

If you have any questions, please contact me at 741-5453.

Sincerely,

Jim Shulman
Deputy Commissioner

cc: Lori Ferranti
Teresa Hendricks
David Ridings

Supplemental Documentation Required for Fiscal Review Committee

*Contact Name:	Marian Maxwell	*Contact Phone:	741-5453
*Original Contract Number:	FA-09-24395-00	*Original RFS Number:	34320-07709
Edison Contract Number: *(if applicable)*	11804	Edison RFS Number: *(if applicable)*	
*Original Contract Begin Date:	July 1, 2008	*Current End Date:	June 30, 2013
Current Request Amendment Number: *(if applicable)*		01	
Proposed Amendment Effective Date: *(if applicable)*		August 1, 2010	
*Department Submitting:		Health	
*Division:		Office of Policy, Planning & Assessment	
*Date Submitted:		05/20/10	
*Submitted Within Sixty (60) days:		Yes	
If not, explain:			
*Contract Vendor Name:		Tennessee Opportunity Programs, Inc	
*Current Maximum Liability:		900,000	

*Current Contract Allocation by Fiscal Year:
(as Shown on Most Current Fully Executed Contract Summary Sheet)

FY: 2009	FY: 2010	FY: 2011	FY: 2012	FY: 2013	FY
$180,000	$180,000	$180,000	$180,000	$180,000	$

*Current Total Expenditures by Fiscal Year of Contract:
(attach backup documentation from STARS or FDAS report)

FY: 2009	FY: 2010	FY:	FY:	FY	FY
$159,671	$142,548	$	$	$	$

IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:	Currently, two survey programs utilize the contract, one which is in a start up phase. The allocations are based on estimated need from prior years, a best guess. All funds are grant awards and will vary year to year as the federal grantor requirement change for the surveys, ie: number of questions, number of completed surveys required, sample size, etc.
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:	Any unobligated funds carried forward from FY09 were loaded by Edison in the Phase 3 contract conversion, September 2009. Funds have been obligated in FY10 Edison by purchase orders as invoices are received. Annual FY expenditures are

Supplemental Documentation Required for Fiscal Review Committee

	tracked by the program staff in an excel spreadsheet, independent of Edison. For the service period beginning May 1, 2010, PO 17281 has been created to encumber $165,000 for future services to be renedered. CDC changed the grant funding period to April – April. This is an estimated amount to fund approximately 10 months of service for BRFSS and PRAMS.
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:	

*Contract Funding Source/Amount:	State:		Federal:	$900,000
Interdepartmental:			*Other:*	
If *"other"* please define:				

Dates of All Previous Amendments or Revisions: *(if applicable)*	Brief Description of Actions in Previous Amendments or Revisions: *(if applicable)*

Method of Original Award: *(if applicable)*	Competitive RFP 34320-077
*What were the projected costs of the service for the entire term of the contract prior to contract award?	$900,000

Supplemental Documentation Required for Fiscal Review Committee

For all new non-competitive contracts and any contract amendment that changes Sections A or C.3. of the original or previously amended contract document, provide estimates based on information provided the Department by the vendor for determination of contract maximum liability. Add rows as necessary to provide all information requested.

If it is determined that the question is not applicable to your contract document attach detailed explanation as to why that determination was made.

Planned expenditures by fiscal year by deliverable. Add rows as necessary to indicate all estimated contract expenditures.

Deliverable description:	FY:	FY:	FY:	FY:	FY:

Not applicable, conducting additional surveys is included in the scope of work. Funding is being added to pay for additional manhours to conduct this survey under the terms of the contract.

Proposed savings to be realized per fiscal year by entering into this contract. If amendment to an existing contract, please indicate the proposed savings to be realized by the amendment. Add rows as necessary to define all potential savings per deliverable.

Deliverable description:	FY:	FY:	FY:	FY:	FY:

Not applicable, conducting additional surveys is included in the scope of work. Funding is being added to pay for additional manhours to conduct this survey under the terms of the contract.

Comparison of cost per fiscal year of obtaining this service through the proposed contract or amendment vs. other options. List other options available (including other vendors), cost of other options, and source of information for comparison of other options (e.g. catalog, Web site). Add rows as necessary to indicate price differentials between contract deliverables.

Proposed Vendor Cost: (name of vendor)	FY:	FY:	FY:	FY:	FY:

Not applicable, conducting additional surveys is included in the scope of work. Funding is being added to pay for additional manhours to conduct this survey under the terms of the contract.

