



**STATE OF TENNESSEE
DEPARTMENT OF CORRECTION**

**REQUEST FOR PROPOSALS
FOR
MANAGEMENT
OF
SOUTH CENTRAL CORRECTIONAL FACILITY
RFP # 32944-00006**

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1. INTRODUCTION

The State of Tennessee, **DEPARTMENT OF CORRECTION**, hereinafter referred to as “the State,” has issued this Request for Proposals (RFP) to define minimum service requirements; solicit proposals; detail proposal requirements; and, outline the State’s process for evaluating proposals and selecting a contractor to provide the needed service.

Through this RFP, the State seeks to buy the best services at the most favorable, competitive prices and to give ALL qualified businesses, including those that are owned by minorities, women, persons with a handicap or disability, and small business enterprises, opportunity to do business with the state as contractors and sub-contractors.

1.1. Statement of Procurement Purpose

The State intends to secure a contract for management of a prison, known as the South Central Correctional Center or alternately South Central Correctional Facility, both designations are hereinafter referred to as the ‘Facility’.

Pursuant to the authority granted by Tennessee Code Annotated (TCA) § 41-24-101 *et. seq.*, the Tennessee Department of Correction, hereby requests all interested parties to submit a Proposal for the operation and management of a 1676-bed, adult male, Level III security correctional Facility located in Wayne County, Tennessee.

The primary mission of the Facility is to house and program prisoners classified from minimum custody to and including close custody levels with relatively long sentences. The South Central Correctional Center, located in Wayne County, Tennessee has an operating capacity of 1,642 inmates which includes a 300 bed minimum security Annex. The facility has a maximum capacity of 1,688 inmates.

Construction of the Facility has been funded through the issuance of tax-exempt, general obligation debt. The use and management of the Facility by the Contractor and any and all subcontractors is therefore subject to and constrained by the federal tax laws and regulations governing tax exempted financing. The State may consult with its Bond Counsel to determine whether any final agreement complies with such laws and regulations.

The Facility opened March 1, 1992, and has been in continuous operation since that time. The Facility is furnished with the fixed moveable equipment, including telephone and related wiring, listed in Appendix B of the *pro forma* contract. The Contractor is expected to furnish all other equipment and supplies.

As Inmates at the Facility are replaced by transfer or selected for assignment to the Facility, they will be selected by the State’s staff utilizing the same selection criteria that are used for the Department of Correction’s other medium security male facilities. The State will retain ultimate authority over the care, custody, and control of the Inmates and the Facility.

The Facility is currently accredited by the American Correctional Association (ACA). The Contractor shall operate the Facility at a minimum in accordance with ACA Standards and as otherwise provided herein. The Contractor shall maintain ACA accreditation and follow the re-accreditation process. Re-accreditation shall be continuous.

South Central Correctional will be a Mental Health Level III and V facility. While guidelines and policies are in the development stage, the Proposer may assume that the following on-site staff requirements, at a minimum, will be:

Psychiatric Provider: 1 FTE
MDC: 3 FTEs
LADAC: .5 MHA: 1 FTE

PHD: 1 FTE
Clinical Case Manager: 1 FTE
MH Clerk: 1 FTE

SPE: 1 FTE

MH RN: 1FTE

South Central Correctional will house a residential treatment unit for substance abuse services. The proposer may assume that the following staff requirements will be sufficient to achieve the State's objective:

SA Clinical Supervisor (LADAC) 1 FTE
SA Counselors 4 FTE
SA Clerk 1 FTE

Psychiatric Provider: An Advance Practice Nurse (APN) or a Board Certified/eligible psychiatrist. An APN must possess a certificate of fitness from the Tennessee Board of Nursing and a Notice and Formulary that stipulates the specific site of practice.

PHD: Psychologist with Health Service Provider Designation

SPE: Senior Psychological Examiner

MDC: Master's Degree in Behavioral Health Science

LADAC: Licensed Alcohol and Drug Counselor

SA Supervisor: Substance Abuse Supervisor

SA Counselor: Substance Abuse Counselor - Bachelor Level Counselor

MHA: Mental Health Administrator

MHC: Mental Health Clerk

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

The RFP Attachment 6.6., *Pro Forma* Contract details the State's required:

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

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

1.3. **Nondiscrimination**

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

1.4. **RFP Communications**

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

RFP # 32944-00006

1.4.2. **Unauthorized contact about this RFP with employees or officials of the State of Tennessee except as detailed below may result in disqualification from consideration under this procurement process.**

1.4.2.1. Potential proposers must direct communications relating to this RFP to the following person designated as the RFP Coordinator.

William M. Anderson, Director of Contracts Administration
Department of Correction
6th Floor, Rachel Jackson Building
320 Sixth Avenue North
Nashville, TN 37243-0465

Telephone: 615-253-8104
Fax: 615-741-4605
E-mail: William.M.Anderson@tn.gov

1.4.2.2. Notwithstanding the foregoing, potential proposers may contact:

- a. staff of the Governor's Office of Diversity Business Enterprise for assistance available to minority-owned, women-owned, and small businesses as well as general, public information relating to this RFP; and
- b. the following individual designated by the State to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and associated federal regulations:

Marcedes Harding
Office of the Commissioner
6th Floor, Rachel Jackson Building
320 Sixth Avenue North
Nashville, TN 37243-0465
Telephone: 615-253-8155
E-mail: Marcedes.Harding@tn.gov

- 1.4.3. Only the State's official, written responses and communications will be binding with regard to this RFP. The State will consider oral communications of any type to be unofficial and non-binding.
- 1.4.4. Potential proposers must ensure that the State receives all written comments, including questions and requests for clarification, no later than the Written Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.4.5. Proposers must assume the risk of the method of dispatching any communication or proposal to the State. The State assumes no responsibility for delays or delivery failures resulting from the method of dispatch. Actual or digital "postmarking" of a communication or proposal to the State by a specified deadline date will not substitute for the State's actual receipt of a communication or proposal.
- 1.4.6. The State will convey all official responses and communications related to this RFP to the potential proposers from whom the State has received a Notice of Intent to Propose (refer to RFP Section 1.8).
- 1.4.7. The State reserves the right to determine, at its sole discretion, the method of conveying official, written responses and communications related to this RFP. Such written communications may be transmitted by mail, hand-delivery, facsimile, electronic mail, Internet posting, or any other means deemed reasonable by the State.
- 1.4.8. The State reserves the right to determine, at its sole discretion, the appropriate and adequate responses to written comments, questions, and requests related to this RFP. The State's official, written responses will constitute an amendment of this RFP.

1.4.9. Any data or factual information provided by the State (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. The State will make reasonable efforts to ensure the accuracy of such data or information, however it is within the discretion of Proposers to independently verify any information before relying thereon.

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

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

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

1.6.1. Each potential proposer must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.6., *Pro Forma* Contract, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called "questions and comments").

1.6.2. Any potential proposer having questions and comments concerning this RFP must provide such in writing to the State no later than the Written Comments Deadline detailed in the RFP Section 2, Schedule of Events.

1.6.3. Protests based on any objection shall be considered waived and invalid if the objection has not been brought to the attention of the State, in writing, by the Written Comments Deadline.

1.7. **Pre-Proposal Conference**

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

The conference will be held at:

SOUTH CENTRAL CORRECTIONAL CENTER
555 Forrest Avenue
Clifton, Tennessee 38425-0279

The purpose of the conference is to discuss the RFP scope of services. The State will entertain questions, however potential proposers must understand that the State's response to any question at the Pre-Proposal Conference shall be tentative and non-binding. Potential proposers should submit questions concerning the RFP in writing and must submit them prior to the Written Comments Deadline date detailed in the RFP Section 2, Schedule of Events. The State will send the official response to questions to potential proposers as indicated in RFP Section 1.4.6 and on the date detailed in the RFP Section 2, Schedule of Events.

1.8. **Notice of Intent to Propose**

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

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

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

1.9. Performance Bond

The State shall require a performance bond upon approval of a contract pursuant to this RFP. The amount of the performance bond shall be a sum equal to **FIVE MILLION DOLLARS (\$5,000,000.00)**, and said amount shall not be reduced at any time during the period of the contract.

The successful Proposer must obtain the required performance bond in form and substance acceptable to the State (refer to RFP Attachment 6.6., *Pro Forma* Contract, Attachment 6.7, Model Performance Bond) and provide it to the State no later than the performance bond deadline detailed in the RFP Section 2, Schedule of Events.

The successful Proposer must meet this performance bond requirement by providing the State either:

- a. a performance bond that covers the entire Contract period including all options to extend the Contract, or
- b. a performance bond for the first, twelve (12) calendar months of the Contract in the amount detailed above, and, thereafter, a new or re-issued performance bond in the amount detailed above covering each subsequent twelve (12) calendar month period of the Contract. (In which case, the Contractor must provide the new (or re-issued) performance bonds to the State no later than thirty (30) days preceding each subsequent period of the Contract to be covered by the new (or re-issued) bond.)

Failure to provide to the State a performance bond as required by performance bond deadline detailed in the RFP Section 2, Schedule of Events and, as applicable in the case of a periodic new (or re-issued) performance bond, no later than thirty (30) days preceding each period of the Contract to be covered by the new or re-issued bond, shall result in contract termination.

The successful Proposer must make all necessary arrangements for the performance bond prior to the Contract start date and prior to any subsequent performance bond deadlines in the case of an annual performance bond. The State will not assist the Proposer with securing the services of any fidelity or guaranty underwriter.

Failure to adhere to the requirements of this RFP Section shall result in termination of the Contract as a material breach of the contract. Further, as applicable, failure to periodically provide to the State a new or re-issued performance bond subsequent to the first as required above shall be a material breach of contract and result in the State taking action to exact payment pursuant to the current performance bond held by the State.

1.10. Proposal Deadline

A Proposer must ensure that the State receives a proposal no later than the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events. A proposal must respond, as required, to this RFP (including its attachments) as may be amended. The State will not accept late proposals, and a Proposer's failure to submit a proposal before the deadline will result in disqualification of the proposal.

2. RFP SCHEDULE OF EVENTS

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

EVENT	TIME (central time zone)	DATE (all dates are state business days)
1. RFP Issued		MARCH 8, 2013
2. Disability Accommodation Request Deadline	2:00 p.m.	MARCH 11, 2013
3. Pre-proposal Conference	10:00 a.m. (CST)	MARCH 12, 2013
4. Notice of Intent to Propose Deadline	2:00 p.m.	MARCH 15, 2013
5. Written "Questions & Comments" Deadline	2:00 p.m.	MARCH 22, 2013
6. State Response to Written "Questions & Comments"		APRIL 1, 2013
7. Proposal Deadline	2:00 p.m.	APRIL 12, 2013
8. State Completion of Technical Proposal Evaluations		APRIL 18, 2013
9. State Opening & Scoring of Cost Proposals	2:00 p.m.	APRIL 19, 2013
10. State Evaluation Notice Released <u>and</u> RFP Files Opened for Public Inspection	2:00 p.m.	APRIL 29, 2013
11. Contract Signing		MAY 9, 2013
12. Contractor Contract Signature Deadline	2:00 p.m.	MAY 10, 2013
13. Performance Bond Deadline	4:30 p.m.	JUNE 25, 2013
14. Contract Begin Date		JULY 1, 2013

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

3. PROPOSAL REQUIREMENTS

3.1. Proposal Form

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

- 3.1.1. **Technical Proposal.** The RFP Attachment 6.2., Technical Proposal & Evaluation Guide details specific requirements for making a Technical Proposal in response to this RFP. The guide includes mandatory requirement items, general qualifications and experience items, and technical qualifications, experience, and approach items all of which must be addressed with a written response and, in some instances, additional documentation.

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

- 3.1.1.1. A Proposer must use the RFP Attachment 6.2., Technical Proposal & Evaluation Guide to organize, reference, and draft the Technical Proposal by duplicating the attachment, adding appropriate proposal page numbers as required, and using the guide as a table of contents covering the Technical Proposal.
- 3.1.1.2. A proposal should be economically prepared, with emphasis on completeness and clarity. A proposal, as well as any reference material presented, must be written in English and must be written on standard 8 ½" x 11" pages (although oversize exhibits are permissible). All proposal pages must be numbered.
- 3.1.1.3. All information and documentation included in a Technical Proposal should respond to or address a specific requirement detailed in the RFP Attachment 6.2., Technical Proposal & Evaluation Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed extraneous and will not contribute to evaluations.
- 3.1.1.4. The State may determine a proposal to be non-responsive and reject it if:
- a. the Proposer fails to organize and properly reference the Technical Proposal as required by this RFP and the RFP Attachment 6.2., Technical Proposal & Evaluation Guide; or
 - b. the Technical Proposal document does not appropriately respond to, address, or meet all of the requirements and proposal items detailed in the RFP Attachment 6.2., Technical Proposal & Evaluation Guide.
- 3.1.2. **Cost Proposal.** A Cost Proposal must be recorded on an exact duplicate of the RFP Attachment 6.3., Cost Proposal & Scoring Guide.

NOTICE: If a proposer fails to submit a cost proposal exactly as required, the state will deem the proposal to be non-responsive and reject it.

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

- 3.1.2.2. The proposed cost shall incorporate ALL costs for services under the contract for the total contract period.
- 3.1.2.3. A Proposer must sign and date the Cost Proposal.
- 3.1.2.4. A Proposer must submit the Cost Proposal to the State in a sealed package separate from the Technical proposal (as detailed in RFP Sections 3.2.3., *et seq.*).
- 3.1.2.5. The State shall not enter into a contract for which the five-year cost will exceed 95% of the State's cost of providing the comparable services. These cost amounts are based on a capacity of **1629** inmates per day times the number of days in each year multiplied by the per diem rate. The amount to be used for comparison for the five year cost is **ONE HUNDRED FIFTY TWO MILLION FIVE HUNDRED FIFTY SEVEN THOUSAND TWO HUNDRED EIGHTY FIVE DOLLARS (\$152,557,285.00)**. Amount shown here is **Ninety Five (95%) percent** of the State's projected costs. In the event the five year cost of any proposal exceeds the State's respective projected costs shown, the State shall reject the proposal(s). In the event the five year cost of all proposals exceeds the State's respective projected costs shown, the State shall reject all proposals and cancel the RFP in its entirety.
- 3.1.2.6 The State shall not enter into a contract for which the cost exceeds the Department's anticipated budgeted funds

3.2. Proposal Delivery

A Proposer must deliver a proposal in response to this RFP as detailed below. The State will not accept a proposal delivered by any other method.

- 3.2.1. A Proposer must ensure that both the original Technical Proposal and Cost Proposal documents meet all form and content requirements detailed within this RFP for such proposals including but not limited to required signatures.
- 3.2.2. A Proposer must submit original Technical Proposal and Cost Proposal documents and copies as specified below.

- 3.2.2.1. One (1) original Technical Proposal paper document labeled:

“RFP # 32944-00006 TECHNICAL PROPOSAL ORIGINAL”

and **TEN (10)** copies of the Technical Proposal each in the form of one (1) digital document in “PDF” format properly recorded on its own otherwise blank, standard CD-R recordable disc labeled:

“RFP # 32944-00006 TECHNICAL PROPOSAL COPY”

The digital copies should not include copies of sealed customer references, however any other discrepancy between the paper Technical Proposal document and any digital copies may result in the State rejecting the proposal as non-responsive.

- 3.2.2.2. One (1) original Cost Proposal paper document labeled:

“RFP # 32944-00006 COST PROPOSAL ORIGINAL”

and one (1) copy in the form of a digital document in “**PDF**” format properly recorded on separate, blank, standard CD-R recordable disc labeled:

“RFP # 32944-00006 COST PROPOSAL COPY”

In the event of a discrepancy between the original Cost Proposal document and the digital copy, the original, signed document will take precedence.

3.2.3. A Proposer must separate, seal, package, and label the documents and discs for delivery as follows.

3.2.3.1. The Technical Proposal original document and copy discs must be placed in a sealed package that is clearly labeled:

“DO NOT OPEN... RFP # 32944-00006 TECHNICAL PROPOSAL FROM [PROPOSER LEGAL ENTITY NAME]”

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

“DO NOT OPEN... RFP # 32944-00006 COST PROPOSAL FROM [PROPOSER LEGAL ENTITY NAME]”

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

“RFP # 32944-00006 SEALED TECHNICAL PROPOSAL & SEALED COST PROPOSAL FROM [PROPOSER LEGAL ENTITY NAME]”

3.2.4. A Proposer must ensure that the State receives a proposal in response to this RFP no later than the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events at the following address.

**WILLIAM M. ANDERSON, DIRECTOR OF CONTRACTS ADMINISTRATION
TENNESSEE DEPARTMENT OF CORRECTION
6TH FLOOR, RACHEL JACKSON BUILDING
320 6TH AVENUE, NORTH
NASHVILLE, TENNESSEE 37243-0465**

3.3. Proposal & Proposer Prohibitions

- 3.3.1. A proposal must not include the Proposer’s own contract terms and conditions. If a proposal contains such terms and conditions, the State, at its sole discretion, may determine the proposal to be a non-responsive counteroffer and reject it.
- 3.3.2. A proposal must not restrict the rights of the State or otherwise qualify either the offer to deliver services as required by this RFP or the Cost Proposal. If a proposal restricts the rights of the State or otherwise qualifies either the offer to deliver services as required by this RFP or the Cost Proposal, the State, at its sole discretion, may determine the proposal to be a non-responsive counteroffer and reject it.
- 3.3.3. A proposal must not propose alternate services (*i.e.*, offer services different from those requested and required by this RFP). The State will consider a proposal of alternate services to be non-responsive and reject it.
- 3.3.4. A Cost Proposal must not result from any collusion between Proposers. The State will reject any Cost Proposal that was not prepared independently without collusion, consultation, communication, or agreement with any other Proposer. Regardless of the time of detection, the State will consider any such actions to be grounds for proposal rejection or contract termination.

- 3.3.5. A Proposer must not provide, for consideration in this RFP process or subsequent contract negotiations, incorrect information that the Proposer knew or should have known was materially incorrect. If the State determines that a Proposer has provided such incorrect information, the State will deem the Proposer's proposal non-responsive and reject it.
- 3.3.6. A Proposer must not submit more than one Technical Proposal and one Cost Proposal in response to this RFP. If a Proposer submits more than one Technical Proposal or more than one Cost Proposal, the State will deem all of the proposals non-responsive and reject them.
- 3.3.7. A Proposer must not submit a proposal as a prime contractor while also permitting one or more other Proposers to offer the Proposer as a subcontractor in their own proposals. Such may result in the disqualification of all Proposers knowingly involved. This restriction does not, however, prohibit different Proposers from offering the same subcontractor as a part of their proposals (provided that the subcontractor does not also submit a proposal as a prime contractor).
- 3.3.8. A Proposer must not be (and the State will not award a contract to):
- a. an individual who is, or within the past six months has been, an employee of the State of Tennessee or who is a volunteer member of a State board or commission that votes for, lets out, overlooks, or any manner superintends the services being procured in this RFP;
 - b. a company, corporation, or any other contracting entity in which an ownership of two percent (2%) or more is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee (this will not apply either to financial interests that have been placed into a "blind trust" arrangement pursuant to which the employee does not have knowledge of the retention or disposition of such interests or to the ownership of publicly traded stocks or bonds where such ownership constitutes less than 2% of the total outstanding amount of the stocks or bonds of the issuing entity);
 - c. a company, corporation, or any other contracting entity which employs an individual who is, or within the past six months has been, an employee of the State of Tennessee in a position that would allow the direct or indirect use or disclosure of information, which was obtained through or in connection with his or her employment and not made available to the general public, for the purpose of furthering the private interest or personal profit of any person; or,
 - d. any individual, company, or other entity involved in assisting the State in the development, formulation, or drafting of this RFP or its scope of services (such person or entity being deemed by the State as having information that would afford an unfair advantage over other Proposers).

For the purposes of applying the requirements of this RFP subsection 3.3.8., the State will deem an individual to be an employee of the State of Tennessee until such time as all compensation for salary, termination pay, and annual leave has been paid, but the term "employee of the State of Tennessee" shall not include individuals performing volunteer services for the State of Tennessee.

3.4. **Proposal Errors & Revisions**

A Proposer is liable for any and all proposal errors or omissions. A Proposer will not be allowed to alter or revise proposal documents after the Proposal Deadline time and date detailed in the RFP Section 2, Schedule of Events unless such is formally requested, in writing, by the State.

3.5. **Proposal Withdrawal**

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

authorized Proposer representative. After withdrawing a proposal, a Proposer may submit another proposal at any time before the Proposal Deadline.

3.6. Proposal of Additional Services

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

NOTICE: If a Proposer fails to submit a Cost Proposal exactly as required, the State will deem the proposal non-responsive and reject it.

3.7. Proposal Preparation Costs

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

4. GENERAL CONTRACTING INFORMATION & REQUIREMENTS

4.1. RFP Amendment

The State reserves the right to amend this RFP at any time, provided that it is amended in writing. However, prior to any such amendment, the State will consider whether it would negatively impact the ability of potential proposers to meet the proposal deadline and revise the RFP Schedule of Events if deemed appropriate. If an RFP amendment is issued, the State will convey it to potential proposers who submitted a Notice of Intent to Propose (refer to RFP Section 1.8). A proposal must respond, as required, to the final RFP (including its attachments) as may be amended.

4.2. RFP Cancellation

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

4.3. State Right of Rejection

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

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

4.4. Assignment & Subcontracting

4.4.1. The Contractor may not subcontract, transfer, or assign any portion of the Contract awarded as a result of this RFP without prior approval of the State. The State reserves the right to refuse approval, at its sole discretion, of any subcontract, transfer, or assignment.

4.4.2. If a Proposer intends to use subcontractors, the proposal in response to this RFP must specifically identify the scope and portions of the work each subcontractor will perform (refer to RFP Attachment 6.2., Section B, General Qualifications & Experience Item B.14.).

4.4.3. Subcontractors identified within a proposal in response to this RFP will be deemed as approved by the State unless the State expressly disapproves one or more of the proposed subcontractors prior to signing the Contract.

4.4.4. The Contractor resulting from this RFP may only substitute another subcontractor for a proposed subcontractor at the discretion of the State and with the State's prior, written approval.

4.4.5. Notwithstanding any State approval relating to subcontracts, the Contractor resulting from this RFP will be the prime contractor and will be responsible for all work under the Contract.

4.5. Right to Refuse Personnel

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

4.6. Insurance

At any time, the State may require the Contractor resulting from this RFP to provide a valid, Certificate of

Insurance indicating current insurance coverage meeting minimum requirements as may be specified by this RFP. A failure to provide said documentation will be considered a material breach and grounds for contract termination.

4.7. **Licensure**

- 4.7.1. All persons, agencies, firms, or other entities that provide legal or financial opinions, which a Proposer provides for consideration and evaluation by the State as a part of a proposal in response to this RFP, shall be properly licensed to render such opinions.
- 4.7.2. Before the Contract resulting from this RFP is signed, the apparent successful Proposer (and Proposer employees and subcontractors, as applicable) must hold all necessary, appropriate business and professional licenses to provide service as required. The State may require any Proposer to submit evidence of proper licensure.

4.8. **Disclosure of Proposal Contents**

- 4.8.1. Each proposal and all materials submitted to the State in response to this RFP become the property of the State of Tennessee. Selection or rejection of a proposal does not affect this right. By submitting a proposal, a Proposer acknowledges and accepts that the full proposal contents and associated documents will become open to public inspection in accordance with the laws of the State of Tennessee.
- 4.8.2. The State will hold all proposal information, including both technical and cost information, in confidence during the evaluation process. Notwithstanding the foregoing, a list of actual Proposers submitting timely proposals may be available to the public, upon request, after technical proposals are opened.
- 4.8.3. Upon completion of proposal evaluations, indicated by public release of an Evaluation Notice, the proposals and associated materials will be open for review by the public in accordance with *Tennessee Code Annotated*, Section 10-7-504(a)(7).

4.9. **Contract Approval and Contract Payments**

- 4.9.1. This RFP and its contractor selection processes do not obligate the State and do not create rights, interests, or claims of entitlement in either the Proposer with the apparent best-evaluated proposal or any other Proposer. State obligations pursuant to a contract award shall commence only after the contract is signed by the State agency head and the Contractor and after the Contract is approved by all other state officials as required by applicable laws and regulations.
- 4.9.2. No payment will be obligated or made until the relevant Contract is approved as required by applicable statutes and rules of the State of Tennessee.
 - 4.9.2.1. The State shall not be liable for payment of any type associated with the Contract resulting from this RFP (or any amendment thereof) or responsible for any work done by the Contractor, even work done in good faith and even if the Contractor is orally directed to proceed with the delivery of services, if it occurs before the Contract start date or after the Contract end date.
 - 4.9.2.2. All payments relating to this procurement will be made in accordance with the Payment Terms and Conditions of the Contract resulting from this RFP (refer to RFP Attachment 6.6., *Pro Forma* Contract, Section C).
 - 4.9.2.3. If any provision of the Contract provides direct funding or reimbursement for the competitive purchase of services or items to be delivered to the State as a component of contract performance or otherwise provides for the reimbursement of specified, actual costs, the State will employ all reasonable means and will require all such

documentation that it deems necessary to ensure that such purchases were competitive and costs were reasonable, necessary, and actual. The Contractor shall provide reasonable assistance and access related to such review. Further, the State shall not remit, as funding or reimbursement pursuant to such provisions, any amount(s) which it determines did not result from a reasonably competitive purchase or do not represent reasonable, necessary, and actual costs.

4.10. Contractor Performance

The Contractor resulting from this RFP will be responsible for the completion of all service set out in this RFP (including attachments) as may be amended. All service is subject to inspection and evaluation by the State. The State will employ all reasonable means to ensure that service is progressing and being performed in compliance with the Contract, and the Contractor must cooperate with such efforts.

4.11. Contract Amendment

During the course of a Contract pursuant to this RFP, the State may request the Contractor to perform additional work within the general scope of the Contract and this RFP, but beyond the specified scope of service, and for which the Contractor may be compensated. In such instances, the State will provide the Contractor a written description of the additional work. The Contractor must respond to the State with a time schedule for accomplishing the additional work and a price for the additional work based on the rates included in the Contractor's proposal to this RFP. If the State and the Contractor reach an agreement regarding the work and associated compensation, such agreement must be effected by means of a Contract Amendment. Further, any such amendment requiring additional work must be signed by both the State agency head and the Contractor and must be approved by other state officials as required by applicable statutes and rules of the State of Tennessee. The Contractor must not commence additional work until the State has issued a written Contract Amendment with all required approvals.

4.12. Severability

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

5. PROPOSAL EVALUATION & CONTRACT AWARD

5.1. Evaluation Categories & Maximum Points

The State will consider qualifications, experience, technical approach, and cost in the evaluation of proposals and award points in each of the categories detailed below (up to the maximum evaluation points indicated) to each apparently responsive proposal.

EVALUATION CATEGORY	MAXIMUM POINTS POSSIBLE
General Qualifications & Experience (refer to RFP Attachment 6.2., Section B)	20
Technical Qualifications, Experience & Approach (refer to RFP Attachment 6.2., Section C)	30
Cost Proposal (refer to RFP Attachment 6.3.)	50

5.2. Evaluation Process

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

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

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

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

- a. the proposal adequately meets requirements for further evaluation;
- b. the State will request clarifications or corrections for consideration prior to further evaluation; or,
- c. the State will determine the proposal non-responsive to the RFP and reject it.

5.2.1.3. Proposal Evaluation Team members will independently evaluate each Technical Proposal (that appears responsive to the RFP) against the evaluation criteria in this RFP, rather than against other proposals and will score each in accordance with the

RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section B and Section C.

- 5.2.1.4. For each proposal evaluated, the RFP Coordinator will calculate the average of the Proposal Evaluation Team member scores for RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section B and for Section C, and record each average as the proposal score for the respective Technical Proposal section.
- 5.2.1.5. Before Cost Proposals are opened, the Proposal Evaluation Team will review the Technical Proposal Evaluation record and any other available information pertinent to whether or not each Proposer is responsive and responsible. If the Proposal Evaluation Team identifies any Proposer that appears not to meet the responsive and responsible thresholds such that the team would not recommend the Proposer for Cost Proposal Evaluation and potential contract award, the team members will fully document the determination.
- 5.2.2. **Cost Proposal Evaluation.** The RFP Coordinator will open for evaluation the Cost Proposal of each apparently responsive and responsible Proposer that the Proposal Evaluation Team has effectively recommended for potential contract award and will calculate and record each Cost Proposal score in accordance with the RFP Attachment 6.3., Cost Proposal & Scoring Guide.
- 5.2.3. **Total Proposal Score.** The RFP Coordinator will calculate the sum of the Technical Proposal section scores and the Cost Proposal score and record the resulting number as the total score for the subject Proposal (refer to RFP Attachment 6.5., Proposal Score Summary Matrix).

5.3. **Contract Award Process**

- 5.3.1 The RFP Coordinator will submit the Proposal Evaluation Team determinations and proposal scores to the head of the contracting agency for consideration along with any other relevant information that might be available and pertinent to contract award.
- 5.3.2. The contracting agency head will determine the apparent best-evaluated proposal. (To effect a contract award to a Proposer other than the one receiving the highest evaluation process score, the head of the contracting agency must provide written justification and obtain the written approval of the Commissioner of Finance and Administration and the Comptroller of the Treasury.)
- 5.3.3. The State reserves the right to make an award without further discussion of any proposal.
- 5.3.4. The State will issue an Evaluation Notice identifying the apparent best-evaluated proposal and make the RFP files available for public inspection at the time and date specified in the RFP Section 2, Schedule of Events.

NOTICE: The Evaluation Notice shall not create rights, interests, or claims of entitlement in either the Proposer with apparent best-evaluated proposal or any other Proposer.

- 5.3.5. The Proposer identified as offering the apparent best-evaluated proposal must sign a contract drawn by the State pursuant to this RFP. The contract shall be substantially the same as the RFP Attachment 6.6., *Pro Forma* Contract. The Proposer must sign said contract no later than the Contract Signature by Contractor Deadline detailed in the RFP Section 2, Schedule of Events. If the Proposer fails to provide the signed contract by the deadline, the State may determine that the Proposer is non-responsive to this RFP and reject the proposal.
- 5.3.6. Notwithstanding the foregoing, the State may, at its sole discretion, entertain limited negotiation prior to contract signing and, as a result, revise the *pro forma* contract terms and conditions or performance requirements in the State's best interests, PROVIDED THAT such revision of terms and conditions or performance requirements shall NOT materially affect the basis of proposal

evaluations or negatively impact the competitive nature of the RFP and contractor selection process.

- 5.3.7. If the State determines that a proposal is non-responsive and rejects it after opening Cost Proposals, the RFP Coordinator will re-calculate scores for each remaining responsive Cost Proposal to determine (or re-determine) the apparent best-evaluated proposal.

RFP # 32944-00006 PROPOSAL STATEMENT OF CERTIFICATIONS AND ASSURANCES

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

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

1. The Proposer will comply with all of the provisions and requirements of the RFP.
2. The Proposer will provide all services as defined in the Scope of Services of the RFP Attachment 6.6., *Pro Forma* Contract for the total contract period.
3. The Proposer accepts and agrees to all terms and conditions set out in the RFP Attachment 6.6., *Pro Forma* Contract.
4. The Proposer acknowledges and agrees that a contract resulting from the RFP shall incorporate, by reference, all proposal responses as a part of the contract.
5. The Proposer will comply with:
 - (a) the laws of the State of Tennessee;
 - (b) Title VI of the federal Civil Rights Act of 1964;
 - (c) Title IX of the federal Education Amendments Act of 1972;
 - (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
 - (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
6. To the knowledge of the undersigned, the information detailed within the proposal submitted in response to the RFP is accurate.
7. The proposal submitted in response to the RFP was independently prepared, without collusion, under penalty of perjury.
8. No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Proposer in connection with the RFP or any resulting contract.
9. Both the Technical Proposal and the Cost Proposal submitted in response to the RFP shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the RFP.

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

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

SIGNATURE:

PRINTED NAME & TITLE:

DATE:

PROPOSER LEGAL ENTITY NAME:

PROPOSER FEDERAL EMPLOYER IDENTIFICATION NUMBER (or SSN):

TECHNICAL PROPOSAL & EVALUATION GUIDE

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

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

PROPOSER LEGAL ENTITY NAME:			
Proposal Page # (Proposer completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		The Proposal must be delivered to the State no later than the Proposal Deadline specified in the RFP Section 2, Schedule of Events.	
		The Technical Proposal and the Cost Proposal documentation must be packaged separately as required (refer to RFP Section 3.2., <i>et. seq.</i>).	
		The Technical Proposal must NOT contain cost or pricing information of any type.	
		The Technical Proposal must NOT contain any restrictions of the rights of the State or other qualification of the proposal.	
		A Proposer must NOT submit alternate proposals.	
		A Proposer must NOT submit multiple proposals in different forms (as a prime and a sub-contractor).	
	A.1.	Provide the Proposal Statement of Certifications and Assurances (RFP Attachment 6.1.) completed and signed by an individual empowered to bind the Proposer to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification.	
	A.2.	Provide a statement, based upon reasonable inquiry, of whether the Proposer or any individual who shall perform work under the contract has a possible conflict of interest (<i>e.g.</i> , employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	A.3.	Provide a current bank reference indicating that the Proposer's business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.	
	A.4.	Provide two current positive credit references from vendors with which the Proposer has done business written in the form of standard business letters, signed, and dated within the past three (3) months.	
	A.5.	Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a positive credit rating for the Proposer (NOTE: A credit bureau report number without the full report is insufficient and will <u>not</u> be considered responsive.)	

PROPOSER LEGAL ENTITY NAME:			
Proposal Page # (Proposer completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
	A.6.	Provide proof of insurance meeting the requirements of Appendix D to the pro forma contract at Attachment 6.6. Proposals must include sample insurance policies and endorsements with a certified statement from the insurance carriers issuing the policies that such policies are available to the Proposer. Policies and endorsements shall be for the purposes and amounts set forth in Appendix D to the pro forma contract.	
	A.7.	Provide a copy of audited financial statements and audit opinion for the most recent year ended showing net shareholder's equity, presented in accordance with generally accepted accounting principles consistently applied, of not less than five million (\$5,000,000). If the RFP Issue Date reflected in the RFP Schedule of Events is less than 90 days from the proposer's most recent fiscal year end, the prior year audited financial statements will be acceptable.	
<i>State Use – RFP Coordinator Signature, Printed Name & Date:</i>			

TECHNICAL PROPOSAL & EVALUATION GUIDE

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

PROPOSER LEGAL ENTITY NAME:		
Proposal Page # (Proposer completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.1.	Detail the name, e-mail address, mailing address, telephone number, and facsimile number of the person the State should contact regarding the proposal.
	B.2.	Describe the Proposer’s form of business (<i>i.e.</i> , individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company) and business location (physical location or domicile).
	B.3.	Detail the number of years the Proposer has been in business.
	B.4.	Briefly describe how long the Proposer has been performing the services required by this RFP.
	B.5.	Describe the Proposer’s number of employees, client base, and location of offices.
	B.6.	Provide a statement of whether there have been any mergers, acquisitions, or sales of the Proposer within the last ten years. If so, include an explanation providing relevant details.
	B.7.	Provide a statement of whether the Proposer or, to the Proposer’s knowledge, any of the Proposer’s employees, agents, independent contractors, or subcontractors, proposed to provide work on a contract pursuant to this RFP, have been convicted of, pled guilty to, or pled <i>nolo contendere</i> to any felony. If so, include an explanation providing relevant details.
	B.8.	Provide a statement of whether, in the last ten years, the Proposer has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors. If so, include an explanation providing relevant details.
	B.9.	Provide a statement of whether there is any material, pending litigation against the Proposer that the Proposer should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this RFP or is likely to have a material adverse effect on the Proposer’s financial condition. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it would impair the Proposer’s performance in a contract pursuant to this RFP. NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Proposer must be properly licensed to render such opinions. The State may require the Proposer to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders such opinions.
	B.10.	Provide a statement of whether there are any pending or in progress Securities Exchange Commission investigations involving the Proposer. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it will impair the Proposer’s performance in a contract pursuant to this RFP. NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Proposer must be properly licensed to render such opinions. The State may require the Proposer to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders such opinions.

RFP ATTACHMENT 6.2. — SECTION B (continued)

PROPOSER LEGAL ENTITY NAME:		
Proposal Page # (Proposer completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.11.	Provide a brief, descriptive statement detailing evidence of the Proposer's ability to deliver the services sought under this RFP (e.g., prior experience, training, certifications, resources, program and quality management systems, etc.).
	B.12.	Provide a narrative description of the proposed project team, its members, and organizational structure along with an organizational chart identifying the key people who will be assigned to accomplish the work required by this RFP, illustrating the lines of authority, and designating the individual responsible for the completion of each service component and deliverable of the RFP.
	B.13.	Provide a personnel roster listing the names of key people, including key maintenance personnel, who the Proposer will assign to perform duties or services required by this RFP along with the estimated number of hours that each individual will devote to that performance. Follow the personnel roster with a resume for each of the people listed. The resumes must detail the individual's title, education, current position with the Proposer, and employment history.
	B.14.	<p>Provide a statement of whether the Proposer intends to use subcontractors to accomplish the work required by this RFP, and if so, detail:</p> <p>(a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each;</p> <p>(b) a description of the scope and portions of the work each subcontractor will perform; <u>and</u></p> <p>(c) a statement specifying that each proposed subcontractor has expressly assented to being proposed as a subcontractor in the Proposer's response to this RFP.</p>
	B.15.	<p>Provide documentation of the Proposer's commitment to diversity as represented by its business strategy, business relationships, and workforce— this documentation should detail <u>all</u> of the following:</p> <p>(a) a description of the Proposer's existing programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities, women, persons with a handicap or disability and small business enterprises;</p> <p>(b) a listing of the Proposer's current contracts with business enterprises owned by minorities, women, persons with a handicap or disability and small business enterprises, including the following information:</p> <p>(i) contract description and total value</p> <p>(ii) contractor name and ownership characteristics (i.e., ethnicity, sex, disability)</p> <p>(iii) contractor contact and telephone number;</p> <p>(c) an estimate of the level of participation by business enterprises owned by minorities, women, persons with a handicap or disability and small business enterprises in a contract awarded to the Proposer pursuant to this RFP, including the following information:</p> <p>(i) participation estimate (expressed as a percent of the total contract value that will be dedicated to business with subcontractors and supply contractors having such ownership characteristics — PERCENTAGES ONLY — DO NOT INCLUDE DOLLAR AMOUNTS)</p> <p>(ii) descriptions of anticipated contracts</p> <p>(iii) names and ownership characteristics (i.e., ethnicity, sex, disability) of anticipated subcontractors and supply contractors anticipated; and</p> <p>(d) the percent of the Proposer's total current employees by ethnicity, sex, and handicap or disability.</p> <p>NOTE: Proposers that demonstrate a commitment to diversity will advance State efforts to expand opportunity to do business with the State as contractors and sub-contractors. Proposal evaluations will recognize the positive qualifications and experience of a Proposer that does business with enterprises owned by minorities, women, persons with a handicap or disability and small business enterprises and that offers a diverse workforce to meet service needs.</p>

RFP ATTACHMENT 6.2. — SECTION B (continued)

PROPOSER LEGAL ENTITY NAME:		
Proposal Page # (Proposer completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.16.	<p>Provide a statement of whether or not the Proposer has any current contracts with the State of Tennessee or has completed any contracts with the State of Tennessee within the previous 5-year period. If so, provide the following information for all of the current and completed contracts:</p> <ul style="list-style-type: none"> (a) the name, title, telephone number and e-mail address of the State contact knowledgeable about the contract; (b) the procuring State agency name; (c) a brief description of the contract's scope of services; (d) the contract term; and (e) the contract number. <p>NOTES:</p> <ul style="list-style-type: none"> ▪ Current or prior contracts with the State are <u>not</u> a prerequisite and are <u>not</u> required for the maximum evaluation score, and the existence of such contracts with the State will <u>not</u> automatically result in the addition or deduction of evaluation points. ▪ Each evaluator will generally consider the results of inquiries by the State regarding all contracts noted.
	B.17.	<p>Provide customer references from individuals (who are <u>not</u> current or former officials or staff of the State of Tennessee) for projects similar to the services sought under this RFP and which represent:</p> <ul style="list-style-type: none"> ▪ two (2) of the larger accounts currently serviced by the Proposer, <u>and</u> ▪ three (3) completed contracts. <p>All references must be provided in the form of standard reference questionnaires that have been fully completed by the individual providing the reference as required. The standard reference questionnaire, which <u>must</u> be used and completed as required, is detailed at RFP Attachment 6.4. References that are not completed as required will be considered non-responsive and will not be considered.</p> <p>The Proposer will be <u>solely</u> responsible for obtaining the fully completed reference questionnaires, and for including them within the Proposer's sealed Technical Proposal. In order to obtain and submit the completed reference questionnaires, as required, follow the process detailed below.</p> <ul style="list-style-type: none"> (a) "Customize" the standard reference questionnaire at RFP Attachment 6.4. by adding the subject Proposer's name, and make exact duplicates for completion by references. (b) Send the customized reference questionnaires to each individual chosen to provide a reference along with a new standard #10 envelope. (c) Instruct the person that will provide a reference for the Proposer to: <ul style="list-style-type: none"> (i) complete the reference questionnaire (on the form provided or prepared, completed, and printed using an exact duplicate of the document); (ii) sign <u>and</u> date the completed, reference questionnaire; (iii) seal the completed, signed, and dated, reference questionnaire within the envelope provided; (iv) sign his or her name in ink across the sealed portion of the envelope; and (v) return the sealed envelope containing the completed reference questionnaire directly to the Proposer (the Proposer may wish to give each reference a deadline, such that the Proposer will be able to collect all required references in time to include them within the sealed Technical Proposal). (d) <u>Do NOT open the sealed references upon receipt.</u> (e) Enclose all <u>sealed</u> reference envelopes within a larger, labeled envelope for inclusion in the Technical Proposal as required. <p>NOTES:</p>

RFP ATTACHMENT 6.2. — SECTION B (continued)

PROPOSER LEGAL ENTITY NAME:		
Proposal Page # (Proposer completes)	Item Ref.	Section B— General Qualifications & Experience Items
		<ul style="list-style-type: none"> ▪ The State will not accept late references or references submitted by any means other than that which is described above, and each reference questionnaire submitted must be completed as required. ▪ The State will not review more than the number of required references indicated above. ▪ While the State will base its reference check on the contents of the sealed reference envelopes included in the Technical Proposal package, the State reserves the right to confirm and clarify information detailed in the completed reference questionnaires, and may consider clarification responses in the evaluation of references. ▪ The State is under <u>no</u> obligation to clarify any reference information.
	B.18.	Provide the current drug formulary including psychotropic drugs.
SCORE (for <u>all</u> Section B—Qualifications & Experience Items above): <i>(maximum possible score = 20)</i>		
<i>State Use – Evaluator Identification:</i>		

RFP ATTACHMENT 6.2. — SECTION C

TECHNICAL PROPOSAL & EVALUATION GUIDE

SECTION C: TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH. The Proposer must address all items (below) and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Proposer must also detail the proposal page number for each item in the appropriate space below.

A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate and score the proposal's response to each item. Each evaluator will use the following whole number, raw point scale for scoring each item:

0 = little value 1 = poor 2 = fair 3 = satisfactory 4 = good 5 = excellent

The RFP Coordinator will multiply the Item Score by the associated Evaluation Factor (indicating the relative emphasis of the item in the overall evaluation). The resulting product will be the item's raw, weighted score for purposes of calculating the section score as indicated.

PROPOSER LEGAL ENTITY NAME:					
Proposal Page # (Proposer completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
	C.1.	Provide a narrative that illustrates the Proposer's understanding of the State's requirements and project schedule.		15	
	C.2.	Provide a narrative that illustrates how the Proposer will complete the scope of services, accomplish required objectives, and meet the State's project schedule.		35	
	C.3.	<p>Provide a narrative that illustrates how the Proposer will manage the project, ensure completion of the scope of services, and accomplish required objectives within the State's project schedule. Each of the following items shall be addressed in the proposal.</p> <p>a. Security and Control: Proposals shall include sample post orders for a segregation unit, transportation, mail room, perimeter security, and visitation for the Proposer's most comparable facility. Proposals shall include a description of the process for day to day monitoring and accountability for inmate movement and identification for the full period of incarceration.</p> <p>Proposals shall include inmate riot and disturbance control, hostage, and escape contingency plans for the Proposer's most comparable facility.</p> <p>Proposals shall include a description of the Proposer's general procedures for accurate and continuing identification of Inmates, including internal and external (perimeter) movement control of Inmates. The proposal shall further describe the procedures the Proposer will use to ensure positive identification of employees and visitors with regard to entrance and exit from the secure perimeter.</p> <p>The Contractor may conform to Departmental Policy or develop its own policies subject to the written approval of the Commissioner or Commissioner's designee in the following areas:</p> <ol style="list-style-type: none"> 1. key control, 2. tool control, 3. weapons qualification, 		50	

RFP ATTACHMENT 6.2. — SECTION C (continued)

PROPOSER LEGAL ENTITY NAME:					
Proposal Page # (Proposer completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
		<p>4. armory operation, and 5. control of gates and perimeters.</p> <p>Proposals shall include a description of the Proposer's procedures, and provide policies and post orders from the Proposer's most comparable facility, in all the listed areas.</p> <p>b. Inmate Receipt, Assignment and Custody: Proposals shall describe how an inmate received at the institution will be reviewed for assignments (including but not limited to safety issues relating to victimization) and program recommendations and subsequent assignments such as housing and work activities.</p> <p>Proposals shall contain a detailed description of its orientation procedure for Inmates newly assigned to the institution.</p> <p>c. Use of Force: Proposals shall contain a detailed description of the methods by which the Proposer intends to secure licenses for the use of firearms, the training provided to persons assigned to carry weapons, and the methods by which training effectiveness will be verified. Proposals shall contain a detailed description of the training provided to employees in the use of non-deadly force.</p> <p>Proposals shall contain the policy and procedure on the use of force from the Proposer's most comparable facility.</p> <p>d. Transportation: Proposals shall contain a detailed description of the procedures for movements of Inmates from the Center to other areas, including security procedures.</p> <p>e. Personal Property: Proposals shall contain a detailed description of how the Proposer will provide security and control for the personal property of Inmates.</p> <p>f. Visitation: Proposals shall contain a detailed explanation of the Proposer's visitation procedures, supervision and mechanisms for control of contraband.</p> <p>g. Laundry and Clothing: The Proposal shall include a detailed description of how the Proposer will provide laundry services and inmate uniform replacement.</p> <p>h. Access to Courts: Proposals shall include a detailed explanation of how the Proposer will provide Inmates with constitutionally required access to the courts and related legal services.</p> <p>i. Inmate Relations: Proposals shall include a detailed description of the Proposer's plan to facilitate communications and interaction between all levels of</p>			

RFP ATTACHMENT 6.2. — SECTION C (continued)

PROPOSER LEGAL ENTITY NAME:					
Proposal Page # (Proposer completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
		<p>staff and Inmates beyond the grievance process.</p> <p>j. <u>Commissary</u>: Proposals shall include a detailed explanation of how the Proposer will implement the commissary program in accordance with the terms of the Contract.</p> <p>k. <u>Food Services</u>: Proposals shall include a detailed description of the Proposer's plan to provide food service to Inmates.</p> <p>l. <u>Health/Medical/Mental Health and Dental</u>: Proposals shall contain a detailed description of the health services, medical services, mental health services and dental services to be provided, including sick call, infirmary operation, hospitalization, and specialty services. At a minimum, these must meet ACA standards, federal, state, and local laws and regulations, any applicable federal and state executive orders, court orders, and Department policies on medical and mental health services.</p> <p>m. <u>Inmate Work and Education Programs</u>: Proposals shall include a detailed description of the programs which provide full-time equivalent (30-40 hours per week), paid activity for the Inmate population.</p> <p>n. <u>Recreation</u>: The Proposal shall contain a detailed description of the recreational programs and other leisure time activities the Proposer will provide to the inmate population.</p> <p>o. <u>Library</u>: Describe in detail the library services to be provided to the inmate population.</p> <p>p. <u>Religious Services</u>. Proposals shall include a detailed description of the Proposer's plan for a religious program for Inmates that, at a minimum, meet constitutional requirements.</p> <p>q. <u>Volunteer Services</u>: Proposers shall include a detailed description of the Proposer's plan for volunteer services programs for Inmates.</p> <p>r. <u>Other</u>: Proposals shall contain a detailed discussion of any additional programs or services the Proposer proposes to provide.</p> <p>s. <u>Facility Management, Maintenance, and Utilities</u>: Proposals shall include a detailed description of the Proposer's plan to maintain the physical structure of the Facility, all movable property, fixtures, and equipment contained therein which are compliant with TDOC Policy 108.01 and the accompanying guidelines. Proposals shall include preventative maintenance, routine maintenance, and environmental compliance plans from the Proposer's most comparable facility.</p>			

RFP ATTACHMENT 6.2. — SECTION C (continued)

PROPOSER LEGAL ENTITY NAME:					
Proposal Page # (Proposer completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
		<p>t. <u>Sanitation and Hygiene</u>: Proposal shall contain a description of the Proposer's procedures to ensure the issue of clean, usable bed linen, towels, shoes, and clothing, with provision for exchange or laundering, and the provision of personal hygiene items to Inmates, including indigent Inmates.</p> <p>Proposals shall include a description of the Proposer's housekeeping plan and a housekeeping plan for a general housing unit and the common areas from the Proposer's most comparable facility.</p> <p>Proposals shall include a detailed description of the Proposer's system for vermin and pest control, trash and garbage disposal, and hazardous waste management.</p> <p>u. <u>Safety and Emergency Procedures</u>: The Proposer shall provide written examples of guidelines for fire prevention, including fire and safety inspections, maintenance of fire alarm and smoke detection systems, quarterly or more frequent fire evacuation drills, emergency evacuation plans for a medium security housing unit. Proposer's final guidelines shall conform to Department Policies 112.02, 112.03, 112.04, 112.05, and 112.09, and are subject to the State's written approval.</p> <p>The Proposer shall also provide a sample of a policy and procedure utilized by the Proposer at its most comparable facility concerning the control of flammable, caustic and toxic materials.</p> <p>v. <u>Personnel and Training</u>: The Proposal shall include a complete staffing pattern for the Facility meeting the operational, service, and program needs of the staff and Inmates. Proposals shall include a security post assignment schedule that details by day and shift, the positions, the rank of those positions, and their hours of work to include coverage for staff absences such as regular days off, sick leave, training, etc. The Proposal shall include information regarding the Proposer's process for managing the security post assignment schedule to include how posts will be created and/or eliminated.</p> <p>Proposals shall contain written job descriptions and job qualifications for all positions including: job title, responsibilities, required minimum experience and education, and any applicable licensure and certification requirements.</p> <p>Proposals shall include a detailed discussion of the training to be provided for all employees to include course titles for each job classification and qualifications of instructors. The Contractor's employees shall receive at least the same number of hours of orientation, pre-service, and in-service training as required by ACA</p>			

RFP ATTACHMENT 6.2. — SECTION C (continued)

PROPOSER LEGAL ENTITY NAME:					
Proposal Page # (Proposer completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
		<p>Standards.</p> <p>Proposals shall include information regarding the proposer's plans for recruitment and retention.</p> <p>w. <u>Organizational Structure</u>: The Facility and its programs shall be managed by a single on-site executive officer employed by the Contractor. Proposals should contain a complete organizational chart that accurately describes the structure of authority, responsibility and accountability within the Facility. Proposals shall include one full set of the proposer's institutional operation and maintenance policies and procedures for the Proposer's most comparable facility.</p> <p>x. <u>Inmate Records and Reports</u>: The Proposal shall contain an explanation of how it intends to maintain strict standards of confidentiality of records in accordance with applicable TDOC policy, state and federal laws and regulations. The Proposer shall include an explanation of how the Proposer would ensure the security of the TOMIS system and Inmate records.</p> <p>Any interested party is invited to view the Department's present inmate record keeping system.</p> <p>y. <u>Inmate Trust Fund</u>: The Contractor will be responsible for maintaining an inmate trust fund following Department procedures including those relating to withdrawals for payment of court costs, privilege taxes and Criminal Injuries Compensation Fund requirements. Proposal shall describe in detail the Proposer's plan for utilizing the Department's trust fund procedures.</p> <p>z. <u>Evaluation and Monitoring</u>: Proposals shall contain an explanation of the procedures to be used in self-evaluation of the Facility's management and operation. This section shall include an explanation of self-monitoring techniques as well as procedures the Proposer will implement to facilitate monitoring of the Facility and enforcement of contract provisions by the Department. Include a discussion of reporting procedures, including frequency, subject matter, etc. to be utilized.</p> <p>aa. <u>Standards/Accreditation</u>: Proposers shall attach the pertinent portions of all standards cited in its Proposal, except for ACA Standards.</p> <p>Proposals shall contain an explanation of how the Proposer will seek and achieve ACA re-accreditation within fifteen (15) days of the Service Commencement Date and/or maintain ACA accreditation.</p> <p>bb. <u>Policies and Procedures</u>: Proposals shall indicate the method the Proposer will use in establishing and reviewing policies and procedures.</p>			

RFP ATTACHMENT 6.2. — SECTION C (continued)

PROPOSER LEGAL ENTITY NAME:					
Proposal Page # (Proposer completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
		cc. Drug Free Work Force. Proposals shall provide a plan for maintaining a drug free work force and a related employee assistance program.			
<i>The RFP Coordinator will use this sum and the formula below to calculate the section score. All calculations will use and result in numbers rounded to two (2) places to the right of the decimal point.</i>					Total Raw Weighted Score: <i>(sum of Raw Weighted Scores above)</i>
$\frac{\text{Total Raw Weighted Score}}{\text{Maximum Possible Raw Weighted Score}}$ <i>(i.e., 5 x the sum of item weights above)</i>					$\times 30$ <i>(maximum possible score)</i> = SCORE:
<i>State Use – Evaluator Identification:</i>					
<i>State Use – RFP Coordinator Signature, Printed Name & Date:</i>					

COST PROPOSAL & SCORING GUIDE

NOTICE: THIS COST PROPOSAL MUST BE COMPLETED EXACTLY AS REQUIRED

COST PROPOSAL SCHEDULE— The Cost Proposal, detailed below, shall indicate the proposed price for the entire scope of service including all services defined in the Scope of Services of the RFP Attachment 6.6., *Pro Forma* Contract and for the entire contract period as detailed. The Cost Proposal shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract resulting from this RFP. All monetary amounts shall be in U.S. currency and limited to two (2) places to the right of the decimal point.

***Rate would apply if this contract is extended by amendment.**

Note: *The State shall not enter into a contract for which the five-year cost will exceed 95% of the State's cost as described in RFP Section 3.1.2.5. In addition, the State shall not enter into a contract for which the cost exceeds the Department's anticipated budgeted funds.*

NOTICE: The Evaluation Factor associated with each cost item is for evaluation purposes only. The evaluation factors do NOT and should NOT be construed as any type of volume guarantee or minimum purchase quantity. The evaluation factors shall NOT create rights, interests, or claims of entitlement in the Proposer.

Notwithstanding the cost items herein, pursuant to the second paragraph of the pro forma contract section C.1. (refer to RFP Attachment 6.6.), "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."

This Cost Proposal must be signed, in the space below, by an individual empowered to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If said individual is not the *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to legally bind the proposing entity.

PROPOSER SIGNATURE:								
PRINTED NAME & TITLE:								
DATE:								
PROPOSER LEGAL ENTITY NAME:								
Cost Item Description	Proposed Cost					State Use ONLY		
	July 1, 2013— June 30, 2014	July 1, 2014— June 30, 2015	July 1, 2015— June 30, 2016	*July 1, 2016— June 30, 2017	*July 1, 2017— June 30, 2018	Sum	Evaluation Factor	Evaluation Cost (sum x factor)
Incarceration Dollar Charge Per Inmate Per Day (Per Diem**) At The Facility For The Year Indicated	\$ / per inmate per day	\$ / per inmate per day		1				
TOTAL EVALUATION COST AMOUNT (sum of evaluation costs above):								
The RFP Coordinator will use this sum and the formula below to calculate the Cost Proposal Score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.								
lowest evaluation cost amount from <u>all</u> proposals						x 50	= SCORE:	
evaluation cost amount being evaluated						(maximum possible score)		
State Use – RFP Coordinator Signature, Printed Name & Date:								

** The Per Diem payment will be made only for Inmates actually incarcerated at the Facility, except Per Diem payment shall be made for any Inmate hospitalized at a non departmental facility during the period when the Contractor is responsible for said hospitalization expense. No Per Diem shall be paid for any Inmate out on court order. See definition of court orders at section A.2.

REFERENCE QUESTIONNAIRE

The standard reference questionnaire provided on the following pages of this attachment MUST be completed by all individuals offering a reference for the Proposer.

The Proposer will be solely responsible for obtaining completed reference questionnaires as required (refer to RFP Attachment 6.2., Technical Proposal & Evaluation Guide, Section B, Item B.17.), and for enclosing the sealed reference envelopes within the Proposer's Technical Proposal.

RFP # 32944-00006 PROPOSAL REFERENCE QUESTIONNAIRE

REFERENCE SUBJECT: PROPOSER NAME (completed by proposer before reference is requested)

The “reference subject” specified above, intends to submit a proposal to the State of Tennessee in response to the Request for Proposals (RFP) indicated. As a part of such proposal, the reference subject must include a number of completed and sealed reference questionnaires (using this form).

Each individual responding to this reference questionnaire is asked to follow these instructions:

- complete this questionnaire (either using the form provided or an exact duplicate of this document);
- sign and date the completed questionnaire;
- seal the completed, signed, and dated questionnaire in a new standard #10 envelope;
- sign in ink across the sealed portion of the envelope; and
- return the sealed envelope containing the completed questionnaire directly to the reference subject.

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

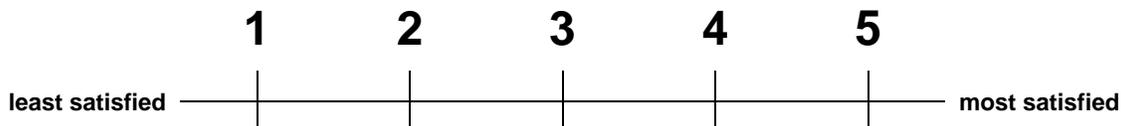
(2) Please provide the following information about the individual completing this reference questionnaire on behalf of the above-named individual, company, organization, or entity.

NAME:	
TITLE:	
TELEPHONE #	
E-MAIL ADDRESS:	

(3) What services does /did the reference subject provide to your company or organization?

(4) What is the level of your overall satisfaction with the reference subject as a vendor of the services described above?

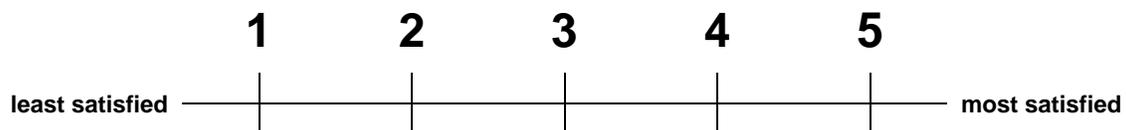
Please respond by circling the appropriate number on the scale below.



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

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

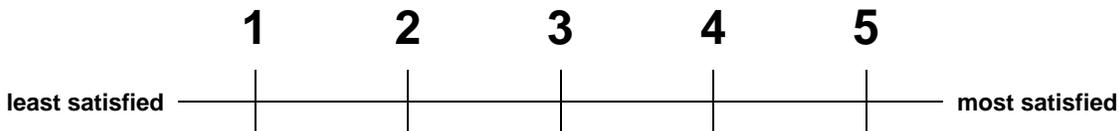
Please respond by circling the appropriate number on the scale below.