Other Vendor Cost: (name of vendor)	FY:	FY:	FY:	FY:	FY:

TOPS- FA-0924395-00 Billings

Date Invoice Rec'd		Jul-08	Aug-08	Sep-08	Oct-08	Nov-08	Dec-08	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09	Cum Total	Balance	Pct. Spent
Fiscal 09 Funds	$180,000.00															
343.20-20	$150,000.00	$1,068.03	$13,342.54	$8,719.57	$13,080.84	$13,617.87	$14,668.31	$3,692.09	$18,663.49	$13,598.62	$9,701.80	$14,869.86	$16,385.17	141,408.19	$8,591.81	94.3%
343.20-76	$30,000.00	$4,320.98	$1,856.98	$611.07	$1,901.20	$949.94	$944.62	$1,127.45	$853.90	$1,746.90	$1,474.90	$1,032.43	$1,442.91	18,263.28	$11,736.72	60.9%
Administrative Supervisor - $20.77																
Supervisor - $17.95																
Interviewer - $15.77																
Bilingual Interviewer - $15.77		$5,389.01	$15,199.52	$9,330.64	$14,982.04	$14,567.81	$15,612.93	$4,819.54	$19,517.39	$15,345.52	$11,176.70	$15,902.29	$17,828.08	159,671.47	$20,328.53	88.7%
David Ridings Director BRFSS		**$5,389.01**	**$20,588.53**	**$29,919.17**	**$44,901.21**	**$59,469.02**	**$75,081.95**	**$79,901.49**	**$99,418.88**	**$114,764.40**	**$125,941.10**	**$141,843.39**	**$159,671.47**			
Tony Rico, PRAMS																
Contract # FA-09-24395-00																
Expires 6/30/13																

343.20-20 grant award $127,345 9-months July 08-Mar 09
343.20-76 grant award Apr 08-Apr 09 $25,500

TOPS- FA-0924395-00 Billings

Date Invoice Rec'd	Jul-09	Aug-09	Sep-09	Oct-09	Nov-09	Dec-09	Jan-10	Feb-10	Mar-10	Apr-10	Cum Total	Balance	Pct. Spent
Fiscal													
10													
Funds **$180,000.00**													
343.20-20 $150,000.00	$10,271.26	$14,338.72	$14,787.91	$10,807.68	$15,984.91	$14,563.47	$9,610.93	$14,198.37	$11,666.25	$13,261.42	129,490.92	$20,509.08	**86.3%**
343.20-76 $30,000.00	$1,845.66	$1,326.67	$1,320.88	$847.71	$1,357.39	$736.40	$1,652.65	$1,155.38	$1,105.89	$1,709.08	13,057.71	$16,942.29	**43.5%**
Administrative Supervisor - $20.77													
Supervisor - $17.95													
Interviewer - $15.77													
Bilingual Interviewer - $15.77	$12,116.92	$15,665.39	$16,108.79	$11,655.39	$17,342.30	$15,299.87	$11,263.58	$15,353.75	$12,772.14	$14,970.50	142,548.63	$37,451.37	**79.2%**
David Ridings Director BRFSS	**$12,116.92**	**$27,782.31**	**$43,891.10**	**$55,546.49**	**$72,888.79**	**$88,188.66**	**$99,452.24**	**$114,805.99**	**$127,578.13**	**$142,548.63**			

Tony Rico, PRAMS
Contract # FA-09-24395-00
Expires 6/30/13

BRFSS HL00000591
HL2TCDPRSKF0010

PRAMS HL00000600
HL3EPRAMS0F010

vendor # 13909

ED # 11804

NON-AMD123008

NON-COMPETITIVE AMENDMENT REQUEST:

APPROVED
Commissioner of Finance & Administration

1) **RFS #**	34320-07709
2) **Procuring Agency :**	Department of Health
EXISTING CONTRACT INFORMATON	
▪ **Service Caption :**	The provision of personnel to conduct statewide health related telephone surveys
3) **Contractor :**	Tennessee Opportunity Programs, Inc. (TOPS)
4) **Contract #**	FA-09-24395-00
5) **Contract Start Date :**	July 1, 2008
6) **CURRENT Contract End Date :** (if ALL options to extend the contract are exercised)	June 30, 2013
7) **CURRENT Maximum Cost :** (if ALL options to extend the contract are exercised)	$ 900,000
PROPOSED AMENDMENT INFORMATON	
8) **Amendment #**	01
9) **Amendment Effective Date :** (attached explanation required if < 60 days after F&A receipt)	August 1, 2010
10) **PROPOSED Contract End Date :** (if ALL options to extend the contract are exercised)	June 30, 2013
11) **PROPOSED Maximum Cost :** (if ALL options to extend the contract are exercised)	$ 1,030,000
12) **Approval Criteria :** (select one)	☒ **use of Non-Competitive Negotiation is in the best interest of the state**
	☐ **only one uniquely qualified service provider able to provide the service**

13) Description of the Proposed Amendment Effects & Any Additional Service :

Additional funding is being added to the contract to conduct, by telephone, a prepared, State approved, special statewide Behavioral Risk Factor Surveillance Survey (BRFSS) to determine the baseline rates of adverse lifestyles of adult Tennesseans and a follow-up survey to measure the impact of prevention policies and programs, as required by the Centers for Disease Control (CDC) federal grant, specific to the American Recovery and Reinvestment Act (ARRA) and Communities Putting Prevention to Work (CPPW) project.

14) Explanation of Need for the Proposed Amendment :

Davidson County Health Department was awarded an ARRA CPPW grant. The federal granting agency determined the state BRFSS agency should conduct the initial and follow up survey. Existing availability of funds in the contract is insufficient to absorb the additional cost for manpower to execute the ARRA CPPW survey. ARRA funding is being issued by the CDC for the survey. A new Edison funding code has been established for accounting for the funds as required by ARRA reporting requirements.

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

Non-profit organization

Gaila Fletcher, Executive Director
437 Nissan Drive, Suite 502
Smyrna TN 37167

Additional information attached.

16) 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**

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

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

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

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

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

The original contract which was awarded through the RFP process contemplates the Contractor conducting other health related surveys on an as needed basis. This amendment will not modify the scope of services of the contract and is only necessary to add funding to the contract for this ARRA specific project.

20) Justification for the Proposed Non-Competitive Amendment :

Section A.1.c of the contract states, "Conduct, by telephone, other prepared, State approved, health related surveys on an as needed basis."

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)

Susan R. Cooper, MSN, RN / by [illegible] 6/1/2010

SIGNATURE & DATE

TDOH CONTRACT PROCESSING WORKSHEET

Today's Date May 20, 2010

Program Submitting Contract PPA, Health Statistics and Research

Contract Tracking # 2008-04-16-001

Program Contact David Ridings Phone # 741-5346

Prior Contract # FA-09-24395-00

Contract Term: From: July 1, 2008 To: June 30, 2013

Prior RFS # 34320-077-09

Check One	
New	
Renewal	

Check One	
Amend # 1	X
Revenue	
DPA	
DGA	
NC	
Other	

Statewide	X
Out of State	
Out of Country	

Contractor: Tennessee Opportunity Programs (TOPS) Fed ID #: 23-7292125

Authorized Signer's Name and Title: Gaila Fletcher, Executive Director

Name of Contact Person for Contract: Gaila Fletcher, Executive Director

Phone: 615-459-3600 ext 200 FAX: Email: TOPSGaila@aol.com

Contractor Address: P. O. Box 925

City, State & Zip: Smyrna, TN 37167

PROPOSED AMENDMENT

Brief Description of Service: Telephone interviewers
(Do Not Include "Provision of" in Description)

Service Area County Code: STW Vendor Registered in SPRS: Yes Y No __ (form sent to vendor)

Does State need Business Associate Agreement (BAA) with Contractor? Yes __ No N
(If yes, then provide copy of completed BAA.)

Procurement Method: *** Competitive (attach documentation)** *** Non-Competitive (attach justification)**

Funding	TOTAL CONTRACT AMOUNT	CURRENT YEAR AMOUNT	PRIOR AMOUNT	AMOUNT OF DIFFERENCE	***For Multiple*** AC/CC	$
Contract Amount	1030000	245000	180000	65000	343.20-20	750000
Personnel Expenses	1030000	245000	180000	65000	343.20-76	150000
Total State Funding					343.20-XX	130000
Total Federal Funding Type: BRFSS Type: PRAMS Type: ARRA	750000 150000 130000	180000 30000 65000	180000 30000	65000	343.	
Total Other Funding Type:						
Allot. Code & CC						
Number of Positions						

Review/Approvals:	Name	Initials	Date
Program Contract Developer:	David Ridings	DR	05/20/10
Section/Regional Director:	Teresa Hendricks	[illegible]	5/20/10
Bureau Budget:	MARIAN MAXWELL	[illegible]	5/20/10
Bureau Director:	LORI FERRANTI	[illegible]	5/20/10

BAS Funds Certification & Budget:

BAS Contract Review:

BAS Assistant Commissioner:

[illegible]						
[illegible]	2009					
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
200020	HL2TCDPRSKF0008		150000			150000
200076	HL3EPRAMS0F0008		30000			30000
[illegible]		$0.00	$180000	$0.00	$0.00	$180000
[illegible]	2010					
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
200020	HL2TCDPRSKF0009		150000			150000
200076	HL3EPRAMS0F0009		30000			30000
[illegible]		$0.00	$180000	$0.00	$0.00	$180000
[illegible]	2011					
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
200020	HL2TCDPRSKF0010		150000			150000
200076	HL3EPRAMS0F0010		30000			30000
TBD	TBD		65000			65000
[illegible]		$0.00	$245000	$0.00	$0.00	$245000
[illegible]	2012					
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
200020	HL2TCDPRSKF0011		150000			150000
200076	HL3EPRAMS0F0011		30000			30000
[illegible]		$0.00	$180000	$0.00	$0.00	$180000
[illegible]	2013					
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
200020	HL2TCDPRSKF0012		150000			150000
200076	HL3EPRAMS0F0012		30000			30000
TBD	TBD		65000			65000
[illegible]		$0.00	$245000	$0.00	$0.00	$245000

CONTRACT AMENDMENT

Agency Tracking #	Edison ID	Contract #	Amendment #
34320-07709	11804	FA-09-24395-00	01

Contractor	Contractor Federal Employer Identification or Social Security #
Tennessee Opportunity Programs, Inc.	☐ C- or ☒ V- 23-7292125

Amendment Purpose/ Effects

Adds additional funds for a special Recovery Act behavioral risk factor survey specific to Davidson County.

Contract Begin Date	Contract End Date	Subrecipient or Vendor	CFDA #(s)
07/01/2008	06/30/2013	☐ Subrecipient ☒ Vendor	93.945, 93.946, 93.723

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2009		180000			180000
2010		180000			180000
2011		245000			245000
2012		180000			180000
2013		245000			245000
TOTAL:		1030000			1030000

American Recovery and Reinvestment Act (ARRA) Funding – ☒ YES ☐ NO

— COMPLETE FOR AMENDMENTS —

END DATE AMENDED? ☐ YES ☒ NO

FY	Base Contract & Prior Amendments	THIS Amendment ONLY
2009	180000	
2010	180000	
2011	180000	65000
2012	180000	
2013	180000	65000
TOTAL:	900000	130000

Agency Contact & Telephone #

Crystal Allen, 741-9419 (temporary flood relocation 532-8627)

Agency Budget Officer Approval (there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred)

Speed Code	Account Code
HL00000591 HL00000600 HLXXXXXXXX	343200020 343200076 3432000XX

— OCR USE —

Procurement Process Summary (non-competitive, FA- or ED-type only)

Non-competitive. Additional funds are being added to the contract for an additional survey specific to the Communities Putting Prevention to Work, an ARRA funded project.

AMENDMENT ONE
TO FA-09-24395-00

This Contract Amendment is made and entered by and between the State of Tennessee, Department of Health, hereinafter referred to as the "State" and Tennessee Opportunity Programs, 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 C.1 is deleted in its entirety and replaced with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed One Million Thirty Thousand Dollars ($1,030,000). The payment 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 payment rates include, but are not limited to, all applicable taxes, fees, overheads, 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 State. 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 State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State 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. The following provision is added as Contract Section E.16:

E.16. Federal Economic Stimulus Funding. This Contract requires the Contractor to provide products and/or services that are funded in whole or in part under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, (Recovery Act). The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of the Recovery Act are met and that the Contractor provides information to the State as required.

The Contractor (and any subcontractor) shall comply with the following:

a. Federal Grant Award Documents, as applicable.

b. Executive Office of the President, Office of Management and Budget (OMB) Guidelines as posted at www.whitehouse.gov/omb/recovery_default/, as well as OMB Circulars, including but not limited to A-102 and A-133 as posted at www.whitehouse.gov/omb/financial_offm_circulars/.

c. Office of Tennessee Recovery Act Management Directives (posted on the Internet at www.tnrecovery.gov).

d. The Recovery Act, including but not limited to the following sections of that Act:

(1) Section 1604 – Disallowable Use. No funds pursuant to this Contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

(2) Section 1512 – Reporting and Registration Requirements. The Contractor must report on use of Recovery Act funds provided through this Contract. Information from these reports will be made available to the public.

(3) Section 1553 – Recovery Act Whistleblower Protections. An employee of any non-Federal employer receiving covered funds under the Recovery Act may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee believes is evidence of one or more of the following related to the implementation or use of covered funds:

i. gross mismanagement,
ii. gross waste,
iii. substantial and specific danger to public health or safety,
iv. abuse of authority, or
v. violation of law, rule, or regulation (including those pertaining to the competition for or negotiation of a Contract).