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

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

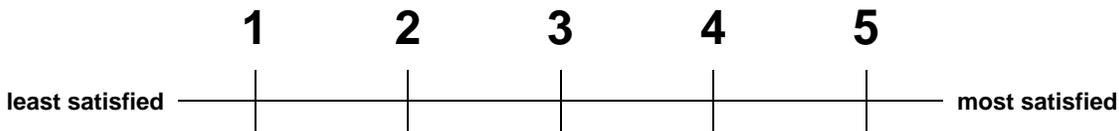
Please respond by circling the appropriate number on the scale below.



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

- (12) **Would you contract again with the reference subject for the same or similar services?**

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



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

REFERENCE SIGNATURE:

(by the individual completing this request for reference information)

_____ (must be the same as the signature across the envelope seal)

DATE:

PROPOSAL SCORE SUMMARY MATRIX

	<i>PROPOSER NAME</i>		<i>PROPOSER NAME</i>		<i>PROPOSER NAME</i>	
GENERAL QUALIFICATIONS & EXPERIENCE (maximum: 20)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
	AVERAGE:		AVERAGE:		AVERAGE:	
TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH (maximum: 30)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
	AVERAGE:		AVERAGE:		AVERAGE:	
COST PROPOSAL (maximum: 50)	SCORE:		SCORE:		SCORE:	
TOTAL PROPOSAL EVALUATION SCORE: (maximum: 100)						

RFP Coordinator Signature, Printed Name & Date:

RFP # 32944-00006 PRO FORMA CONTRACT

The *pro forma* contract detailed in following pages of this exhibit contains some “blanks” (signified by descriptions in capital letters) that will be completed with appropriate information in the final contract resulting from the RFP.

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

This Contract, by and between the State of Tennessee, **DEPARTMENT OF CORRECTION**, hereinafter referred to as the "State" and **Contractor Legal Entity Name**, hereinafter referred to as the "Contractor," is for the provision of **MANAGEMENT AND OPERATION OF A PRISON**, as further defined in the "SCOPE OF SERVICES."

The Contractor is **a/an Individual, For-Profit Corporation, Non-Profit Corporation, Special Purpose Corporation Or Association, Partnership, Joint Venture, Or Limited Liability Company**.

Contractor Place of Incorporation or Organization: **Location**

Contractor Edison Registration ID # **Number**

A. SCOPE OF SERVICES:

A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.

A.2. DEFINITIONS

- a. ACA - means the American Correctional Association.
- b. ACA Standards - means the Standards for Adults Correctional Institutions, Fourth Edition, as the same may be modified, amended, or supplemented now or in the future) published by ACA.
- c. Commissioner - means the Commissioner of the Tennessee Department of Correction.
- d. Contract - means this Document, together with all written attachments, appendices, exhibits, amendments and modifications and incorporating by reference herein, (1) the Request for Proposals, including exhibits and amendments; and (2) the proposal, including amendments and/or written clarifications.
- e. Contract Liaison - means a person or persons appointed and paid by the State to monitor the implementation of this Contract and/or to act as the Commissioner's designee. The Contract Liaison will also be the official liaison between the State and Contractor on matters pertaining to the proper operation, maintenance and management services of the Facility and may perform other functions described in Department policies, or otherwise provided by the Commissioner, in writing.
- f. Court Orders - means any orders, judgments or opinions issued by a court of competent jurisdiction or any stipulations, agreements or plans entered into in connection with litigation that are applicable to the proper operation, maintenance and management services of the Facility or relate to the care and custody of Inmates of the Facility, whether currently existing or as may be rendered in the future.
- g. Department - means the Tennessee Department of Correction (TDOC).
- h. Document - means this document with attached appendices, excluding the RFP and Proposal.
- i. Effective Date of Contract - means the date the Contract is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- j. Facility - means the correctional institution in Wayne County, Tennessee, including adjacent real property described in Section A.2, for the incarceration of male felony offenders sentenced to the care, custody and control of the Department, known as the South Central Correctional Center.

- k. Indigent Inmates - means Inmates who are deemed indigent as defined by Department Policy found in Appendix C..
- l. Inpatient Hospital Costs - means any expenses incurred as a result of an Inmate's admission to a medical care facility, and expenses incurred as a result of out-patient treatment for emergency medical services.
- m. Inmate - means any male felony offender sentenced to the Department and assigned to the Facility by the Department.
- n. Inmate Day - means each calendar day or part thereof that an Inmate is located at the Facility, including the first, but not the last day of incarceration at the Facility.
- o. Local Area - means Wayne, Hardin, Lawrence, Giles, Lincoln, Marshall, Maury, Lewis, Williamson, Hickman, Dickson, Humphreys, Perry, Houston, Benton, Henry, Weakley, Carroll, Henderson, Decatur, Gibson, Crockett, Madison Haywood, Chester, Fayette, Hardeman, and McNairy counties in Tennessee.
- p. Per Diem Rate - means cost per Inmate, per Inmate Day.
- q. Partial Default - means default of a portion of the services to be rendered by the Contractor under this Contract due to Contractor's failure to perform.
- r. Partial Takeover. - means the State's discretionary assumption of a portion of the services to be rendered by the Contractor under this Contract not resulting from Contractor's failure to perform.
- s. Policy Directive (aka Policy/Policies) - means formal statement of the State's correctional policy on a given subject. All Policy Directives shall not conflict with administrative rules or statutes or applicable American Correctional Association Standards.
- t. PREA – Federal Prison Rape Elimination Act
- u. RFP - means the Request for Proposals issued by the Department and identified as RFP-**32944-00006**, together and all amendments.
- v. Service Commencement Date - means July 1, 2013.
- w. Standards - means the standards to which Contractor's performance under this Contract must conform pursuant to Section A.5.a of the Contract.
- x. State - means the State of Tennessee, including but not limited to the Department.
- y. TOMIS (eTOMIS) - means the Tennessee Offender Management Information System, a mainframe computer system that automates the management of information about offenders under the supervision of the Tennessee Department of Correction. TOMIS captures all offender related information at the point of origin to provide accurate and timely information to those who use it.
- z. TRICOR - means the Tennessee Rehabilitation Initiative in Correction.

A.3. FACILITY AND PROPERTY

- a. Lease and Possession of Facility.
 - 1) The State leases to the Contractor the real property described in Appendix A together with all improvements thereon (the Facility), subject to the State's right to the following:
 - (a) to enter and inspect,
 - (b) to construct additional buildings or expand the capacity of existing buildings; and/or
 - (c) to perform Capital Maintenance and/or Major Maintenance Projects
 - 2) Contractor shall provide for maintenance, repair, and replacement for the Facility and shall keep said Facility in good repair, and insure that all buildings and all operational systems equipment are maintained in working order and condition,

subject to normal wear and tear. Contractor shall be responsible for all expenses incurred in said maintenance, repair and replacement, subject to Section A.3.i.

Quarterly or more frequent inspections of the facility and operational systems equipment shall be conducted by the staff of TDOC Facilities, Planning & Construction. Results of the inspections shall be submitted to the Director of Facilities, Planning & Construction for review and appropriate action.

- 3) The Contractor shall maintain the Facility in accordance with all applicable State and Federal fire, building, life safety, and handicapped accessibility codes.
- 4) The Contractor shall comply with any TDOC, vendor or manufacturer's operational and maintenance recommendations pertaining to operations and maintenance of the Facility and all operational equipment in the Facility which is provided to the Contractor.

Service and testing of critical equipment by qualified technicians, such as the emergency generator system, shall be documented within a Preventative Maintenance plan and compliant with applicable TDOC policies. Service and test reports, with results, will be routinely made available for review by TDOC liaisons.

- 5) The Contractor shall implement the program for vermin and pest control by qualified or certified technicians. Garbage disposal, hazardous waste, and recycle programs shall be managed in accordance with applicable local, State and Federal laws, and TDOC policies. Documentation generated by the program, and disposal procedures, will be routinely available for review by TDOC Liaisons/Facility Staff and/or regulating authorities.
- 6) Contractor agrees that the Facility will be used only for the purposes described in this Contract and shall not allow or suffer any waste at the Facility. Contractor shall not harvest any timber at the Facility or extract any other resource at the Facility unless agreed to in writing by the State.

b. No Warranty. The State leases the Facility to Contractor as is and with all faults and makes no express or implied warranties regarding the Facility, including but not limited to warranties regarding fitness for a particular purpose and hereby disclaims any and all express or implied warranties

c. State Property.

- 1) The State shall furnish the Facility with the property (whether real or personal, fixed or moveable), including telephone and related wiring, listed in Appendix B on or before Service Commencement Date.
- 2) All property (whether real or personal, fixed or moveable) furnished by the State shall remain at the Facility unless its location must be moved for maintenance, repair or replacement. Any removal of said property shall only be made with the prior written consent of the Liaison (See Liaison referenced in Section A.4.c.).
- 3) The State shall be responsible for the installation of the property described in A.3.c.1).
- 4) Effective on the Service Commencement Date, the State hereby leases to the Contractor said property described on Appendix B.
- 5) The State leases the property described in Appendix B to Contractor as is and with all faults and makes no express or implied warranties regarding said property including but not limited to warranties regarding fitness for a particular purpose and hereby disclaims any and all express or implied warranties.

d. Additional Property.

- 1) Contractor shall provide and install in the Facility any additional equipment as well as all necessary perishables and other items necessary for Contractor to

comply with its obligations under this Contract including but not limited to cleaning/housekeeping equipment, building system(s) spare parts, and routine supplies and replacement parts.

- 2) Without a Contract amendment and by written agreement of the parties, the parties may agree to revise the State equipment list on Appendix B provided that any such revision of the State equipment list shall comply with all applicable State regulations pertaining to the disposition of State property. Said agreement must be in writing signed by the Commissioner and the Contractor.
- e. Insurance. The Contractor shall obtain and keep in force insurance on all property to be located at the Facility, whether said property is supplied by the Contractor or State. Refer to Appendix D for insurance requirements.
- f. Ownership of Property at Termination.
- 1) At the conclusion of the Contract, whether by expiration or termination, all equipment, perishables, supplies, routine supplies and replacement parts, and any other property, whether real or personal, including but not limited to Inmate files, fiscal records and any other records used at the Facility or purchased with state funds shall become the property of the State, whether initially acquired by the Contractor or the State.
 - 2) Property furnished by the State shall be returned to the State in good order and in the condition received including but not limited to cleaning/housekeeping equipment, building system(s) spare parts, and routine supplies and replacement parts, Inmate files, fiscal records and any other records used at the Facility or purchased with state funds shall become the property of the State, whether initially acquired by the Contractor or the State. The State's designee shall conduct an inspection of the Facility and property. Reasonable use and wear thereof excepted, provided that if any property provided by the State is destroyed, lost or stolen and has not been replaced, the Contractor shall be responsible to the State for the residual value of said property at the time of loss and said value may be withheld from any amounts owed Contractor
- The results of the inspection shall be provided to the Deputy Commissioner of Operations, and the Deputy Commissioner of Administrative Services.
- 3) Contractor agrees that no security interest will attach to any property used at the Facility whether purchased by State or Contractor. In the event a security interest is created on any of said property, Contractor agrees to immediately notify the Liaison in writing and cause said security interest to be extinguished within thirty (30) days.
- g. Manuals. The State will provide Contractor with a copy of all equipment manuals, in its possession, a set of as-built drawings, and any warranties affecting the property leased to Contractor under Section A.3.c and affecting the Facility. Upon termination of this Contract the aforementioned will be returned to the State.
- h. Maintenance.
- 1) The Contractor shall be responsible for the preventive, routine and emergency maintenance, repair, and replacement of all property of any nature whatsoever located at the Facility at Contractor's expense whether said property is furnished by the State or the Contractor, subject to Section A.3.i.
 - 2) The Contractor shall implement a plan for routine, preventative, and emergency, maintenance that are all inclusive to the facility, equipment, and property. Maintenance operational contingencies identifying critical services, such as fence detection, security electronics, fire/life safety devices, emergency services equipment and physical plant, and associated operational risks shall be part of the plan.

- 3) Contractor shall comply with TDOC Policy series 108, as it may be amended during the term of the contract.
 - 4) The Contractor shall comply with the vendor's, manufacturer's, and state's recommendations for operation and maintenance of any property leased to the Contractor under Section A.3.c.
- i. Exceptions to Contractor Maintenance. The only exceptions to the Contractor's obligation to effect repairs or provide replacements to the Facility and property contained therein at its expense are as follows:
- 1) where repairs or replacements are covered by a warranty made by a third party to the State, provided, however;
 - (a) if Contractor has caused or contributed to the invalidity of any warranty or failed to comply with Section A.3.j, the Contractor shall bear the full expense to effect any repair or replacement; and
 - (b) for purposes of this Section, the decision regarding whether and to what extent the Contractor has invalidated a warranty, whether the Contractor has failed to comply with Section A.3.j or whether a defect is included in a warranty shall be within the sole judgment of the State;
 - 2) replacement of entire systems including but not limited to chiller/boiler plant, heating, air conditioning, security electronics, communications and utility services, and costs to replace major components thereof which exceed \$5,000; provided, however,
 - (a) decisions regarding whether and to what extent the entire system or a major component thereof should be replaced shall be within the sole judgment of the State; and
 - (b) The Contractor shall be responsible for all costs if in the sole judgment of the State the replacement is necessary due to any of the following causes:
 - (i) Contractor's negligence,
 - (ii) Contractor's failure to adequately maintain the systems, or portions thereof, or
 - (iii) Contractor's failure to comply with the provisions of the Contract; and
 - 3) where repairs or replacements are necessary due to design error or omission or improper construction of the Facility and not covered by a warranty. The decision regarding whether and to what extent the repair or replacement is due to design error or omission or improper construction shall be within the sole judgment of the State.
- j. Warranties.
- 1) The State shall promptly provide Contractor a copy of any warranty made by a third party to the State covering property provided by the State or on the Facility; provided, however, the State is not obligated to acquire or purchase any such Warranties.
 - 2) With respect to said warranties, Contractor agrees as follows:
 - a. to maintain the Facility and property located thereon in compliance with said warranties; and
 - b. to promptly notify the Liaison in writing of any defects of whatever nature which are covered by said warranty allowing the State sufficient time under the warranty to notify the entity providing said warranty.
- k. Contractor Failure to Repair. If the State acquires notice of Contractor's failure to comply with its obligations regarding building system(s) operation, maintenance, repair or

replacement with the Facility or property thereon, it may so notify the Contractor in writing but is not obligated to do so. Failure of the State to notify Contractor shall not relieve Contractor of its obligations hereunder. In the event the State is required to provide written notice of said failure pursuant to Section E.21., the Contractor shall promptly comply with its obligation within the time specified by the State in the notice. If Contractor fails to effect said building system(s) operation, maintenance, repair or replacement within the time specified in said notice, the State may, but is not obligated, to do the following:

- 1) the state may effect the maintenance, repair, or replacement and withhold the expense of such maintenance, repair or replacement from amounts due the Contractor; and/or
- 2) avail itself of any or all of the remedies described in Section E.21.

I. Construction and Renovation.

- 1) Contractor shall not modify, renovate, construct new buildings, add to existing buildings, or modify any of the systems contained therein including but not limited to the HVAC systems (boilers, water storage vessels, chillers, cooling towers, piping, exhaust systems, ductwork, etc.); building envelope and interior construction (walls, roof, foundations, structure, etc.); fire alarm, exit and life safety systems, security electronic equipment and security fencing systems, domestic water systems, kitchen and laundry systems and equipment; waste water/sewer systems; and utility services without the prior written approval of the State. Said approval shall include approval of the proposed modification by the State Building Commission where required by law, regulation or policy. All modification, construction, and renovation requested by Contractor and approved by State shall be at Contractor's expense, unless otherwise specified.
- 2) The State reserves the right to construct additional buildings at the Facility and/or to expand the capacity of existing buildings at the Facility. In the event the State exercises this right, Contractor agrees:
 - a. To cooperate with the State to the fullest extent possible;
 - b. That this Contract shall remain in full force and effect; and
 - c. That Contractor shall accept, even without new construction or expansion of the existing facility, an increase in the Inmate population under the terms of this Contract with additional compensation to the Contractor being described in Section C.10.

m. Utilities and Taxes. Contractor shall pay all taxes associated with this Contract and utility costs of the Facility including but not limited to water, natural gas, sewage and electric beginning on the Service Commencement Date. In the event ad valorem taxes are assessed against property at the Facility not owned by the Contractor, the Contractor may seek additional compensation pursuant to Section C.12.

n. Telecommunications.

- 1) Contractor will provide, at its expense, all necessary telecommunications equipment except the telephone system and radios. Such equipment must be capable of interfacing with the state existing communications and automated information systems and with any future department systems. Contractor shall enter all required data on TOMIS.
- 2) The Contractor may make additions to or rearrange features of the telephone system as it deems necessary, subject to written approval by the State. The Contractor must assure that the quality of workmanship and added components are of equal or greater quality to maintain system integrity.
- 3) All cost incurred in connection with the telephone operations, including additions, labor, maintenance, repair, moves and changes, local and long distance service, and training will be paid directly by the Contractor.

The Inmate telephone system Contract will operate as in State's other correctional facilities. All commissions will be paid to the State in conformance with the terms of the Inmate telephone system Contract.

o. Destruction of Facility.

- 1) If destruction of the Facility is caused in whole or part due to the Contractor's negligence or due to Contractor's failure to perform its obligations under this Contract, then the State shall seek reimbursement from Contractor for any damages or loss sustained by the State.
- 2) In the event the Facility is destroyed in part for any reason, then the Contractor remains obligated to fulfill its obligations under this Contract to the extent such is possible in the portion of the Facility that remains operational. The Contractor recognizes that the inability to perform its obligations due to the destruction may result in the State seeking a compensation adjustment pursuant to C.12.
- 3) In the event the Facility is destroyed such that the physical damage prevents the housing and programming of the appropriate number of Inmates as determined by the Commissioner in his sole judgment, then the State may terminate this Contract without penalty either immediately or within stages upon written notice to the Contractor.

A.4. **CONTRACT MONITORING**

a. Monitoring.

- 1) The State has the right and authority under this Contract to monitor Contractor's performance hereunder. Such monitoring shall include but not be limited to observing and reporting on the day-to-day operational performance of the Contractor regarding compliance with all terms and conditions of this Contract. Such monitoring or failure to monitor shall not relieve Contractor of its responsibility, obligation and liability under this Contract.
- 2) The State shall develop reporting requirements for the Contractor that shall include but not be limited to weekly, monthly, and/or quarterly reports on the following subjects: Inmate jobs and education, incident reports, disciplinary reports, Inmate grievances, staff turnover, staff training, employee grievances, employee discipline, health care access, reclassifications, transfers, furloughs, releases, media contacts, lawsuits, volunteers, drug audits, cell searches, visitation, and Facility maintenance. Also, an emergency reporting process shall be established that shall address, at a minimum, segregation of Inmates, use of force, and incidents which involve substantial risk to property, life, or institutional security.
- 3) Contractor agrees to cooperate with the State, including any representatives of the State, in the Contract monitoring effort of the State through such means as may be requested from time to time, including, but not limited to the reporting of information as requested. The State and Contractor agree that the information collecting and monitoring processes described in this Section A.4.a, will be defined in the policies and procedures of the Tennessee Department of Correction.

b. Comparative Evaluation.

- 1) The State has the right and authority under this Contract to compare the Contractor's performance with comparable State facilities. The State has the right and authority under this Contract to collect information to compare the cost and quality of services provided by the Contractor with the cost and quality of similar services provided by the State at its comparable facilities.
- 2) In accordance with TCA 41-24-105, after the first two years of operation, but before extending the initial contract, the performance and operating costs of the Contractor will be compared to the performance and operating costs of the State

using the Performance and Cost Evaluation Form which is included as Appendix G to the Contract.

- 3) The Contract may be renewed only if the Contractor is providing essentially the same quality of services as the State at a cost of five percent (5%) lower than the State as evaluated by the Fiscal Review Committee (see A.4.b.4), or if the Contractor is providing services superior in quality to those provided by the State at essentially the same cost as the State (see A.4.b.4). Refer to Appendix G for additional details.
- 4) As set out in TCA 41-24-105, a Committee designated by the Speakers of the Senate and the House of Representatives will compare the quality of services between the State and the Contractor, and the Fiscal Review Committee, or in the absence of that committee a committee designated by the Speakers of the Senate and House of Representatives, will compare the costs of operation. Each committee will prepare a report on its findings and present that report to the parties responsible for determining whether the Contract should be extended. The determination of the Fiscal Review Committee as to the comparative costs of operation shall be binding in determining whether the cost savings required in Section A.4.b.3. has been met.
- 5) The Comptroller of the Treasury shall audit the performance of the Department of Correction and the private Contractor to ensure that the State is receiving the quality and level of services as described in the Contract based upon the performance criteria, the monitoring process, and any applicable sanctions that might be incurred. The Comptroller shall report annually or as requested to the State and Local Government Committees of the House of Representatives and Senate. The Comptroller's audit authority shall include, but not be limited to, the authority to examine issues related to staff salaries, staff turnover rates and their impact, if any, on prison security and safety.
- 6) The Contractor agrees to cooperate with the State, including any representatives of the State, in any comparison of services undertaken by the State through such means as may be requested from time to time, including but not limited to, the provision of information.

c. Liaison.

- 1) The State shall provide Liaison(s) to be located at the Facility. The Liaison(s) will be an employee(s) of the Department and will be paid by the Department. The Contractor, however, shall reimburse the State for the cost incurred by the State, including salary and benefits, for up to two full-time on-site liaisons. The Contractor shall have no control over the activities of the Liaison(s), supervisory or otherwise.
- 2) The Liaison(s) shall be the representative of the State at the Facility to monitor the Contractor's compliance with the Contract. The Commissioner may also appoint the Liaison to act as his designee. The Liaison may also have functions described in Department policies. The Liaison may have other functions as provided by the Commissioner in writing.
- 3) Unless otherwise specified by the Commissioner, in writing, the Liaison shall be the designated recipient of all information required of the Contractor. The Contractor shall be notified of the identity of any Contract Liaison, in writing, signed by the Commissioner.
- 4) The individuals(s) acting as Liaison(s) may be changed during the term of the Contract, at the discretion of the Commissioner.
- 5) The State hereby expressly disclaims that the Liaison or any other state employee or official has any authority, apparent or otherwise, to bind the State under this Contract unless expressly stated herein; provided, however, that the Commissioner shall have the same authority granted any state employee under

this Contract and the Commissioner retains authority over the Inmates and Facility which may not be delegated at law.

- 6) In addition to the Liaison(s) employed by the Department, the State may monitor the Contract through other representatives of State as it deems appropriate. Such representative(s) shall have the same right of access to information, the Facility, Inmates, and Contractor's employees and agents as set out herein for Liaison(s).

d. Multiple Liaisons.

- 1) In the event that the Commissioner designates more than one (1) individual to act as Liaison, the State shall provide the Contractor with a description of the Liaisons' levels of authority in writing executed by the Commissioner.
- 2) In the event the Contractor believes it is receiving conflicting instructions from the Liaison(s) or that a Liaison is acting beyond his or her level of authority under the Contract or as provided in subsection 1), the Contractor shall notify the Commissioner in writing. The written response of the Commissioner shall be final.

e. Office Space.

- 1) Contractor shall provide adequate office space and local telephone service for the Liaison(s) and the staff of the Liaison(s), which may include a secretary, in close proximity to other administrative offices.
- 2) Contractor shall also provide the Liaison and staff with access to all major office equipment, at Contractor's expense.
- 3) Contractor shall not provide the Liaison(s) or Liaison staff with gifts or any form of compensation at any time.

f. Liaison Access.

- 1) The Liaison(s), shall have immediate, complete, and unrestricted access to all parts of the Facility at any and all times.
- 2) The Liaison(s), shall have immediate, complete, and unrestricted access to all documents in any way pertaining to the obligations of Contractor under this Contract, including but not limited to Facility records, Inmate files, personnel files, and financial records. In the event that any such document is not located on the Facility site, upon request Contractor agrees to provide the Liaison with a copy of the document within seventy-two (72) hours of the request.
- 3) The Liaison(s), shall have immediate, complete, and unrestricted access to all meetings and hearings which in any way pertain to the obligations of Contractor under this Contract. Contractor agrees to notify the Liaison of the time, place and agenda at least twenty-four (24) hours in advance of any such meeting or hearing, unless it is not reasonable to provide said notice in which case the Liaison shall be notified simultaneously with the other participants; provided, however, the Liaison may not have access to meetings between the Facility staff and legal counsel retained by Contractor unless permitted by Contractor, but Contractor shall provide the Liaison with written notice of said meeting identifying the participants within five (5) days after said meeting.
- 4) The Liaison(s) shall have immediate, complete, and unrestricted access to all Inmates and access at a reasonable time and place to all employees of Contractor, including but not limited to the Warden.

- g. Meetings with Liaison. The Contractor agrees that the Warden shall meet with the Liaison to report on/discuss the operations of the Facility and to respond to any questions raised by the Liaison.

h. Requests for Information.

- 1) The Contractor shall provide the Liaison with written responses to any information requested by the Liaison or Commissioner concerning any aspect of Contractor's performance under the Contract within the period prescribed in the State's request.
 - 2) The Contractor shall certify that said information is accurate and if Contractor is unable to so certify then Contractor shall state the reason therefore.
 - 3) Upon written request by the Liaison or Commissioner, the Contractor shall compile information in the requested form and provide documentation substantiating said information.
 - 4) Contractor shall not destroy any document related in any way to the Contractor's performance under the Contract without the prior written consent of the Liaison.
- i. Routine Documents. The Contractor shall provide the Liaison upon request with a copy of, or opportunity to review, all routine documents generated by the Contractor contemporaneously with the dissemination of the document. The Liaison shall notify the Contractor in writing of the requested routine documents.
- j. State Inspection. The Commissioner or his/her designee(s) shall have the same access as described in Section A.4.f, Liaison Access, which access shall include but not be limited to persons designated by the Commissioner to inspect the Facility and/or audit Facility and/or Contractor's performance under the Contract. Contractor is also obligated to provide appropriate access to authorized inspection and regulatory agencies. The Contractor shall exercise due diligence for the safety and welfare of the Liaison, any other State employee, and any visitor at the Facility.
- k. Immediate Compliance.
- 1) If the Commissioner determines that the Contractor is not operating in compliance with a term or condition of this Contract which in the opinion of the Commissioner may adversely affect the security or operation of the Facility or which may present a hazard to the safety or health of the Inmates or other individuals, or which may result in the adverse operation of the facility building systems (boilers, chillers, piping, electrical, security electronic, fire/life safety, etc.), and the Contractor shall be notified in writing (or verbally if it is believed an emergency situation exists). The notice shall direct the Contractor to immediately correct the noncompliance.
 - 2) The Contractor shall immediately notify the Commissioner of the proposed corrective action. If the Commissioner does not object to the proposed corrective action, the Contractor shall immediately implement said corrective action.
 - 3) If the Commissioner disagrees with the proposed corrective action or if the Contractor fails to notify the Commissioner immediately of its proposed corrective action, the Commissioner shall specify corrective action which the Contractor shall immediately implement.
 - 4) Notwithstanding any provision contained herein to the contrary, in such a circumstance, the Contractor shall immediately implement the corrective action specified by the Department before any appeal is taken.
 - 5) In the event the Contractor disagrees with the determination of noncompliance or designated corrective action, a request for reconsideration may be taken to the Commissioner. In no event shall the corrective action be delayed pending resolution of the request for consideration. Upon examination, if the Commissioner determines in his sole discretion that a noncompliance did not exist or that the corrective action required by the Department was excessive, the Commissioner shall authorize payment to the Contractor of the actual expense incurred in taking said corrective action or excessive corrective action upon receipt of appropriate documentation substantiating said expense from the Contractor. All directions and actions by the Commissioner and actions by the

Contractor shall be recorded and reported in writing as soon as practical and filed with the Contract Management Unit.

- I. Incident Reports. Contractor shall implement Department Policy 103.02 regarding the reporting of incidents.

A.5. **OPERATION OF FACILITY**

- a. Obligations of Contractor. Contractor agrees to perform all acts and services and comply with all duties and promises as described and in conformance with the following:
 - 1) all applicable constitutional standards, federal, state and local laws, court decisions, and Court Orders and consent agreements, whether currently existing or as may be enacted or rendered in the future;
 - 2) all State and Departmental policies specified in Appendix C, as same may be amended in writing by the Department during the term of this Contract, or in the discretion of the Commissioner, policies approved by the Department which may not be identical to State or Department policies;
 - 3) such other policies as the Department may make applicable to the Contractor in writing during the term of the Contract as same may be amended during the term of this Contract;
 - 4) ACA standards, as the same may be amended in the future;
 - 5) the terms of this Document;
 - 6) the terms of the RFP; and
 - 7) the terms of the Proposal.

The standards articulated in 1) through 7) shall hereinafter collectively be referred to as "Standards."

- b. Obligations of State. State agrees to perform its obligations as described in this Document and the RFP. Notwithstanding any provision contained herein to the contrary, the parties agree that the State incurs no obligations as may be contained in the Proposal.
- c. Conflicts.
 - 1) In the event of an irreconcilable conflict among the Standards, the Contractor is required to follow the Standard as determined by the Liaison.
 - 2) In the event of disagreement between the Contractor and the Liaison regarding which item provides the Standard of service, the Commissioner or his designee shall make the final decision.
 - 3) Approval by the State of any policy or procedure submitted by the Contractor which may deviate from the Standards shall not relieve Contractor of the obligation to follow the Standards.
 - 4) In the event of conflicts between the RFP and this Document regarding the State's obligations, the State shall comply with this Document.
- d. Policy and Procedures Manual. The Contractor, on or before June 11, 2013, shall provide the State with one (1) hard copy and one (1) electronic version (in Word if possible) of a written Policy and Procedures Manual which shall contain policies and procedures for all services to be rendered by Contractor in accordance with the Standards. Said manual shall establish the policies and procedures the Contractor shall follow in all areas covered by this Contract, including the areas covered by the Department policies listed in Appendix C. Said manual shall be subject to the written approval of the State and upon such approval said manual shall not be altered, amended, modified, revised or supplemented without the prior written approval by the State. The Contractor shall implement the provisions of said manual throughout the term of this Contract. The State may require the Contractor to revise these documents,

including policies, procedures, post orders, job descriptions, staffing patterns, shift rosters, etc., as required. A designee of the Commissioner shall review and approve any applicable policy or procedures annually.

e. Assignment and Transfer of Inmates.