Non-enforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration: Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

Requirement to Post Notice of Rights and Remedies: The Contractor and any subcontractor shall post notice of the rights and remedies as required under Section 1553. (Refer to Section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 located at www.recovery.gov, for specific requirements of this section and prescribed language for the notices.)

(4) Section 902 – Access Of Government Accountability Office. The Contractor shall provide that the Comptroller General and his representatives are authorized:

i. to examine any records of the Contractor or any of its subcontractors, that directly pertain to, and involve transactions relating to, this Contract or a subcontract; and
ii. to interview any officer or employee of the Contractor or any of its subcontractors regarding such transactions.

(5) Section 1514 – Inspector General Reviews. Any inspector general of a federal department or executive agency has the authority to review, as appropriate, any concerns raised by the public about specific investments using such funds made available in the Recovery Act. In addition, the findings of such reviews, along with any audits conducted by any inspector general of funds made available in the Recovery Act, shall be posted on the inspector general's website and linked to the website established by Recovery Act Section 1526, except that portions of reports may be redacted to the extent the portions would disclose information that is protected from public disclosure under sections 552 and 552a of title 5, United States Code.

(6) Section 1515 – Access of Offices of Inspector General to Certain Records and Employers. With respect to this Contract, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), is authorized:

i. to examine any records, of the Contractor or any of its subcontractors, that pertain to and involve transactions relating or pursuant to this Contract; and

ii. to interview any officer or employee of the Contractor or any subcontractors regarding such transactions.

(7) Section 1606 – Wage Rate Requirements. All laborers and mechanics employed by pursuant to this Contract shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference.

For purposes of this Contract, laborer or mechanic includes at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term laborer or mechanic includes apprentices, trainees, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen or guards.

(8) Section 1605 – Buy American Requirements for Construction Material – Buy American, Use of American Iron, Steel, and Manufactured Goods. None of the funds provided by this Contract may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

e. The Contractor agrees to comply with any modifications or additional requirements that may be imposed by law and future guidance and clarifications of Recovery Act requirements.

f. If the Contractor enters into one or more subcontracts for any of the services performed under this Contract, each subcontract shall contain provisions specifically imposing on the subcontractor all requirements set forth in this Contract Section E.#., "Federal Economic Stimulus Funding." The revisions set forth herein shall be effective on the date of final approval by the appropriate State officials in accordance with applicable Tennessee State laws and regulations. All other terms and conditions not expressly amended herein shall remain in full force and effect.

The revisions set forth herein shall be effective August 1, 2010. All other terms and conditions not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF:

TENNESSEE OPPORTUNITY PROGRAMS, INC.:

_____ _____

CONTRACTOR SIGNATURE **DATE**

GAILA FLETCHER, EXECUTIVE DIRECTOR

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF HEALTH:

SUSAN R. COOPER, MSN, RN, COMMISSIONER DATE

APPROVED:

COMMISSIONER OF FINANCE & ADMINISTRATION DATE

COMMISSIONER HUMAN RESOURCES DATE

COMPTROLLER OF THE TREASURY DATE

CONTRACT SUMMARY SHEET

021908

RFS #	Contract #
343.20 — 077 — 09	FA-09-24395-00
State Agency	**State Agency Division**
Department of Health	Policy, Planning & Assessment
Contractor Name	**Contractor ID # (FEIN or SSN)**
Tennessee Opportunity Programs, Inc	[ ] G- or [X] V- 23-7292125-00

BASE CONTRACT

Service Description

For provision of a monthly statewide interviewing systems of residents of Tennessee

Contract Begin Date	Contract End Date	SUBRECIPIENT or VENDOR?	CFDA #
07/01/2008	06/30/2013	Vendor	93.945 & 93.946

Mark Each TRUE Statement

[X] Contractor is on STARS

[X] Contractor's Form W-9 is on file in Accounts

Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
343.20	See attached	139	11	2T0	

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2008 07		$ 150,000		$ 30,000	$ 180,000
2009 10		$ 150,000		$ 30,000	$ 180,000
2010 11		$ 150,000		$ 30,000	$ 180,000
2011 12		$ 150,000		$ 30,000	$ 180,000
2012 13		$ 150,000		$ 30,000	$ 180,000
TOTAL:		$ 750,000		$ 150,000	$ 900,000

— COMPLETE FOR AMENDMENTS ONLY —

FY	Base Contract & Prior Amendments	THIS Amendment ONLY
TOTAL:		
End Date:		

State Agency Fiscal Contact & Telephone #

Crystal Allen, 741-9419

State Agency Budget Officer Approval

Crystal Allen

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)

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

[ ] African American [ ] Person w/ Disability [ ] Hispanic [X] 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)

[X] 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)

RFP 343.20-077

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number	FA-09-24395-00
Fiscal Year	2009

Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
343.20	20	139	11	2T0		93.945	$150,000.00
343.20	76	139	11	E30		93.946	$30,000.00
TOTAL							$180,000.00

40102

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number: FA-09-24395-00

Fiscal Year: 2010

Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
343.20	20	139	11	2T0		93.945	$150,000.00
343.20	76	139	11	E30		93.946	$30,000.00
						TOTAL	$180,000.00

40102

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number: FA-09-24395-00

Fiscal Year: 2011

Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
343.20	20	139	11	2T0		93.945	$150,000.00
343.20	76	139	11	E30		93.946	$30,000.00
						TOTAL	$180,000.00

40102

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number: FA-09-24395-00

Fiscal Year: 2012

Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
343.20	20	139	11	2T0		93.945	$150,000.00
343.20	76	139	11	E30		93.946	$30,000.00
						TOTAL	$180,000.00

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number	FA-09-24395-00
Fiscal Year	2013

Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
343.20	20	139	11	2T0		93.945	$150,000.00
343.20	76	139	11	E30		93.946	$30,000.00
						TOTAL	$180,000.00

CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF HEALTH
AND
CONTRACTOR NAME

This Contract, by and between the State of Tennessee, Department of Health, hereinafter referred to as the "State" and Tennessee.Opportunity Programs, Inc., hereinafter referred to as the "Contractor," is for the provision of personnel to conduct statewide health related telephone surveys as further defined in the "SCOPE OF SERVICES."

The Contractor is a nonprofit corporation.

Contractor Federal Employer Identification or Social Security Number: 23-7292125
Contractor Place of Incorporation or Organization: Tennessee

A. SCOPE OF SERVICES:

A.1. The Contractor shall provide all service and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services section or elsewhere in this Contract.

a. Conduct, by telephone, a prepared, State approved, ongoing statewide Behavioral Risk Factor Surveillance Survey to determine the prevalence rates of lifestyles of adult Tennesseans, as required by the Centers for Disease Control (CDC) federal grant, the Chronic Disease Prevention & Health Promotion Programs Cooperative Agreement. The data results will be collected electronically utilizing the CDC-designated computer-assisted telephone interviewing (CATI) system from Sawtooth Software (Ci3-WINCati), no other CATI-software is allowed, and stored electronically on the Department of Health's Network Server.

b. Conduct, by telephone, a prepared, State approved, ongoing statewide Pregnancy Risk Assessment and Monitoring Survey to determine the prevalence rates of lifestyles of new birth mothers in Tennessee, as required by CDC federal grant, Pregnancy Risk Assessment and Monitoring System Cooperative Agreement. The data results will be collected electronically utilizing the CDC supplied WebCATI automated interviewing software and stored electronically on the Department of Health's Network Server.

i. Interviewers and supervisory staff will be trained initially by the State in the use of the WebCATI software, recording responses and comments, handling sensitive situations, human subjects training, call dispositions and interviewer monitoring. Subsequent training of personnel will be provided by the Contractor.

ii. Supervisory staff shall monitor interviews at least 10% of the time that calls are being placed to determine whether the interviewers are appropriately obtaining consent and administering the interviews, protecting the mother's confidentiality, accurately recording responses and keeping data collection forms and work stations secure. A monthly monitoring report shall be submitted to the State.

c. Conduct, by telephone, other prepared, State approved, health related surveys on an as needed basis.

d. Provide up to 35 telephone interviewers who will be able to conduct the telephone surveys during the morning, afternoon and evenings seven days a week. A minimum of three telephone interviewers must be bilingual in English and Spanish, proficient

verbally and in writing. A minimum of eight interviewers must be available to work per survey session. The number of interviewers per survey session will be scheduled on an as needed basis as determined by the State.

e. Provide one administrative supervisory position, two survey supervisory positions and up to 35 telephone interviewer positions to conduct the surveys. A brief job description of each position is given below.

Administrative Supervisor

The administrative supervisor will be responsible for scheduling interviewers and making sure the survey is conducted properly. The person will not be responsible for compilation, editing or archiving data results. At times, conducts interviews. Serves as primary trainer of new staff.

Supervisor

The survey supervisor is responsible for managing interviewing staff during individual survey sessions; assists administrative supervisor in scheduling and training; and at times conduct interviews.

Interviewers

Conduct individual interviews by telephone of randomly selected adults who are residents of the state. Skill in using a personal computer is required.