- 1) Inmates will be assigned to the Facility in accordance with Department policies. Contractor may not refuse to accept any Inmate assigned to the Facility, but if the Contractor believes that an Inmate has been erroneously assigned to the Facility, it may request his transfer in writing, through the Liaison citing the appropriate sections of Department policy. Any decision by the Department on such request shall be final.
- 2) Contractor's requests for reassignment of Inmates from the Facility to another institution for medical, psychiatric, disciplinary or administrative reasons or for Inmate furloughs will be made in writing through the Contract Liaison and evaluated by the Department. Any decision by the Department on such request shall be final.
- 3) The State may transfer Inmates from the Facility with said decision to transfer being within the State's sole discretion.

f. Safety and Emergency Procedures

- 1) The Contractor, on or before June 11, 2013, shall develop and submit one (1) hard copy and one (1) electronic version (in Word if possible) of the following: (1) written riot and disturbance control contingency plans, and (2) disaster preparedness plans to the State. Contractor shall cooperate with State in preparing contingent Inmate relocation plans
- 2) At a minimum, the Contractor shall implement the written guidelines for the prevention of fire, safety inspections, maintenance of fire alarm and smoke detection systems, fire evacuation drills, evacuation plans, a procedure to report job-related injuries, and provisions for testing and maintenance of equipment to maintain essential lighting, power and communications contained in its Proposal. All such procedures will comply with National Fire Protection Association (NFPA) life safety codes and Department Policies 112.03, 112.04, 112.05, and 112.09.
- 3) The Contractor shall develop and submit to the State one (1) hard copy and one electronic version (in Word if possible) of plans for the search and apprehension of any escaped Inmate, on or before June 11, 2013. Said plans shall address the Contractor searching for any escapee off the grounds of the Facility and coordination with local and State authorities. Contractor shall implement said plans regarding any search off the grounds of the Facility only if so requested by the Commissioner.
- 4) During the term of the Contract, the Contractor shall develop and submit to the State in writing any other emergency and control plans as may be requested in writing by the Department within the time period set out in said request.
- 5) All plans under this Section must be submitted to the State and approved by the State in writing. Contractor agrees to make any revisions, deletions or additions requested by the Commissioner or his designee. Upon written approval by the State, Contractor shall begin immediate implementation of the plans or in the case of contingency plans, certify that Contractor has the ability and shall implement the plan if the contingency occurs. Said plans may not be revised, amended, altered, or supplemented without prior written consent of the State.
- 6) All plans must be in conformance with applicable Tennessee Occupational Safety & Health Administration/National Fire Protection Association TOSHA/NFPA and Life safety codes.

g. Medical and Mental Health Services.

- 1) The Contractor shall provide all physical health services, mental health services and dental services as specified in this Section and in the Standards. The Contractor shall utilize the Department's health services medical records forms and mental health service forms, as said forms may be revised or supplemented during the term of this Contract.

All medical services provided must be deemed medically necessary and must be approved through the TDOC Utilization Management process.

- a. Physician Coverage. The Contractor shall provide on-site physician coverage as specified in the approved institutional staffing plans and provide supervision of mid-level providers and consultation to nursing staff. Physician coverage shall include primary care services for inmates in mental health units. The Contractor shall provide an on-call physician to ensure 24-hour, seven days per week, emergency coverage with telephone response being required within 30 minutes of a notification call from each facility. The institutional physician is responsible and is physician of record for all inmates assigned to that institution and retains that responsibility until the inmate care is officially transferred to another licensed clinician. A physician shall determine whether his/her presence is required, give verbal orders and a treatment plan to nursing staff. Physician assistants/Nurse practitioners will provide on-site treatments for medical problems or injuries requiring sutures and minor surgical procedures as required on a 24-hour basis. On-site procedures, such as suturing, must be performed within 6 hours.
 - b. Nursing Coverage. The Contractor shall provide on-site 24-hours per day/ seven days/ week (24/7) nursing coverage as specified in the approved institutional.
 - c. Nursing Protocols. The Contractor is required to submit nursing protocols to the State for written approval within the first 30 days of the contract start date and annually thereafter. Such nursing protocols shall be applicable for all nursing staff including state employees and contractors. Any changes to said protocols shall require written approval by the State.
 - d. Medication Administration. In accordance with the Contractor's staffing responsibilities, the Contractor's nurses shall administer all controlled, high abuse potential drugs and psychotropic medications to inmates.
 - e. Contractor will comply with TDOC policy 113.70, Management of Pharmaceuticals, which requires accountability of controlled substances consisting of medication reconciliation at the change of each shift with signature of outgoing and incoming clinical staff.
 - f. Prosthetics and Durable Medical Equipment. The Contractor shall be responsible for all prosthetics and durable medical equipment ordered by its physicians and specialists, including braces, special shoes, glasses, hearing aids, orthopedic devices, etc. Health care prosthetic devices and durable medical equipment shall be provided for inmates when deemed necessary by the attending health care provider to correct, assist, or improve a significant body impairment or debilitating condition, in accordance with TDOC policy.
 - g. Mid-level Supervision. The contractor's physician staff shall supervise all mid-level providers in accordance with the Tennessee Health Related Boards Rules and Regulations.
- 2) At a minimum, the institution will operate as a Mental Health Level III and V facility as defined in Policy 113.87, these services must meet the Standards, and will be monitored pursuant to Section A.4.

- 3) The Contractor shall ensure that all physical, mental, and dental health care is provided by appropriately licensed and/or qualified health care professionals.
Candidates for the Medical Director position shall be forwarded for the review of the TDOC Medical Director.
- 4) The physical, mental, and dental health services delivery shall include but not be limited to the following:
 - (a) 24 hour-a-day, 7 day-a-week emergency physical and mental health care;
 - (b) initial health screening;
 - (c) health appraisal examination;
 - (d) daily triaging of complaints;
 - (e) daily sick call per the Standards;
 - (f) infirmary operation with at least supervision by an RN twenty-four hours per day, seven days per week;
 - (g) use of the Department health and programmatic records;
 - (h) specialty care and/or mental health programs and services for, but not limited to, Inmates with chronic diseases, terminal illnesses or requiring convalescent care;
 - (i) psychology services (routine), psychiatry services (routine), sheltered living (ancillary), and substance abuse services;
 - (j) Specialty physician care; (The State may, in its sole discretion, allow the Contractor to use the health services at the Lois M. DeBerry Special Needs Facility (DSNF), provided, however, that the Contractor shall enter into an agreement for usage and payment for said services with the State's health services contractor.)
 - (k) ancillary services - radiology, laboratory, etc.;
 - (l) dental services;
 - (m) pharmaceutical services and supplies;
 - (n) optometry services (provided on site);
 - (o) health education;
 - (p) inpatient hospitalization services;
 - (q) outpatient services.
- 5) The Contractor shall be responsible for all medication costs.
 - (a) The Contractor shall submit to the State's medical director a monthly pharmaceutical utilization report denoting, but not limited to, the following: the prescriber, inmate number, type of medication, and associated cost.
 - (b) The Contractor shall be responsible for securing the services of a pharmaceutical company that provides a delivery system that assures that medications are properly stored, packaged, and administered and provides for accountability of controlled substances.
 - (c) The pharmaceutical company of choice shall possess the capability of producing drug information forms to be distributed on site by the prescribing psychiatrist or certified nurse specialist (CNS). The drug information form shall be drug specific and include a patient signature line and date.

- (d) The Contractor shall have in place a non-formulary request process. The Contractor shall provide the State with a copy of the Contractor's formulary as requested.
- 6) The Contractor shall furnish all durable medical equipment and prosthetics including but not limited to eyeglasses, hearing aids, and dentures.
- 7) In the event it is, the opinion of the Contractor's Medical Director that a prosthesis or durable medical equipment is medically indicated, then said Contractor, as per TDOC policy 113.08, shall provide the prosthesis or durable medical equipment.
- 8) The Contractor shall be responsible for security services for inpatient care during the confinement period for which the Contractor is financially responsible, other than at a Departmental facility. Contractor shall provide security at an off-site medical facility after the Department assumes responsibility, if requested to do so by the Department. In such instances, the State shall reimburse the Contractor for the actual cost of providing such security services.

For the purpose of utilization management, the Contractor shall notify in writing the State's medical services contractor of all hospital admissions within 24 hours of the inpatient admission.

- 9) Mental Health. The Contractor shall provide routine and ancillary services as defined per Policy 113.80. Per policy services are defined as "Interventions which provide for the detection, diagnosis, treatment and referral of inmates/patients with mental health problems and the provision of a supportive environment when deemed clinically necessary. All programming curriculum shall be annually approved in written form by the institutional psychologist. The Contractor shall develop and have in place program outcome measures that shall be reviewed by the State's Director of Mental Health Services and/or her designee. The State reserves the right to modify the curriculum and recommend reasonable program delivery change if it is determined that participants are not benefiting.
- 10) Sex Offender. The Contractor shall provide a sex offender aftercare treatment program that conforms to the department's policies and procedures. The State shall, when applicable, provide specialized training for sexual offender treatment programs. The Contractor shall follow the program philosophy and design standards as presented by the State.
- 11) Substance Abuse. The Contractor shall provide substance abuse treatment services that emphasize an evidence-based program curriculum in a therapeutic community setting. All treatment services shall adhere to TDOC policy 513.07 (Substance Abuse Programming and Services Delivery). All program curriculum must be approved by TDOC before use.
- 12) Notwithstanding any provision contained herein to the contrary, the Contractor shall be responsible for the cost of providing all health, medical, mental health, and dental services, including but not limited to inpatient hospitalization, any surgery and specialty services, medications, specialty clinics, medically related transportation and the costs associated with the provision of services described in this section unless specifically excluded or limited below under Exclusions And Limitations.
- 13) Exclusions and Limitations.
 - (a) If the inmate is hospitalized, the Contractor shall not be responsible for Inpatient-Hospital Costs which exceed FOUR THOUSAND DOLLARS (\$4,000.00) per Inmate per admission. The Department's Medical Contractor shall be responsible for utilization management of all hospital cases. Accordingly, once the Inmate has been determined medically stable, the Department's Medical Contractor shall decide if a hospital

transfer is appropriate to manage the remainder of the hospital admission. In accordance with the Standards, the Contractor may request that an Inmate be either temporarily or permanently transferred to DeBerry Special Needs Facility (DSNF). Upon written approval by the DSNF Medical Director, the Inmate will be transferred to DSNF for evaluation and/or treatment. If an Inmate is housed and treated at DSNF, the Department may assume financial responsibility for expenses incurred within its facility. Provided, however, notwithstanding any provision contained herein to the contrary, any Inmate medical expenses resulting from the negligence or willful wrongdoing of the Contractor, its officers, agents or employees, shall be fully paid for by the Contractor.

- (b) Final decision regarding financial responsibility rests with the TDOC Commissioner.

h. Food Service.

- 1) Contractor will provide food service for the Inmates and volunteers in accordance with the Standards, including but not limited to the provision of special diets and three (3) meals for each Inmate served at regular times during each twenty-four (24) hour period with no more than fourteen (14) hours between the evening meal and breakfast.
- 2) The Contractor shall not be required to follow the Department's master menu, but the food service area must comply with State health regulations and the Standards. At a minimum the amount of daily calories must conform with the recommended dietary allowances published by the National Academy of Sciences. Menus shall be approved by TDOC dietician annually. Menus and dietary allowances shall be filed with the Contract Management Unit.
- 3) The Contractor is strongly encouraged to purchase food products from Tennessee's Comprehensive Food Service Program production center. The Contractor is strongly encouraged to purchase milk and other beverage products offered by TRICOR.

i. Laundry, Inmate Clothing and Hygiene.

- 1) Contractor will provide complete Inmate laundry services, Inmate clothing and bed linen (including pillows, pillow cases, sheets, blankets), and towels in accordance with the Standards.
- 2) Contractor shall implement the procedures described in the Proposal to ensure the issue of clean, usable bed linen, towels, shoes and clothing to all Inmates.
- 3) Contractor shall provide Indigent Inmates with soap, toothbrush, toothpaste, comb, deodorant, and all other necessary hygiene supplies.
- 4) Pursuant to *Tennessee Code Annotated* § 41-21-234(a) all Inmates shall be clothed in the TDOC uniforms (shirts, pants and jackets) manufactured by TRICOR and the Contractor shall be responsible for providing the clothing. This is to be provided for in the per diem rate which the Contractor charges TDOC.
- 5) Inmates transferred from SCCF to another institution will be sent with the same amount of State uniform clothing required by policy. Receiving institutions who note insufficient clothing in the property of inmates received from SCCF will notify the TDOC Liaisons' office at SCCF of the shortage.

j. Recreation.

- 1) Consistent with the Standards, the Contractor shall provide facilities, equipment and supplies for indoor and outdoor recreational and leisure time programs for the Inmate population.
- 2) Contractor shall provide for a comprehensive recreational program supervised by a qualified person and shall set forth the number of hours of outdoor recreation available to each Inmate. On or before June 11, 2013, Contractor shall submit to

the Department one (1) hard copy and one (1) electronic version (in Word if possible) of the written policy and procedure which shall provide the specifics of said program and shall be subject to the prior written approval of the State.

k. Transportation.

- 1) The Contractor will be responsible for the following Inmate transportation:
 - (a) All transportation between the Facility and the State's Turney Center Industrial Complex (TCIX) located in Only, Tennessee to connect with central transportation system vehicles, to include transportation of Inmates initially assigned to the Facility and other Inmates being transferred to and from the Facility for various reasons.
 - (b) All transportation within the Local Area; and
 - (c) Transportation outside the Local Area, as necessary, when the Department's central transportation is unavailable or time restricts inter-institutional transfer, including but not limited to administrative transfers initiated by the Warden and approved by the Commissioner's designee, and missed or late notification of court dates.
- 2) Contractor is responsible for all inmate transportation costs that are medical related.
- 3) The Contractor shall provide security in conformance with the Standards while transporting Inmates.
- 4) The Department will be responsible for all other inmate transportation via connection at Turney Center Industrial Complex for Department-mandated moves of prisoner groups for assignment purposes.

l. Inmate Commissary.

- 1) Contractor will provide a commissary for Inmates which shall supply only those non-consumable items approved by the Department in writing and such consumable items as the Contractor approves.
- 2) The Contractor may not have items in the Commissary that are prohibited by Departmental policy.
- 3) Commissary items shall be sold at a price determined by TDOC Policy 209.01 and subject to the prior written approval by the Commissioner or his designee. All profits derived from the Commissary operation shall be retained by Contractor. Contractor shall utilize the statewide Inmate Trust Fund system for all commissary transactions.

m. Mail. Contractor will provide pick up and delivery of Inmate mail in compliance with the Standards. Contractor will furnish first class postage to Indigent Inmates for the mailing of legal documents to courts or legal counsel and a reasonable amount of postage for other purposes as per TDOC policy 507.02. The Contractor shall follow the TDOC mail policy to include all special approved package programs.

n. Religious Services. Contractor will designate adequate staff, volunteers and space within the Facility for religious services and provide religious programs and/or religious services in compliance with the Departmental Policy.

o. Reentry and Counseling Services.

1. Contractor will designate space within the Facility to provide counseling, case management, and reentry services in compliance with Departmental policy. Counseling and reentry services shall include but not be limited to the following:
 - a. Administration of a risk-needs assessment according to TDOC policy.
 - b. Assistance with obtaining offender identification/driver's license, birth certificate, and other vital records.

- c. Assistance with the development of a reentry plan for offenders expiring their sentences and/or transitioning to community supervision.
 - d. Career development planning.
- 2. Contractor shall provide adequate staff to provide counseling, case management, and reentry services and should include the following specialized counselor positions:
 - a. Chief Counselor
 - b. Reentry Specialist
 - c. Career Development Counselor
- p. Inmate Grievance Procedure. Contractor will comply with Departmental policies and procedures regarding the Inmate grievance process and the Department's system for maintaining grievance-related records, as said policies and/or system may be revised during the term of this Contract.
- q. Security.
 - 1) Contractor shall provide security in accordance with, policy/policies, the Standards at all times in the Facility, and while Contractor is transporting Inmates and at all other times unless relieved of said obligation by the Commissioner in writing. All Contractor policies and procedures regarding security shall be provided to the State via one (1) hard copy and one (1) electronic version (in Word if possible) on or before June 11, 2013. Said policies and procedures shall be in accordance with the Standards and subject to written approval by the State prior to implementation. Contractor shall comply with said policies and procedures during the term of this Contract. All Inmate program activities in accordance with the Standards shall take place within the Facility. No Inmate shall leave the Facility except under security escort unless provided for by Department policy.
 - 2) At a minimum, the Contractor shall provide security, perimeter control, Facility control, control center function, post orders, security patrols, security inspections, counting procedures, key control, procedure for search and control of contraband, tool control, escape plan detection, appropriate use of security equipment, use of restraints, use of firearms and chemical agents, tactical unit procedure, inspections, housing unit assignment plans and internal and external movement control procedures and periodic shakedowns. Security procedures will be in compliance with Departmental policy when applicable.
- r. Visitation. Contractor shall designate physical space and provide appropriate security and supervision for indoor and outdoor visitation in accordance with applicable Standards, no less frequently than at comparable Department facilities. Contractor shall furnish State with a written attorney visitation policy via one (1) hard copy and one (1) electronic version (in Word if possible) no later than June 11, 2013.
- s. Access to Courts. Contractor shall provide Inmates with constitutionally required access to the courts as required by the Standards.
- t. Inmate Discipline.
 - 1) The Contractor shall implement Department Inmate disciplinary rules and procedures as they may be amended by the Department.
 - 2) All disciplinary processes and board activities must strictly adhere to Department Policies 502.01, 502.02, 502.04, and 502.05.
 - 3) Contractor agrees that no Inmate will be disciplined except in accordance with this Section and the Standards.
 - 4) The Contractor shall use the present or any future system established by the Department for recording disciplinary information.

- u. Use of Force.
- 1) The Contractor shall comply with Departmental Policies on the use of force. Any internal policies and procedures and revisions thereto shall be in accordance with the Standards and subject to written approval by the State.
 - 2) Notwithstanding any provision contained herein to the contrary, no use of force shall be allowed by Contractor except as in accordance with the Standards.
 - 3) Contractor's employees shall be allowed to use force only
 - (a) While on the grounds of the Facility;
 - (b) While transporting Inmates;
 - (c) During periods of community hospitalization;
 - (d) During court proceedings;
 - (e) While pursuing escapees from the Facility if the Commissioner requests said pursuit; and
 - (f) While supervising Inmates away from the Facility and then only in accordance with the policies and procedures described in (a) and (b) above.
 - 4) Contractor's employees shall be authorized to use such non-deadly force as the circumstances require only in the following situations:
 - (a) To prevent the commission of a felony or misdemeanor, including escape;
 - (b) To defend themselves or others against physical assault;
 - (c) To prevent serious damage to property;
 - (d) To enforce institutional regulations and orders; and
 - (e) To prevent or quell a riot or disturbance.
 - 5) Contractor's employees shall be authorized and trained to use deadly force in accordance with TDOC Policy 506.08 and the Standards. The Contractor's employees authorized to use firearms must at a minimum meet the qualifications set forth in T.C.A. 62-35-117. Deadly force may be used only as a last resort and then may be used only to prevent escape, to prevent the loss of life or serious bodily harm, or to quell a rebellion, riot, or disturbance in which loss of life or serious injury to an individual is imminent. Only those employees who are appropriately trained, and, if applicable, authorized by law shall be authorized to carry and use firearms.
- v. Sentence Reduction Credits.
- 1) Sentence credits shall be handled in accordance with TDOC Policy 505.01.
 - 2) The decision on award or forfeiture of sentence credits remains solely with the Department.
- w. Sentence Computation. Contractor shall provide the State with essential data and information relating to sentence computation. All sentence computations, including calculation of Inmate release and parole dates, shall be done by the Department and copies furnished to Contractor and Inmates. All other record keeping functions (e.g. posting of disciplinary reports, filing, updating Inmate assignments, custody levels, etc.) are the responsibility of the Contractor.
- x. Records and Reports.
- 1) Contractor shall provide for comprehensive operations and Inmate record and reporting systems for the Facility in compliance with the Standards and Department policy including the automated Inmate records and reporting system

operated by the Department which shall include but not be limited to the following:

- (a) Inmate institutional records on each Inmate including, but not limited to, personal data, personal inventory receipts, disciplinary action reports, incident reports, release information, classification and counseling records, dental, psychiatric and medical records.
- (b) documentation regarding complaints against Contractor's staff, the number and nature of violent or other disruptive incidents among Inmates or against staff, the number and nature of disciplinary actions against staff, the rate at which Inmates complete programs successfully, the number of Inmates productively active and the level of production;
- (c) identification of all Inmates at the Facility and their actual assigned physical location within the Facility;
- (d) identification of Facility staff and other authorized persons who have direct access to Inmate records; and
- (e) provision of all reports requested by the State in writing for monitoring or evaluation of the Contract or any court-ordered compliance.

The system shall adhere to the Standards governing confidentiality.

- 2) The Contractor shall maintain permanent logs in addition to shift reports that record routine and emergency situations. Each shift shall maintain records of pertinent information regarding individual Inmates and groups of Inmates. These records shall be compiled daily and reviewed by appropriate supervisory staff.
- 3) All computer equipment and communication lines necessary to interface with the Department's Tennessee Offender Management Information System (TOMIS) will be provided by the Department at no cost to the Contractor.
- 4) Contractor will be required to incorporate into its operation all new systems developed to report and track Inmate record information designated by the Commissioner.
- 5) Upon request, all records, reports and documents will be made available immediately to the Contract Liaison for review. At the conclusion of the Contract, all records shall be turned over to the Department.
- 6) The Contractor shall prepare and submit to the Contract Liaison such reports as are required by the State. Unless otherwise notified in writing by the Contract Liaison, these reports include the following which must be submitted on a monthly basis:
 - (a) Unusual Occurrence Reports
 - (b) Incident Reports
 - (c) Disciplinary Reports
 - (d) Medical Summaries
 - (e) Program Activity Summaries
 - (f) Inmate Grievances
 - (g) Facilities Maintenance and Repair and Related Operations
- 7) Contractor shall promptly notify the Contract Liaison whenever an Inmate leaves the Facility on court order.

y. Escapes.

- 1) The Contractor shall exercise its best efforts to prevent escapes from the Facility. If the frequency of escapes or attempted escapes shall be in excess of the frequency of escapes or attempted escapes from comparable State facilities

without good cause or shall exhibit a disregard for the safety of the general public, the State may declare the Contractor in Breach pursuant to Section E.21. Said determinations shall be within the sole judgment of the Commissioner.

- 2) In the event of an escape resulting in whole or part from Contractor's failure to perform pursuant to the provisions of this Contract, the State may seek damages in a court of competent jurisdiction.

z. Post Orders.

- 1) Contractor shall develop and submit to the State, as soon as each is available, one (1) hard copy and one (1) electronic version (in Word if possible), but no later than June 11, 2013, Post Orders required by this Contract in compliance with the Standards.
- 2) Post Orders shall be by post and shift and shall include Post Orders for all security positions.

aa. Policy Audit. The Contractor shall be inspected or audited at least annually in accordance with TDOC Policy 103.07 with respect to the implementation of at least those policies and procedures listed in Appendix C. The Contractor may, in addition and at its own expense, elect to have a policy audit conducted using personnel independent from the Contractor. The implementation will be in compliance with Tennessee Department of Correction Policies 103.07 and the Contractor will respond as required. In the event an audit reveals a Breach, as defined in E.21, by the Contractor, the State shall have available the remedies set out in Section E.21.

bb. Inmate Work.

- 1) The Contractor shall establish work programs in accordance with the Standards.
- 2) Inmate work is subject to the written approval of the Commissioner pursuant to T.C.A. 41-24-110 or as the same may be modified or amended in the future.
- 3) Any minimum restricted or higher custody Inmate working outside the secured perimeter must be under armed supervision.

The specific location of inmates working outside the secured perimeter must be documented on the gate pass.
- 4) The Contractor will be allowed to use Inmate labor for Facility operations and maintenance to the same extent Inmate labor is utilized in other State facilities pursuant to State policy and not for the benefit of the Contractor. The Contractor shall submit Inmate job descriptions for the State's written approval via TOMIS before assigning jobs to Inmates. Job assignments and re-assignments shall be made by the Contractor only after the job description has been approved in writing by the State. No Inmate shall ever be placed in a position of authority or control over another.
- 5) In emergency situations, the Department, in its sole discretion, may require the Contractor to furnish Inmates and security for outside work crews. Labor costs of security services associated therewith shall be reimbursed at the Contractor's actual cost, plus expenses and cost of operation.
- 6) Inmates shall not perform services or produce goods for use outside the Facility except upon written consent of the Commissioner.
- 7) The Department shall provide Inmates with sentence reduction credits. The Contractor shall be responsible for establishing and administering a compensation program at its expense, which will include Inmate pay in compliance with the Standards.

cc. TRICOR.

- 1) TRICOR currently has in place at the Facility an industry program that provides Inmate jobs. The Contractor and TRICOR may negotiate for the continuation or

expansion of the TRICOR industry program at the Facility and/or other issues related to the industry program deemed appropriate by both parties. In the event the Contractor chooses not to use the Inmate jobs provided through TRICOR industry program, the Contractor shall be responsible for all costs associated with the transfer of the program to another facility, including but not limited to costs of development of a relocation plan, physical relocation of equipment and raw materials, installation of equipment at new site(s), lost production, lost sales, relocation of staff, recruitment of staff, retraining of work force, renovation of new site(s), and vendor contract costs. Security for such industry program(s) shall be provided by the Contractor. Industry supervision and management for TRICOR programs shall be provided by TRICOR.

- 2) The Contractor is strongly encouraged to purchase consumable items used in the performance of this contract from TRICOR when costs and quality of products are similar to products otherwise purchased by the Contractor in performance of this contract.
- dd. Vocational and Academic Education. Contractor shall furnish vocational and academic education as set forth in the Standards and according to TDOC policy at its expense.
- ee. Classification.
- 1) Contractor shall comply with Departmental policies regarding classification and reclassification services.
 - 2) Contractor shall be required to maintain classification information which conforms to the Department's system.
- ff. Inmate Trust Fund. The Contractor will be responsible for maintaining an inmate trust fund following Department procedures including those relating to withdrawals for payment of court costs, privilege taxes, and criminal Injuries Compensation Fund requirements, as well as other applicable fees and deductions. All commissions from trust fund deposits will be paid to the State in conformance with the terms of the inmate trust fund automation contract.
- gg. Sanitation and Hygiene. The Contractor shall provide for sanitation and hygiene in accordance with the Standards.
- hh. Computer Software. The State shall retain proprietary rights to all State provided software utilized in connection with this Contract.
- ii. Inmate Drug Testing. The Contractor will conduct drug tests in accordance with Departmental Policy 506.21 and 513.07. The Contractor will be responsible for all costs. All positive drug screens shall be confirmed through a second methodology. The selection of inmates to be tested at random will be the responsibility of TDOC (State).
- jj. Resumption of Control.
- 1) Contractor shall review and comment on the Department's plan for resumption of control within 15 days following its receipt by the Contractor. The plan will provide for the orderly transfer of control of the Facility from the Contractor to the Department, both temporarily, and under any conditions of termination. Contractor agrees to implement said plan upon written notice from Commissioner.
 - 2) Said plan will also provide for emergency assumption of control by the Department of whole or part of the Facility under conditions of natural disaster, in the event of riot or insurrection or other emergency circumstances wherein the Commissioner deems it necessary for the State to assume temporary or permanent control of the Facility. The Commissioner shall determine whether and to what extent an emergency circumstance exists in his sole discretion. Contractor shall be responsible for any expense the State may incur in the event the Department assumes emergency control of the Facility and the Contractor's payment shall be reduced commensurate with the reduction in services provided by Contractor during the emergency period. The State may withhold these

amounts from any other amounts which may otherwise be due Contractor. The plan shall address Contractor's resumption of control after the circumstances causing the emergency assumption has ended. The plan will provide for the transfer of all records to the Department.

- kk. Accreditation. The Contractor shall maintain, at its expense, ACA re-accreditation of the Facility.
- ll. Inmate and Staff Identification. Contractor shall comply with the procedures in the Standards for Inmate and staff identification including but not limited to, uniforms, fingerprinting and photographing.
- mm. Inmate Personal Property Space. Contractor shall follow Department policy on Inmate personal property.
- nn. Library. A general Inmate library will be provided and operated by Contractor in accordance with The Standards.
- oo. Volunteer Services. Contractor shall implement the plans provided for volunteer service programs described in the Proposal in accordance with the Standards and TDOC policy. At a minimum, the Contractor shall provide for supervision and monitoring of the program and security background checks for volunteer applicants. Contractor shall establish and maintain a Local Volunteer Advisory Board.
- pp. Release Payments for Inmates. The Contractor shall follow Departmental policy regarding transportation for discharged Inmates and discharge payments to said Inmates. The Contractor shall make such payments at its own expense without reimbursement from the State.
- qq. Space for Board of Paroles/Institutional Parole Officer. Contractor shall provide a hearing room for the Board of Paroles two (2) days per month or as otherwise requested by the Board. The hearing room shall be large enough to comfortably accommodate three (3) Board members and fifteen (15) visitors. The Contractor shall provide local telephone service and furniture for the hearing room. The Contractor shall also provide furnished office space five (5) days each month, or as otherwise requested by the Board, for the institutional parole officer.
- rr. Rehabilitative Services. The Contractor shall provide rehabilitative services in accordance with the Standards. Such services shall include, but not be limited to counseling, pre-release and transitional services.