Bilingual Interviewers

Must be bilingual in English and Spanish, proficient verbally and in writing, to conduct individual interviews by telephone of randomly selected adults who are residents of the state. Skill in using a personal computer is required.

A.2. The State shall:

a. Provide training and technical assistance in how to conduct the telephone surveys. Surveyors and supervisory staff will be trained by the State in the use of the CATI software, recording responses and comments, handling sensitive situations, human subjects training, call dispositions and interviewer monitoring.

b. Provide all work space, computer workstations, telephones, and phone service needed for performing the survey.

c. Provide state approved survey questions for the interviewers to use when conducting the survey.

d. Retain the right to approve the Contractor' selection of personnel who will be conducting the telephone interviews.

e Provide telephone numbers and perform telephone number searches.

B. CONTRACT TERM:

This Contract shall be effective for the period commencing on July 1, 2008 and ending on June 30, 2013. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Nine Hundred Thousand Dollars ($900,000). The payment 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 payment rates include, but are not limited to, all applicable taxes, fees, overheads, 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 State. 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 State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State 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.

C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.

a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.

b. The Contractor shall be compensated based upon the following payment rates:

(1) For service performed from July 1, 2008, through June 30, 2009, the following rates shall apply:

Service	Amount per Hour
Administrative Supervisor	$20.77
Supervisor(s)	$17.95
Interviewer(s)	$15.77
Bilingual Interviewer(s)	$15.77

(2) For service performed from July 1, 2009 , through June 30, 2010, the Contractor shall be compensated based upon the payment rates in Section C.3.b.(1) above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, ALL ITEMS expenditure category, not seasonally adjusted, index base period: 1982-84=100 published by the United States Department of Labor, Bureau of Labor Statistics in June 2009 and that figure published in the same month, 12-months prior, up to a maximum of three percent (3%).

(3) For service performed from July 1, 2010 , through June 30, 2011, the Contractor shall be compensated based upon the payment rates in Section C.3.b.(2) above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, ALL ITEMS expenditure category, not seasonally adjusted, index base period: 1982-84=100 published by the United States Department of Labor, Bureau of Labor Statistics in June 2010 and that figure published in the same month, 12-months prior, up to a maximum of three percent (3%).

(4) For service performed from July 1, 2011 , through June 30, 2012, the Contractor shall be compensated based upon the payment rates in Section C.3.b.(3) above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, ALL ITEMS expenditure category, not seasonally adjusted, index base period: 1982-84=100 published by the United States Department of Labor, Bureau of Labor Statistics in June 2011 and that figure published in the same month, 12-months prior, up to a maximum of three percent (3%).

(5) For service performed from July 1, 2012 , through June 30, 2013, the Contractor shall be compensated based upon the payment rates in Section C.3.b.(4) above but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, ALL ITEMS expenditure category, not seasonally adjusted, index base period: 1982-84=100 published by the United States Department of Labor, Bureau of Labor Statistics in June 2012 and that figure published in the same month, 12-months prior, up to a maximum of three percent (3%).

c. The Contractor shall not be compensated for travel time to the primary location of the service provision.

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

C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in Section C.3, above, and as required below prior to any payment.

a. The Contractor shall submit invoices no more often than monthly, with all necessary supporting documentation, to:

Marian Maxwell, Contract Administrator
Department of Health
Office of Policy, Planning, and Assessment
Cordell Hull Building, 6th Floor
425 5th Avenue North
Nashville, TN 37243

b. The Contractor agrees that each invoice submitted shall clearly and accurately (all calculations must be extended and totaled correctly) detail the following required information.

(1) Invoice/Reference Number (assigned by the Contractor);

(2) Invoice Date;
(3) Invoice Period (period to which all invoiced charges are applicable);
(4) Contract Number (assigned by the State to this Contract);
(5) Account Name: Department of Health, Office of Policy, Planning, and Assessment;
(6) Account/Customer Number (uniquely assigned by the Contractor to the above-referenced Account Name);
(7) Contractor Name;
(8) Contractor Federal Employer Identification Number or Social Security Number (as referenced in this Contract);
(9) Contractor Contact (name, phone, and/or fax for the individual to contact with billing questions);
(10) Contractor Remittance Address;
(11) Complete Itemization of Charges, which shall detail the following:

i. Service or Milestone Description (including name /title as applicable) of each service invoiced;
ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced;
iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced;
iv. Amount Due by Service; and
v. Total Amount Due for the invoice period.

c. The Contractor understands and agrees that an invoice to the State under this Contract shall:

(1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
(2) not include any future work but will only be submitted for completed service; and
(3) not include sales tax or shipping charges.

d. The Contractor agrees that timeframe for payment (and any discounts) begins when the State is in receipt of each invoice meeting the minimum requirements above.

e. The Contractor shall complete and sign a "Substitute W-9 Form" provided to the Contractor by the State. The taxpayer identification number contained in the Substitute W-9 submitted to the State shall agree to the Federal Employer Identification Number or Social Security Number referenced in this Contract for the Contractor. The Contractor shall not invoice the State for services until the State has received this completed form.

C.6. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State 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.

C.7. 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 State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.

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

C.9. 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 State. Once this form has been completed and submitted to the State 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 State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

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

D.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.

D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least thirty (30) 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 State 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.

D.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 State 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 State for damages sustained by virtue of any breach of this Contract by the Contractor.

D.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 State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.

D.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.

D.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.

D.8. 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 State a completed and signed copy of the document as Attachment 1, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.

b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the 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 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 State.

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.

D.9. 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 (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 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.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.

D.12. 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.

D.13. 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 State, 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.

D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.

D.15. 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, natural disasters, riots, wars, strikes, epidemics or any other similar cause.

D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.

D.17. 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.

D.18. 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.

D.19. 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.

D.20. 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:

E.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.

E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:
Marian Maxwell, Contract Administrator
Department of Health
Office of Policy, Planning, and Assessment
Cordell Hull Building, 6th Floor
425 5th Avenue, North
Nashville, TN 37243
Marian.Maxwell@state.tn.us
Phone: (615) 741-5453
Fax: (615) 253-5187

The Contractor:
Gaila Fletcher, Executive Director
Tennessee Opportunity Programs, Inc.
437 Nissan Drive Suite 502
PO Box 925
Smyrna, TN 37167
topsgaila@aol.com
Phone: # 615.459.3600
Fax: # 615.459.9326

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

E.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 State 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 State. 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 State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.4. 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 State 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.

E.5. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance.

a. The Contractor shall maintain, at minimum, the following insurance coverage:

(1) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars ($1,000,000) per occurrence for employers' liability whichever is greater.

(2) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) aggregate.

b. At any time State may require the Contractor to provide a valid Certificate of Insurance detailing Coverage Description; Insurance Company & Policy Number; Exceptions and Exclusions; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability; and Name and Address of Insured. Failure to provide required evidence of insurance coverage shall be a material breach of this Contract.

E.6. Confidentiality of Records. Strict standards of confidentiality of records shall be maintained in accordance with the law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of State law and ethical standards and shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with State law and ethical standards.

The Contractor will be deemed to have satisfied its obligations under this section by exercising the same level of care to preserve the confidentiality of the State's information as the Contractor exercises to protect its own confidential information so long as such standard of care does not violate the applicable provisions of the first paragraph of this section.

The Contractor's obligations under this section do not apply to information in the public

domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

E.7 HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.

a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.

b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.

c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.

E.8. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.

E.9 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.

E.10. Workpapers Subject to Review. The Contractor shall make all audit, accounting, or financial analysis workpapers, notes, and other documentation available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working

hours either while the analysis is in progress or subsequent to the completion of this Contract.

E.11. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.

E.12. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

E.13. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;

b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and

d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

E.14. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's proposal responding to RFP-343.20-077 (Attachment 6.3, Section B, Item B.13.) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and persons with a disability. Such reports shall be provided to the state of Tennessee Governor's Office of Business Diversity Enterprise in form and substance as required by said office.

E.15. 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 State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State 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.

IN WITNESS WHEREOF:

TENNESSEE OPPORTUNITY PROGRAMS, INC.:

Gaila Fletcher — april 23 2008

CONTRACTOR SIGNATURE — **DATE**

GAILA FLETCHER, EXECUTIVE DIRECTOR

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF HEALTH:

Susan R. Cooper, MSN, RN/EHN

SUSAN R. COOPER, MSN, RN, COMMISSIONER

4/25/2008

DATE

APPROVED:

M. D. Goetz, Jr./ugt

M. D. GOETZ, JR., COMMISSIONER
DEPARTMENT OF FINANCE AND ADMINISTRATION

MAY 0 2 2008

DATE

John G. Morgan

JOHN G. MORGAN, COMPTROLLER OF THE TREASURY

5/8/08

DATE

ATTACHMENT 1

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	Tennessee Opportunity Programs, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	23-7292125

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.

Gaila Fletcher

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.

Gaila Fletcher, Executive Director

PRINTED NAME AND TITLE OF SIGNATORY

April 23, 2008

DATE OF ATTESTATION