A.6. **STAFFING/EMPLOYEES**

- a. Independent Contractor. Contractor is associated with the State only for the purposes and to the extent set forth in this Contract. With respect to the performance of the management services set out herein, Contractor is and shall be an independent Contractor. The Contractor's agents and employees shall not accrue leave, retirement, insurance, bonding, use of State vehicles or any other benefit afforded to the employees of the State as a result of this Contract. Contractor, its agents and employees shall not be considered agents or employees of the State.
- b. Executive Officer. The Facility and its programs shall be managed by a single executive officer employed by the Contractor (sometimes referred to herein as "Warden"). The executive officer shall be subject to the prior written approval of the State.
- c. Organization. The Facility shall be managed according to the organizational chart submitted with the Proposal. Any modification or alteration to the management plan shown on said chart shall require the prior written approval of the State.
- d. Personnel. Notwithstanding any provision contained herein to the contrary, Contractor shall provide adequate staff to fulfill its obligations under this Contract, which shall be at a minimum the number of staff required by the State. All vacancies shall be filled in forty-five (45) days; provided, however, that during the period of any vacancy, the services associated with said position shall be provided by Contractor unless the Commissioner has agreed in writing to the contrary with a reduction in the per diem rate as defined in

Section C.12. The Contractor may request a thirty (30) day extension of the forty-five (45) day time limit to fill a vacancy. The Commissioner may grant this request on a one time basis for each applicable position. The Contractor must specify the position number of each extension request. The Contractor staff turnover ratio for security personnel shall not exceed fifty percent (50%) annually as of each June 30.

e. Staffing Pattern/Security Post Assignment.

- 1) Contractor shall provide sufficient staff to ensure the appropriate supervision of Inmates and operation and maintenance of the Facility at all times and at a minimum shall abide by and fulfill the staffing pattern submitted with its Proposal or required by the State.
- 2) At a minimum, Contractor shall abide by and fulfill the security post assignment schedule in its Proposal which details by day and shift the security positions and hours of work. Said security post assignment schedule shall include designation of critical posts. The Contractor shall submit Post Orders and a security post assignment roster for the prior written approval of the State.
- 3) If the State determines at any time that the staffing pattern and/or security post assignment schedule is inadequate, the Contractor agrees to place additional employees at the Facility and/or revise and implement the revisions to its staffing pattern and security post assignment. If Contractor is required to increase staff, it may request an adjustment in the per diem pursuant to Section C.12.
- 4) Any revisions to the staffing pattern and/or security post assignment require the prior written approval of the State. Contractor shall submit monthly staffing reports on or before the fifth (5th) of each month describing for the preceding month whether and to what extent Contractor has complied with the staffing pattern, security post assignment, and monthly post assignment. Staffing patterns are determined by security and program requirements and associated workloads. If changed circumstances modify those requirements or workloads the Contractor and/or the State will review those changed circumstances and a formal review will determine any changes in staffing requirements at the sole discretion of the State.

f. Job Descriptions.

- 1) Contractor shall abide by the written job descriptions for each position in the staffing pattern as provided in the Proposal, including but not limited to job title, responsibility and required minimum experience and education.
- 2) Any revisions or modifications of the job descriptions require the prior written approval of the State.

g. Personnel Records. A personnel record shall be maintained for each employee at the Facility which at a minimum shall contain the following: application, background investigation, dates of employment, training, performance evaluations, and disciplinary actions. The Contractor shall obtain a signed statement from each employee authorizing the State to have access to the personnel record.

h. Staffing Reports. On or before the fifth (5th) day of each month, Contractor shall submit a report to the Liaison providing the following information:

- 1) the number of employees hired, indicating position, the date of termination and the date the position was vacated;
- 2) the number of employees whose employment had been terminated for whatever reason whether voluntarily or involuntary, including reason for termination and position;
- 3) whether any position on the staffing pattern was vacant and for how many days.

i. Reduction in Staff.

- 1) Contractor shall immediately notify the Liaison if any positions on the staffing pattern are vacant.
 - 2) If a position described in subsection 1) remains vacant in excess of the time allowed in A.6.d. then the State shall have the option of exercising the remedies available in Section E.21.
- j. Background Checks.
- 1) Prior to employment with Contractor, applicants shall be subjected to a thorough background investigation, including criminal, employment, and medical histories. The background investigation for applicants for correctional officer positions shall also include psychological history, and such applicants shall be required to be certified by a qualified mental health professional as being free from any disorder as described in the current edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association that would, in the professional judgment of the examiner, impair the subject's ability to perform any essential function of the job or would cause the applicant to pose a direct threat to safety. Employment histories must go back a minimum of five (5) years. All criminal background checks shall be completed according to TDOC Guidelines for contract employee background checks. The cost of the background checks is the responsibility of the Contractor.
 - 2) A Security Addendum required by Title 28, Code of Federal Regulations Part 20, is appended hereto as Appendix F and incorporated by reference herein.
- k. Hiring Preference. Department employees who have been laid off shall also be given a hiring preference in the staffing of the Facility according to T.C.A. 41-24-101, *et seq.*, and shall comply with T.C.A. Sections 41-24-112 and 41-24-113 in all respects, as those sections may be modified or amended in the future. Background checks (reference A.6.j.) provided by TDOC may be used for any former TDOC correctional officers with less than one year's lapse of service.
- l. State Assistance.
- 1) During the term of the Contract, Contractor shall send a representative(s) to participate in periodic meetings regarding Departmental activities and shall send a representative(s) to sessions in which relevant policy modifications are being discussed or presented.
 - 2) Contractor shall receive written notice of the time, place and agenda of the meetings or sessions described in subsection 1) at the same time Department employees are provided notice.
 - 3) Said meetings or sessions shall be held within the State, and Contractor shall bear any and all expense associated with its representative(s) being present.
 4. The Department shall supply Contractor with technical assistance, consultation and informational support consistent with that provided other comparable institutions in accordance with the Standards provided, however, said support shall consist solely of advice and consultation.
- m. Training. Contractor shall provide training programs for all employees in accordance with the Standards. All costs incurred for said orientation and training programs shall be borne by Contractor. The Contractor's employees shall receive at least the same number of hours of orientation, pre-service, and in-service training as required by ACA Standards.
- The Liaison shall be permitted to review training curricula and other training-related records and to audit training classes at any time.
- n. Drug Free Work Force. Contractor shall at all times maintain a drug free work force and shall implement the plan contained in its Proposal for maintenance of a drug free work force and the employee assistance program described in its Proposal.

- o. Compliance with T.C.A. § 4-6-143. The Contractor shall comply with T.C.A. § 4-6-143 including but not limited to compensation for teachers.

B. CONTRACT PERIOD:

- B.1. This Contract shall be effective for the period beginning **JULY 1, 2013**, and ending on **JUNE 30, 2016**. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.
- B.2. Term Extension. The State reserves the right to extend this Contract for an additional two-year period, provided that the State notifies the Contractor in writing of its intention to do so on or before March 1, 2016. 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 State'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:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed **Written Dollar Amount (\$Number)**. The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor 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 for said units, milestones, or increments of service based upon the following payment rates:

Service Description	Amount (per compensable increment)				
	07/01/2013 – 06/30/2014	07/01/2014 – 06/30/2015	07/01/2015 – 06/30/2016	*07/01/2016 – 06/30/2017	*07/01/2017 – 06/30/2018
Incarceration dollar charge per inmate per day (per diem**) at the facility for the year indicated	\$ / per inmate per day	\$ / per inmate per day	\$ / per inmate per day	\$ / per inmate per day	\$ / per inmate per day

* Rate would apply if this contract is extended by amendment

** The Per Diem payment will be made only for Inmates actually incarcerated at the Facility, except Per Diem payment shall be made for any Inmate hospitalized at a non departmental facility during the period when the Contractor is responsible for said hospitalization expense. No Per Diem shall be paid for any Inmate out on court order. See definition of court orders at section A.2.

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 present said invoices no more often than monthly, with all necessary supporting documentation, to:

TENNESSEE DEPARTMENT OF CORRECTION
6TH FLOOR RACHEL JACKSON BUILDING
320 6TH AVENUE NORTH
NASHVILLE, TENNESSEE 37243-0465

a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).

- (1) Invoice Number (assigned by the Contractor)
- (2) Invoice Date
- (3) Contract Number (assigned by the State)
- (4) Customer Account Name: TENNESSEE DEPARTMENT OF CORRECTION, ACCOUNTS PAYABLE
- (5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
- (6) Contractor Name
- (7) Contractor Tennessee Edison Registration ID Number Referenced in Preamble of this Contract
- (8) Contractor Contact for Invoice Questions (name, phone, and/or fax)
- (9) Contractor Remittance Address
- (10) Description of Delivered Service
- (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
 - v. Total Amount Due for the invoice period

b. The Contractor understands and agrees that an invoice 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) only be submitted for completed service and shall not include any charge for future work;
- (3) not include sales tax or shipping charges; and
- (4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

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

construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.

- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment 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. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.
- a. The Contractor shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once said form is received by the State, 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).
 - b. The Contractor shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The taxpayer identification number detailed by said form must agree with the Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID referenced in this Contract.
- C.10. Expansion. In the event the State exercises its right to construct additional buildings at the Facility and/or to expand the capacity of existing buildings at the Facility, the parties will negotiate a Per Diem Rate for such additional Inmates, it being the intent of the parties that the State will pay only the marginal costs for such additional Inmates. In no event shall negotiated marginal costs for additional Inmates exceed the rates in the Contractor's original proposal.
- C.11. Billing Disputes. If the amount to be paid to Contractor is disputed by the State, the State, on or before the date the invoice is payable, shall advise the Contractor of the basis for the dispute and, in the manner provided above, pay the amount of such invoice which is not in dispute.
- C.12. Compensation Adjustment for Change of Services.
- a. The parties recognize that each has entered into this Contract based upon the Standards in effect as of the Effective Date of the Contract. Contractor agrees to be bound by any applicable Standard change and said change shall not affect the validity of this Contract. If a change occurs in an applicable Standard other than as provided in subsection b) herein, either party may notify the other in writing if it is believed said change shall affect the services delivered by the Contractor. The Commissioner shall make the final, binding decision regarding whether a change has occurred in an applicable Standard and whether said change affects the services rendered by the Contractor. Any adjustment in compensation due the Contractor shall be determined in accordance with subsection d).
 - b. If Contractor desires to make minor revisions to its Proposal which will not affect its ability to comply with the other Standards, the Contractor shall notify the Commissioner of said proposed revision in writing. Said minor revisions to the Proposal may occur only upon the prior written consent of the Commissioner. It shall be within the Commissioner's sole discretion whether or not to agree to said minor revision and his decision shall be binding. Any adjustment in compensation resulting from said minor revision shall be determined in accordance with subsection d). This provision is an exception to Section D.2..

- c. In the event Contractor may receive payments or compensation of any nature for services it is obligated to perform under this Contract from any source, including but not limited to federal, state or local authority, or any third party, other than the compensation described in this Contract, Contractor shall receive prior written consent and direction from the State prior to receiving any such additional compensation. The State may withhold a comparable amount from any payments due the Contractor. In the event said additional compensation is used to provide enhanced or innovative services at the Facility as compared to the services provided by the Department at comparable facilities, Contractor must still receive prior written consent from the State prior to receiving said compensation before the Contractor may retain those funds. The Commissioner shall decide whether the funds will be used to provide enhanced or innovative services at the Facility.
- d. Within thirty (30) days of the notices required in subsections a) through c) above, Contractor shall provide State with the proposed adjustment in compensation and appropriate documentation in support thereof. The Commissioner shall decide whether and to what extent an adjustment in Per Diem Rate is appropriate. In the event Commissioner determines that an adjustment to the Operating Per Diem Rate is appropriate, the rate may be adjusted only by an appropriate amendment to this Contract as described in Section D.2.

C.13. Failure to Agree on Billing Dispute or for Additional or Reduced Services.

- a. In the event Contractor disagrees with the State's failure to pay a disputed amount under Section C.11. disagrees with the adjustment in compensation determined by the Commissioner under Section C.12 or disagrees with any other aspect or amount of payment made by the State then the Contractor shall submit a claim and the grounds for said disagreement in writing to the Commissioner within thirty (30) days of the date the State either makes partial payment of the disputed bill or refuses disputed bill in its entirety. Failure of the Contractor to submit said claim and grounds to the Commissioner in writing within the time period described herein shall be an absolute waiver of said claim. The State shall be afforded a sixty (60) day period in which to review the claim and effect a cure or take reasonable steps to effect a cure, if it deems a cure appropriate.
- b. In the event the Contractor timely provides the notice described in subsection a), then Contractor may file a claim against the State before the appropriate forum in Tennessee with jurisdiction to hear said claim. Failure by the Contractor to file a claim before the appropriate forum in Tennessee with jurisdiction to hear said claim within one (1) year of the notice described in subsection a) shall operate as a waiver of said claim in its entirety. It is agreed by the parties that this provision establishes a Contractual period of limitations for any claim brought by the Contractor. Neither this Section nor any other provision of this Contract creates or expands jurisdiction of any court or commission over the State.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

- 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 **ninety (90) days** written notice before the effective termination date. The Contractor shall be entitled to 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, each 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.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee.

- 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 handicap or 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 *Tennessee Code Annotated*, Section 12-4-124, *et seq.*, 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 at Attachment **ONE**, 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 *Tennessee Code Annotated*, Section 12-4-124, *et seq.* 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. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401, *et seq.*
- D.11. 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.12. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.13. 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.14. 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.15. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.16. 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, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.17. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.18. 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.19. 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.20. 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.21. 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:

Derrick D. Schofield, Commissioner
Department of Correction
6th Floor, Rachel Jackson Building
320 Sixth Avenue North

Nashville, Tennessee 37243-0465
Derrick.Schofield@tn.gov
Telephone # (615) 741-1000 EXT. 8139
FAX # (615) 532-8281

The Contractor:

Contractor Contact Name & Title

Contractor Name

Address

Email Address

Telephone # Number

FAX # Number

All instructions, notices, consents, demands, or other communications shall be considered 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, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.
- E.5. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance.
- a. Unless otherwise required by the State, all insurance provided by the Contractor shall be in conformance with the General Specifications for Insurance detailed in Appendix D. Upon written request by the State, Contractor shall revise or supplement the insurance listed on Appendix D and may seek a compensation adjustment pursuant to Section C.12.
 - 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 and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and

regulations, departmental policy, and ethical standards. Such confidential information 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 applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

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. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

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

- E.7. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of *Tennessee Code Annotated*, Section 12-7-101, *et. seq.*, shall be printed pursuant to this contract unless a printing authorization number has been obtained and affixed as required by *Tennessee Code Annotated*, Section 12-7-103 (d).
- E.8. State Ownership of Work Products. The State shall have ownership, right, title, and interest, including ownership of copyright, in all work products, including computer source code, created, designed, developed, derived, documented, installed, or delivered under this Contract subject to the next subsection and full and final payment for each "Work Product." The State shall have royalty-free and unlimited rights and license to use, disclose, reproduce, publish, distribute, modify, maintain, or create derivative works from, for any purpose whatsoever, all said Work Products.
- a. To the extent that the Contractor uses any of its pre-existing, proprietary or independently developed tools, materials or information ("Contractor Materials"), the Contractor shall retain all right, title and interest in and to such Contractor Materials, and the State shall acquire no right, title or interest in or to such Contractor Materials EXCEPT the Contractor grants to the State an unlimited, non-transferable license to use, copy and distribute internally, solely for the State's internal purposes, any Contractor Materials reasonably associated with any Work Product provided under the Contract.
 - b. The Contractor shall furnish such information and data as the State may request, including but not limited to computer code, that is applicable, essential, fundamental, or intrinsic to any Work Product and Contractor Materials reasonably associated with any Work Product, in accordance with this Contract and applicable state law.
 - c. Nothing in this Contract shall prohibit the Contractor's use for its own purposes of the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of providing the services requested under this Contract.
 - d. Nothing in the Contract shall prohibit the Contractor from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Contract.
- E.9. Competitive Procurements. This Contract provides for reimbursement of the cost of goods, materials, supplies, equipment, or contracted services. Such procurements shall be made on a competitive basis, where practical. The Contractor shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Contract. In each instance where it is determined that use of a competitive procurement method was not practical, said

documentation shall include a written justification, approved by the Commissioner of the Tennessee Department of Correction, for such decision and non-competitive procurement.

- E.10. 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.11. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below.
- a. this Contract document with any attachments or exhibits (excluding the items listed at subsections b. through e., below);
 - b. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
 - c. the State solicitation, as may be amended, requesting proposals in competition for this Contract;
 - d. any technical specifications provided to proposers during the procurement process to award this Contract;
 - e. the Contractor's proposal seeking this Contract.
- E.12. 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.13. Public Accountability. If the Contractor is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4 or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor shall display in a prominent place, located near the passageway through which the public enters in order to receive services pursuant to this Contract, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:
- NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454
- E.14. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.
- E.15. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the 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 federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with 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.16. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

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

E.17. 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-32944-00006 (Attachment 6.2) 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 Diversity Business Enterprise in form and substance as required by said office.

- E.18. Performance Bond. The Contractor shall provide to the State a performance bond guaranteeing full and faithful performance of all undertakings and obligations under this Contract and in the amount equal to Five Million Dollars (\$5,000,000.00). The Contractor shall submit the bond no later than the day immediately preceding the Contract start date and in the manner and form prescribed by the State (at RFP Attachment 6.7 hereto), and the bond shall be issued through a company licensed to issue such a bond in the state of Tennessee. The performance bond shall guarantee full and faithful performance of all undertakings and obligations under this Contract for:
- a. the Contract term and all extensions thereof; or
 - b. the first, calendar year of the Contract (ending December 31st following the Contract start date) in the amount of Five Million Dollars (\$5,000,000.00) and, thereafter, a new performance bond in the amount of Five Million Dollars (\$5,000,000.00) covering each subsequent calendar year of the contract period. In which case, the Contractor shall provide such performance bonds to the State no later than each December 10th preceding the calendar year period covered beginning on January 1st of each year.

Failure to provide to the State the performance bond(s) as required herein prior to the Contract start date and, as applicable, no later than December 10th preceding each calendar year period covered beginning on January 1st of each year, shall result in contract termination. The Contractor understands that the stated amount of the performance bond required hereunder shall not be reduced during the contract period for any reason.

- E.19. Copyrights and Patents. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State for infringement of any laws regarding patents or copyrights which may arise from the Contractor's performance of this Contract. In any such action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any final judgment for infringement. The Contractor further agrees it shall be liable for the reasonable fees 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. The State shall give the Contractor written notice of any such claim or suit and full right and opportunity to conduct the Contractor's own defense thereof.

- E.20. 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.

- E.21. Breach. A party shall be deemed to have breached the Contract if any of the following occurs:
- failure to perform in accordance with any term or provision of the Contract;
 - partial performance of any term or provision of the Contract;
 - any act prohibited or restricted by the Contract, or
 - violation of any warranty.

For purposes of this Contract, these items shall hereinafter be referred to as a "Breach."

a. Contractor Breach— The State shall notify Contractor in writing of a Breach.

- (1) In event of a Breach by Contractor, the State shall have available the remedy of Actual Damages and any other remedy available at law or equity.
- (2) Liquidated Damages— In the event of a Breach, the State may assess Liquidated Damages. The State shall notify the Contractor of amounts to be assessed as Liquidated Damages. The parties agree that due to the complicated nature of the Contractor's obligations under this Contract it would be difficult to specifically designate a monetary amount for a Breach by Contractor as said amounts are likely to be uncertain and not easily proven. Contractor hereby represents and covenants it has carefully reviewed the Liquidated Damages contained in above referenced, Appendix E and agree that said amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of Breach, and are a reasonable estimate of the damages that would occur from a Breach. It is hereby agreed between the parties that the Liquidated Damages represent solely the damages and injuries sustained by the State in losing the benefit of the bargain with Contractor and do not include any injury or damage sustained by a third party. The Contractor agrees that the liquidated damage amount is in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or other section of this Contract.

The State may continue to withhold the Liquidated Damages or a portion thereof until the Contractor cures the Breach, the State exercises its option to declare a Partial Default, or the State terminates the Contract. The State is not obligated to assess Liquidated Damages before availing itself of any other remedy. The State may choose to discontinue Liquidated Damages and avail itself of any other remedy available under this Contract or at law or equity; provided, however, Contractor shall receive a credit for said Liquidated Damages previously withheld except in the event of a Partial Default.

- (3) Partial Default— In the event of a Breach, the State may declare a Partial Default. In which case, the State shall provide the Contractor written notice of: (1) the date which Contractor shall terminate providing the service associated with the Breach; and (2) the date the State will begin to provide the service associated with the Breach. Notwithstanding the foregoing, the State may revise the time periods contained in the notice written to the Contractor.

In the event the State declares a Partial Default, the State may withhold, together with any other damages associated with the Breach, from the amounts due the Contractor the greater of: (1) amounts which would be paid the Contractor to provide the defaulted service; or (2) the cost to the State of providing the defaulted service, whether said service is provided by the State or a third party. To determine the amount the Contractor is being paid for any particular service, the Department shall be entitled to receive within five (5) days any requested material from Contractor. The State shall make the final and binding determination of said amount.

The State may assess Liquidated Damages against the Contractor for any failure to perform which ultimately results in a Partial Default with said Liquidated Damages to cease when said Partial Default is effective. Upon Partial Default, 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. Contractor agrees to cooperate fully with the State in the event a Partial Default is taken.

- (4) **Contract Termination**— In the event of a Breach, the State may terminate the Contract immediately or in stages. The Contractor shall be notified of the termination in writing by the State. Said notice shall hereinafter be referred to as Termination Notice. The Termination Notice may specify either that the termination is to be effective immediately, on a date certain in the future, or that the Contractor shall cease operations under this Contract in stages. In the event of a termination, the State may withhold any amounts which may be due Contractor without waiver of any other remedy or damages available to the State at law or at equity. The Contractor shall be liable to the State for any and all damages incurred by the State and any and all expenses incurred by the State which exceed the amount the State would have paid Contractor under this Contract. Contractor agrees to cooperate with the State in the event of a Contract Termination or Partial Takeover.
- b. **State Breach**— In the event of a Breach of Contract by the State, the Contractor shall notify the State in writing within 30 days of any Breach of Contract by the State. Said notice shall contain a description of the Breach. Failure by the Contractor to provide said written notice shall operate as an absolute waiver by the Contractor of the State's Breach. In no event shall any Breach on the part of the State excuse the Contractor from full performance under this Contract. In the event of Breach by the State, the Contractor may avail itself of any remedy at law in the forum with appropriate jurisdiction; provided, however, failure by the Contractor to give the State written notice and opportunity to cure as described herein operates as a waiver of the State's Breach. Failure by the Contractor to file a claim before the appropriate forum in Tennessee with jurisdiction to hear such claim within one (1) year of the written notice of Breach shall operate as a waiver of said claim in its entirety. It is agreed by the parties this provision establishes a contractual period of limitations for any claim brought by the Contractor.
- E.22. **Partial Takeover**. The State may, at its convenience and without cause, exercise a partial takeover of any service which the Contractor is obligated to perform under this Contract, including but not limited to any service which is the subject of a subcontract between Contractor and a third party, although the Contractor is not in breach (hereinafter referred to as "Partial Takeover"). Said Partial Takeover shall not be deemed a Breach of Contract by the State. Contractor shall be given at least 30 days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the State will assume and the date of said assumption. Any Partial Takeover by the State shall not alter in any way Contractor's other obligations under this Contract. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the service as determined by the State. The amounts shall be withheld effective as of the date the State assumes the service. Upon Partial Takeover, 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.23. **Unencumbered Personnel**. All persons assigned by the Contractor to perform services for the State under this Contract, whether they are employees, agents, subcontractors, or principals of the Contractor, shall not be subject to any employment contract or restrictive covenant provisions which would preclude those persons from performing the same or similar services for the State after the termination of this Contract, either as a State employee, an independent contractor, or an employee, agent, subcontractor or principal of another contractor with the State. If the Contractor provides the State with the services of any person subject to a restrictive covenant or contractual provision in violation of this provision, any such restrictive covenant or contractual provision will be void and unenforceable, and the Contractor will pay the State and any person involved all of its expenses, including attorneys fees, caused by attempts to enforce such provisions.
- E.24. **State Interest in Equipment—Uniform Commercial Code Security Agreement**. The Contractor shall take legal title to all equipment and to all motor vehicles, hereinafter referred to as "equipment," purchased totally or in part with funds provided under this Contract, subject to the State's equitable interest therein, to the extent of its *pro rata* share, based upon the State's

contribution to the purchase price. "Equipment" shall be defined as an article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds \$5,000.00.

As authorized by the provisions of the terms of the Tennessee Uniform Commercial Code— Secured Transaction, found at Title 47, Chapter 9 of the **Tennessee Code Annotated**, and the provisions of the Tennessee Motor Vehicle Title and Registration Law, found at Title 55, Chapter 1 of the **Tennessee Code Annotated**, an intent of this Contract document and the parties hereto is to create and acknowledge a security interest in favor of the State in the equipment or motor vehicles acquired by the Contractor pursuant to the provisions of this Contract document. A further intent of this Contract document is to acknowledge and continue the security interest in favor of the State in the equipment or motor vehicles acquired by the Contractor pursuant to the provisions of this program's prior year Contracts between the State and the Contractor.

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

The Contractor agrees to be responsible for the accountability, maintenance, management, and inventory of all property purchased totally or in part with funds provided under this Contract. The Contractor shall maintain a perpetual inventory system for all equipment purchased with funds provided under this Contract and shall submit an inventory control report which must include, at a minimum, the following:

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

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

The Contractor shall notify the State, in writing, of any equipment loss describing reason(s) for the loss. Should the equipment be destroyed, lost, or stolen, the Contractor shall be responsible

to the State for the *pro rata* amount of the residual value at the time of loss based upon the State's original contribution to the purchase price.

The Contractor shall submit its inventory control report of all equipment purchased with the final invoice submitted under this Contract. This inventory control report shall contain, at a minimum, the requirements specified above for inventory control.

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

E.25. Public Funding Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Contractor relative to this Contract shall include the statement, "This project is funded under an agreement with the State of Tennessee." Any such notices by the Contractor shall be approved by the State.

E.26. Indemnification Regarding Policies.

- a. The indemnification of Section E.21, includes but is not limited to, any claims or losses arising from the promulgation or implementation of the Contractor's policies and procedures whether or not said policies and procedures have been approved by the State.
- b. The indemnification of Section E.21. includes, but is not limited to any claims of the Contractor's wrongdoing in implementing the Departmental policies listed in Appendix C.
- c. With regard to any claim that the Departmental policies listed on Appendix C are unlawful (i.e., the issue is that the policies and procedures are lawful on their face), if the State is named as a party, the Attorney General, his designee or an independent Contractor hired for that purpose will represent the State. The Contractor will be responsible for its own defense. The State will be liable for any judgment against it and the Contractor will be liable for any judgment against it. However, this subsection shall not apply if the claim in any way arises from Contractor's failure to appropriately implement policy.
- d. The Contractor agrees to send copies of any and all documents which have been filed in any lawsuit naming the Contractor and/or its employees in which concern the operation of the Facility under this Contract to the State.
- e. Contractor shall not waive, release, or otherwise forfeit any possible defense the State may have regarding claims arising from or made in connection with the operation of the Facility by Contractor without the consent of the State. Contractor shall preserve all such available defenses and cooperate with the State to make such defenses available to the maximum extent allowed by law.

E.27. General Provisions. Unless otherwise required by the State, all insurance provided by the Contractor shall be in conformance with the General Specifications for Insurance detailed in Appendix D. Upon written request by the State, Contractor shall revise or supplement the insurance listed on Appendix D and may seek a compensation adjustment pursuant to Section C.11.

E.28. Types of Insurance. The Contractor shall continuously maintain and pay for insurance and insurance company services meeting the general and specific provisions set forth in Appendix D during the term of this Contract, for the following types of insurance:

- a. Workman's Compensation
- b. General Liability, excluding products and completed operations
- c. Products and Completed Operations Liability

- d. Business Automobile Liability
- e. Owned and Non-owned Aircraft Liability
- f. Umbrella/Excess Liability
- g. Director's and Officer's Liability
- h. Professional and Medical Liability covering nurses, attorneys, counselors, psychologists, and social workers
- i. Property/Boiler and Machinery
- j. Employee Dishonesty

E.29. Fire and Property Insurance. The State shall maintain all risk property insurance on the State's buildings which comprise the Facility. The Contractor shall obtain and keep in force insurance on all property to be located at the Facility.

E.30. Defense/Immunity. Notwithstanding any provision contained herein to the contrary, the State does not waive any immunity defenses which may exist by operation of law, including, but not limited to, limitations on the amount of damages which may be awarded or paid.

E.31. Financial Strength. The Contractor shall, prior to signing this Contract, file with the State audited financial statements showing a net stockholders equity, calculated according to generally accepted accounting principles consistently applied, of not less than five million dollars (\$5,000,000). Thereafter, the Contractor shall file annually, on or before April 1 of each year, the previous fiscal year end audited financial statements and if the net stockholders equity of the company shall ever be less than five million dollars (\$5,000,000), the State may declare the Contractor in default unless the Contractor provides alternative evidence of equivalent financial worth within thirty (30) days of demand by the State.

E.32. Exception to General Indemnification. The indemnification provisions of this Section shall not apply to injury, death or damage to property arising solely out of the negligence or misconduct of the State, its officers, agents, servants or independent Contractors (other than Contractor) who are directly responsible to the State.

E.33. Notwithstanding any other provision of this Contract to the contrary, nothing contained herein shall be interpreted to authorize, allow or imply authority of the Contractor to do the following:

- a. develop or implement procedures for calculating Inmate release and parole eligibility dates;
- b. develop and implement procedures for calculating and awarding sentence credits;
- c. approve Inmates for furlough and work release;
- d. approve the type of work an Inmate may perform, and the wages or sentence credits which may be given to Inmates engaged in such work; and
- e. grant, deny or revoke sentence credits; place an Inmate under less restrictive custody or more restrictive custody; or take any disciplinary actions; provided, however, that this Section shall not prevent Contractor from making recommendations to the State with respect to any of the above in conformance with Departmental policy. The Commissioner shall determine whether any action or proposed action violates the provisions of this Section.

E.34. Contractor's Representations and Warranties.

- a. Representations of Contractor. Contractor represents and warrants to and for the benefit of State, with the intent that State will rely thereon for purposes of entering into this Contract, as follows:

- b. The Contractor's Proposal, incorporated herein by reference, contains no material misrepresentations by the Contractor. This Contract contains no factual changes from the Proposal submitted by the Contractor.
- c. Organization and Qualification. Contractor has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Maryland with power and authority to own its properties and conduct its business as presently conducted. Contractor is duly qualified to do business as a foreign corporation in good standing in Tennessee and shall so remain during the term of this Contract.
- d. Authorization. This Contract has been duly authorized, executed, and delivered by Contractor and, assuming due execution by the appropriate State officials as indicated on the signature page of this Contract and delivery by State, constitutes a legal, valid, and binding agreement enforceable against Contractor in accordance with its terms.
- e. No Violation of Contract, Articles of Incorporation or Bylaws. The consummation of the transactions contemplated by this Contract and its fulfillment of the terms hereof will not conflict with, or result in a breach of any of the terms and provisions of, or constitute a default under any indenture, mortgage, deed of trust, lease, loan agreement, license, security agreement, Contract, governmental license or permit, or other agreement or instrument to which Contractor is a party or by which its properties are bound, or any order, rule, or regulation of any court or any regulatory body, administrative agency, or their governmental body applicable to Contractor or any of its properties, except any such conflict, breach, or default which would not materially and adversely affect Contractor's ability to perform its obligations under this Contract, and will not conflict with, or result in a breach of any of the terms and provisions of, or constitute a default under, the Articles of Incorporation (or other corresponding charter document) or Bylaws of Contractor.
- f. No Defaults under Agreements. Contractor is not in default, nor is there any event in existence which, with notice or the passage of time or both, would constitute a default by Contractor, under any indenture, mortgage, deed of trust, lease, loan agreement, license, security agreement, Contract, governmental license or permit, or other agreement or instrument to which it is a party or by which any of its properties are bound and which default would materially and adversely affect Contractor's ability to perform its obligations under this Contract.
- g. Compliance with Laws. Contractor, its officers and directors purporting to act on behalf of Contractor or such officers and directors have been conducting business in compliance with all applicable laws, rules, and regulations of the jurisdictions in which Contractor is conducting business including all safety laws and laws with respect to worker's compensation, discrimination in hiring, promotion or pay of employees. Contractor warrants that Contractor, and its current and former officers and directors have no convictions regarding criminal activity;
 - 1. no pending charges regarding criminal activity, or
 - 2. to their knowledge, no investigations on-going by any state, local or federal authorities regarding any possible criminal activity, except as provided in writing.
- h. No Litigation. There is not now pending or, to the knowledge of Contractor, threatened, any action, suit, or proceeding to which Contractor is or may be a party, before or by any court or governmental agency or body, which might result in any material adverse change in Contractor's ability to perform its obligations under this Contract, or any such action, suit, or proceeding related to environmental or civil rights matters; and no labor disturbance by the employees of Contractor exists or is imminent which might materially and adversely affect Contractor's ability to perform its obligations under this Contract.
- i. Financial Statements. Contractor has delivered to State copies of financial statements provided in its Proposal. Contractor represents such financial statements fairly present the financial position of Contractor at the dates shown and the results of the operations for the periods covered, and have been prepared in conformity with generally accepted

accounting principles applied on a consistent basis, except as discussed in the notes to the financial statements.

- j. No Adverse Change. Since the date of Contractor's financial statements described in Section E.26. provided to State, there has not been any material adverse change in Contractor's business or condition, nor has there been any change in the assets or liabilities or financial condition of Contractor from that reflected in such financial statements which is material to Contractor's ability to perform its obligations under this Contract.
 - k. Disclosure. There is no material fact which materially and adversely affects or in the future will (so far as Contractor can now reasonably foresee) materially and adversely affect Contractor's ability to perform its obligations under this Contract which has not been accurately set forth in this Contract or otherwise accurately disclosed in writing to State by Contractor prior to the date hereof.
 - l. Opinion of Contractor's Counsel. Contractor shall furnish to State an opinion of counsel in connection with this Contract dated as of the date of the Contract. Such opinion shall address the Contractor's compliance with applicable law, affirm its authority to enter into this Contract, indicate that the Contractor is not currently in litigation or have notice of litigation that could cause the Contractor not to perform the terms of this Contract, affirm the enforceability of this Contract in accordance with its terms, and affirm that the financial statements provided by the Contractor were prepared in accordance with generally accepted accounting principles.
- E.35 Binding Nature. This Contract shall not be binding until the State has received a Payment and Performance Bond as required by the RFP and evidence of insurance required by the RFP and it is approved as provided in Section D.1.
- E.36. Terminology and Definitions. All personal pronouns used in this Contract, whether used in the masculine, feminine, or neuter gender, shall include all other genders; the singular shall include the plural and the plural shall include the singular.
- E.37. Change in Owners. Contractor shall notify the State in writing of any change of ownership of the Contractor, through sale or merger, which occurs during the term of the Contract. Contractor shall inform the State fully of the financial ability of the new ownership to fully comply with the terms and conditions of the Contract. The State reserves the right to terminate the Contract in the event of a change in ownership without penalty to the State or to consider the failure to comply with the notification or financial reporting provisions as a Breach by the Contractor.
- E.38. Approval of Bond Counsel.
- a. Because construction of the Facility was funded through the issuance of tax exempt, general obligations debt, the use and management of the Facility by the Contractor and any and all subcontractors in subject to and constrained by the Federal Tax laws and regulations governing tax exempt financing. Therefore, this Contract is subject to review by the State's bond counsel before approval.
 - b. In addition, any use of the Facility by Contractor and all subcontractors, including, but not limited to, the conduct of an industries program pursuant to Section A.4.bb of the Contract, which results in any payment to the State, either directly or indirectly, is subject to review by the State's bond counsel before approval.
- E.39. Release. Contractor, upon final payment of the amount due under this Contract, releases the State, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract. Contractor agrees not to purport to bind the State to any obligation not expressly assumed herein by the State.
- E.40. Subcontracting and Assignment.

- a. The Contractor shall provide that all subcontractors are notified in writing prior to the execution of the subcontract that the Facility is being funded through the issuance of tax exempt, general obligation debt and that the use and management of the Facility by the Contractor and any and all subcontractors is therefore subject to and constrained by the federal tax laws and regulations governing tax exempted financing. The State may consult with its Bond Counsel to determine whether any assignment or subcontract complies with such laws and regulations.
- b. The Contractor shall provide that all subcontracts may be assignable to the State at the State's sole discretion. Any subcontract shall also provide that the State shall not be responsible for any outstanding liability to the subcontractors incurred by the Contractor and that the State may terminate such subcontracts upon giving thirty days prior written notice with or without cause.

Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.

- E.41. Research Projects. Contractor shall not publish or disseminate any findings based on data obtained from the operation of the Contract or engage in any research projects without the prior written consent of the Department.
- E.42. Sovereign Immunity. The sovereign immunity of the State shall not apply to the Contractor nor any subcontractor, agent, employee, or insurer of the Contractor. Neither the Contractor nor any subcontractor, agent, employee, or insurer of the Contractor may plead the defense of sovereign immunity in any action arising out of the performance of or failure to perform any responsibility or duty under this Contract.
- E.43. Waiver. No consent, waiver or excuse of any Breach of any of the terms or conditions of this Contract shall be held to be a consent, waiver, or excuse of any other or subsequent Breach; nor shall any such waiver or excuse be valid or binding unless the same shall be in writing and approved and executed by the party alleged to have granted the waiver as indicated on the signature page of the Contract.
- E.44. Third Party Beneficiary. Neither the Contractor nor the State intends to create rights for any third party by the Contract and no third party beneficiary rights are created hereby. Third parties shall mean all persons except the State and the Contractor, including but not limited to employees of Contractor, subcontractors of Contractor and Inmates located at the Facility.
- E.45. Laws. The Contractor shall comply with all applicable federal, state, and local constitutions, laws, and regulations, court decisions, Court Orders, and any applicable state and federal orders in the performance of the Contract including but not limited to the provisions of T.C.A. 41-24-101, et seq., which may be in effect during the term of this Contract.
- E.46. Attorney Fees. The Contractor agrees that in the event either party deems it necessary to take legal action to enforce any provision of the Contract and in the event the State prevails, the Contractor shall pay all expenses of such action, including but not limited to the State's attorney fees and costs of all stages of the litigation.
- E.47. Approvals. Any policies, procedures or other documents contained or referenced in this Contract subject to the State's approval under the terms this Contract shall remain subject to State prior written approval whenever they are revised, amended, replaced or supplemented.
- E.48. Fraud/Misrepresentation. If, in the course of any stage under the RFP, Proposal evaluation, Contract negotiation, Contract execution or term of the Contract, the Contractor commits fraud, misrepresentation or conspiracy to defraud the State, the State shall have the right to pursue any remedies described in Section E.4. and/or pursue any criminal sanctions allowed by law.

- E.49. Financial Termination. The State may terminate the Contract without penalty to the State in the event the Contractor:
- a. admits in writing its inability to pay its debts;
 - b. makes a general assignment for the benefit of creditors;
 - c. suffers a decree or order appointing a receiver or trustee for it or substantially all of its property to be entered and, if entered without its consent, not to be stayed or discharged within 60 days;
 - d. suffers proceedings under any law relating to bankruptcy, insolvency, or the reorganization or relief of debtors to be instituted by or against it and, if contested by Contractor, not to be dismissed or stayed within 60 days; or
 - e. suffers any judgment, writ of attachment or execution, or any similar process to be issued or levied against a substantial part of its property which is not released, stayed, bonded, or vacated within 60 days after issue or levy.
- E.50. Set-Off. 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 parties any amounts which are or shall become due and payable to the State by the Contractor. The State may withhold any amounts which may otherwise be due the Contractor without waiver of any other remedy or damages available to the State under this Contract at law or at equity.
- E.51. Construction. In the event of a dispute about the construction or interpretation of any provision of the Proposal, said Proposal shall be construed in favor of the State. The parties agree that should a dispute arise involving the construction or interpretation of the RFP or this Document, said documents shall not be construed or interpreted in favor of either party.
- E.52. Written Notices. The necessity of written notices herein shall be strictly construed.
- E.53. Implied Covenants or Agreements. The State shall be bound only by the express, written terms contained herein and shall not be bound by any implied covenants or agreements.
- E.54. Approvals. Contractor agrees to accept and implement any revisions, alterations or supplements suggested by the State to any document, plan, policy or procedure which requires State approval.
- E.55. Notices. Failure of the State to provide any notice to Contractor described in this Contract whether or not the State had knowledge of the appropriateness of said notice shall not relieve the Contractor of its obligation to perform in accordance with the Contract and shall not be a waiver or excuse of any failure to perform.
- E.56. No Contingent Fees. No person or entity shall be employed or retained or given anything of monetary value on a contingent fee basis to solicit or secure this Contract, except bona fide employees of Contractor (including proposed subcontractors) or bona fide established commercial or professional entities retained by Contractor for the purpose of securing business. For violation of this Section, in addition to the remedies available pursuant to Section E.21., the State shall have the right to deduct from any amount owed Contractor the amount of such commission, percentage, brokerage or contingent fee, and other benefit from the Contractor.
- E.57. Prison Rape Elimination Act (PREA): Contractor will comply with the Prison Rape Elimination Act of 2003, 42. U.S.C. 15601 et seq., [PREA] and with all applicable PREA Standards for preventing, detecting, monitoring, investigating, and eradicating any form of sexual abuse in the performance of the Contract. Contractor acknowledges that, in addition to self-monitoring requirements imposed by such laws and standards, the State will conduct announced or unannounced compliance monitoring to include on-site monitoring. Failure to comply with PREA and PREA Standards may result in termination of the contract.

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF CORRECTION:

DERRICK D. SCHOFIELD, COMMISSIONER

DATE

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

MARK EMKES, COMMISSIONER

DATE

STATE ARCHITECT:

ROBERT E. OGLESBY, STATE ARCHITECT

DATE

COMPTROLLER OF THE TREASURY:

JUSTIN P. WILSON, COMPTROLLER OF THE TREASURY

DATE

ATTORNEY GENERAL AND REPORTER:

ROBERT E. COOPER, JR.,
ATTORNEY GENERAL AND REPORTER

DATE

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	32944-00006
CONTRACTOR LEGAL ENTITY NAME:	
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	

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

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. 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

MANAGEMENT AND OPERATION OF SOUTH CENTRAL CORRECTIONAL CENTER

LIST OF CONTRACT APPENDICES

(NEED UPDATED INFORMATION)

Appendix A	Description of Real Property
Appendix B	Personal Property Listing – Updated information to be provided with posted RFP
Appendix C	Listing of TDOC Policies Applicable to the Contract
Appendix D	General Specifications for Insurance
Appendix E	Liquidated Damages Schedule
Appendix F	Security Addendum
Appendix G	Performance and Cost Evaluation Form

APPENDIX A

Being a tract of land lying in Wayne County, Tennessee and being more particularly described as follows;

Beginning at an iron rod set at North 383944.9403, East 1372374.1866 on the Tennessee State Plane Coordinate System, North American Datum of 1983, said iron rod being approximately South 34 degrees 30 minutes 56 seconds West, 1077.66 feet from the intersection of West 3rd Street and Carroll Road, said intersection being at North 384832.9011, East 1372984.8225 on the Tennessee State Plane Coordinate System;

Thence South 12 degrees 48 minutes 14 seconds West, 873.48 feet to an iron rod set;

Thence South 71 degrees 51 minutes 30 seconds East, 1350.00 feet to an iron rod set;

Thence South 78 degrees 53 minutes 51 seconds East, 551.85 feet to an iron rod set:

Thence South 11 degrees 06 minutes 09 seconds West, 1833.06 feet to an iron rod set on the westerly property line of William James, as of record in Book 102, Page 227, at the Register's Office for Wayne County, Tennessee, also known as Lot 51, Ross Creek Ridge Subdivision, as of record in Plat Book a, Page 170, at said Register's Office;

Thence with the westerly property line of William James South 06 degrees 16 minutes 50 seconds West, 265.66 feet to an existing iron rod on the westerly property line of Marion Slaughter, as of record in Book 139, Page 16, at said Register's Office, also known as Lot 50, Ross Creek Ridge Subdivision;

Thence with the westerly property line of Marion Slaughter, South 27 degrees 06 minutes 21 Seconds West, 1110.16 feet to an existing iron rod at a corner common with Patrick W. Harold, as of record in Book 96, Page 551, at said Register's Office, also known as Lot 30, Ross Creek Ridge Subdivision;

Thence with the northerly property line of said Patrick Harold and Farm Credit Services of Mid-America FLCA, as of record in Book 121, Page 429 and John H. Clark Jr., as of record in Book 125, Page 963, at said Register's Office, North 82 degrees 52 minutes 53 seconds West, 2488.65 feet to an existing iron rod;

Thence with the easterly property line of John H. Clark Jr., North 07 degrees 09 minutes 22 seconds East, 2316.32 feet to an existing iron rod at a corner common with the State of Tennessee, as of record in Book 127, Page 194, at said Register's Office;

Thence with the easterly property line of the State of Tennessee, North 07 degrees 53 minutes 54 seconds East, 614.19 feet to an iron rod set at a corner common with the City of Clifton, as of record in Book 93, Page 723, at said Register's Office;

Thence with the southerly property line of the City of Clifton, South 85 degrees 11 minutes 05 seconds East, 550.00 feet to an iron rod set;

Thence North 04 degrees 48 minutes 55 seconds East, 600.00 feet to an iron rod set;

Thence North 85 degrees 11 minutes 05 seconds West, 50.00 feet to an iron rod set;

Thence North 04 degrees 48 minutes 55 seconds East, 682.00 feet to an iron rod set;

Thence North 66 degrees 53 minutes 30 seconds East, 113.18 feet to an iron rod set;

Thence South 84 degrees 11 minutes 05 seconds East, 646.93 feet to the point of beginning, containing 9,778,661 square feet (224.49 acres more or less).

Being part of the same property conveyed to the State of Tennessee, as of record in Book 127, Page 194, at said Register's Office.

Appendix B

PERSONAL PROPERTY LISTING

Updated information to be provided with posted RFP

APPENDIX C

LISTING OF TDOC POLICIES APPLICABLE TO THE CONTRACT

SCCC/HCCC/WCF-CURRENT APPLICABLE TDOC POLICIES

- 101.04.1 Policies and Procedures Distribution/Inmate Access
- 101.06 Policy and Procedure Exemptions
- 103.01 Quarterly Reports
- 103.02 Incident Reporting
- 103.03 Open Parole Hearings
- 103.04 Provision of Information and Access to the Media and Public
- 103.05 Inmate Emergency Notification
- 103.07 Annual Inspections
- 103.10 Title VI-Civil Rights Act of 1964
- 103.11 Notification to Victim/Member of the Public and Confidentiality of Information
- 103.11.1 Victim-Offender Dialogue Program
- 103.12 Documentation of Significant Offender Related Contacts
- 103.13 Administration of Victim Services
- 103.14 Victim Impact Program
- 105.03 Diplomatic Access for Foreign National Inmates
- 107.01 Investigations Unit Authority, Responsibilities, Personnel – Section and Training
- 107.02 Investigations Unit Operational Procedures
- 107.03 Institutional Internal Affairs Investigator, Selection, and Responsibilities
- 107.04 Office of Investigations and Compliance
- 108.01 Facility Maintenance and Construction – **SCCC IS REQUIRED TO IMPLEMENT**
- 108.02 Design and Construction of Prison Facilities
- 108.03 Building and Safety Codes
- 109.04 Restriction of TOMIS and State Network Access by Offenders
- 109.05 Acceptable Use of Network Resources
- 110.08 Level of Service/Case Management Inventory Training
- 112.02 Self Contained and Emergency Response Breathing Apparatus
- 112.03 Occupational Health and Safety
- 112.04 Fire and Emergency Evacuation Plan
- 112.05 Monitoring and Conducting Fire Prevention and Building Construction Safety Inspections
- 112.08 Personal Hygiene Resources for Inmates
- 112.09 Control and Use of Flammable, Toxic, and Caustic Materials
- 112.11 Smoke-Free Policy (TDOC Institutions and Academy)
- 113.01 Health Services Administration
- 113.02 Health Care Facilities, Equipment, and Supplies
- 113.03 Health Services Disaster Procedures Plan
- 113.04 Medical Requirements for the Release/Transfer of Inmates
- 113.05 Death and Autopsies
- 113.08 Prosthetics and Durable Medical Equipment
- 113.09 Health Services Quality Improvement
- 113.10 Credentials of Health Care Personnel
- 113.11 Clinical and Nursing Protocols
- 113.12 Specialty Consultant Services
- 113.13 Employee Health Care – **SCCC AND WCF HAVE CHOSEN TO IMPLEMENT**
- 113.14 Inmate Workers in Health Care
- 113.15 Inmate Co-payment of Health Services
- 113.20 Intake Physical Examination
- 113.21 Health Classification
- 113.22 Health Orientation
- 113.23 Initial Health Screening and Evaluation
- 113.24 Inmates Assigned to Jobs in Food Services
- 113.30 Access to Health Care
- 113.31 Sick Call/Assessment of Health Complaints

113.32 Levels of Care

APPENDIX C

(continued)

113.33 Telehealth
113.34 Extended Health Services
113.35 Therapeutic Diets
113.36 Hunger Strike
113.40 Health Education
113.41 Periodic Health Appraisal
113.42 Communicable Diseases
113.43 Immunizations: Inmate Population
113.44 Tuberculosis (TB) Control
113.45 AIDS: Education, Prevention and Case Management
113.50 Health Records
113.51 Consent\Refusal of Treatment
113.52 Release of Protected Health Information
113.53 Accident/Injury Reporting
113.54 Health Statistics Collection and Reporting
113.60 Dental Services Administration
113.62 Dental Specialties
113.70 Management of Pharmaceuticals
113.71 Administration/Distribution of Medication
113.72 Management of Hazardous Medical Devices
113.78 Radiology Services - **SCCC AND WCF HAVE CHOSEN TO IMPLEMENT**
113.80 Mental Health Services Administration and Delivery
113.81 Mental Health Documentation
113.81.1 Mental Health Statistics and Reports
113.82 Mental Health Referral Triage Process
113.82.1 Transition for Offenders with Mental Illness
113.83 Mental Health Evaluation and Mental Health Treatment Plan
113.84 Clinical Assessments, Mental Health Appraisals, and Psychological Testing
113.85 Mental Health Treatment Team
113.86 Mental Health Due Process and Transfer
113.87 Mental Health Levels of Care
113.88 Mental Health Seclusion and Suicide Monitoring
113.89 Psychotropic Medication/involuntary Treatment
113.92 DNA Specimen Collection and Documentation
113.93 Detoxification
113.94 Comprehensive Medical Drug Screening
114.02 Research Projects
115.01 Standards for Volunteers and Coordination of Community Involvement
117.01 Administrative Guidelines/Educational Programs
117.02 Academic Programs
117.03 Vocational Programs
117.04 Career Management for Success and Release for Success Programs
117.05 Title One Programs
117.06 Inmate Academic/Vocational Education Records
117.07 Special Education Programs
118.01 Religious Programs
202.05 Notary Commissions – **HCCC HAS CHOSEN TO IMPLEMENT**
205.02 Contract Monitoring
206.01 State Personal Property
208.01 Trust Fund Accounts
208.03 Collection of Taxes and Other Amounts Owed by Offenders
208.06 Money Found on Inmates and/or Institution
208.07 Reclaiming Confiscated Currency
208.08 Inmate Telephone Debit System-**SCCC IS REQUIRED TO IMPLEMENT**

208.09 Arts and Crafts Sales

APPENDIX C

(continued)

- 208.10 Voluntary Participation/Agreement with Wage Deductions-P.I.E. Programs – **SCCC IS**
REQUIRED TO IMPLEMENT
- 216.01 Tennessee Public Records Act and Reproduction of Public Records
- 301.04 Job Requirements
- 305.03 Employee/Offender Interaction
- 401.01 Classification Programs Administration
- 401.02 Receiving and Receipting of Inmates
- 401.03 Organization of the Classification Committee
- 401.04 Initial Classification Process
- 401.05 Reclassification Process
- 401.06 Custody Overrides
- 401.08 Classification Hearing Process
- 403.01 Institutional Transfers
- 403.01.1 Transfer of Records
- 403.02 Central Transportation System
- 403.03 Interstate Transportation
- 403.05 Population Reporting
- 404.05 Orientation Program
- 404.07 Minimum Custody Placement
- 404.07.1 Notification to Committing Jurisdictions
- 404.09 Protective Services
- 404.10 Administrative Segregation, Placement and Release
- 501.01 Inmate Grievance Procedures and the accompanying *Inmate Grievance Handbook*
- 502.01 Uniform Disciplinary Procedures
- 502.02 Disciplinary Punishment Guidelines
- 502.04 Rule Books for Inmates
- 502.05 Definitions of Disciplinary Offenses
- 502.06 Prison Rape Elimination Act
- 503.04 Inmate Councils
- 503.07 Inmate Marriages
- 503.08 Telephone Privileges
- 503.11 Motor Vehicle Operation by Inmates
- 504.01 Inmate Personal Property and the Personal Property Memo
- 504.02 Inmate Personal Property Accounting System
- 504.04 Inmate Pay
- 504.05 Inmate Clothing
- 505.01 Sentence Credits
- 505.07 Inmate Programming (Jobs/Classes/Treatment)
- 505.08 Community Service Work Projects
- 505.09 Coordination and Cooperation between TDOC and TRICOR at the Facility Level-**SCCC IS**
REQUIRED TO IMPLEMENT
- 505.10 Work Release Job Placement
- 506.01 Custody and Security Levels
- 506.02 Key Control
- 506.03 Tool Control
- 506.04 Armory Control
- 506.05 Control of Gates, Perimeter, and Communications
- 506.06 Searches
- 506.07 Use of Restraint Devices
- 506.07.1 Use of Chemical Agents
- 506.07.2 Correctional Emergency Response Team (CERT)
- 506.07.5 Use of Specialty Impact Weapons/Munitions
- 506.08 Use of Force/Use of Weapons for Deadly Force

506.10 Escorted Emergency Visits

APPENDIX C

(continued)

506.11 Population Count
506.12 Escapes
506.13 Identification of Inmates
506.14 Housing Assignments
506.14.2 Housing and Programming of Youthful Offenders
506.15 Disposition of Contraband
506.16 Living Conditions for Segregated Inmates
506.20 Emergency Operations Plans
506.21 Inmate Drug/Alcohol Testing and Sanctions
506.25 Security Threat Group Intelligence
506.26 Security Threat Group Program Identification, Placement, and Operation
506.27 Correctional Intelligence Initiative
506.28 Commissioner Security Alert
507.01 Visitation
507.01.1 Non-Contact Visitation
507.02 Inmate Mail
508.01 Social Service Programs
508.04 Counseling Services
510.02 Arts & Crafts Program & the Purchase of Arts & Crafts Items/Vocational Services
511.01 Furloughs
511.01.1 Medical Furloughs
511.03 Release Procedures
511.04 Coordination/Cooperation with Board of Parole
511.05 Identification for Post Release
512.01 Inmate Institutional Records
513.02 Transition Center Programming
513.04 Transitional Assessment Plan (TAP)
513.04.1 Transition Assessment Plan – Behavioral Intervention Goals (TAP-BIG)
513.05 Inmate Monitoring
513.06 Level of Service/Case Management Inventory Quality Assurance
513.07 Substance Abuse Programming and Services Delivery

Appendix D General Specifications for Insurance

**State of Tennessee
Department of Correction
General Insurance Specifications**

Insurance Company Eligibility

Proposals will be accepted from Bidders whose insurance companies are authorized to do business in the State of Tennessee, having a Best's Rating of "A" or better, and a financial size of "Class VII" or better, in the latest edition of Best's Insurance Reports. Any requested deviation from this requirement must be included in the Written Comments. See Section 2 of the RFP Schedule of Events for the Written Comments timeline. Such request will be addressed in the form of an Amendment to the RFP. Any non-admitted insurer must be on the current approved list of the Tennessee Department of Insurance. This list can be accessed by going to:

www.state.tn.us/commerce/insurance/surpluslines.html and clicking on the bullet point titled "List of Surplus Line Insurers."

Contractor and Insurance Company Services Required

The following list of required minimum services must be provided by the successful Contractor's insurance agent and/or by the insurance company(ies):

1. Qualified loss control personnel, either employees or qualified independent contractors, must make inspections of the insured locations for loss prevention purposes for third party and employee exposures. If an independent contractor is used, that organization must be identified in the proposal.
2. A quarterly status of all claims occurring with respect to worker's compensation, general liability, and business automobile liability insurance must be submitted to the State of Tennessee, Department of Correction. These reports must include at least the following information:
 - a. Amount of claim paid and/or reserved;
 - b. Claimant information; and
 - c. Cause and description of accident.
3. The Contractor must prepare an annual listing of all State of Tennessee, Department of Correction, insurance policies involved with this project including a discussion of the coverage provided and the estimated annual cost of each policy.
4. At least thirty (30) days prior to each policy anniversary date, the Contractor must provide State of Tennessee, Department of Correction, with renewal information, including estimated renewal premiums and suggested coverage changes.
5. The Contractor must provide constant monitoring of all companies providing coverage for State of Tennessee, Department of Correction, to ensure that the carriers are financially sound.
6. The Contractor must furnish continuing advice and counsel to the State of Tennessee, Department of Correction, as required.
7. The Contractor must provide notification of any material changes in the financial status of insurers providing coverage related to this facility including but not limited to downgrades from ratings agencies, mergers, acquisitions, or actions by insurance regulators of the State of Tennessee, other states, or federal authorities.
8. The Contractor must provide notification of any changes in the insurance carriers providing coverage.

Specimen Policies

Proposals will be accepted only if accompanied by specimen policies, showing all terms, conditions and exclusions as well as rates to be used for audit purposes. Blank forms are acceptable provided that all rates are shown for auditable exposures. Rates may be shown either on the policies or on a separate page.

Cancellation/Non-Renewal

Unless otherwise instructed, all policies shall be endorsed with an agreement that the company will give ninety (90) days prior written notice, by registered mail to the State of Tennessee, Department of Correction, of its intention (1) to cancel, not renew, or make any material change in the current coverages or premiums, or (2) to make any material change in the coverages or premiums on renewal of any policy.

Proposals

Proposals must be indicated as to separate types of insurance, although proposals may be for any package policy or mandatory groupings of coverage. We have enclosed a "Premium Proposal Form" which must be returned with the proposal. Individual premiums and combinations of premiums, to the extent applicable, must be indicated thereon, or on a reasonable facsimile thereof. Proposals will be considered as binding for the first year of coverage, except for changes in hazards or exposure units occurring after the inception of the insurance.

The limits of liability and the scope of coverages indicated are suggested by the State of Tennessee, Department of Correction, as a starting point. Evaluation of proposals will take into consideration deviations from and enhancements to the Insurance Specifications as set forth in this Addendum to the RFP.

Review of Insurance

It is intended that all insurance will be reviewed for contract compliance. However, the State of Tennessee, Department of Correction, reserves the right to reject all or any part of the insurance at any time. The review of insurance will be based upon:

1. Scope of coverage;
2. Company financial stability, experience and industry standing; and
3. Underwriting, claims and engineering services.

It is considered highly desirable, but not mandatory, to place as much of the insurance coverage with one principal company as practical. Therefore, proposals will be evaluated on an overall underwriting basis but the State of Tennessee, Department of Correction, may require any combination of coverage as it sees fit.

The limits required by the State of Tennessee, Department of Correction, are the minimum limits acceptable. However, these limits are not to be construed as being the maximum any prospective contractor may wish to purchase for their own benefit.

Nothing herein shall in any way limit the right of the State of Tennessee, Department of Correction, to recourse to the fullest extent permitted by law.

As respects the total limits of liability requested, any combination of primary and/or umbrella coverage may satisfy those totals. However, if an umbrella is used, coverage must be at least as broad as the primary coverages.

Named Insured

See attachment I to Appendix D - Insurance found on page 3 of 24.

Signature

All proposals will be considered as binding the insurance company. Therefore, each "Premium Proposal Form", or a reasonable facsimile thereof, should be signed by the Contractor's authorized Insurance Company representative who has binding authority.

Instructions

Pages 1 through 16 provide details on the scope of coverage specified in this RFP.

Pages 17 to 24 should be completed and returned in accordance with the Proposal Deadline as set forth in Section 2 (RFP Schedule of Events) of this RFP.

Attachment I

to Appendix D - Insurance

Named Insured

Unless otherwise instructed, the named insured for all insurance coverages should be:

The Contractor; and as respects damages and defense of claims arising from:

- (a) activities performed by or on behalf of the Contractor,
- (b) products and completed operations of the Contractor, or
- (c) premises owned, leased, or used by the Contractor; any subsidiary, affiliate, division or subdivision, corporate or otherwise, as may now or hereafter be constituted, and any other entity of which the named insured assumes management control;

Include as an Additional Insured:

State of Tennessee, Department of Correction, and all State officers, employees, and volunteers whether in their official or individual capacities

- a. in areas where the State of Tennessee, Department of Correction, and all State officers, employees, and volunteers whether in their official or individual capacities are not protected by immunity
- b. up to the limits of \$300,000/\$1,000,000 in areas where the State's tort liability is limited by T.C.A 9-8-307(e) as it may be amended or construed by the courts and/or claims commission.

Workers Compensation

Named insured: Attachment I to Appendix D - Insurance

Coverage: Statutory workers compensation and employers liability insurance.

Limits:

Employers Liability	\$1,000,000 per accident
Insurance	\$1,000,000 per employee disease
	\$1,000,000 Policy limit disease
	or as required by excess insurer.

Covered States: Tennessee

Scope of Coverage:

1. Other states insurance shall be afforded.
2. The voluntary compensation and employers liability coverage endorsement is to be attached.
3. Foreign voluntary compensation with repatriation expense at a \$10,000 limit shall apply. Include endemic disease.
4. USL&H.
5. Repatriation expense with a \$100,000 limit shall apply.
6. Coverage for endemic disease to be provided.
7. Coverage shall include stop gap liability employers liability in monopolistic states.
8. Federal Employers Liability Act will be included.
9. Waive liability for any actions against the State of Tennessee.

**General Liability Excluding Products
and
Completed Operations**

- Named Insured:** Attachment I to Appendix D - Insurance
- Coverage:** Quote either the comprehensive or commercial general liability format on an occurrence basis,
- A. Comprehensive General Liability**
- Coverage should include premises, operations, independent contractors, and broad form comprehensive general liability or their equivalent coverages.
- Limit: \$5,000,000 combined single limit per occurrence and \$10,000,000 aggregate
- B. Commercial General Liability**
- Coverage A should include premises, operations, independent contractors, contractual liability, fire legal liability and broad form property damage coverages.
 - Coverage B should include personal injury and advertising injury.
 - Coverage C, medical payments, is not desired.
- Limits:
- Each occurrence:
Quote \$5,000,000
- Personal and advertising injury limit:
Quote \$5,000,000
- General aggregate limit:
Quote \$10,000,000
- Deductible:** Specify whether a deductible, if any, will apply
- Scope of Coverage:**
1. Provide blanket contractual liability for any agreement relating to the business of the insured, including oral agreements.
 2. Coverage to apply to liability arising out of independent contractor operations.
 3. Employees shall be additional insureds while acting within the scope of their duties.
 4. Personal injury and advertising injury liability shall be included with the employment and contractual exclusions deleted.
 5. Provide liquor legal liability coverage.
 6. Fire legal liability is to be insured with a limit of \$1,000,000 per occurrence for real property.
 7. Any waiver of subrogation shall be permitted, provided such waiver takes place before the loss and with prior consent of the State of Tennessee, Department of Correction.
 8. Coverage to include non-owned watercraft liability with no length restriction.
 9. Bodily injury liability arising from protecting persons or property to be insured.
 10. Incidental malpractice liability coverage to be afforded.
 11. Worldwide coverage shall apply for claims or suits brought within the United States.
 12. Delete any explosion, collapse and underground property damage exclusions.

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ATTACHMENT I RFS-32944-00006

13. Provide broad form property damage liability.
14. Delete any alienated premises exclusion.
15. Notice of occurrence:

When an occurrence takes place, written notice shall be given by or on behalf of the insured to the company or any of its authorized agents as soon as practicable after the accident or occurrence becomes known to the Risk Manager.
16. Blanket additional insureds:

All persons or entities (except vendors) for whom the insured has agreed to provide insurance in accordance with the terms of oral or written agreements shall be covered as additional insureds.
17. Cross Liability:

Employees of one insured shall be deemed members of the public as concerns other insureds. Said relationship shall be considered as applying to all of the insureds named as such in the definition of insureds.
18. Errors and omissions:

Coverage shall not be invalidated or affected by errors, inadvertent omissions, or improper descriptions of premises or operations described in the policy.
19. Employee benefits liability should be provided with limits of \$1,000,000 each claim or occurrence. Premium to be shown separately.
20. Stand-alone coverage for this project is desired, However, if the commercial general liability format is used, the aggregate limits are to apply per location and per project.
21. Amend the definition of personal injury to include mental anguish, mental injury, humiliation, discrimination and any other injury to the feelings and reputation ala natural person, except where prohibited by law.
22. Delete any fellow employee exclusion.
23. Failure to give notice:

The rights of the insured shall not be prejudiced if there is a failure to give notice of occurrence or incident due to the insured's inadvertent error or omission.
24. Extend coverage to provide sudden and accidental pollution liability.
25. Delete exclusions for personal injury and advertising injury arising out of advertising, publishing, broadcasting or telecasting.
26. Extend the coverage territory to a worldwide basis without limitations on where claim or suit is brought.
27. Medical and Professional Liability for employed nurses, doctors, attorneys, counselors, psychologists and/or social workers. (If not quoted with general liability, separate quotes should be obtained.)
28. Extend coverage to include sexual abuse/molestation.
29. Extend coverage to include civil rights violations, which will include all claims brought by any persons based in whole or in part on an alleged violation of the federal or state constitutions, statutes or regulations, including but not limited to, suits brought pursuant to 42 U.S.C. S1983.
30. Extend coverage to include communicable disease.
31. Extend coverage to provide coverage for special or punitive damages where permitted by law or public policy.
32. Coverage to include unlimited defense coverage in addition to limits of liability.
33. Extend coverage to include assault and battery as a covered act.

Products and Completed Operations Liability

- Named Insured:** Attachment I to Appendix D - Insurance
- Coverage:** Quote either the comprehensive or commercial general liability format on an occurrence basis,
- A. Comprehensive General Liability**
- Coverage should include products, completed operations, and related broad form comprehensive general liability or their equivalent coverages.
- Limit: \$5,000,000 combined single limit per occurrence and \$10,000,000 aggregate
- B. Commercial General Liability**
- Coverage A should include products, completed operations, contractual liability, and related broad form property damage coverages.
- Limits:
- Each occurrence: \$5,000,000
- Products and completed operations aggregate limit:
Quote \$10,000,000
- Deductible:** Specify whether a deductible, if any, will apply
- Scope of Coverage:**
1. Provide blanket contractual liability for any agreement relating to the business of the insured, including oral agreements.
 2. Employees shall be additional insureds while acting within the scope of their duties.
 3. Any waiver of subrogation shall be permitted, provided such waiver takes place before the loss and with prior consent of the State of Tennessee, Department of Correction.
 4. Worldwide coverage shall apply for claims or suits brought within the United States.
 5. Provide broad form property damage liability for completed Operations.
 6. With respect to the completed operations hazard, exclusion "O" or "Z" or its equivalent should be modified to read as follows:

With respect to the completed operations hazard and with respect to any classifications stated as "including completed operations," to property damage to that smallest identifiable portion or the work performed by the named insured or to parts or equipment furnished in connection therewith that is defective or actively malfunctions, arising out of the work or portion thereof.

If the commercial format is used, paragraph 1 of exclusion L should be modified as follows:

Property damage to the smallest identifiable portion of your work arising out of it or any part of it and included in the products/completed operations hazard.
 7. Notice of occurrence:

When an occurrence takes place, written notice shall be given by or on behalf of the insured to the company or any of its authorized agents as soon as practicable after the occurrence becomes known to the Risk Manager.

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8. Provide additional insured - vendors coverage on a blanket basis.
9. Cross Liability:

Employees of one insured shall be deemed members of the public as concerns other insureds. Said relationship shall be considered as applying to all of the insureds named as such in the definition of insureds.
10. Errors and omissions:

Coverage shall not be invalidated or affected by errors, inadvertent omissions, or improper descriptions of premises or operations described in the policy.
11. Failure to give notice:

The rights of the insured shall not be prejudiced if there is a failure to give notice of occurrence or incident due to the insured's inadvertent error or omission.
12. Extend the coverage territory to a worldwide basis without limitation as to where claim or suit is brought.

Business Auto Liability

Named Insured: Attachment I to Appendix D - Insurance

Coverage Limits: Insurance to be provided under a business auto form:

Coverages	Symbol	Limit
Liability	1	\$5,000,000
Personal Injury Protection	10 Any Auto	\$5,000,000
Uninsured Motorists	10 Any Auto	\$5,000,000

Scope of Coverage:

1. Notice of accident:

When an occurrence takes place, written notice shall be given by or on behalf of the insured to the company or any of its authorized agents as soon as practicable after the accident or occurrence,
2. Failure to give notice:

The rights of the insured shall not be prejudiced if there is a failure to give notice of accident or incident due to the insured's inadvertent error or omission.
3. Contractual liability coverage is to be included in the business auto form. Contractual liability is to apply for all hired vehicles, regardless of the term of hire or size of autos.
4. Blanket additional insureds:

All persons or entities for whom the insured has agreed to provide insurance in accordance with the terms of vehicle leases or other oral or written agreement shall be covered as additional insureds.
5. Errors and Omissions:

Coverage shall not be invalidated or affected by any errors, inadvertent omissions or improper descriptions of underwriting information, autos, their use, or garaging locations.
6. Any "fellow employee" suits exclusions shall be deleted utilizing the following:

For all employees

7. An "Employees as Insureds" endorsement is to be attached.
8. Include Pollution Liability
9. Provide non-owned auto liability coverage

Owned & Non-Owned Aircraft Liability

Named Insured: Attachment I to Appendix D - Insurance

Coverage: Quote owned and non-owned aircraft coverage

Limits: \$10,000,000 and/or \$20,000,000 per occurrence

- Scope of Coverage:**
1. Include bodily injury, property damage and mental anguish
 2. Include bodily injury coverage for passengers (per seat)
 3. Include the claims of employees (crew)
 4. Coverage to apply on a worldwide basis
 5. Indicate the seating capacity of aircraft owned and/or leased
 6. Extend coverage to include contractual liability, both written and verbal
 7. Notice of Occurrence:

When an occurrence takes place, written notice shall be given by or on behalf of the insured to the Company or any of its authorized agents as soon as practicable after an accident or occurrence becomes known to the Risk Manager.

Umbrella/Excess Liability

Named Insured: See Attachment I to Appendix D - Insurance

Coverage Limits: It is permissible to meet minimum limit requirements in total by using a combination of primary and excess policies. Please note that if the excess policy form utilized has an overall aggregate policy limit, the total coverage provided must not be less than that which would have been available for any combination of general liability, auto liability and employers liability claims at the primary limit minimum specified.

Deductible: Specify what deductible or self insured retention, if any, will apply

Scope of Coverage: “Pay on Behalf of” policy form preferred.

The excess underwriter has reviewed the extensions of primary coverage parts and agrees to follow these forms by endorsement. Any exceptions to this must be specifically identified.

First Dollar Defense coverage is to be provided.

Defense without limitation is to be provided in addition to the policy limit.

While a zero (\$0) self-insured retention is preferred for this coverage, this coverage may be unavailable or unaffordable. If a self-insured retention is required to obtain coverage, it should be at a level consistent with the financial strength of the proposer.

List any terms, conditions, or limitations of coverage, not in common with those of the primary insurance specifications.

Directors & Officers Liability

- Named Insured:** List insured organization
- Coverage:** Quote coverage for Directors and Officers and for Corporate Reimbursement
- Limits:** \$10,000,000 annual aggregate with (various) deductible (options) for corporate reimbursement / \$0 retention for individual Directors & Officers
- Deductible:** Specify what deductible or self-insured retention, if any, will apply.
- Scope of Coverage:**
1. Include wrongful act(s) defined in policy form
 2. Prior acts coverage should be included (Continuity of Coverage)
 3. Include clause stating to the effect that information on the application will not void coverage for all insureds (Severability)
 4. A policy paying 100% excess of the underlying retention is preferred, a small amount of coinsurance, consistent with the strength of the proposer, will also be considered.
 5. Include discrimination coverage
 6. Include punitive or exemplary damage coverage
 7. Include clause which picks up any inadvertent failure to maintain insurance
 8. Minimum discovery period of one year
 9. Include wrongful acts reported during the policy term
 10. Failure to file notice:

The rights of the insured shall not be prejudiced if there is a failure to give notice of an occurrence or incident due to inadvertent error or omission on the part of the insured
 11. Delete the anti-trust exclusion
 12. Permit claims brought by governments
 13. Include clause stating that coverage will not be invalidated by insured's insolvency
 14. Permit Insured vs. insured claims for wrongful termination
 15. Include marital estate extension
 16. Delete the RICO exclusion (Racketeering, Influence and Corrupt Organization)
 17. Entities coverage: include coverage for the corporation itself, not just the Directors and Officers of same.
 18. Include Employment Practices Liability (It is acceptable to provide this coverage under a separate policy form with limits equal to the D&O limit.)

Environmental Impairment Liability

Named Insured: Attachment I to Appendix D - Insurance

Coverage: Liability for bodily injury and property damage resulting from sudden, accidental or gradual pollution arising from operations conducted by the insured.

Limits: \$5,000,000 each pollution incident / \$10,000,000 aggregate

Coverage Locations:

1. All premises
2. Alienated premises (if any present locations are alienated).

Deductible: Specify the deductible which will apply

Scope of Coverage:

1. On and off premises clean-up costs, including those for corrective action are to be covered.
2. Employees shall be additional insureds while acting within the scope of their duties.
3. Prior Acts coverage shall be afforded, if claims made.
4. The cost of appeal and defense should be payable in addition to the limits of liability.
5. The policy is to comply with the requirements of the financial responsibility regulations of the Environmental Protection Agency regarding petroleum underground storage tanks.
6. Include Extended Reporting Provision; indicate cost, duration and implications if insured cancels.

Professional and Medical Liability
(Nurses, Doctors, Attorneys, Counselors, Psychologists, Social Workers)

- Named Insured:** See Attachment I to Appendix D - Insurance and any individual who was, now is or shall be employed as a nurse, doctor, attorney, counselor, psychologist or social worker of the contractor.
- Coverage:** Professional Liability form to insure bodily injury, including mental injury or death, arising out of the rendering or failure to render professional services.
- Limits:** \$5,000,000 each occurrence;
\$10,000,000 annual aggregate;
Other at option of the proposer.
- Deductible:** Specify what deductible or self-insured retention, if any, will apply.
- Scope of Coverage:**
1. Coverage should be on an occurrence basis or claims made with a 3 or 5 year tail.
 2. Full Prior Acts coverage shall be afforded.
 3. All proposals should disclose the cost of an extended reporting provision and the conditions under which it may be purchased.

Property / Boiler and Machinery

Named Insured: See Attachment I - Appendix D - Insurance

Coverage: "All Risks" of Physical Loss or Damage including the perils of earthquake and flood

Limits: Building \$5,000

Contents of Contractor on location (contractor will be solely responsible for all loss or damage to contractor owned property.)

Sublimits: Transit
Extra Expense
Electronic Data Processing
Expediting Expense
Service Interruption (PD & BI) - all utilities
Contingent Extra Expense
Business interruption including Ordinary Payroll
Offsite Storage
Errors & Omissions
Mechanical Breakdown, Electrical Arcing
Pollution Contamination
Personal Property of Employees
Contingent Business interruption

Deductibles: \$250

Term & Conditions: 90 day notice of cancellation
Repair or Replacement Coverage
Automatic Reinstatement of Limits
Coinsurance - 100% - Waived
Permit Other Insurance

Employee Dishonesty

- Named Insured:** See Attachment I to Appendix D - Insurance
- Coverage:** Quote blanket employee dishonesty (Fidelity) coverage
- Limits:** At a minimum, \$50,000 per loss
- Scope of Coverage:**
1. Include a Faithful Performance Rider to cover the malfeasance, misfeasance, or nonfeasance of duties of the Contractor.
 2. Notice of occurrence:

When an occurrence takes place written notice shall be given by or on behalf of the insured to the Company or any of its authorized agents as soon as practicable after an accident or occurrence becomes known to the Risk Manager.
 3. Failure to file notice;

The rights of the insured shall not be prejudiced if there is a failure to give notice of an occurrence or incident due to inadvertent error or omission on the part of the insured.
 4. Include Employee Benefit Plans as Insureds.

State of Tennessee
Department of Correction
Proposal Form for Appendix D – Insurance

Must be completed and returned in accordance with the instructions as set forth on Page 2 of 24 of Appendix D. Please provide additional information for any responses that vary from the requirement of the RFP.

General Conditions

Insurance company eligibility	_____ Yes	_____ No
90 day notice of cancellation	_____ Yes	_____ No
non-renewal	_____ Yes	_____ No
material change	_____ Yes	_____ No
Contractor and Insurance company services	_____ Yes	_____ No
Named insured (See Attachment I to Appendix D - Insurance)	_____ Yes	_____ No

Workers Compensation

Coverage	_____ Yes	_____ No
Limits - \$1,000,000 / 1,000,000/ 1,000,000	_____ Yes	_____ No
States Covered:		
TN	_____ Yes	_____ No
List any other _____	_____ Yes	_____ No

Scope of Coverage:

Includes:

1. Other states insurance	_____ Yes	_____ No
2. Voluntary compensation	_____ Yes	_____ No
3. Foreign voluntary compensation endorsement	_____ Yes	_____ No
4. U.S.L. & H. endorsement	_____ Yes	_____ No
5. Excess repatriation expense coverage \$100,000 limit	_____ Yes	_____ No
6. Endemic disease coverage	_____ Yes	_____ No
7. Stop gap (all monopolistic states)	_____ Yes	_____ No
8. FELA	_____ Yes	_____ No
9. Waive actions against State of Tennessee	_____ Yes	_____ No
Experience mod: _____	_____ Yes	_____ No
Interstate: _____		

General Liability Excluding Products / Completed Operations

Coverage:		
Comprehensive form	_____ Yes	_____ No
Commercial form	_____ Yes	_____ No
Occurrence basis	_____ Yes	_____ No

Scope of Coverage Includes

1. Blanket contractual liability	_____ Yes	_____ No
2. Independent contractors	_____ Yes	_____ No
3. Employees as insureds	_____ Yes	_____ No
4. Personal Injury and advertising Injury Employment exclusion deleted Contractual exclusion deleted		
5. Liquor liability	_____ Yes	_____ No
6. Fire legal-\$1,000,000	_____ Yes	_____ No
7. Waiver of subrogation	_____ Yes	_____ No

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8.	Non-owned watercraft	_____	Yes	_____	No
	No length limitation	_____	Yes	_____	No
9.	Extended bodily Injury	_____	Yes	_____	No
10.	Incidental medical malpractice	_____	Yes	_____	No
11.	Worldwide coverage	_____	Yes	_____	No
12.	Delete X C and U exclusions (If any)	_____	Yes	_____	No
13.	Broad form properly damage	_____	Yes	_____	No
14.	Delete alienated premises exclusion	_____	Yes	_____	No
15.	Notice of occurrence	_____	Yes	_____	No
16.	Blanket additional insureds	_____	Yes	_____	No
17.	Cross liability	_____	Yes	_____	No
18.	Errors and omissions	_____	Yes	_____	No
19.	Employee benefits liability	_____	Yes	_____	No
20.	Aggregate limits per location/project	_____	Yes	_____	No
21.	Personal injury to include:				
	Mental anguish	_____	Yes	_____	No
	Mental injury	_____	Yes	_____	No
	Humiliation	_____	Yes	_____	No
	Discrimination	_____	Yes	_____	No
	Any other injury to the feelings and reputation of a natural person	_____	Yes	_____	No
22.	Delete fellow employee exclusion	_____	Yes	_____	No
23.	Failure to give notice endorsement	_____	Yes	_____	No
24.	Sudden and accidental pollution	_____	Yes	_____	No
25.	Advertising publishing exclusion deleted	_____	Yes	_____	No
26.	Worldwide basis	_____	Yes	_____	No
27.	Medical and Professional liability	_____	Yes	_____	No
28.	Sexual abuse / molestation coverage	_____	Yes	_____	No
29.	Civil rights violations	_____	Yes	_____	No
30.	Communicable disease	_____	Yes	_____	No
31.	Punitive damages	_____	Yes	_____	No
32.	Unlimited defense in addition to limits	_____	Yes	_____	No
33.	Assault & Battery as a covered act	_____	Yes	_____	No

Limits:

Comprehensive General Liability Form:
 \$10,000,000 CSL
 \$ 1,000,000 Employee Benefits Liability

Premium: _____
 SIR/Deductible: _____

Commercial General Liability Form:

\$ 5,000,000 occurrence
 \$10,000,000 aggregate

Premium: _____
 SIR/Deductible: _____

Products and Completed Operations Liability

Coverage:

Comprehensive form	_____	Yes	_____	No
Commercial form	_____	Yes	_____	No
Occurrence basis	_____	Yes	_____	No

Scope of Coverage:

Includes:

1. Blanket contractual	_____	Yes	_____	No
2. Employees as insureds	_____	Yes	_____	No
3. Waiver of subrogation	_____	Yes	_____	No
4. Worldwide coverage	_____	Yes	_____	No
5. Broad form property damage	_____	Yes	_____	No
6. Exclusion O modified	_____	Yes	_____	No
Exclusion Z modified	_____	Yes	_____	No
Exclusion L modified	_____	Yes	_____	No
7. Notice of occurrence	_____	Yes	_____	No
8. Blanket additional insureds - vendors	_____	Yes	_____	No
9. Cross liability	_____	Yes	_____	No
10. Errors and omissions	_____	Yes	_____	No
11. Failure to give notice	_____	Yes	_____	No
12. Worldwide basis	_____	Yes	_____	No

Limits:

Comprehensive General Liability Form: Premium: _____
 \$10,000,000 CSL SIR/Deductible: _____

Commercial General Liability Form:

\$ 5,000,000 occurrence	Premium: _____
\$10,000,000 aggregate	SIR/Deductible: _____

Business Auto Liability

Covered autos:

Liability - symbol 1	_____	Yes	_____	No
UM - symbol 10	_____	Yes	_____	No
PIP - symbol 10	_____	Yes	_____	No

Scope of Coverage:

Includes:

1. Notice of accident	_____	Yes	_____	No
2. Failure to give notice	_____	Yes	_____	No
3. Contractual liability	_____	Yes	_____	No
All hired autos regardless of term or size	_____	Yes	_____	No
4. Blanket additional insureds	_____	Yes	_____	No
5. Errors and Omissions	_____	Yes	_____	No
6. Fellow employee exclusion deleted	_____	Yes	_____	No
7. Employees as insureds	_____	Yes	_____	No
8. Pollution liability	_____	Yes	_____	No
9. Non owned automobile liability	_____	Yes	_____	No

Limits:

\$ 5,000,000 CSL Premium: _____
 SIR/Deductible: _____

Owned and Non-owned Aircraft Liability

Owned Liability coverage	_____ Yes	_____ No	_____ N/A
Non-owned liability coverage	_____ Yes	_____ No	_____ N/A

Scope of Coverage:

Includes:

- | | | |
|---|------------------|-----------------|
| 1. Bodily injury property damage and mental anguish | _____ Yes | _____ No |
| 2. Bodily injury passengers | _____ Yes | _____ No |
| 3. Claims of employees | _____ Yes | _____ No |
| 4. Coverage territory worldwide | _____ Yes | _____ No |
| 5. Specify seat capacity warranty _____ (number) | _____ Yes | _____ No |
| 6. Contractual liability | _____ Yes | _____ No |
| 7. Notice of occurrence | _____ Yes | _____ No |

Premium	
\$10,000,000 limit	_____
\$20,000,000 limit	_____

Umbrella / Excess Liability

- | | | |
|--|------------------|-----------------|
| 1. Policy aggregate | _____ Yes | _____ No |
| Includes Specify Total _____ | | |
| 2. "Pay on Behalf of" Form | _____ Yes | _____ No |
| 3. Named Insured as per Attachment I to Appendix D - Insurance | _____ Yes | _____ No |
| 4. Follow form all primary extensions | _____ Yes | _____ No |

List all exceptions _____

- | | | |
|--------------------------------|------------------|-----------------|
| 5. First dollar defense | _____ Yes | _____ No |
| 6. Defense in excess of limits | _____ Yes | _____ No |
| 7. Zero Self Insured retention | _____ Yes | _____ No |

If no, state deductible or SIR _____

8. List non-concurrent (with Primary) _____
 Terms, conditions or limitations _____

Limits: _____
 Premium: _____

Directors and Officers

List insured organization(s) _____

Coverage:

- | | | |
|----------------------------------|------------------|-----------------|
| Occurrence Coverage | _____ Yes | _____ No |
| Directors and Officers liability | _____ Yes | _____ No |
| Corporate reimbursement | _____ Yes | _____ No |

Scope of Coverage:

Includes:

1.	Wrongful act defined	_____	Yes	_____	No
2.	Complete prior acts	_____	Yes	_____	No
3.	Information on application will not void coverage for all insureds	_____	Yes	_____	No
4.	Policy pays 100% excess of retention	_____	Yes	_____	No
5.	Discrimination coverage	_____	Yes	_____	No
6.	Punitive or exemplary damages covered	_____	Yes	_____	No
7.	Failure in maintaining Insurance	_____	Yes	_____	No
8.	Discovery Period:				
	Cost	_____	Yes	_____	No
	Duration	_____	Yes	_____	No
	If insurance cancels	_____	Yes	_____	No
9.	Wrongful acts reported during policy coverage	_____	Yes	_____	No
10.	Failure to file notice	_____	Yes	_____	No
11.	Delete anti-trust exclusion	_____	Yes	_____	No
12.	Allow claims brought by governments	_____	Yes	_____	No
13.	Coverage if insured insolvent	_____	Yes	_____	No
14.	Insured versus insured claims for wrongful termination	_____	Yes	_____	No
15.	Marital Estate Extension	_____	Yes	_____	No
16.	Delete RICO exclusion	_____	Yes	_____	No
17.	Entity coverage	_____	Yes	_____	No
18.	Employment Practices Liability	_____	Yes	_____	No

Limits and retentions:

\$10,000,000 annual aggregate

Deductible Option 1	Premium:	_____
Deductible Option 2		_____
Other		_____

Environmental Impairment Liability

Coverage - gradual	_____	Yes	_____	No
Coverage-sudden, accidental	_____	Yes	_____	No
Occurrence coverage	_____	Yes	_____	No

Covered locations:	_____	Yes	_____	No
1. All locations-statement of values	_____	Yes	_____	No
2. All job sites	_____	Yes	_____	No
3. Specified sites	List _____			

Deductible _____

Scope of coverage:

Includes:

1.	On/Off premises cleanup costs including corrective action	_____	Yes	_____	No
2.	Employees as insureds	_____	Yes	_____	No
3.	Prior acts coverage (if claims made)	_____	Yes	_____	No
4.	Defense in addition to the limit	_____	Yes	_____	No
5.	Compliance with EPA requirements	_____	Yes	_____	No
6.	Extended reporting provision	_____	Yes	_____	No

Cost	_____			
Duration	_____			
If insured cancels	_____	Yes	_____	No

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Limits: Premium: _____
 \$5,000,000 incident / \$10,000,000 aggregate _____

Property / Boiler & Machinery

Named Insured: As per Attachment I to Appendix D - Insurance _____ **Yes** _____ **No**

Scope of Coverage:

- | | | | |
|-----|---|------------------|-----------------|
| 1. | Is "All Risk" coverage provided | _____ Yes | _____ No |
| 2. | Does quote include the peril of Flood | _____ Yes | _____ No |
| 3. | Does quote Include the peril of Earthquake | _____ Yes | _____ No |
| 4. | Is coverage on a Repair and Replacement Basis | _____ Yes | _____ No |
| 5. | Is Automatic Reinstatement of Limits Included | _____ Yes | _____ No |
| 6. | What coinsurance % Is used | _____ Yes | _____ No |
| 7. | Is it waived | _____ Yes | _____ No |
| 8. | Does quote include building | _____ Yes | _____ No |
| 9. | Does quote include office equipment | _____ Yes | _____ No |
| 10. | Does quote include EDP exposures | _____ Yes | _____ No |
| 11. | Does quote include all other contents | _____ Yes | _____ No |
| 12. | Does quote include boiler & machinery exposures | _____ Yes | _____ No |
| 13. | Does quote include transit | _____ Yes | _____ No |
| 14. | Does quote include extra expense | _____ Yes | _____ No |
| 15. | Does quote include expediting expense | _____ Yes | _____ No |
| 16. | Does quote include service interruption for all utilities | _____ Yes | _____ No |
| 17. | Does quote include contingent extra expense | _____ Yes | _____ No |
| 18. | Does quote include business interruption including ordinary payroll | _____ Yes | _____ No |
| 19. | Does quote include offsite storage | _____ Yes | _____ No |
| 20. | Does quote include errors and omissions | _____ Yes | _____ No |
| 21. | Does quote include mechanical breakdown or electrical arcing | _____ Yes | _____ No |
| 22. | Does. quote include pollution and contamination | _____ Yes | _____ No |
| 23. | Does quote include personal property of employees | _____ Yes | _____ No |
| 24. | Does quote include contingent business interruption | _____ Yes | _____ No |
| 25. | Will form permit other insurance? | _____ Yes | _____ No |

Deductible (options) _____

Limits & Sub-limits _____

Premium _____

Employee Dishonesty

Named Insured: As per Attachment I to Appendix D - **Yes** **No**
 Insurance _____
 Coverage: Blanket employee dishonesty **Yes** **No**
 (Fidelity Coverage) _____
 Deductible: _____
 Limits: _____

Scope of Coverage:

- 1. Is Faithful Performance Rider included? **Yes** **No**
 Does it include Malfeasance? **Yes** **No**
 Does it Include Misfeasance? **Yes** **No**
 Does it Include Nonfeasance? **Yes** **No**
 - 2. Notice of Occurrence wording **Yes** **No**
 - 3. Failure to file notice **Yes** **No**
 - 4. Includes Employee Benefit Plans as insureds? **Yes** **No**
- Premium: _____

Professional and Medical Liability
(Nurses/Doctors/Counselors/Psychologists/Social Workers)

Named Insured: As per Attachment I to Appendix D - **Yes** **No**
 Insurance _____
 Scope of Coverage _____
 1. Is occurrence coverage provided? **Yes** **No**
 If no, does claims made quote include "tail" coverage? **Yes** **No**
 2. For what period of time _____ years.
 3. Full Prior acts **Yes** **No** _____ **N/A**
 4. Extended reporting provision **Yes** **No** _____ **N/A**
 Cost _____
 Duration _____
 If insured cancels **Yes** **No** _____ **N/A**
 Limits: _____

\$ 5,000,000 each occurrence Premium: _____
 \$10,000,000 annual aggregate _____
 SIR/Deductible: _____

Appendix E Liquidated Damages Schedule

Liquidated damages will be calculated in accordance with the following formula:

$$V \times B \times \$100.00 \text{ where}$$

V = Relative value of Service Area

B = Relative value of the Breach

Service Area 1 - Value = 5: Inmate Classification, Custody and Movement, Access to Courts, Disciplinary Procedures, Inmate Relations, Sentence Reduction Credits, Sentence Computation, Inmate Records:

Contractor Breach:	B
Failure to Staff	5
Failure to Document	4
Failure to Report	3
Failure to Comply with Other Applicable Standards	5

Service Area 2 - Value = 4: General Administration, Personnel and Training, Security and Control, Use of Force, Health/Medical/Mental Health/Dental, Inmate Work and Education, Transportation, Inmate Drug Testing:

Contractor Breach:	B
Failure to Staff	5
Failure to Document	3
Failure to Report	2
Failure to Comply with Other Applicable Standards	5

Service Area 3 - Value = 3: Equipment, Supplies and Perishables, Sanitation and Hygiene, Facility Management, Maintenance, and Utilities:

Contractor Breach:	B
Failure to Staff	4
Failure to Document	2
Failure to Report	1
Failure to Comply with Other Applicable Standards	4

Service Area 4 - Value = 2: Personal Property, Visitation, Food Service, Laundry and Clothing, Recreation, Library, Commissary, Religious Services, Volunteer Services, Released Inmates, Telephone and Correspondence, Inmate Trust Fund, Community Relations, and other requirements of the Standards:

Contractor Breach:	B
Failure to Staff	4
Failure to Document	1
Failure to Report	1
Failure to Comply with Other Applicable Standards	4

Appendix F Security Addendum
FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES
SECURITY ADDENDUM

The goal of this document is to provide adequate security for criminal justice systems while under the control or management of a private entity, the Contractor. Adequate security is defined in Office of Management and Budget Circular A-130 as "security commensurate with the risk and magnitude of harm resulting from the loss, misuse, or unauthorized access to or modification of information.'

The intent of this Security Addendum is to require that the Contractor maintain a security program consistent with federal and state laws, regulations and standards (including the CJIS Security Policy in effect when the contract is executed), as well as with policies and standards established by the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB).

This Security Addendum identifies the duties and responsibilities with respect to the installation and maintenance of adequate internal controls within the contractual relationship so that the security and integrity of the FBI's information resources are not compromised. The security program shall include consideration of personnel security, site security, system security and data security.

The provisions of this Security Addendum apply to all personnel, systems, networks and support facilities supporting and/or acting on behalf of the government agency.

1.00 Definitions

- 1.01 Administration of criminal justice - the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. It also includes criminal identification activities: the collection, storage, and dissemination of criminal history record information; and criminal justice employment.
- 1.02 Agency Coordinator (AC) - a staff member of the Contracting Government Agency, who manages the agreement between the Contractor and agency.
- 1.03 Contracting Government Agency (CGA) - the government agency, whether a Criminal Justice Agency or a Noncriminal Justice Agency, which enters into an agreement with a private contractor subject to this Security Addendum,
- 1.04 Contractor - a private business, organization or individual which has entered into an agreement for the administration of criminal justice with a Criminal Justice Agency or a Noncriminal Justice Agency.
- 1.05 Control Terminal Agency (CTA) - a duly authorized state or federal criminal justice agency with direct access to the National Crime Information Center (NCIC) telecommunications network providing statewide (or equivalent) service to its criminal justice users with respect to the various systems managed by the FBI CJIS Division.
- 1.06 Control Terminal Officer (CTO) - an individual located within the CTA responsible for the administration of the CJIS network for the CTA,
- 1.07 Criminal Justice Agency (CJA) - The courts, a governmental agency, or any subunit of a governmental agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice. State and federal Inspectors General Offices are included.

- 1.08 Noncriminal Justice Agency (NCJA) - a governmental agency or any subunit thereof that provides services primarily for purposes other than the administration of criminal justice.
- 1.09 Noncriminal justice purpose - the uses of criminal history records for purposes authorized by federal or state law other than purposes relating to the administration of criminal justice, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances,
- 1.10 Security Addendum - a uniform addendum to an agreement between the government agency and a private contractor, approved by the Attorney General of the United States, which specifically authorizes access to criminal history record information, limits the use of the information to the purposes for which it is provided, ensures the security and confidentiality of the information consistent with existing regulations and the CJIS Security Policy, provides for sanctions, and contains such other provisions as the Attorney General may require.
- 2.00 Responsibilities of the Contracting Government Agency
- 2.01 The CGA entering into an agreement with a Contractor is to appoint an AC.
- 2.02 In instances in which responsibility for a criminal justice system has been delegated by a CJA to a NCJA, which has in turn entered into an agreement with a Contractor, the CJA is to appoint an Agency Liaison to coordinate activities between the CJA and the NCJA and Contractor. The Agency Liaison shall, inter alia, monitor compliance with system security requirements. In instances in which the NCJA's authority is directly from the CTA, there is no requirement for the appointment of an Agency Liaison.
- 2.03 The AC will be responsible for the supervision and integrity of the system, training and continuing education of employees and operators, scheduling of certification testing and all required reports by NCIC.
- 2.04 The AC has the following responsibilities:
- a. Understand the communications and records capabilities and needs of the Contractor which is accessing federal and state records through or because of its relationship with the CGA:
 - b. Participate in related meetings and provide input and comments for system improvement;
 - c. Receive information from the CGA (e.g., system updates) and disseminate it to appropriate Contractor employees;
 - d. Maintain and update manuals applicable to the effectuation of the agreement, and provide them to the Contractor;
 - e. Maintain up-to-date records of employees of the Contractor who access the system, including name, date of birth, social security number, date fingerprint card(s) submitted, date security clearance issued, and date certified or recertified (if applicable);
 - f. Train or ensure the training of Contractor personnel. If Contractor personnel access NCIC, schedule the operators for a certification exam with the CTA staff. Schedule new operators for the certification exam within six (6) months of employment. Schedule certified operators for re-certification testing within thirty (30) days prior to the expiration of certification, Schedule operators for any other mandated class;
 - g. The AC will not permit an un-certified employee of the Contractor to access an NCIC terminal:

- h. Where appropriate, ensure Compliance by the Contractor with NCIC validation requirements;
 - i. Provide completed Applicant Fingerprint Cards on each person within the Contractor who accesses the System to the CJA (or, where appropriate, CTA) for criminal background investigation prior to such employee accessing the system; and
 - j. Any other responsibility for the AC promulgated by the FBI,
- 2.05 The CTA shall ensure that all NCIC hot file transactions and interstate Identification Index (III) transactions be maintained on an automated log for a minimum of six months This automated log must identify the operator on III transactions, the agency authorizing the transactions, the requester, and any secondary recipient, This information can be captured at log on and can be a name, badge number, serial number, or other unique number.
- 3.00 Responsibilities of the Contractor
- 3.01 The Contractor shall maintain a security program which complies with this Security Addendum,
- 3.02 The Contractor shall assign a Security Officer accountable for the management of this security program. This person shall coordinate with the CGA to establish the security program.
- 3.03 The Contractor shall document the security program in a Security Plan. The Security Plan shall describe the implementation of the security requirements described in this Security Addendum, the associated training program, and the reporting guidelines for documenting and communicating security violations to the CGA, The Security Plan shall be subject to the approval of the CJA, even in instances in which the CGA is the NCJA.
- 3.04 The Contractor shall provide for a Security Training Program for all Contractor personnel engaged in the management, development, operation, and/or maintenance of criminal justice systems and facilities. Annual refresher training shall also be provided.
- 3.05 The Contractor shall establish a security violation response and reporting procedure to discover, investigate, document, and report on all security violations. Violations which endanger the security or integrity of the criminal justice system or records located therein must be communicated to the CGA immediately. Minor violations shall be reported to the CGA on a periodic basis, but in no instance less than quarterly. See Section 8.01.
- 3.06 The Contractor's facilities will be subject to unannounced security inspections performed by the CGA. These facilities are also subject to periodic FBI and state audits.
- 3.07 The security plan is subject to annual review by the CJA and the Contractor. During this review, efforts will be made to update the program in response to security violations, changes in policies and standards, and/or changes in federal and state law and technology.
- 3.08 The Contractor and its employees will comply with all federal and State laws, rules, procedures and policies (including the CJIS Security Policy in effect when the contract is executed) formally adopted by the FBI and the CJIS APB, including those governing criminal history record information.
- 4.00 Site Security
- 4.01 The Contractor shall dedicate and maintain control of the facilities, or areas of facilities, that support the CGA.
- 4.02 All terminals physically or logically connected to the computer system accessing NCIC and the criminal justice files must be segregated and screened against unauthorized use or observation.
- 5.00 System Integrity

- 5.01 Only employees of the Contractor, employees of CGA, the Agency Liaison, and such other persons as may be granted authorization by the CGA shall be permitted access to the system.
- 5.02 The Contractor shall maintain appropriate and reasonable quality assurance procedures.
- 5.03 Access to the system shall be available only for official purposes consistent with the appended Agreement. Any dissemination of NCIC data to authorized employees of the Contractor is to be for their official purposes.
- 5.04 Information contained in or about the system will not be provided to agencies other than the CGA or another entity which is specifically designated in the contract.
- 5.05 All criminal history record information requests must be envisioned and authorized by the appended Agreement. A current up-to-date log concerning access and dissemination of criminal history record information shall be maintained at all times by the Contractor,
- 5.06 The Contractor will ensure that its inquiries of NCIC and any subsequent dissemination conforms with applicable FBI/NCIC policies and regulations, as set forth in (1) the Security Addendum; (2) the NCIC 2000 Operating Manual; (3) the Policy and Reference Manual; (4) the CJIS Security Policy; and (5) Title 28, Code of Federal Regulations, Part 20. All disseminations will be considered as "Unclassified, For Official Use Only."
- 5.07 The Contractor shall protect against any unauthorized persons gaining access to the equipment, any of the data, or the operational documentation for the criminal justice information system. In no event shall copies of messages or criminal history record information be disseminated other than as envisioned and governed by the appended Agreement.
- 6.00 Personnel Security
- 6.01 Appropriate background investigations must be conducted on all Contractor employees and the Contractor's vendors which provide system maintenance support.
- 6.02 Thorough background screening by the CGA is required. This investigation includes submission of a completed applicant fingerprint card to the FBI through the state identification bureau. State and national record checks by fingerprint identification must be conducted for all personnel who manage, operate, develop, access and maintain criminal justice systems and facilities. Record checks must be completed prior to employment,
- 6.03 When a request is received by the CTA before system access is granted:
- a. The CGA on whose behalf the Contractor is retained must check state and national arrest and fugitive files. These checks are to be no less stringent than those performed on CJA personnel with access to NCIC.
 - b. If a record of any kind is found, the CGA will be formally notified, and system access will be delayed pending review of the criminal history record information. The CGA will in turn notify the Contractor-appointed Security Officer.
 - c. When identification of the applicant with a criminal history has been established by fingerprint comparison, the CGA's designee will review the matter. A Contractor employee found to have a criminal record consisting of any felony convictions or of misdemeanor offenses which constitute a general disregard for the law is disqualified. Applicants shall also be disqualified on the basis on confirmations that arrest warrants are outstanding for such applicants.
 - d. If an adverse employment determination is made, access will be denied and the Contractor-appointed Security Officer will be notified in writing of the access denial. This applicant will not be permitted to work on the contract with the CGA. Disqualified

employees and applicants for employment shall be notified of the adverse decisions and the impact that such records had on such decisions.

- 6.04 The investigation of the applicant's background shall also include contacting of employers (past or present) and personal references.
- 6.05 The Security Officer shall maintain a list of personnel who successfully completed the background investigation.
- 6.06 The CGA will ensure that each Contractor employee receives a copy of the Security Addendum and executes an acknowledgment of such receipt and the contents of the Security Addendum. The signed acknowledgments shall remain in the possession of the CGA and available for audit purposes.
- 6.07 The CGA shall ensure that each Contractor employee authorized to access CJIS network terminals or information provided therefrom is specially trained in the state and federal laws and rules governing the security and integrity of criminal justice information.
- 6.08 All visitors to sensitive areas of Contractor facilities must be escorted at all times by a Contractor employee with clearance. Names of all visitors shall be recorded in a visitor log, to include date and time of visit, name of visitor, purpose of visit, name of person visiting, and date and time of departure. The visitor logs shall be maintained for five years following the termination of the contract,
- 7.00 System Security
 - 7.01 Transmission, processing, and storage of CJA information shall be conducted on dedicated systems. Increased reliance should be placed on technical measures to support the ability to identify and account for all activities on a system and to preserve system integrity.
 - 7.02 The system shall include the following technical security measures:
 - a. unique identification and authentication for all interactive sessions;
 - b. if warranted by the nature of the contract, advanced authentication techniques in the form of digital signatures and certificates, biometric or encryption for remote communications;
 - c. security audit capability for interactive sessions and transaction based logging for message-based sessions; this audit shall be enabled at the system and application level;
 - d. access control mechanisms to enable access to be restricted by object (e.g. data set, volumes, files, records) to include the ability to read, write, or delete the objects;
 - e. ORI identification and access control restrictions for message based access;
 - f. system and data integrity controls;
 - g. access controls on communications devices;
 - h. confidentiality controls (e.g., partitioned drives, encryption, and object reuse).
 - 7.03 Data encryption shall be required throughout the network passing through a shared public carrier network.
 - 7.04 The Contractor shall provide for the secure storage and disposal of all hard copy and media associated with the system to prevent access by unauthorized personnel.
 - 7.05 The Contractor shall establish a procedure for sanitizing all fixed storage media (e.g., disks, drives) at the completion of the contract and/or before it is returned for maintenance, disposal or

reuse. Sanitation procedures include overwriting the media and/or degaussing the media. If media cannot be successfully sanitized it must be returned to the CGA or destroyed.

8.00 Security violations

8.01 Consistent with Section 3.05, the Contractor agrees to inform the CGA of system violations. The Contractor further agrees to immediately remove any employee from assignments covered by this contract for security violations pending investigation. Any violation of system discipline or operational policies related to system discipline are grounds for termination, which shall be immediately reported to the AC in writing.

8.02 The CGA must report security violations to the CTO and the Director, FBI, along with indications of actions taken by the CGA and Contractor.

8.03 Security violations can justify termination of the appended agreement.

8.04 Upon notification, the FBI reserves the right to:

a. Investigate or decline to investigate any report of unauthorized use;

b. Suspend or terminate access and services, including the actual NCIC telecommunications link. The FBI will provide the CTO with timely written notice of the suspension. Access and services will be reinstated only after satisfactory assurances have been provided to the FBI by the CJA and Contractor. Upon termination, the Contractor's records containing criminal history record information must be deleted or returned to the CGA.

8.05 The FBI reserves the right to audit the Contractor's operations and procedures at scheduled or unscheduled times. The FBI is authorized to perform a final audit of the Contractor's systems after termination of the Security Addendum.

9.00 Miscellaneous provisions

9.01 This Security Addendum does not confer, grant, or authorize any rights, privileges, or obligations on any persons other than the Contractor, CGA, CJA (where applicable), CTA, and FBI.

9.02 The following documents are incorporated by reference and made part of this agreement: (1) the Security Addendum; (2) the NCIC 2000 Operating Manual; (3) the Policy and Reference Manual; (4) the CJIS Security Policy; and (5) Title 28, Code of Federal Regulations, Part 20, The parties are also subject to applicable federal and state laws and regulations.

9.03 The terms set forth in this document do not constitute the sole understanding by and between the parties hereto; rather they provide a minimum basis for the security of the system and it is understood that there may be terms and conditions of the appended Agreement which impose more stringent requirements upon the Contractor.

9.04 This Security Addendum may only be modified by the FBI, and may not be modified by the parties to the appended Agreement without the consent of the FBI.

9.05 All notices and correspondence shall be forwarded by First Class mail to;

Assistant Director
Criminal Justice Information Services Division, FBI
1000 Custer Hollow Road
Clarksburg, West Virginia 26306

**FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES
SECURITY ADDENDUM**

CERTIFICATION

I hereby certify that I have read and am familiar with the contents 01(1) the Security Addendum; (2) the TIME Manual; (3) the CJIS Security Policy; and (4) Title 28. Code of Federal Regulations, Part 20, and agree to be bound by their provisions.

I recognize that criminal history record information and related data, by its very nature, is sensitive and has potential for great harm if misused. I acknowledge that access to criminal history record information and related data is therefore limited to the purpose(s) for which a government agency has entered into the contract incorporating this Security Addendum. I understand that misuse of the system by, among other things: accessing it without authorization; accessing it by exceeding authorization; accessing it for an improper purpose; using, disseminating or redisseminating information received as a result of this contract for a purpose other than that envisioned by the contract, may subject me to administrative and criminal penalties. I understand that accessing the system for an appropriate purpose and then using, disseminating or redisseminating the information received for another purpose other than execution of the contract also constitutes misuse. I further understand that the occurrence of misuse does not depend upon whether or not I receive additional compensation for such authorized activity. Such exposure for misuse includes, but is not limited to, suspension or loss of employment and prosecution for state and federal crimes.

Signature of Contractor Employee

Date

Signature of Contractor Representative

Date

Organization and Title

Appendix G Performance and Cost Evaluation

This is from FY2007

COMPARATIVE EVALUATION GUIDELINES

For the Comparative Evaluation

of the

South Central Correctional Center RFP

and Contract Performance

November, 2006

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1. OVERVIEW
2. METHODOLOGY AND CRITERIA
 - 2.1. PERFORMANCE COMPARISON
 - 2.2. COST COMPARISON

- **OVERVIEW**

Tennessee Code Annotated 41-24-105 provides that a contract to provide correctional services in the form of operation of facilities, including management, custody of inmates, security, and other associated services and activities, shall have an initial term of three years and may include an option to extend for an additional period of two years. It also sets out certain requirements relating to the extension of the contract. Pursuant to Tennessee Code Annotated 41-24-104, any contract extension requires the approval of the State Building Commission, the Attorney General and Reporter, and the Commissioner of Correction.

T.C.A. § 41-24-105 provides that prior to awarding any such contract the State is required to establish objective performance criteria and cost criteria for both the State and the private contractor. After the end of the second full year of operation, but before extending the initial contract at the end of the three-year contract term, the performance and cost criteria are to be used in conducting a comparison between the performance of the contractor and the performance of the State. The Select Oversight Committee on Corrections (or, in the absence of such committee, a committee designated by the speakers of the senate and the house) must compare the quality of the services provided by the contractor and the State and report its determination to the parties responsible for determining whether the contract should be extended. The Fiscal Review Committee (or, in the absence of such committee, a committee designated by the speakers of the senate and the house) must compare the cost criteria and provide a per day cost for the State and the contractor and report such determination to the parties responsible for determining whether the contract should be extended.

The contract can be extended only if the contractor is providing essentially the same quality of services as the State at a cost 5% lower than the State, or if the contractor is providing superior services (greater than 5%) at essentially the same cost as the State. The comparative evaluation of performance shall not serve as the basis for contract extension, but shall serve as a consideration. The cost comparison conducted by the Fiscal Review Committee shall serve as the basis for contract extension.

The objective performance criteria and cost criteria set out below have been developed by the Executive Director of the Select Oversight Committee on Corrections (SOCC) and the Executive Director of the Fiscal Review Committee, in consultation with staff of the Department of Correction. The criteria will be used during the comparative evaluation process referenced above.

- **METHODOLOGY**

The Northeast Correctional Complex (NECC) and Northwest Correctional Complex (NWCC) have been determined to be the State-operated facilities that are the most comparable to the South Central Correctional Center (SCCC). The two State operated institutions have been selected for previous comparisons because of the similarity in age of the facilities, design of the facilities, and inmate populations. These two facilities continue to be the most comparable. Since the early comparisons of the institutions were made, consolidation of State institutions resulted in other facilities being combined administratively with both NECC and NWCC. These consolidations add some challenges, such as adjusting for differences in the number of inmates, the comparability of inmate populations, etc.; however, the evaluation process and instruments have been developed to compensate for these differences through the use of per capita ratios and other scoring measures.

- **PERFORMANCE COMPARISON**

The Department of Correction performs annual inspections of all State and private facilities housing inmates under their jurisdiction. To comply with the TCA 41-24-105 requirement of comparing the performance of State operated facilities with the facility operated by the private contractor the following process will be utilized:

- a) The Commissioner of Correction/Designee will assign a team of experienced TDOC employees to conduct the annual inspection process at Northeast Correctional Complex, Northwest Correctional Complex and the privately operated South Central Correctional Center.
- b) These annual inspections shall take place during the last quarter of the second year of the State's contract with the private contractor.
- c) The annual inspection process will conform to the requirements of departmental policy 103.07 and be performed and recorded as required by policy with the following exceptions:
 - i. There shall be a percentage calculated based on the total items reviewed during each inspection, minus the items noted as non-applicable divided into the number of items judged as compliant for each facility involved.
 - ii. The private contractor may have representatives present for each inspection involved in the comparative evaluation process and said representatives shall be allowed to participate in decisions of noncompliance.
 - iii. Any unresolved disagreement between the State annual inspection team leader and a private contractor representative shall be resolved by a representative of the SOCC prior to the final report.
 - iv. The SOCC may have a representative present at each of the involved annual inspections.
- d) The Department of Correction shall forward the entire annual inspection report and management response to the SOCC.
- e) The Department of Correction shall also forward to the SOCC a report that includes other performance data concerning escapes, uses of force, homicides, assaults, outside inspection results, health care performance, communicable diseases, staffing data and other items. No specific percentages shall be applied to this section of the SOCC report, but the data shall be for informational purposes only.

- **COST COMPARISON**

TCA 41-24-105(e) requires the Fiscal Review Committee to provide a prisoner per day cost for the State and the Contractor based upon cost measures set out in the Request for Proposal and the Contract. Those costs are to be used in the evaluation to determine if the Contractor is providing essentially the same quality of services as the State at a cost of five percent (5%) lower than the State, or if the Contractor is providing services superior in quality to those provided by the State at essentially the same cost pursuant to TCA 41-24-105(c).

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The financial information to be compared will be for the Fiscal Year 2008/2009. This is necessary in order to comply with the statutory mandates which state that the comparison is to be made after the second year of the Contract, but before any extension can occur at the end of the third year. The FY09 information would be the most current information available at the time of the comparison evaluation and will match the review period that will be used for the performance evaluation.

The institutions included in the contract for comparison with the South Central Correctional Center are Northeast Correctional Complex (NECC) and Northwest Correctional Complex (NWCC). The two State operated institutions have been selected for previous comparisons because of the similarity in age of the facilities, design of the facilities, and inmate populations. These two facilities continue to be the most comparable. Since the early institution comparisons were made, consolidation of State institutions resulted in other facilities being combined administratively with both NECC and NWCC. In order to restore a reasonable level of comparability, adjustments will be made for staff and operating costs.

The cost comparison will review the full costs of the Contractor with the full costs of the State's comparable facilities (NECC and NWCC). The costs attributable to the Contractor will include any costs of monitoring the Contract incurred by the State, which would not have been incurred by the State otherwise. In addition to monitoring costs, other adjustments and allocations will be made. The cost comparison will be for the period of July 1, 2008, through June 30, 2009.

Allocations will be based on the following:

- a) Divide Central Office or overhead costs between activities involving residential prisoners and other activities based on direct expenditures for residential facilities versus direct expenditures for other activities to obtain a percentage of Central Office or overhead expenditures applicable to residential facilities.
- b) Allocate the amount of Central Office or overhead expenditures applicable to residential facilities based on the census for each residential facility to the total census for all residential facilities.
- c) Expenditures for revenue generating activities such as commissary, inmate labor, inmate telephones, inmates fines, recycling, and art and craft sales at institutions are to be included in facility expenditures and will be offset by total revenues collected.

Costs will be allocated to the South Central Correctional Center for:

- d) The pro rata costs of the Tennessee Offender Management Information System (TOMIS), which are applicable to the handling of information on prisoners assigned to the South Central Correctional Center.
- e) The amounts expended by the State for monitoring the Contractor's operations during the 2008/2009 fiscal year
- f) The amounts expended by the State for the benefit of the Contractor during the 2008/2009 fiscal year
- g) Any other amounts expended by the State (including any State agency) which would not have been expended by the State in the absence of the Contract

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- h) State overhead items determined not to be applicable to South Central Correctional Center will not be added to the Contract cost

Adjustments will be also made for:

- a) Year-end supply inventories
- b) Equipment items purchased for use in the facilities with a cost in excess of \$5,000 will be deducted from the total cost of operations for all facilities. Equipment purchased for use by the State's monitors at South Central Correctional Center will not be deducted from the State's cost of operating South Central Correctional Center
- c) Expenditures for the use of motor vehicles and motorized equipment purchased for use by NECC and NWCC will be reduced by the depreciation/replacement factor included in the reimbursement rate to the Department of General Services

The Fiscal Review Committee will further adjust the reported costs to ensure comparability in making the comparison of the relative costs of operating the facilities for the period of July 1, 2008 through June 30, 2009. This would include, but not be limited to the following:

- a) Any costs that appear to be made ahead of the time needed or are deferred to a subsequent period if, in the opinion of the committee staff, such costs are in an amount sufficient to materially affect the comparison
- b) The State's or the Contractor's costs for any program or functional areas which it determines to be not substantially comparable to the operations of the facilities being compared
- c) Any cost items not accounted for in a similar manner
- d) Necessary adjustments for population variance to include fixed and variable cost items for payroll and operational support expenditures
- e) The medical component of cost will be adjusted to equalize the costs of each facility due to the \$4,000 stop-loss provision for medical care in the Contract

Requests for clarification should be made during the Pre-proposal Conference or should be requested in the form of a Written Comment during the Request for Proposal process. The State's written responses will become part of the final Contract.

As required by the Contract, the Comptroller of the Treasury will review all accounting information submitted to Fiscal Review by the Department of Correction, and all accounting information provided by the Contractor to Fiscal Review is to be analyzed by an independent accounting firm. The reports generated by those reviews will be utilized during the evaluation process.

The Fiscal Review Committee staff will calculate the State's and the Contractor's cost per inmate day. The final draft report will be given to both the State and Contractor for comment before it is delivered to the Fiscal Review Committee. If either the State or the Contractor chooses, they can submit a written response to the final report that will be included when the report is submitted to the Fiscal Review Committee.

SAMPLE PERFORMANCE BOND

The Surety Company issuing bond shall be licensed to transact business in the State of Tennessee by the Tennessee Department of Commerce and Insurance. Bonds shall be certified and current Power-of-Authority for the Surety's Attorney-in-Fact attached.

KNOW ALL BY THESE PRESENTS:

That we,

(Name of Principal)

(Address of Principal)

as Principal, hereinafter called the Principal, and

(Name of Surety)

(Address of Surety)

as Surety, hereinafter call the Surety, do hereby acknowledge ourselves indebted and securely bound and held unto the State of Tennessee as Obligee, hereinafter called the Obligee, and in the penal sum of

Five Million Dollars (\$5,000,000)

(Dollar Amount of Bond)

good and lawful money of the United States of America, for the use and benefit of those entitled thereto, for the payment of which, well and truly to be made, we bind ourselves, our heirs, our administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

BUT THE CONDITION OF THE FOREGOING OBLIGATION OR BOND IS THIS:

WHEREAS, the Obligee has engaged the Principal for a sum not to exceed

(Contract Maximum Liability)

to complete Work detailed in the Scope of Services detailed in the State of Tennessee Request for Proposals bearing the RFP Number:

32944-00006

(RFP Number)

a copy of which said Request for Proposals and the resulting Contract are by reference hereby made a part hereof, as fully and to the same extent as if copied at length herein.

ATTACHMENT 6.7.

continued

NOW, THEREFORE, if the Principal shall fully and faithfully perform all undertakings and obligations under the Contract hereinbefore referred to and shall fully indemnify and hold harmless the Obligees from all costs and damage whatsoever which it may suffer by reason of any failure on the part of the Principal to do so, and shall fully reimburse and repay the Obligees any and all outlay and expense which it may incur in making good any such default, and shall fully pay for all of the labor, material, and Work used by the Principal and any immediate or remote sub-contractor or furnisher of material under the Principal in the performance of said Contract, in lawful money of the United States of America, as the same shall become due, then this obligation or bond shall be null and void, otherwise to remain in full force and effect.

AND for value received, it is hereby stipulated and agreed that no change, extension of time, alteration, or addition to the terms of the Contract or the Work to be performed there under or the specifications accompanying the same shall in any wise affect the obligation under this bond, and notice is hereby waived of any such change, extension of time, alteration, or addition to the terms of the Contract or the Work or the specifications.

IN WITNESS WHEREOF the Principal has hereunto affixed its signature and Surety has hereunto caused to be affixed its corporate signature and seal, by its duly authorized officers, on this